

Appeal by

Enviromena Project Management UK Ltd

at

Land 800 Metres South of Park House Farm, Meriden Road,

Fillongley, Warwickshire, CV7 8BP

Planning Inspectorate Reference: APP/R3705/W/24/3349391

Local Planning Authority Reference: PAP/2023/0071

Statement on behalf of Fillongley Parish Council

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The Tyler Parkes Partnership Ltd

18th November 2024

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Communities 2024 EWHC 295 Admin**

1. Introduction

- 1.1 The following statement on behalf of Fillongley Parish Council supports North Warwickshire's refusal of the planning application PAP/2023/0071. The appeal proposal is contrary to the development plan for the reasons given in the Borough Council's refusal notice dated 10th July 2024.
- 1.2 The Parish Council consider that the appeal proposal is also contrary to other development plan policies not referenced in the Borough Council's refusal and appropriate weight should also be given to these policies, including the impact of the appeal proposal on heritage assets, as set out in the main body of this statement and in the accompanying 'Heritage Report' by Keystone Heritage.
- 1.3 There were numerous local objections to the appeal proposal, including in response to the Appellant's community consultation exercise and via the planning application. In addition to the Parish Council's 2no. submitted objections, the Fillongley Flood Group and Corley Parish Council also objected, and there were in excess of 60 letters of objection to the proposal received from the public (against 2 letters of support), as well as 20 additional representations to the amended plans. The vast majority of objectors are residents of Fillongley and nearby Corley.
- 1.4 This statement is accompanied by the 'Heritage Report' prepared by Keystone Heritage, and the 'Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited. These documents, alongside this statement, form the Parish Council's additional comments in respect of the appeal.
- 1.5 This statement has been prepared by Gail Collins, a Director at the Tyler Parkes Partnership Ltd, with over 30 years' experience in development management and planning policy in both local government and the private sector.

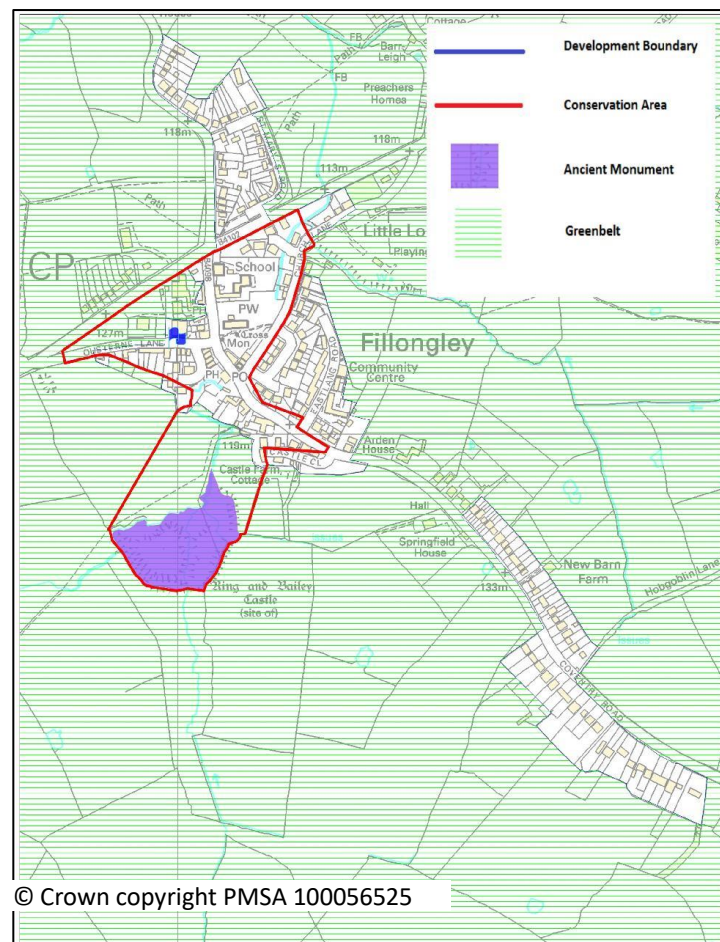
2. Background to the Statement - Fillongley and the appeal site

- 2.1 Fillongley Parish covers a large geographical area and is made up of the village centre and numerous hamlets deriving from the farming history of the Parish, which is still very much in evidence today. Indeed, in the Fillongley Neighbourhood Plan of 2019, it was confirmed that there were 26 working farms in the Parish (2.17.5). The Parish had a population of 1,083 residents at the time of the 2021 Census.¹
- 2.2 It is a predominantly rural Parish, falling in the Ancient Arden Landscape. It is within Green Belt, but the village itself is inset from the Green Belt. There is a Conservation Area covering much of the centre of the village, and that includes a number of listed buildings. In addition, the Conservation Area includes Fillongley Castle which is a Scheduled Ancient Monument, the boundary of which is only some 300m of the northern boundary of the appeal site – the Parish note that the Appellant's Statement

¹ <https://fillongley.parish.uk/census/>

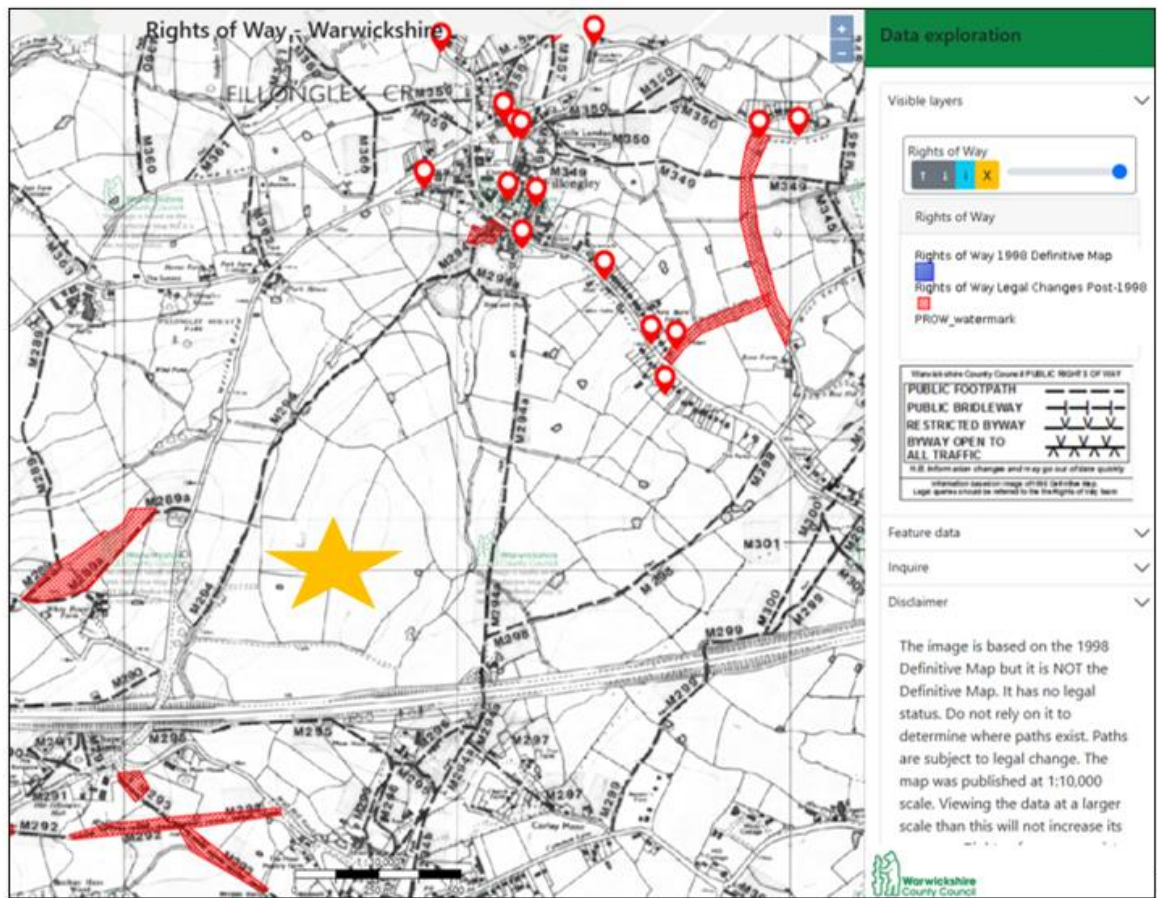
references this incorrectly as being some 2kms from the appeal site.

Figure 1: Extract from the Neighbourhood Plan showing the extent of the Conservation Area, the site of the SAM, the village development boundary and the Green Belt



- 2.3 It is an overwhelmingly rural area – the village is a rural village surrounded by farmland – flanked by and containing well walked public footpaths, including the long-distance countryside route, the Coventry Way, and also the recreational North Arden Trail Parish Loop.
- 2.4 The appeal site is crossed and encircled by a number of Public Rights of Way (PRoW) as shown on **Figure 2**.

Figure 2: Extract from Warwickshire County Council Public Rights of Way², location of appeal site indicated by orange star



- 2.5 The appeal site is to the south of the village towards the M6, and it is undeveloped farmed agricultural land interspersed with some hedgerows and hedgerow trees. It does not contain any buildings or structures. Similarly, the flanking fields do not contain any agricultural buildings, pylons, or built infrastructure. The appeal site and the adjacent field have an undeveloped rural character. The M6 motorway sits on an elevated section past the appeal site, but whilst the sound of traffic is audible close to the motorway/ on its footbridge (M294a), once on the public footpath within the appeal site (M294), noise from the motorway is not overly noticeable. It should also be noted that the jurisdictional boundary of Coventry City Council also lies within some 0.5kms of the southern boundary of the appeal site to the south beyond the motorway at Corley Moor.
- 2.6 The topography of the appeal site is undulating, and it rises up to a ridge in its centre, increasing in height by some 27 metres; as a consequence, the appeal site is able to be seen from many vantage points. These include views from houses and farmsteads in and adjacent to the village, e.g. Far Parks, Park House Farm, Manor House Farm etc, the well walked public right of way network that encircle the appeal site and run through

² <https://maps.warwickshire.gov.uk/rightsofway/>

it, the Grade II* listed church and the Scheduled Ancient Monument, the flanking highways including Meriden Road, as well as Sandy Lane, Green End Road and Coventry Lane. It is also visible from the M6 motorway. The implication is that any development on the appeal site will have an impact from multiple aspects and vantage points.

3. Relevant Policies

The Development Plan

- 3.1 This Statement does not propose to repeat in any detail the Development Plan policies contained in the Local Plan as referenced in the refusal notice as these will have been covered elsewhere on behalf of the Borough Council; rather it references policies which are also considered relevant to a consideration of the appeal proposal, and those of the Fillongley Neighbourhood Plan, made August 2019.

North Warwickshire Local Plan

- 3.2 In addition to the relevance of Local Plan policies LP1, LP3, LP14 and LP30, the Appellant and the Parish Council consider that Policy LP35 of the Local Plan is relevant to the appeal proposal, as follows (underlining writer's emphasis) –

“LP35 Renewable Energy and Energy Efficiency

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. New development will be expected to be energy efficient in terms of its fabric and use including, where viable, the production of 10% of operational energy from on-site renewables, in support of the Government's Clean Growth Strategy.”

- 3.3 Furthermore, the requirements of Local Plan Policy LP15 'Historic Environment' are consistent with national planning policy.

Fillongley Neighbourhood Plan

- 3.4 The Neighbourhood Plan includes a 'Vision Statement' which is: “To value, protect and promote the parish of Fillongley; a thriving rural community, preserving its historic setting and character whilst working to ensure its long-term future by meeting the needs of those who live and work in this outstanding rural area. The built and natural heritage of the Parish will be maintained and protected. Future housing building should conform to the existing character by comprising small developments in keeping with their

surroundings. Provision of a mix of housing for all sectors of the community must be made. Rural setting and character will be preserved and enhanced for residents and visitors alike.”

- 3.5 The relevant policies of the Neighbourhood Plan include FNP01, FNP02, FNP03, and FNP06. The Neighbourhood Plan does not contain a separate policy on Green Belt but does reference Green Belt policy in the NPPF.
- 3.6 Policy FNP01 ‘Built Environment’ is relevant to the appeal proposal, and whilst noting that the Appellant considers this otherwise in their Statement of Case, the Borough Council refer to it in their reason for refusal. The policy relates to the built environment which the appeal proposal clearly comprises, with its substations, solar panels, fences and CCTV posts. The policy requires that development conserves the built character of the Ancient Arden Landscape and that any development that will affect the setting of the Church should be in accordance with the North Warwickshire Local Plan and the advice of Historic England. Notwithstanding this, the Appellant does in fact ascribe it full weight under ‘Enviromena comments on FNP01’ (Appellant’s Statement of Case paragraph 5.105)
- 3.7 Policy FNP02 ‘Natural Environment’ confirms that development proposals should wherever possible seek to enhance and conserve the natural environment, by meeting a number of conditions including that there are no adverse impacts on the visual appearance and important scenic aspects of the village centre (the setting) and other rural and natural features in the landscape; and that existing definitively mapped footpaths that criss-cross our Parish should be protected and enhanced. The Appellant ascribes this policy as having full weight in ‘Enviromena comments on FNP02’ (Statement of Case paragraph 5.109).
- 3.8 These policies are consistent with the National Planning Policy Framework (December 2023), which at paragraph 180 requires that planning policies and decisions should contribute to and enhance the natural and local environment and recognising the intrinsic character and beauty of the countryside, and chapter 12 which establishes that good design is a key aspect of sustainable development.
- 3.9 Policy FNP03 ‘Flooding’ states that development should minimise flood risk within the village whilst maintaining balance with other policies. Any developments should ameliorate flood risks by providing SUDS as required in consultation with the lead flood authority. This policy is consistent with NPPF paragraphs 173 and 175 and the policy is considered up to date.
- 3.10 Policy FNP06 ‘Heritage’ confirms that development should protect, enhance and respect the local built, historic and natural heritage assets or any other locally identified heritage features of the village, and refers to Appendix EB06/04 Fillongley Parish Historic EnvirRecord Monuments. It confirms that applications for development that will harm designated and non-designated heritage assets will be refused unless the circumstances that would permit approval specified in the appropriate part of paragraphs 133 to 135 of the NPPF (2012) apply. It should be noted that the 2012

NPPF paragraphs referenced by Policy FNP06 are essentially the same as paragraphs 207-209 of the latest December 2023 version of the NPPF and therefore Policy FNP06 is considered to be up to date.

- 3.11 The Parish Council is also working on revisions to its Neighbourhood Plan. The currently emerging Neighbourhood Plan has some weight as a material consideration and contains changes to the wording in respect of a number of policies as per **Appendix A**. It is understood that the Neighbourhood Plan revisions will be approved by the Parish Council in advance of the Hearing.
- 3.12 In particular, the Parish is proposing to amend policies FNP01, FNP02, FNP03 and FNP06 all of direct relevance to this appeal. In respect of FNP01 'Built Development', it is noted that it now includes reference to the need to preserve the entire landscape and confirms that no development will be allowed that disrupts this harmony. The caveat 'where possible' is also removed from the policy.

National Planning Policy

- 3.13 Relevant sections within the National Planning Policy Framework (NPPF), December 2023 include the following (any underlining is writer's emphasis):
- 3.14 Paragraph 104 of the NPPF confirms that planning policies and decisions should protect and enhance public rights of way and access.
- 3.15 NPPF paragraph 163.b) guides that applications for renewable and low carbon development should be approved if its impacts are (or can be made) acceptable. The PPG sets out that the benefits of delivering green energy does not automatically override 'environmental protections and the planning concerns of local communities'.³ (PPG paragraph 003, reference ID: 5-003-20140306, revision date: 06 03 2014)
- 3.16 Paragraph 180(b) which states that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land (BMV), and of trees and woodland.
- 3.17 Footnote 62 to paragraph 181 of the NPPF confirms:

'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.'

³ Paragraph 003, reference ID: 5-003-20140306, revised 6th March 2014

- 3.18 Planning Practice Guidance (PPG)⁴ discusses the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms, recognising that these can have a negative impact on the rural environment, particularly in undulating landscapes. The PPG sets out particular factors that a local planning authority will need to consider, including encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value; where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays; the proposal's visual impact and the effect on the landscape, and the need for, and impact of, security measures such as lights and fencing.
- 3.19 In respect of heritage, the same paragraph of the PPG advises great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting, advising that depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset.
- 3.20 Paragraph 173 and 175 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and any development should ameliorate flood risks by providing SUDS as required.

National Policy Statements

- 3.21 National Policy Statement for Energy (EN-1) (Nov 2023) and National Policy Statement for Renewable Energy (EN-3) (Nov 2023) recognise Solar PV development as Critical National Priority Infrastructure. EN-3 indicates that land type should not be a pre-dominating factor in determining the suitability of the site location but where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of "Best and Most Versatile" agricultural land where possible.

Ministerial Statements

- 3.22 The Written Ministerial Statement on solar energy (25th March 2015) indicates that the use of BMV for solar farms has to be justified by the most compelling evidence. It states:

'Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes unnecessary use of high quality agricultural land...we

⁴ Paragraph 013, Reference ID: 5-013-20150327, revised 27th March 2015

want to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence’.

- 3.23 The May 2024 Statement by the then Secretary of State for Energy Security and Net Zero confirmed that:

“...due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.

- 3.24 In late July 2024, the Parliamentary Under-Secretary of State for Energy was twice asked about solar power and land use, and specifically whether the Written Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land, published on 15 May 2024, HCWS466, would be retained. The Minister stated (on 23rd⁵ and 26th July⁶ 2024) that:

‘The Written Ministerial Statement made in May by the previous government did not change the policy on this matter that is set out in the relevant parts of the National Policy Statement (NPS) for Renewable Energy and the National Planning Policy Framework (NPPF). It quoted extracts from that NPS and the NPPF. Decisions on solar that is Nationally Significant Infrastructure will be guided by the NPS in full, noting there are transitional provisions in place as the NPS was only designated this January. The NPPF will continue to be a material consideration for Local Authority planning decisions on solar.’

- 3.25 In addition, the Government in “Powering Up Britain: Energy Security Plan” (April 2023) clarified that while ‘solar and farming can be complementary’, developers must also have ‘consideration for ongoing food production’.

4. Fillongley Parish Council’s Objections to the Appeal Proposal

Green Belt

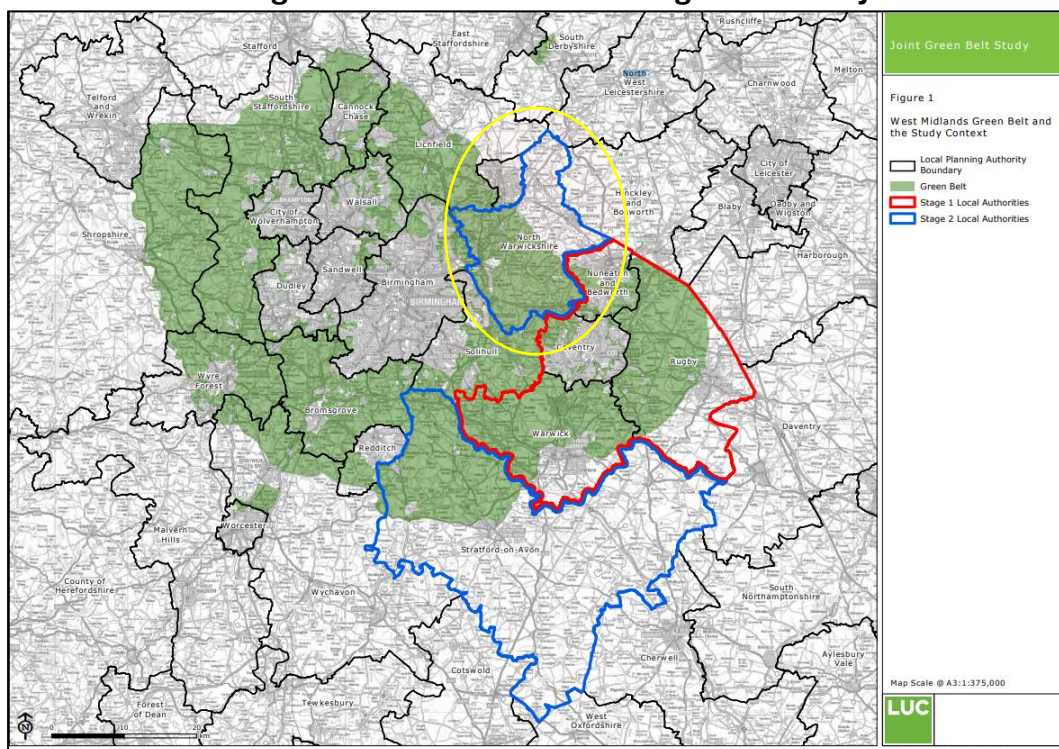
- 4.1 All parties agree that the proposed development is inappropriate development in the Green Belt and that substantial weight is given to any Green Belt harm (draft Statement of Common Ground paragraphs 10.1 (4) & (5)).
- 4.2 Some 65% of the area of the Borough is designated Green Belt, meaning that some 35% of the Borough is outside the Green Belt. **Figure 3** below provides a helpful indication of this ‘split’ between Green Belt and non-Green Belt. The northeastern part

⁵ <https://questions-statements.parliament.uk/written-questions/detail/2024-07-17/218>

⁶ <https://www.theyworkforyou.com/wrans/?id=2024-07-17.389.h>

of the Borough of North Warwickshire is outside the Green Belt; the Borough's Green Belt is predominantly to the south/southwest of the Borough, sitting between the boundaries of the cities of Birmingham and Coventry. It is notable that 3 solar farms that have already been granted planning permission by the Borough Council in the countryside outside the Green Belt (as per the **Table 1**).

Figure 3: Extract from Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016, showing North Warwickshire Borough circled in yellow

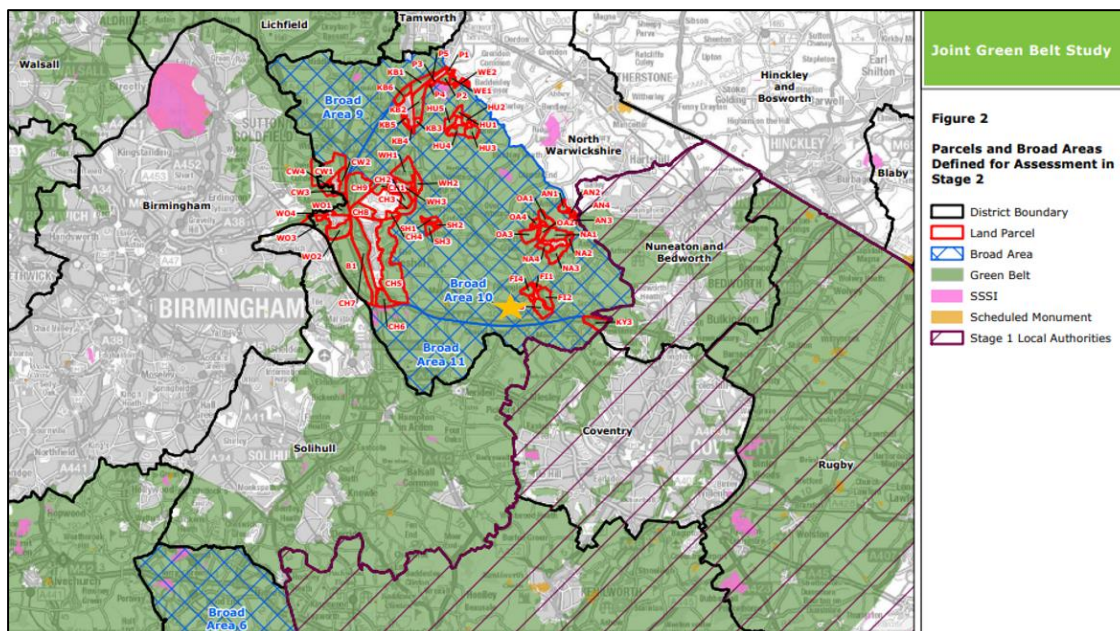


- 4.3 In the 'Coventry & Warwickshire Joint Green Belt Study' of April 2016⁷, part of the evidence base towards its Local Plan, the appeal site falls within Broad Area 10 of the Study (**Figure 4**). Paragraph 4.6 of the Study referring to the 'Broad Areas' states:

'As the 'main body' of the Green Belt (as opposed to the edges), they were considered to make a significant contribution to Green Belt purposes; however, some make a more significant contribution than others.'

⁷ Coventry City Council, North Warwickshire Borough Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council, Stratford-on-Avon District Council and Warwick District Council Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016

Figure 4: Extract from Figure 2 of Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016. Appeal site location is marked with an orange star



- 4.4 The Study found that Broad Area 10 makes a considerable contribution to all of the Green Belt purposes, including:
- Checks the sprawl of Nuneaton and Bedworth, Kingsbury and Piccadilly, Coventry, Coleshill, Fillongley, Old Arley, New Arley, Hurley and Shustoke.
 - Prevents the merging of these settlements.
 - Safeguards the countryside, which contains several ancient woodlands, SSSIs, historic villages and scheduled monuments.
 - Assisting urban regeneration by encouraging the recycling of derelict and other urban land across the West Midlands.
- 4.5 The Local Plan Inspector also considered the Broad Area assessment of the Green Belt in his report at paragraph 213, confirming that *‘They are proportionate evidence at a plan-making stage. They approach the assessment the value of land relative to the five purposes the Green Belt services from a rational, cogent and objective perspective. In that context, at a strategic level, Green Belt boundaries have therefore been informed by appropriate evidence.’*⁸
- 4.6 The designation of the area of Green Belt containing the appeal site has been thoroughly considered by the Borough Council and the Planning Inspectorate as part of the adopted Local Plan. Green Belts are designated as such by virtue of their essential characteristics of ‘openness and permanence’. The appeal proposal is inappropriate development in the Green Belt; it conflicts with the third purpose of including land in the

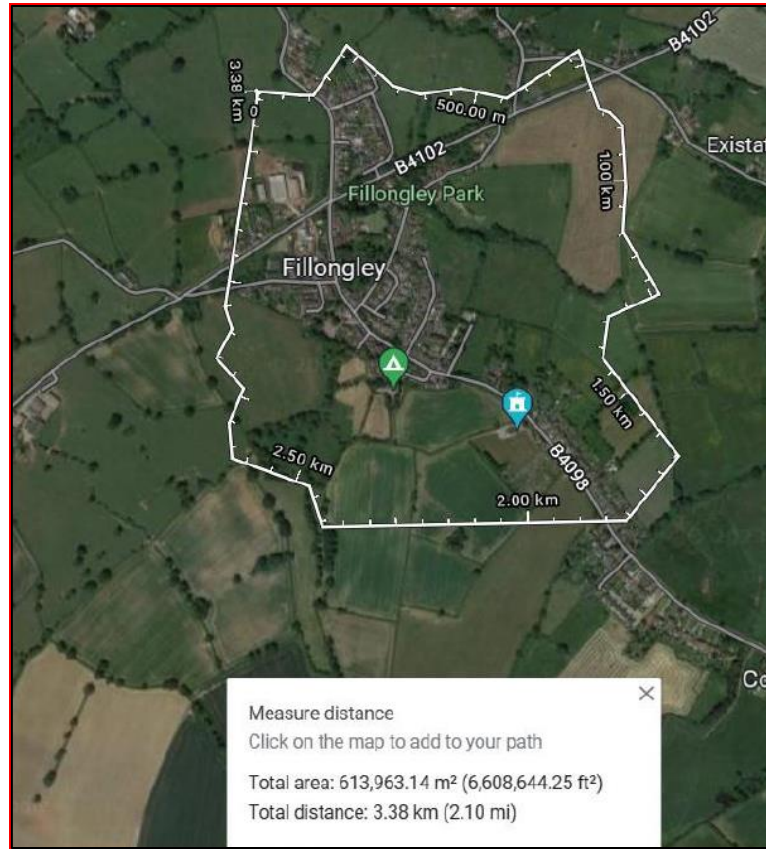
⁸ North Warwickshire Borough Council Local Plan, Inspector’s Report 20 July 2021

Green Belt – namely the safeguarding of the countryside from encroachment; and substantial weight is given to any Green Belt harm - these points are accepted by the main parties (draft Statement of Common Ground, paragraph 10.1 (4-6)).

- 4.7 The Parish Council agree that the appeal proposal would alter the appearance of a significant area of land incorporating open and undeveloped agricultural fields, constituting encroachment, in contradiction of a Green Belt purpose. The proposed solar farm at 61ha will become a direct neighbour to the village on otherwise open fields. It is many times larger than the footprint of the village itself. Fillongley itself is designated as a 'Category 4' village in the Local Plan, with Policy LP2 'Settlement Hierarchy' confirming that development within the Borough will be proportionately distributed and be of a scale that is in accordance with the settlement hierarchy. The appeal proposal is vastly out of scale with this settlement hierarchy. North Warwickshire is not a highly constrained borough. This is not a case where in order to provide solar farms it is inevitable (or at least likely) that they will have to be located within the Green Belt. There is plenty of non-Green Belt land available for this development (see **Figure 3** above).
- 4.8 Whilst comparative size is not in itself a reason why a development should be allowed or dismissed, the size of the village in relation to the appeal proposal does provide an indication of the incongruity and incompatibility of the scheme in this largely rural environment. The Parish Council's objection at the planning application stage included a visual superimposing the appeal site boundary on top of the centre of Fillongley village (**Figure 5**), demonstrating how the scale of the appeal proposal would dwarf dominate the village.
- 4.9 As set out in Planning Practice Guidance⁹, the courts have identified a number of matters which may need to be taken into account in assessing the impact of a proposal on the openness of the Green Belt. These include, but are 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.

⁹ Paragraph: 001 Reference ID: 64-001-20190722 Revision date: 22 07 2019

Figure 5: Extract from 17th February 2024 letter from Fillongley Parish Council to North Warwickshire Borough Council showing the size of the appeal site in relation to Fillongley village



- 4.10 The Parish Council consider the appeal proposal will have a substantial impact on Green Belt openness, both spatially and visually. Furthermore, this harm will endure for 40 years which is a considerable period.
- 4.11 The appeal site is visible from public vantage points from every aspect due to its topography and the proximity of well used public footpaths both around and through the site, public highways and overlooking houses and farms. Whilst steps are proposed to mitigate its visual impact, the scale of the proposal, the height and density of the panels, the boundary fencing and CCTV posts, the proposal's location in an area of otherwise open farmland and the site's topography, mean that softening not screening will take place. The development will be particularly noticeable in the winter months; it is noted that the Appellant's visualisations are limited to months when the trees are in leaf and do not include winter images. The visibility of the proposal, whilst not by itself a determinate factor of the acceptability or otherwise of a scheme, is a factor in determining the level of harm of a proposal, which in this case in respect of harm to the Green Belt, the Parish consider to be substantial.

- 4.12 The additional photomontages commissioned by the Parish are extremely helpful in demonstrating the impact of the appeal proposal, because they include key visualisations taken from the Public Right of Way within the site (M294), as well as a more representative image on M289a close to an existing viewpoint already submitted by the Appellant (Viewpoint 11 of the 'Nailcote Farm PV Project, Technical Visualisations' 14th December 2023) – see extract **Figure 6** below. The visualisations are also in the autumn, whereas the Appellant's photomontages are exclusively when all the trees and hedgerows are in leaf.

Figure 6: Extract from Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited, November 2024.



- 4.13 The Parish's photomontages clearly show that the proposed development will be highly prominent from both viewpoints and will visually dominate the experience of users of the public footpaths both at the outset of the development and continuing until the development is removed (noting that not all parts are being removed). The proposal represents a clear encroachment in the Green Belt, introducing extensive, prominent and visually obtrusive built forms onto land that is currently open and undeveloped.
- 4.14 Furthermore, as demonstrated in these photomontages, the proposed new hedging running alongside of the PROW in the site will restrict currently open views in every direction across the fields in the appeal site. Currently open rural vistas would be either enclosed by high fences and hedging or would be enclosed by fences with immediate

views of solar panels. As a result, the proposal would cause harm to the perception of openness from this public right of way.

- 4.15 This impact of the appeal proposal on the visual amenity of users of the public rights of way is explored in more detail in the 'Landscape and Visual Impact' commentary below.
- 4.16 The appeal site is not considered to be a suitable location for the development proposed. The triangle of land to the south of Fillongley village formed by the M6 to the south, Meriden Road to the west and Coventry Road to the east extends to over 200ha, sitting firmly within the Green Belt, but with the exception of the scheduled ancient monument to the south of the village, the farmstead of Park House Farm, some modest ribbon residential development and the small village hall off Coventry Road, the countryside does not feature development of any scale. Furthermore the general 'tightness' of the built form of the village means that the existing development, which is largely in its development boundary, does not compromise the openness of the Green Belt. The vast majority of this triangle of land which is open agricultural fields contains no development.
- 4.17 The introduction of a block of development of the size and scale proposed through this appeal would massively encroach into the open expanse of undulating farmland in Green Belt between the village of Fillongley and the M6. It would significantly change the character of this area. This is not a scheme that could be suitably accommodated within the Green Belt without reducing its openness or its effectiveness at safeguarding the countryside from encroachment.
- 4.18 As noted, the Borough is not highly constrained by Green Belt, there is plenty of non-Green Belt land and it is not an inevitable that in order to provide solar farms that they will have to be located within the Green Belt. The proposal represents significant harm to the Green Belt, significantly impacting on its openness, both spatially and visually, and that harm will endure for 40 years. Thereafter, elements of the appeal proposal will remain, e.g. the substations. This harm should be afforded substantial weight in the planning balance. This adds to the harm caused by reason of inappropriateness.
- 4.19 In accordance with paragraph 153 of NPPF substantial weight should be given to any harm to the Green Belt and '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. This is echoed in paragraph 156 of the NPPF which relates directly to renewable energy projects. The Appellant therefore needs to demonstrate very special circumstances (VSC) if the appeal proposal is to proceed. VSC and any other harm resulting from the appeal proposal must be clearly outweighed by other considerations for the appeal proposal to be allowed.
- 4.20 The Appellant's Statement of Case (para 5.58) sets out the Very Special Circumstances relating to the development, referring to the detail in Santec's Planning Statement (summarised at paragraph 6.23 of that document) and its addendum, as well as a subsequent Green Belt assessment by Pegasus.

- 4.21 Whilst the Parish Council agree that substantial weight should be given to the key importance of increasing production of energy from renewable sources and reducing carbon emissions, they consider only moderate weight should be given to the fact that any adverse impacts will be (mainly) reversible when the site is de-commissioned in 40 years. The Parish consider that other arguments put forward by the Appellant as VSC should not be regarded as such and rather should be considered to be material considerations. This would include the rapidity of deployment of the scheme, economic development, air purity, soil health and the combined use of land. At most, these other considerations have limited weight. Biodiversity improvements are considered to have moderate weight. The Appellant's suggestion that 'the rural location of the Site will not result in merging of settlements, unrestricted urban sprawl and preserve setting of historic towns' is a somewhat spurious argument with no weight attributed to it by the Parish Council; there is no assertion from the Borough or the Parish Council that the proposal conflicts with those aspects of Green Belt policy; it is not a VSC. Rather there is clear acknowledgment by all parties of the conflict of the appeal proposal with Green Belt policy in respect of encroachment.
- 4.22 In the planning balance, for the reasons given above, the Parish Council consider the harm to the Green Belt to be substantial because of the extent of the encroachment on Green Belt land and the significant impact the proposal will have on openness. Contrary to the Pegasus Green Belt Assessment which concludes that there would be some limited and localised harm to the Green Belt, the Parish Council consider this harm to be far greater, as evidenced in the accompanying photomontages. Furthermore, there are other harms set out in the remainder of this statement which also weigh against the appeal proposal, including landscape and visual harm, harm to heritage assets, and loss of Best and Most Versatile agricultural land.
- 4.23 In summary, the Green Belt harms by reason of inappropriateness and the other harms arising from the proposal, are not clearly outweighed by the social, economic or environmental benefits argued by the Appellant. The appeal proposal fails to meet the requirements of Policy LP3 of the Local Plan and national planning policy.
- 4.24 As agreed by the Borough Council and Appellant in the draft Statement of Common Ground (paragraph 8.1), the Draft Consultation on the Framework of July 2024 is a material consideration in the appeal, however, the Parish consider it has less weight than the adopted NPPF December 2023 and the subsequent Ministerial Statements. It is notable that the Appellant at paragraph 7.6 of their Statement of Case, acknowledge that decision makers may be affording limited weight to the draft NPPF as a material consideration because it is 'only' at consultation stage. Notwithstanding this, it is noted that the emerging NPPF, despite giving increasing weight to a proposal's contribution to renewable energy generation and a net zero future, does not specifically refer to solar farms as not being inappropriate development in the Green Belt which would surely have been open to the Government if that was what was intended. This suggests that the bar for approving such development in Green Belt continues to be an extremely high one.

Landscape and Visual Impact

- 4.25 Paragraph 180 of the NPPF sets out how planning decisions should contribute to and enhance the natural and local environment by, amongst other things, 'protecting and enhancing valued landscapes', and 'recognising the intrinsic character and beauty of the countryside.' That a landscape is neither designated, nor 'valued' as in NPPF paragraph 180(a) does not equate to an absence of value. In the Parish Council's opinion, 'recognising' connotes a degree of protection regardless of whether a landscape is designated, or 'valued'. Likewise, NPPF paragraph 135 sets out how decisions should ensure, again amongst other things, that development will add to the overall quality of the area and be sympathetic to local character and history, including landscape setting. This is carried through in the Local Plan policies LP1, LP14, LP30 and LP35 and Neighbourhood Plan policies FNP01 and FNP02.
- 4.26 The North Warwickshire Landscape Character Assessment and Capacity Study Final Report August 2010¹⁰ sets out the key characteristics of the Ancient Arden Landscape Character Area, with the appeal site included in Landscape Character Area (LCA) 7: Church End to Corley – Arden Hills and Valleys. The appeal site and the surrounding farmland share many of the key characteristics with this LCA, which include a broad elevated basin with numerous rolling hills and valleys; a mixed agricultural landscape with an ancient pattern of small fields, winding lanes and dispersed, isolated hamlets and farmsteads, and in places a more open network of large arable fields.
- 4.27 The appeal site presently reflects, and contributes to, these identified characteristics. It positively contributes to the rural character of the locality. It is agricultural, predominantly open and undulating. The Borough Council's report to Planning Board of 4th March 2024 agreed and stated that the appeal site's quality lies in its intrinsic largely unchanged rural character (paragraph 4.11). Landscape/ management strategies in this area include maintaining the predominant historic dispersed settlement pattern of hamlets and scattered farmsteads and conserving rural character by restricting changes in the use of rural land, and where appropriate restoring landscape character. The appeal proposal would appear out of place in this rural landscape.
- 4.28 It is accepted that there are not any specifically described, listed or mapped rural and natural features listed in the Neighbourhood Plan but it is clear that elements of the appeal site, including its open undeveloped fields, trees, hedgerows, footpaths constitute 'rural and natural features in the landscape'. Furthermore, Policy FNP02 also requires that the existing definitively mapped footpaths in the Parish should be protected and enhanced wherever possible. It is accepted that this part of the policy does include the caveat 'wherever possible', but the Inspector's attention is drawn to the fact that the points in the policy are not exclusive, rather they should be read as a whole. Whilst the appeal proposal meets some of the listed 'considerations' e.g. increasing biodiversity and interconnectivity of wildlife corridors through hedge planting, the Parish consider that the appeal proposal fails to enhance the affected Public Rights

¹⁰ <https://www.northwarks.gov.uk/downloads/file/298/landscape-character-assessment-2010>

of Way by introducing unsympathetic built form in an otherwise rural environment.

- 4.29 The Appellant's Statement refers to Pegasus' Landscape and Visual Impact Assessment conclusions that "In overall terms, the visual effects of the proposed solar farm would be very limited due to its substantial visual containment as a result of a combination of topography and surrounding vegetation. Where seen, only small elements of the scheme would be observed, and it would not be possible to appreciate the totality of the scheme from any one viewpoint location". and overall that "Whilst there would be some limited adverse effects on landscape character and visual amenity, these would be localised" (paragraphs 5.80 and 5.81). The Parish Council do not consider these assertions to be backed up by evidence or observation through visiting the site and its environs.
- 4.30 There are relatively open views of the site along the public rights of way running through and around the site. The public rights of way here are well used, not just by locals but also walkers from the conurbation, and the landscape more broadly is actively experienced by many, including users of the M6 motorway, the flanking highways, and residents of Fillongley village. There are long, open views across the area containing the appeal site. The appeal site, as part of the landscape, has a clear value, both as a resource and visually. This was a comment made by many local residents in their representations, as well as by the Parish Council. Whilst such representations may not technically reference the same approach as the appeal's submitted landscape assessments, such observations are made on lived experience and local knowledge and are considered no less valid.
- 4.31 The appeal proposal, on a large block of currently undeveloped farmland sitting between the motorway and the village of Fillongley, will destroy the buffer this 'open' farmland creates, and due to the scale and nature of the development with extensive site coverage by multiple rows of homogenous of geometric solar panels with long lengths of fencing encircling them, this impact will be more marked. A 61ha development will inevitably bring change to the landscape, particularly through a proposal which introduces built form where there is currently none, and on an undulating site visible from multiple vantage points.
- 4.32 Views of and within the appeal site are achieved from multiple receptors as referenced above and the appeal site's undulating topography, rising by some 27m to the ridge, limits the opportunities for effective screening. Due to this topography, the height of the panels, the fencing and associated equipment would be visible from public vantage points and visually intrusive in this agricultural context, with the proposed development appearing as a utilitarian, discordant feature that results in significant harm to the visual amenity of the area. Whilst Planning Practice Guidance states that the visual impact of a well-planned and well-screened solar farm can be properly addressed within a landscape if planned sensitively, in this case due to the topography, the development, even with maturing mitigation planting, would not be well screened.
- 4.33 The Appellant's visualisations go some way to demonstrating the fundamental change that will be occasioned to the character and appearance of the host landscape.

However, these visuals do not provide the 'worst case scenario' showing the visual impact of the appeal proposal during the winter months. Similarly, there have been no visualisations prepared to demonstrate how the appeal proposal will impact on views for walkers along the Public Right of Way that runs through the appeal site (north/ south) (M294) or those on the Public Right of Way that exits onto Meriden Road directly opposite the appeal site (M289a). In the latter respect, it is noted that a visualisation has been provided by the Appellant (visual 11) on this path, but this is set some way back from the road behind a field hedge with trees partly framing the visual.

- 4.34 The Parish Council's commissioned additional visualisations, taken from within the appeal site and from the public footpath on the west side of Meriden Road, take account of the appearance of the appeal proposal in autumn to provide more representative images of the proposal. It will be noted that the visuals demonstrate that walkers will experience tall fencing and hedges on both sides of Public Right of Way in the site (M294) and will be enclosed by regimented rows of solar panels climbing up the flanking field slopes, even at year 15. The experience of recreational walkers will be fundamentally changed from one of walking through open fields with expansive views of farmland to one of walking between rows of fences with solar panels stretching away in views in most directions. This will result in a major adverse impact on the visual appearance of the rural and natural features in the landscape for users of this footpath; it will in fact largely visually obliterate the natural features. Due to the appeal site's topography, this will not reduce over the lifetime of the development. The appeal proposal clearly fails to 'enhance' this Public Right of Way.
- 4.35 Users of the Public Right of Way on the west side of Meriden Road (and drivers on Meriden Road, although experiencing more transient views) will be also presented with a vista of 2m high boundary fencing along the hedge line of the boundary of the appeal site with regimented rows of solar panels end onto it in east/southeast/northeast views as demonstrated in the Parish's photomontages.
- 4.36 The Parish do acknowledge that the visual impact of the development will be less where public vantage points are more distant to the site, however due to the undulating topography, the site will be visible from other Public Rights of Way, including from the long-distance route, the Coventry Way (M298), as well as by drivers on the flanking highways and the occupiers of houses overlooking the appeal site, e.g. at Far Parks. The visibility of this large block of uncharacteristic development in an otherwise open landscape means that footpath users, drivers and residents will still experience major adverse impacts as a result of the changes to the landscape of the countryside occasioned by the proposal.
- 4.37 The fact that the Appellant has not identified any significant detrimental effects from any of the viewpoints after Year 5 greatly underplays the impact of what will be a huge block of highly visible solar panels and associated infrastructure in a landscape characterised by agricultural fields.
- 4.38 The Parish Council consider the impact of the appeal proposal in terms of the change to the appearance of the site and the wider landscape will be highly noticeable and be

experienced across a sizeable area. Experientially the proposed panels, hedges and fences would enclose the openness of views which is intrinsic to the landscape's character.

- 4.39 This appeal proposal will have a significant impact on the landscape and visual amenity – it will seriously detract from the intrinsic character and beauty of the countryside and users experience of it, and this should be afforded great weight in the planning balance. The Inspector in the South Cambridgeshire appeal (**Appendix B**) considered a period of 25 years to be a relatively long period of time during which adverse impacts would be experienced and the appeal proposes a development which will be in situ for nearly twice as long. The substations are intended to be permanent features. The development would not be reversed entirely at the end of the operational life of the scheme. The landscape harm would endure for many years, with residual development remaining even after the panels and the fencing have been removed. As determined by the Secretary of State in recovered appeal in West Northants in 2024, little weight should be afforded to the potential reversibility of the proposal in landscape or visual terms (paragraph 27, **Appendix C**)¹¹. The Secretary of State also found that the effect on a public right of way would have a significant impact for a number of years and that relying on landscape mitigation that would be less effective at certain times of the year, is a major consideration (paragraph 16, **Appendix C**).
- 4.40 The appeal proposal is therefore contrary to Policy LP14 of the Local Plan that requires that new development should look to conserve, enhance and where appropriate restore landscape character so as to reflect that described in the Warwickshire County Council's Landscape Character Assessment of 2010. Policy LP30 says that proposals should ensure they are well related to each other and harmonise with both the immediate and wider surroundings. The Fillongley Neighbourhood Plan policies, respectively FNP01 and FNP02, also require that development proposals where possible do not cause detrimental change to the rural landscape of the Parish and that there should be no adverse impacts where possible on the visual appearance and important scenic aspects of rural and natural features of the landscape, as well as Public Rights of Way being protected and enhanced wherever possible. None of these policy requirements are met in the appeal proposal. The Parish Council consider the weight that should be attached to the visual harm created by the proposal is substantial, particularly from the identified Public Rights of Way and this harm will endure throughout the lifetime of the development. The landscape harm at year 0 is significant but this will reduce to moderate harm as the proposed landscaping matures.

¹¹ Decision was made by Simon Hoare MP, Minister of State for Local Government on behalf of the Secretary of State to S78 appeal by Annesco Ltd, on land at Milton Road, Gayton, Northampton NN7 3HE, ref. WNS/2021/1858/EIA

Heritage Impact

- 4.41 The village centre comprises a Conservation Area including many listed buildings and a Scheduled Ancient Monument close to the appeal site – the Parish Council consider the setting of the village centre to include the farmland to the south comprising the appeal site. The Appellant incorrectly states that the Conservation Area boundary is some 2kms from the appeal site, whereas in fact it is 300m from the northern boundary of the appeal site, where it includes the scheduled monument of Castle Yard. It is clear in views of the village, including as demonstrated in the Appellant's visualisation from viewpoint 11 submitted as part of the appeal, that the village's Grade II* listed St Mary & All Saints Church is prominent in views of the appeal proposal – this particular visual shows the proposed solar farm viewed from the Public Right of Way (path code: 175/M289a/1) to the west of Meriden Road (**Figure 7**).

Figure 7: Extract from NAILCOTE FARM PV PROJECT, TECHNICAL VISUALISATIONS Reference No: N1329-ONE-ZZ-XX-RP-L-0001_P03, 14 December 2023 - VIEW 11 - YEAR 0 PHOTOMONTAGE (Grade II* Listed Church indicated by arrow)



- 4.42 The accompanying Heritage Report finds that the impact from the solar farm on the historic environment will be universally adverse, in degrees ranging from slight to large adverse. Development will result in harm to the settings of a number of highly designated heritage assets, including the scheduled monument of Castle Yard and grade II* listed Church of St Mary and All Saints, the latter as referenced in the Borough Council's reason for refusal.
- 4.43 The accompanying Heritage Report by Keystone Heritage has examined the significance of relevant heritage assets and has evaluated the likely impact on that significance resulting from development. The Report concludes the following –

- Contrary to the conclusion of the Heritage and Archaeology Assessment submitted in support of the development, the impact of the solar farm on the historic environment has been found to be universally adverse in degrees ranging from slight to large adverse;
- It is considered misleading to describe the proposal as temporary in regard to the historic built environment, as unlike solar energy, the historic environment is a finite resource and in regard to numerous assets the effects are likely to be permanent - including the total loss of archaeological remains and the practically irreversible creation of a new layer of features (including fences and hedgerows) overlying the historic field pattern;
- There will be an adverse indirect impact on a number of designated assets as a result of the proposed development, including the scheduled monument of Castle Yard and grade II* listed Church of St Mary and All Saints.

4.44 In accordance with paragraph 205 of the NPPF:

‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.’

- 4.45 The adverse effect on designated assets is assessed as being less than substantial; this harm should be considered under paragraph 208 of the NPPF and the harm weighed against the public benefits of the scheme.
- 4.46 The Heritage Report also finds that there will be both direct and indirect harm to a number of non-designated heritage assets as result of the proposed development, which is also assessed as being less than substantial (although potentially substantial in the case of unknown archaeology), and this harm should be considered under paragraph 209 of the NPPF using a balanced judgement.
- 4.47 Whilst the level of harm to each individual asset has been assessed as less than substantial and when viewed in isolation, this impact may appear acceptable, when considered collectively this degree of harm to numerous heritage assets (both designated and non-designated) becomes much less acceptable.
- 4.48 While the public benefits of moving towards a lower carbon-polluting future are probably undisputed, no evidence has been put forward as part of the proposed development that the same public benefits cannot be achieved in a location of lower historic sensitivity that does not incur the same degree of harm to the historic environment. As such, the proposal is not deemed to comply with paragraphs 208 or 209 of the NPPF.
- 4.49 Scheduled monuments are classed as assets of the highest possible significance. Any harm to scheduled monuments or other designated assets (including from development in their setting) requires clear and convincing justification under paragraph 206 of the

NPPF; justification for this harm has not been provided.

- 4.50 For these reasons, the proposal is contrary to policy LP15 of the North Warwickshire Local Plan, which states that 'The quality, character, diversity and local distinctiveness of the historic environment will be conserved or enhanced', and Policy FNP06 of the Fillongley Neighbourhood Plan, which requires the protection and enhancement of both the recorded assets of the parish, and other locally identified heritage features. In addition, the appeal proposal is contrary to paragraphs 206, 208 and 209 of the NPPF. The Appellant has submitted no evidence that the same public benefits cannot be achieved in a location of lower historic sensitivity that does not incur the same degree of harm to the historic environment.
- 4.51 The Parish Council consider the appeal proposal represents less than substantial harm in terms of its heritage impact, but within that broad category, the overall harm to the built heritage is considered to be significant.

Use of Best and Most Versatile Agricultural Land

- 4.52 It is agreed by all parties that the appeal site constitutes 'Best and Most Versatile' (BMV) agricultural land; BMV comprises 95% of the appeal site (draft Statement of Common Ground, paragraph 10.1(16)). This is at variance with the sites of other solar planning permissions granted by the Borough Council, most of which have contained no BMV, or at most, a minority of the site has been BMV (**Figure 8**).
- 4.53 In addition, North Warwickshire Council approved a Variation of Condition (Granted 24th November 2023) at Grendon House Farm under PAP/2023/0419. The original solar farm was permitted in 2014. There is no information on agricultural land quality. The site is not in the Green Belt.

Figure 8: Summary of solar farm schemes in North Warwickshire since 2013

| App Ref: | Site | Status | Development | Site Area | BMV coverage | Green Belt? |
|---------------|--|---|--|-----------|---|-------------|
| PAP/2015/0459 | Land South of Pogmore Spinney, Merevale | Granted: February 2016 | Solar Farm | 5.2ha | Grade 1: 0 Grade 2: 0ha Grade 3a: 0Ha | No |
| PAP/2021/0651 | Land North of Park Lane Farm, Astley | Granted: July 2022 | Solar farm and battery storage | 39.6Ha | Grade 1: 0 Grade 2: 2ha Grade 3a: 9Ha | Yes |
| PAP/2021/0605 | Land at Smorrall Lane, Astley | Granted: July 2022 | Agricultural building, solar farm, and battery storage | 21.5Ha | Grade 1: 0 Grade 2: 0ha Grade 3a: 9Ha | Yes |
| PAP/2022/0544 | Land 550 Metres East of Vauls Farm, Astley | Granted: 19 th July 2023 | Solar Farm | 28ha | Grade 1: 0 Grade 2: 0.91ha Grade 3a: 3.31Ha | Yes |
| PAP/2022/0374 | Land North of Stone Cottage, Baddesley Ensor | Granted: 8 th September 2023 | Solar Farm | 10.8Ha | Grade 1: 0 Grade 2: 0ha Grade 3a: 0Ha | No |
| | | | Site Total | 105.1Ha | 24.22Ha, comprising Grade 1: 0Ha Grade 2: 2.91ha Grade 3a: 21.31Ha | - |
| | | | % BMV Total: | 23.04% | | |

(NB. based on Table 5.3: Summary of solar farm schemes in North Warwickshire since 2013 from 'Agricultural Land Impact Statement' prepared by Santec, August 2023, for PAP/2023/0071)

- 4.54 From **Figure 8** it will be noted that out of 105.1Ha of the listed approved solar farm schemes in North Warwickshire Borough, only 24.22Ha is BMV, i.e. 23%. This is at variance with the Appellant's statement (Santec Planning Support Statement, Addendum, November 2023, pg. 3) which discusses agricultural land quality in North Warwickshire and states:

"Most notably it has, comparatively, significant provision of ALC Grade 1 and Grade 2 land. The ability to find alternative sites of lesser soil quality to accommodate commercial scale solar development is therefore highly constrained."

- 4.55 The Parish Council are of the opinion that this is clearly not the case, as demonstrated in the agricultural land classification of the other sites granted planning permission for

solar development in the Borough.

- 4.56 It is also notable that under the new Government, in late July 2024, the Parliamentary Under-Secretary of State for Energy when asked on 2 occasions specifically about whether the Written Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land, published on 15 May 2024, HCWS466, would be retained, he confirmed that the statement in May did not change the policy on this matter that is set out in the relevant parts of the National Policy Statement (NPS) for Renewable Energy and the National Planning Policy Framework (NPPF).
- 4.57 This earlier Ministerial Statement ‘Solar Energy and Food Security: Land Use’¹² confirmed that, where possible, previously developed land, brownfield land, contaminated land and industrial land should be used and only where the use agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land, avoiding the use of ‘Best and Most Versatile’ agricultural land where possible. For solar proposals, this means that the highest quality agricultural land is least appropriate and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.
- 4.58 NPPF footnote 62 of the NPPF also sets out that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality, and the availability of agricultural land used for food production should be considered, alongside the other policies in the NPPF, when deciding what sites are most appropriate for development.
- 4.59 The Officer report to the Borough Council’s Planning Board on 4th March 2024 rightly confirmed at paragraph 4.62 that substantial weight should be given to the use of BMV in the proposal.
- 4.60 However, as part of the appeal proposal, the Appellant has not provided details of the extent of the search area, details of any other sites reviewed, or why these have been discounted. Therefore, it is not possible to understand on what basis other less constrained sites, e.g. those on lower quality agricultural, non-Green Belt sites, brownfield sites, or sites not affecting heritage assets etc have been found to be unacceptable. It would have been impossible for the Borough Council to interrogate why alternative sites became unavailable, as well as to the extent of the area of search undertaken, in relation to the proposed point of connection.
- 4.61 Whilst it is accepted that there is no requirement to undertake a sequential approach to site selection (and that is not mandated in national planning policies or guidance), and national planning policy does not prevent the use of BMV, it does require justification to be provided. The Parish Council consider the Appellant’s evidence for the use of this site, with its high percentage of BMV, its Green Belt designation and its impact on

¹² <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466#:~:text=Protecting%20the%20Best%20Agricultural%20Land&text=Where%20the%20proposed%20use%20of,Versatile%E2%80%9D%20agricultural%20land%20where%20possible.>

heritage assets, to be insubstantial. The search area is unclear, and there is no clear justification why an alternative site outside of non-BMV agricultural land, or a smaller site elsewhere, would not be acceptable. The fact that the appeal site is in single ownership will no doubt be advantageous to the Appellant, but it is not a material planning consideration of any weight and should not discount the consideration of alternative, less harmful sites, which could still generate a viable amount of output, or sites in multiple ownership.

- 4.62 Whilst the Appellant's Statement of Case (Appendix T) quotes EN-3 of November 2023 there is no detailed objective assessment of the area of search in accordance with that, e.g. 2.10.31 of that referenced document states 'Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land'.
- 4.63 The Parish Council consider the search area need not be limited to North Warwickshire – noting the appeal site lies close to the Borough's southern boundary, and even if there were plentiful BMV in North Warwickshire, this is not the case countrywide, meaning that retaining such high-quality agricultural land in arable use becomes all the more important. The jurisdictional boundaries of a local authority are an artificial construct in terms of the availability of land and the agricultural quality of soil: the physical limit of a local planning authority's area is not an absolute barrier to development – the Appellant could have investigated surrounding authority areas with lower quality agricultural land and outside the Green Belt.
- 4.64 It is noted in dismissing an appeal in Birchall Green (APP/J1860/W23/3325112 – **Appendix D**), in the absence of a site selection paper identifying suitable (or otherwise) sites, the Inspector held that there was "...an inadequate evidential basis to robustly justify the particular location of the scheme before me, or thereby to give particular weight to meeting national needs or realising economic benefits here specifically." (paragraph 78) The Parish Council consider the appeal proposal should also be refused as there is no evidential basis for selecting the appeal site.
- 4.65 In addition, a High Court challenge of an appeal decision for a solar farm development is of relevance. In that case, on land north of Lullington, Swadlincote¹³, 49% / 34Ha of BMV land was involved (as opposed to the larger amount in this appeal of 95% / 58Ha). In dismissing the appeal, the Inspector considered the proposal '...would harm the BMV resource...and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time.' (paragraph 48).
- 4.66 The High Court challenge was on 2 grounds, however the challenge failed ¹⁴ (**Appendix E**). The Claimant's grounds of challenge were (a) that it was not practicable or reasonable to require the Claimant to fully investigate every possible location for the proposed development within the study area or to demonstrate that there are no

¹³ APP/F1040/W/22/3313316 dated 21st July 2023

¹⁴ [2024] EWHC 295 (Admin) dated 16th February 2024

possible alternatives to the Site; and (b) that the assessment carried out by the Claimant was deficient because of a lack of soil investigation outside of the Site. In dismissing the challenge, His Honour Judge Jarman KC found no inconsistency in the Inspector's conclusions in respect of those matters when reading the decision letter 'fairly and as a whole'. He held that (paragraph 40):

'The inspector took the view that the claimant's assessment was not sufficiently robust because it failed to carry out any investigation of soil quality outside the appeal site. It assumed that all grade 3 land in the search area was likely to have a similar BMV as the appeal site (namely nearly half), whereas the authoritative ALC shows that there is likely to be a range of between 20-60% of BMV, suggesting the possibility of sites with far less BMV than the appeal site. In my judgment ground 1 is not made out.'

- 4.67 The judgment concludes (paragraph 45): 'The inspector had to make a planning judgment as to the competing benefits and harms of permitting the proposed development on the one hand and of refusing it on the other. In so doing, he came to a different conclusion to the authority's planning officer, but it was one which he was entitled to come to and one with which this court should not interfere.'
- 4.68 The appeal proposal would limit the agricultural uses to which the land could be put, and the land would certainly not be able to be put to its optimum use for 40 years. Sheep grazing may be achievable, and the land could realistically only be put to that purpose, however sheep can be grazed on land of more inferior quality – it would be a waste of BMV for this land to be used for sheep grazing. The proposed subdivision of the site by hedgerows would likely render any future cropping impractical. In addition, in direct numerical terms, the quantity of available BMV land on site will be reduced (whether by posts supporting solar panels, fencing, CCTV columns and hedgerow planting). It is a fact that some BMV land, albeit small, would be permanently lost. There are no guarantees that the appeal site will continue in agricultural use if the appeal proposal is approved. The appeal proposal will harm the BMV resource and its contribution towards food security for a generation.
- 4.69 In summary, it appears that the appeal proposal has been largely driven by a willing landowner, a large site in single ownership, and the ease of connection to the grid. These are perfectly understandable commercial objectives – but they do not satisfy the requirements of planning policy and practice for the reasons given. The lack of evidence for the selection of the appeal site is material to the consideration of the appeal proposal, and the Parish Council consider the use of a site comprising 95% BMV agricultural land for a solar scheme that will limit the agricultural use of this high quality land to sheep grazing for 40 years carries adverse weight against the scheme, a harm considered moderate in the planning balance.

Flooding

- 4.70 The Parish Council is aware that the Fillongley Flood Group will be submitting a Statement to the Inspectorate. It is clear that planning policy requires development not to increase flooding. Flooding in Fillongley is a major concern for residents and, it is an ongoing issue for the village.
- 4.71 It is noted that the Appellant is requesting the Inspector consider an amended plan (Rev. H) removing the 3no. basins from the proposal. Whilst these basins may be seen as 'betterment' in the appeal scheme, their provision, subject to satisfactory design, will slow down water flow and may assist in ameliorating the current flooding situation in the village itself. The refused plan also contained additional landscaping on the appeal site, which will assist in the screening of the proposed development. The Inspector is therefore respectfully requested to determine the plan refused by the Borough Council.
- 4.72 However, on the basis that the Lead Local Flood Authority did not object to the planning application prior to the introduction of the basins into the design, unfortunately it is conceded that this matter carries neutral weight in the determination of the appeal.

Biodiversity

- 4.73 It is noted that the appeal proposal exceeds the now mandatory requirements for Biodiversity Net Gain, however, due to the age of the original planning application, whilst it is encouraging to see this improvement in the scheme, it is not a requirement of the development. The Parish Council consider this therefore has moderate weight in the planning balance.

Economic Implications

- 4.74 The appeal submission, and before that the planning application, contained somewhat contradictory information on the amount of electricity generated/ the number of homes served by the proposal. The Parish Council were advised by the Appellant's representatives at Parish Council meetings that the village will not directly benefit from this electricity. There is reference to the Borough Council benefitting from business rates as a result of the development. However, there are not considered to be any other specific economic benefits arising from the appeal proposal, outside the potential for some economic benefit during the construction period, albeit this would reduce significantly once the development is operational and the proposal's contribution to renewable energy generation. In the overall planning balance, the Parish considers the economic benefits to have limited weight.

5. Planning Balance

- 5.1 It is accepted and agreed by all parties to the appeal that the proposal is inappropriate development in the Green Belt, and that substantial weight is given to any Green Belt harm. It is also noted that North Warwickshire is not a highly constrained borough - this is not a case where in order to provide solar farms it is inevitable (or at least likely) that they will have to be located within the Green Belt. The Parish Council consider that the appeal proposal will have a substantial impact on Green Belt openness, both spatially and visually. Furthermore, this harm will endure for 40 years, a considerable period. In line with the Framework, substantial weight to the harm the proposal would cause to the Green Belt should be given. The appeal proposal conflicts with Policy LP3 of the Local Plan.
- 5.2 The proposal would cause substantial visual harm from Public Rights of Way, as demonstrated by the Parish's photomontages accompanying this statement; this harm will endure throughout the lifetime of the development. The wider harm to the character and appearance of the landscape is considered to be significant in year 0, but this will reduce to moderate harm as the proposed landscaping matures; however it will not be possible to screen the development, only soften its impact. The appeal proposal is therefore contrary to Policies LP1, LP14, LP30 and LP35 of the North Warwickshire Local Plan 2021, and Policies FNP01 and FNP02 of the Fillongley Neighbourhood Plan 2019. In line with the Framework, planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside (paragraph 180b) and development should add to the overall quality of the area and be sympathetic to local character and history, including landscape setting (paragraph 135). The appeal proposal fails on both accounts.
- 5.3 In addition, the appeal proposal will result in harm to the settings of a number of highly designated heritage assets, including the scheduled monument of Castle Yard and grade II* listed Church of St Mary and All Saints. Whilst this harm is less than substantial in terms of its heritage impact, within that broad category, the overall harm to the built heritage is considered to be significant. The appeal proposal is therefore contrary to Policy LP15 of the Local Plan and Policy FNP06 of the Neighbourhood Plan.
- 5.4 Furthermore, the appeal proposal comprises 95% Best and Most Versatile Agricultural Land. National policy (footnote 62 to the NPPF) and most recent Ministerial Statements in May and July 2024 confirm that for solar proposals, the highest quality agricultural land is least appropriate and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. It is considered that the Appellant has not provided sufficient evidence for the selection of BMV for the appeal proposal, and this lack of evidence carries adverse weight against the scheme, a harm considered moderate in the planning balance.
- 5.5 On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future as well as improving energy security. The

appeal scheme would make a significant contribution to this, and this should be given substantial weight in the planning balance. Moderate weight should also be given to the fact that any adverse impacts will be (mainly) reversible when the site is de-commissioned in 40 years. These are considered to constitute Very Special Circumstances in favour of the appeal proposal. Whilst not considered VSC, other matters such as the economic benefits (limited weight) and biodiversity gains (moderate weight) are considered to be material.

- 5.6 However, the Parish Council consider that against the identified harms, while the other considerations advanced include a wide range of benefits, some of which have substantial weight, others having moderate or limited weight, they are not sufficient to clearly outweigh the harm to the Green Belt and other harms identified. Consequently the very special circumstances necessary to justify the development do not exist.
- 5.7 Overall, this Statement confirms that the appeal proposal is not a sustainable development, in conflict with Policy LP1 of the adopted Local Plan and the National Planning Policy Framework. The appeal proposal would not accord with the development plan, when considered as a whole, and there are no material considerations, including the provisions of the NPPF, that indicate the proposal should be determined other than in accordance with the development plan.
- 5.8 The Inspector is therefore respectfully requested to dismiss the appeal.

Current FNP01 Built Environment

Development proposals where possible should ensure the designs of new buildings (including extensions) do not cause a detrimental change to the overall character of the village, , the rural landscape of the parish and the setting of the Church through;

- *Encouraging developments that use the scale, shapes, forms of “traditional Arden Valley buildings” especially in or close to the Conservation Area*
- *Development should conserve the build character of the Ancient Arden Landscape by ensuring that new development reflects vernacular features as stated in “Design Guidelines for Development in Ancient Arden” (WCC Arden Character Guidelines 1993)*
- *Development that will affect the setting of the Church should be in accordance with the North Warwickshire Local Plan, and advice of Historic England.*

Proposed FNP01 Built Environment

The Parish's historic and rural character is well recognized, with the Church's setting and the broader rural landscape being particularly important. To preserve the balance of the entire landscape, no development will be allowed that disrupts this harmony.

Development proposals appropriate to their scale, nature and location, should ensure the designs of new buildings (including extensions) do not cause a detrimental change to the overall character of the village, the neighbourhood area, the rural landscape of the parish and the setting of the Church through;

- encouraging developments that use the scale, shapes, forms of “traditional Arden Valley buildings” especially in or close to the Conservation Area
- Development should conserve the build character of the Ancient Arden Landscape by ensuring that new development reflects vernacular features as stated in “Design Guidelines for Development in Ancient Arden” (WCC Arden Character Guidelines 1993)
- Development that will affect the setting of the Church should be in accordance with the Fillongley Neighbourhood Plan, the North Warwickshire Local Plan, and advice of Historic England.

Buildings must be designed in such a way so as to make a positive use of local landform, mature trees, hedgerows and other vegetation and for larger proposals has had suitable regard to landscape setting and settlement pattern;

- Seek to minimise the encroachment of development into visually exposed landscapes and where development is proposed on the edge of the village. Designs should not lead to inappropriate incursion into the surrounding countryside by reason of its siting, design, materials or use of landscaping.
- As appropriate to its scale, nature and location, development proposals across the Neighbourhood Area should demonstrate they are sympathetic to the landscape setting

as defined in the NWBC Landscape Character Assessment. All applicants shall show that they have taken into account the matters identified above.

Development proposals should be designed to take account of the landscape, the landscape character, and topographical setting of the local area which contributes to the distinctive character of the Parish.

The layout, scale and boundary treatment of any applicable development should seek to retain a sense of space, place and (where relevant) separation.

Designs must include features to minimise light pollution.

Current FNP02 Natural Environment

Development proposals should wherever possible should seek to enhance and conserve the natural environment. Proposals will be supported in principle providing they meet the following considerations;

- *No adverse impacts on the visual appearance and important scenic aspects of the village centre (the setting) and other rural and natural features in the landscape.*
- *Existing greenspaces that already exist within and on the edges of the developed areas of the Parish should be protected and enhanced wherever possible (see maps on pages 17 – 18)*
- *Protect, and increase where possible, current levels of biodiversity and interconnectivity by ensuring current wildlife corridors (using data from biodiversity Interconnectivity Mapping) are maintained and increased-where practicable.*
- *Any development should have regard to the Habitat Biodiversity Audit (EB 05/01)*
- *Section 106 payments/CIL financial contributions, should, wherever possible go towards improvements to levels of biodiversity and interconnectivity using data from the Habitat Biodiversity Audit in the locality of the development (Reference EB 05/01)*
- *Existing definitively mapped footpaths that criss-cross our Parish should be protected and enhanced wherever possible.*
- *Existing habitats of native species should be protected wherever possible (using data from Habitat Distinctiveness Area map)*
- *Protect traditional Arden landscaped hedges and native trees wherever possible.*

Proposed FNP02 Natural Environment

Development proposals should wherever possible should seek to enhance and conserve the natural environment. Proposals will be supported in principle providing they meet the following considerations;

- No adverse impacts on the visual appearance and important scenic aspects of the village centre (the setting) and other rural and natural features in the landscape.
- Existing greenspaces that already exist within and on the edges of the developed areas of the Parish should be protected and enhanced wherever possible (see maps on pages 17 – 18)

- Protect, and increase in accordance with Habitat Biodiversity Net Gain legislation, current levels of biodiversity and interconnectivity by ensuring current wildlife corridors (using data from biodiversity Interconnectivity Mapping) are maintained and increased.
- Any development should have regard to the Habitat Biodiversity Audit (EB 05/01)
- Section 106 payments/CIL financial contributions, should, wherever possible go towards improvements to levels of biodiversity and interconnectivity using data from the Habitat Biodiversity Audit in the locality of the development (Reference EB 05/01)
- Existing definitively mapped footpaths that criss-cross our Parish should be protected and also enhanced wherever possible.
- Existing habitats of native species should be protected (using data from Habitat Distinctiveness Area map)
- Protect traditional Arden landscaped hedges and native trees

Current FNP 03 Flooding

Development should minimise flood risk within the village whilst maintaining the balance with other policies. Any developments will ameliorate flood risks by providing SuDs in consultation with the lead flood authority”.

Proposed FNP 03 Flooding

Development should minimise flood risk within the village whilst maintaining the balance with other policies. Any developments will ameliorate flood risks by providing SuDs (Sustainable Drainage Systems) as required in consultation with Fillongley Flood Group or other entity nominated by FPC and the Lead Local Flood Authority.

Development within Flood Zone 3 will be required to show no increase in flood risk to the site **and to others** in line with the requirements of the NPPF and the Warwickshire County Council Local Flood Risk Management Strategy (April 2016) or subsequent revision, and where possible a reduction in flood risk to the site and others should also be encouraged.

Surface water management strategies should demonstrate how site-specific guidance in the Strategic Flood Risk Assessment (Strategic Flood Risk Assessment downloads | North Warwickshire (northwarks.gov.uk)) has been implemented and should be in accordance with Drainage Hierarchy (Planning Practice Guidance 80).

Drainage systems should maintain or, where applicable, enhance the aesthetic, recreational and ecological quality of the area and be available, where appropriate, as recreational space.

Development should incorporate Sustainable Drainage Systems (SuDS). SuDS proposals should be managed in line with the Government’s Water Strategy. In particular SuDS proposals should; a) provide multifunctional benefits (for example enhancing biodiversity) by providing natural flood management and mitigation through the improvement or creation of green infrastructure (for example ponds and wetlands, woodland and swales); and b) take account of advice from the Warwickshire County Council as the Lead Local Flood Authority,

the Environment Agency and Severn Trent Water (as the sewage management company) and the Fillongley Flood Group evidence.

Proposals will be supported that include the replacement of tarmac or an equivalent non-porous surface with a SuDS scheme in the area identified as Flood Zone 3

Current FNP 04 Housing

All new developments should encourage a broad mix of housing types including smaller starter homes and retirement dwellings together with provision for “Affordable Housing” for local people as per NWBC requirements.

Proposed FNP 04 Housing

Proposals for residential development will be expected to contribute to the objective of creating a mixed and balanced community. There is currently (2024) a disproportionately low number of bungalows to the number of residents over 60.

To achieve the objective, new residential development should seek to include in their housing mix a majority (>50%) of 1-bedroom and 2 bedroom dwellings. These should provide for a range of needs including; homes for those with mobility issues; homes for older people; homes for young people. Where possible this should include a mixture of ownership tenures to enable younger residents to stay in the Parish purchase their own homes.

Development proposals for housing will be required to demonstrate that they take into account the most up to date published independent evidence of housing needs in Fillongley Parish.

Where possible, affordable housing should be made available to eligible households with a local connection to the Parish in the first instance.

The affordable dwellings should include a mix of affordable home ownership and affordable dwellings for rent.

Proposals for new dwellings which incorporate flexible layouts (to facilitate homeworking and/or adaptations required by the occupiers over their lifetime) will be supported if the required housing mix is achieved.

Subject to viability assessment, homes that are accessible and adaptable homes (as defined in the Building Regulations) will be supported where they also comply with Development Plan policies.

Development proposals will be required to demonstrate that residents’ and visitors’ parking requirements can be accommodated off street to facilitate traffic flow and accessibility for service and emergency vehicles. Proposals should ensure that enough off-street parking is integrated into the layout of the scheme or provided off-site.

New developments should include sufficient amenity space to serve the needs of the development and its users.

Current FNP 05 Economy

Proposals for the development of new rural businesses and rural employment opportunities will be supported in principle provided that;

- There would be no adverse impact on the amenities of neighbouring businesses or residential properties, for example in relation to factors such as noise and disturbance; and*
- The development is supported by sufficient car parking and access arrangements to meet its needs*
- It is accessible by other sustainable transport means (walking, cycling, car-share, and public transport)*

Proposed FNP 05 Economy

Proposals for the development of new rural businesses and rural employment opportunities will be supported in principle provided that;

- There would be no adverse impact on the amenities of neighbouring businesses or residential properties, for example in relation to factors such as noise and disturbance; and
- The development is supported by sufficient car parking and access arrangements to meet its needs
- It is accessible by other sustainable transport means (walking, cycling, car-share, and public transport)

Business development will be supported when it is a) on brownfield sites or b) where small scale employment uses already exist in a suitable location.

All new development should be provided with appropriate street ducting to allow connection to any superfast broadband service which may be, (or may become), available.

Current FNP06 Heritage

Development should protect, enhance and respect the local built, historic and natural heritage assets or any other locally identified heritage features of the village (Appendix EB06/04 Fillongley Parish Historic EnvirRecord Monuments)

Applications for development that will harm designated and non-designated heritage assets will be refused unless the circumstances that would permit approval specified in the appropriate part of paragraphs 133 – 135 of the NPPF (2012) apply.

Proposed FNP06 Heritage

Development should protect, enhance and respect the local built, historic and natural heritage assets or any other locally identified heritage features of the village (Appendix EB06/04 Fillongley Parish Historic EnvirRecord Monuments)

Applications for development that will harm designated and non-designated heritage assets will be refused unless the circumstances that would permit approval specified in the appropriate part of paragraphs 133 – 135 of the NPPF (2012) apply.

Development should demonstrate an understanding of the history of the area. Proposals for development, including change of use, that involve a designated heritage asset, or the setting of a designated heritage asset will be expected to:

- conserve, enhance or better reveal those elements which contribute to the heritage significance and/or its setting;
- respect any features of special architectural or historic interest, including where relevant the historic curtilage or context, its value within a group and/or its setting, such as the importance of a street frontage, traditional roofscape, or traditional shopfronts.
- be sympathetic in terms of its siting, size, scale, height, alignment, proportions, design and form, building technique(s), materials and detailing, boundary treatments and surfacing, or are of a high quality contemporary or innovative nature which complements the local vernacular, in order to retain the special interest that justifies its designation;
- ensure significant views away from, through, towards and associated with the heritage asset(s) are conserved or enhanced;

Proposals that will lead to substantial harm or total loss of significance to a designated heritage asset will be dealt with in accordance with Paragraph 201 of the NPPF.

Proposals that would result in less than substantial harm to the significance of a designated heritage asset (including their setting) will only be supported where it can be demonstrated that the local public benefits will outweigh any harm identified.

The restoration of listed buildings on Historic England's Heritage at Risk register, will be supported where the proposal is compatible with the designation provided that the proposal;

- recognises the significance of the heritage asset as an integral part of the proposal and its design and layout,
- recognises the significance of the heritage asset as a central part of the design and layout,
- has special regard to the desirability of preserving the asset and its setting and any features of special architectural or historic interest, and d) removes or seeks to remove the risk to the heritage asset.

The former drovers' lanes are narrow country lanes and have a historic and rural landscape character being mainly single width carriageways which are sunken and with mature, high hedges in places. Where possible, proposals should demonstrate they have regard to this historic rural landscape character in the proposals for the movement of vehicles, pedestrians and cyclists along them.

Current FNP07 Traffic and Transport

Proposals for development should;

- *Provide safe vehicular access, parking/garaging and turning provisions without detriment to the amenity of existing residents.*
- *Comply with current NPPF, NWBC and WCC Guidelines, and*
- *Ensure that the number of car parking spaces be related to the size of the new and extended properties.*

Proposed FNP07 Traffic and Transport


Proposals for development should;

- Provide safe vehicular access, parking/garaging and turning provisions without detriment to the amenity of existing residents.
- Comply with current NPPF, NWBC and WCC Guidelines, and
- Ensure that the number of car parking spaces be related to the size of the new and extended properties.

All development proposals will be required to demonstrate that residents' and visitors' parking requirements can be accommodated off street to facilitate traffic flow and accessibility for service and emergency vehicles.

Proposals for development should ensure that off-street parking is integrated into the layout of the scheme or provided off-site.

Original FNP08 Green Belt

| b. FNP02 Green Belt | |
|---|--|
| <p>i Key Facts</p> <p>The Green Belt has the purposes of safeguarding the countryside from encroachment and also protecting the setting of historic towns. It is an important planning policy designation and has huge impact on Fillongley. Fillongley has two separate areas that are defined by a development boundary. The whole of the rest of the Parish is Green Belt.</p> <p>National Planning Policy Framework (NPPF) states that Green Belt boundaries should only be altered in "exceptional circumstances".</p> <p>ii Survey Responses Indicated</p> <p>Maintain geographical independence from Birmingham, Coventry and other settlements.</p> <p>Protect Green Belt including area around village.</p> <p>Protect Green Belt, restore Daw Mill to a green belt designated site as per 1996 planning consent.</p> <p>iii NP Objectives</p> <p>To protect the Green Belt</p> |  |

Original FNP document

FPC were advised that the NPPF adequately protects the Green Belt and therefore FNP should remove the Greenbelt policy. Due to the readjustment of the policy numbers it will now need to become FNP08.

Proposed FNP08 Green Belt

Fillongley is “washed over” by the Green Belt and inappropriate development will not be permitted unless “very special circumstances” can be demonstrated.



Appeal Decision

Site visit made on 12 July 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/W0530/W/22/3300777

Land to the South East of Burton End, West Wickham, CB21 4SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lodge against the decision of South Cambridgeshire District Council.
 - The application Ref 20/01564/FUL, dated 2 March 2020, was refused by notice dated 10 December 2021.
 - **The development proposed is described as the 'installation of a solar farm and associated infrastructure including access'.**
-

Decision

1. The appeal is dismissed.

Main Issues

2. **Having regard to the Council's reasons for refusal, the main issues** are the effect of the proposed development on:
 - the character and appearance of the area including the landscape;
 - the use of best and most versatile agricultural land, and whether the sustainability considerations and need for the development are sufficient to override the need to protect the agricultural value of the land.

Reasons

Character and appearance

3. For the purpose of the Greater Cambridge Landscape Character Assessment 2021, the appeal site lies within the West Wickham Wooded Claylands landscape character area, which is characterised by undulating boulder clay landform, dissected by small stream valleys. There are a scattering of farmsteads and small linear settlements interspersed with medium blocks of woodlands and trees. An irregular patchwork of medium to large arable fields are united by the gently rolling landform and woodland which together create a distinctive landscape and afford open, panoramic views towards a wooded skyline. According to the character assessment, the landscape area is regarded as having a good landscape condition and a strong character.
4. The appeal site extends to 1.8 hectares and comprises a mix of scrubland and grassland, the topography of which is generally flat. The site occupies a prominent location adjacent to the road and within close distance of the junction of Burton End, The Common, Skippers Lane and Common Road. Large, open arable fields with limited boundary features, surround the appeal site. The site and its surroundings embody the typical landscape characteristics of the

character area, which positively contributes to the rural character of the locality.

5. A Landscape and Visual Appraisal¹ conducted in accordance with industry standard methodologies and guidelines accompanied the planning application whilst the appeal is also supported by a Supplementary Landscape and Visual Impact Appraisal², planting plan and landscape specification. The findings of these appraisals suggest that the landscape character has a low sensitivity to development and a high capacity to accommodate the proposal. Having regard to the evidence before, in my view the relevant landscape including the appeal site has a medium landscape value and medium sensitivity to change.
6. The appeal development relates to the installation of 4580 solar panels which would be arranged in 22 rows, around 5 metres apart and would be orientated in an east to west direction across the appeal site. The installation would reach a maximum height of some 3 metres above ground and would have a dark grey/dark blue/black finish. In addition, a substation and switch room would be provided either side of the proposed access whilst an inverter would be in the centre of the site. The substation, being the tallest of the proposed structures would reach a height of around 3.5 metres.
7. The attractive, unspoilt open qualities of the appeal site would be replaced by regimented rows of uniform solar panels mounted on metal frames together with ancillary buildings. The homogenous and typically geometric form of the proposal together with its industrial appearance and dark finish would erode the rural character of the appeal site and diminish its contribution to the key landscape characteristics of the West Wickham Wooded Claylands area. Within this context, I find that the proposal would read as a highly obtrusive and discordant form of development. As such, it would have a harmful effect on the landscape.
8. Due to the exposed and plateaued nature of the surrounding landscape there are long, open views across the area in which the appeal development would be appreciated. Consequently, whilst I recognise that the landscape change and visual effects would be relatively localised, the appeal proposal would nonetheless be readily perceived by passers-by. The proposal would be particularly apparent to road users when approaching the site from both directions due to the level of the site relative to the road and the lack of field boundaries. In addition, and notwithstanding the intervening distance, there would be sight of the solar array and ancillary buildings from the surrounding rights of way network. Instead of viewing pleasant, open fields and panoramic views of the countryside from these locations, the visual receptors would experience row upon row of solar panels and utilitarian structures which would be at odds with their rural surroundings.
9. It has been put to me by the appellant that the provision of brushwood screening would offer mitigation in the short term whilst the proposed new hedgerow planting would reduce the adverse impacts and provide an overall enhancement in the long term. I acknowledge that the additional planting together with the undulating topography of the surrounding land would to some extent soften the visual effects. However, the subdivision of the field would result in a fragmented field pattern which would be uncharacteristic of the site

¹ Landscape and Visual Appraisal (11 November 2020)

² Supplementary Landscape and Visual Impact Appraisal (May 2022)

as it is today. In doing so, this would highlight the conspicuous form of the appeal scheme and compound its harmful effect on the character of the landscape. Overall, I find against all this background that the scheme would have a moderate harmful visual impact.

10. In coming to this view, I recognise **that the site's immediate surroundings are** not completely devoid of built form. Indeed, I observed at my site visit that there are two former aircraft hangers located in proximity of the appeal site which have been modernised for commercial use. Both buildings are of a substantial scale, particularly when compared to the ancillary buildings proposed under the appeal scheme and are prominent within the landscape. However, **these buildings are indicative of the area's history and their** general form and appearance resembles their original design. Moreover, their appearance is not dissimilar of more modern agricultural units which are commonplace in the countryside. As such, they do not appear discordant in the context of their surroundings or detract from the character and appearance of the area.
11. I also acknowledge that the proposed development would be largely reversible, and that the impacts could be limited by condition to a period of 25 years. This however is a relatively long period of time during which the adverse impacts would be experienced. Therefore, I am not persuaded that the development would be justified on this basis.
12. For the above reasons, I find that the proposed development would adversely affect the character and appearance of the area including the landscape. The proposal is therefore contrary to Policies S/7, CC/2, NH/2 and HQ/1 of the South Cambridgeshire Local Plan 2018 (Local Plan). Amongst other aspects, these policies seek to ensure that development respects and retains or enhances the local character and distinctiveness of the host landscape.

Best and most versatile agricultural land

13. Annex 2: Glossary of the National Planning Policy Framework (the Framework) sets out that best and most versatile agricultural land (BMV) includes land in grades 1, 2 and 3a of the Agricultural Land Classification. For the purposes of Natural England's **Provisional Agricultural** Land Classification Maps, the appeal site is recorded as grade 2 land. This however is contested by the appellant who submits that in accordance with the site-specific assessment³ (ALC) submitted as part of the appeal, the site is grade 3b – moderate quality agricultural land.
14. The Planning Practice Guidance (PPG) indicates that where a proposal involves greenfield land consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays⁴.
15. Policy CC/2 of the Local Plan indicates that planning permission for proposals to generate energy from renewable and low carbon sources will be permitted where they do not have unacceptable adverse impacts on high quality agricultural land. Policy NH/3 deals specifically with the protection of

³ Agricultural Land Classification Assessment prepared by Wilson Wraight dated May 2022

⁴ Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 March 2015

agricultural land and states, amongst other criteria that permission will not be granted where it would lead to the irreversible loss of grades 1, 2 or 3a agricultural land unless the land is allocated within the Local Plan or sustainability considerations and need for the development are sufficient to override the need to protect the agricultural value of the land.

16. **The Council's delegated report indicates that there are large swathes** of high-quality agricultural land within the district. The appeal site area extends to some 1.8 hectares and is an isolated parcel of land in so far as it was severed from the main farming enterprise some decades years ago. I am advised by the appellant that the appeal site has been left fallow for many years and is not currently in a state that could be farmed without considerable input and improvement. The evidence also suggests that owing to the lack of underground drainage and the restricted site area, the agricultural potential of the appeal site is limited.
17. The proposed solar farm would occupy the appeal site for a period of 25 years, after which the land would be returned to wholly agricultural use. For the period that the development would be in situ there would be grazing opportunities between and under the arrays and therefore the land would remain partly in agricultural use.
18. Although there is no local policy requirement to undertake a sequential test, it is clear from the provisions of the PPG and the Written Ministerial Statement (WMS) dated March 2015 that preference should be given to development on land of lower agricultural quality and that there must be the most compelling evidence to justify solar farms on BMV land. In this regard, the appellant has provided details of the site search exercise which fixed the study area to within 6km of the National Grid Substations with capacity to connect a solar PV array. The appeal site is located approximately 320 metres from a grid connection.
19. The search exercise considered the availability/suitability of alternative sites on previously developed land within the defined radius, having regard to the **Council's brownfield land register**. When taking account of the required site area, housing allocations and grid connection, the appellant submits that there are no sites suitable to accommodate the proposed development. Although the Council is critical of the assessment, no suitable alternative brownfield sites have been identified which would challenge **the appellant's** assessment and, whilst an area of grade 3 agricultural land has been referenced, this is not within the control of the appellant and its availability is unclear.
20. The Government has repeatedly emphasised its commitment to increasing the supply of renewable energy within the UK. Whilst the 2020 target of 15% of all energy consumed to be from renewable energy sources has passed, in light of the 2050 net zero target there remains strong Government support for the provision of renewable energy technologies. Indeed, the Framework sets out clear support for the delivery of renewable and low carbon energy and associated infrastructure to mitigate climate change. The appellant identifies that nationally, energy demands are increasing which will need to be met by low carbon and carbon negative sources if we are to achieve the 2050 target and enhance energy reliability and security.
21. Solar PV installations can provide a significant contribution to meeting the legally binding target and increase the renewable energy capacity currently installed in the UK. In this regard, the proposal would provide 1 megawatt of

energy which would power approximately 650 local homes and contribute towards carbon neutrality. Further, paragraph 158 of the Framework indicates that projects of all scales provide a valuable contribution to reducing greenhouse gas emissions. Consequently, the renewable energy benefit of the appeal proposal must be accorded substantial weight.

22. Taking the above into account, it is my overall view that the sustainability considerations and the need for the development override the need to protect the agricultural value of the land. Furthermore, given that the site accounts for a very small proportion of the total BMV land in the region together with the site-specific factors set out above, I do not consider that the loss of the land for the period that the arrays would be in situ would harm the agricultural industry. Notwithstanding the conclusions of the appellants ALC, I have found that the proposal is acceptable even on the higher grade land and thus need not consider this any further.
23. Therefore, I conclude that the appeal proposal would accord with Policies CC/2 and NH/3 of the Local Plan where they seek to protect the agricultural value of the land and avoid the irreversible loss of grades 1, 2 or 3a agricultural land.

Other Matters

24. The **Council's delegated report indicates that** West Wickham Conservation Area and West Wratting Conservation Area are located 1.7km and 2.8km from the appeal site respectively. There are several listed buildings located within some 800 metres of the appeal site including Nos 27 and 29 and The Vicarage, Burton End. Brook Farmhouse and No 57, The Common are located approximately 900 metres away. The setting of the above heritage assets is informed by the open countryside which immediately surrounds them. Although the proposed development would introduce new development onto land which is currently free of built form, given the intervening distances and landform, I do not consider that the proposed development would compromise the setting of the identified conservation areas or the setting of Nos 27 and 29 and The Vicarage. With regards to the other listed buildings identified, as their separation from the site is even greater, their setting would also be unaffected by the proposal.

Planning Balance and Conclusion

25. I have concluded that substantial weight should be given to the renewable energy benefits of the scheme, which in this instance would amount to the compelling evidence required to justify a solar farm on the BMV land.
26. There would also be a biodiversity net gain through the implementation of the proposal with onsite enhancement and mitigation measures including planting of wildflowers underneath the arrays and additional hedgerow planting. The use of the site for agricultural grazing would support 1.5 FTE jobs for the duration of the solar farm operation whilst business rates would contribute to local economy. In addition, there would be short term economic benefits during the construction of the scheme. These factors are attributed moderate weight.
27. However, the policy support given for renewable energy projects in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so. Notwithstanding the temporary nature of the appeal scheme, I have found that there would be significant harm to the character and

appearance of the area, and I am not persuaded for the reasons I have set out that these impacts would be capable of being made acceptable. In my view, over the lifetime of the development, the harm to the character and appearance including the landscape outweighs all the benefits that I have identified.

28. Accordingly, the appeal proposal conflicts with the development plan read as a whole and no material considerations, including the Framework have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

H Wilkinson

INSPECTOR



Department for Levelling Up,
Housing & Communities

Nick Pleasant
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LS1 4HR
nick.pleasant@stantec.com

Our ref: APP/W2845/W/23/3314266
Your ref: WNS/2021/1858/EIA

13 March 2024

Sent by email only

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL MADE BY
ANNESCO LTD
LAND AT MILTON ROAD, GAYTON, NORTHAMPTON NN7 3HE
APPLICATION REF: WNS/2021/1858/EIA**

This decision was made by Simon Hoare MP, Minister of State for Local Government on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Mike Robins MSc BSc(Hons) MRTPI, who held a public local inquiry in person which sat for 4 days into your client's appeal against the decision of West Northamptonshire Council to refuse your client's application for planning permission for the construction of a temporary Solar Farm of up to 49.72MW, to include the installation of solar panels with transformers, a substation, a DNO control room, a customer substation, GRP comms cabin, security fencing, landscaping and other associated infrastructure, in accordance with application Ref. WNS/2021/1858/EIA, dated 22 October 2021. On 12 April 2023, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

2. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions.
3. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with the Inspector's recommendation. He has decided to dismiss the appeal and refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR1.5, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

5. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. On 17 January 2024, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the revised Framework and revised National Policy Statements (NPS) EN-1 and EN-3. Representations were received from West Northamptonshire Council, Gayton Parish Council and Stantec (on behalf of the appellant). These are listed in Annex A to this decision letter. The Secretary of State has considered the comments raised in these representations relating to the Framework and NPSs. The Secretary of State notes that at footnote 62 the revised version of the Framework now requires the availability of land for food production to be considered, alongside other policies in the Framework, when deciding what sites are not appropriate for development. The Secretary of State deals with this issue in paragraph 33 below. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
6. Provisions relating to mandatory Biodiversity Net Gain (BNG) have been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permission granted for applications made before this date are not subject to mandatory BNG.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (the LPP1), adopted in 2014 and the South Northamptonshire Local Plan (Part 2) (the LPP2) adopted in 2020. The Secretary of State considers that relevant development plan policies include those set out at IR3.5.
9. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), as well as NPS EN-1 and EN-3.
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

11. The emerging plan comprises the New Local Plan for West Northamptonshire. The Secretary of State considers that as the local plan is at such an early consultation stage in its production there are no emerging policies of relevance to this case.
12. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. However, as there are no emerging policies owing to the very early stages of plan production the Secretary of State considers that no weight should be attributed to the emerging plan.

Main issues

Landscape Character and Appearance

13. The Secretary of State agrees at IR10.3 that the introduction of panels and other infrastructure, including transformers, inverters and fencing, will inevitably introduce a fundamental change to agricultural land. Considering the scale of this proposal, there would also, inevitably, be a degree of change to the landscape and to peoples' experience of the area. He agrees with the Inspector at IR10.5 that the issue is not therefore whether there would be a material change and resultant adverse impacts, but the extent of those, the approach taken to minimising any effects and then the balance to be taken against any benefits that would arise.
14. The Secretary of State further agrees at IR10.6 that the two parcels of the site do not lie within a designated or protected landscape and should not be considered as a valued landscape, in terms of paragraph 174 of the Framework (now paragraph 180).
15. The Secretary of State agrees that the proposed development is divided into two separate parcels and it is necessary to consider the value of each independently (IR10.8). The Secretary of State notes at IR10.18 that the difference between the main parties are essentially judgments of effect based on the susceptibility and sensitivity of the landscape, and the extent of visual harm from the introduction of panels in views from the footpaths, the canal and to a lesser extent, identified longer views from outside of the appeal site parcels.
16. The Secretary of State has carefully considered the evidence from both the appellant and the LPA, and he prefers the evidence from the LPA as set out by the Inspector at IR 6.7-6.25. As set out at IR6.3 there are two Public Rights of Way (PRoWs) running through the northern parcel in addition to the towpath along the Grand Union Canal and the northern parcel adjoins the canal. IR6.19 notes that both landscape witnesses agree that the effects in year 1 will be significant, and the appellant contends that, as a result of mitigation planting, the effect in year 15 will not be. The Secretary of State considers the significant impact for a number of years, relying on landscape mitigation that will be less effective at certain times of the year, is a major consideration. The Secretary of State concludes the northern parcel is of higher susceptibility to change from a solar proposal and considers medium – high susceptibility should be afforded.

17. In relation to the southern parcel, for the reasons given at IR10.18-25 the Secretary of State agrees this is of medium susceptibility to change from a solar farm proposal (IR10.25).
18. The Secretary of State agrees that the southern parcel is well contained and of only medium sensitivity, leading to a moderate adverse effect in early years and reducing with appropriate levels of set back and maturing of the mitigation planting (IR10.25). For the reasons given at IR10.26-29 he further agrees that the northern parcel itself is well contained in parts, and the alterations to the scheme to set back areas and remove the panels from the higher land to the east are positive in this regard. Nonetheless, notably in the early years and during seasons when the existing and proposed screening would be more limited, the experience of this landscape as a rural area with transport links would be harmed by the proposal (IR10.29).
19. For the reasons given at IR10.30-36 the Secretary of State agrees that the effects of the proposal on the landscape character would be moderate adverse reducing to minor adverse over time.
20. For the reasons given at IR10.38-41 the Secretary of State agrees that there are three main groups of receptors in this area, the users of the canal, walkers on the PRowWs and residential properties near to the site (IR.10.38).
21. For users of the canal, the Secretary of State agrees for the reasons given at IR10.42 that they are receptors with high sensitivity, many using the area for its rural character, and even glimpsed views must be considered to be moderate adverse, major in some places, albeit this will reduce over time as the planting becomes more established.
22. He further agrees for the reasons given at IR10.44-45 that approaching in a southward direction, some views, particularly in winter, would open up on close approach to the northern parcel, and quite clearly, crossing the site would introduce users to close range and relatively unfiltered views of panels, particularly in the early period of the proposal (IR10.44). For these crossings, where existing users experience seasonal changes and an open outlook, the panels would be a significant detractor leading to major adverse effects (IR10.45).
23. For the reasons given at IR10.46-48 he further agrees that longer-range views from RL/003 and viewpoint SCP14 would have a minor adverse impact.
24. For the reasons given at IR10.49 the Secretary of State agrees that at Sandlanding Wharf, the nearest residential property to the northern parcel, there would be a moderate adverse effect, reducing to minor. The Secretary of State agrees that the row of houses along Milton Road, and along Blisworth Road, would experience moderate adverse views in the early years of the proposal, but the effect would reduce considerably with planting (IR10.50).
25. For the reasons given at IR10.51-54 the Secretary of State agrees with the conclusions reached by the inspector covering interested parties' concerns.
26. Overall, the Secretary of State agrees that this proposal would harm the character and appearance of the area (IR10.60-62) but disagrees with the Inspector's conclusion at IR10.58 and considers there to be major visual harm in the early years of the proposal, reducing to major-moderate harm over time. He further agrees at IR10.60-62 that there is a degree of conflict with Policy S11 in LPP1, but also with that part of Policy S10 in LPP1

that seeks to protect the natural environment and those parts of Policies SS2 and EMP6 in the LPP2, which seek development compatible with its surroundings.

Temporary Nature of the Proposal

27. For the reasons given at IR10.56 the Secretary of State agrees that little weight should be afforded to the potential reversibility of the proposal in landscape or visual terms.

Heritage Assets

28. The Secretary of State notes there are three principal heritage assets relevant in this case: the Grand Union Canal (GUC) Conservation Area (CA), the Gayton CA and the Grade II listed building, the Turnover Bridge, Bridge 47 (IR10.64).
29. The Secretary of State notes that the GUC CA Management Plan describes the overall character as being defined by the gently curving canal, the modest grassy towpath and the surviving bridges, with its setting being of particular note as it passes through the river valleys (IR10.66). He agrees at IR10.66 that the significance of the GUC lies in its historic and architectural value, which includes the engineering of the contoured route of the canal. For the reasons given at IR10.67 he agrees that the northern parcel of the appeal site is an element of the setting of the GUC CA. He agrees at IR10.68 that the introduction of solar panels would alter the relationship to the canal and appreciation of its embanked form within a rural landscape and that there would be harm to the setting of the GUC. The Secretary of State agrees that the harm is limited to a short stretch in what is a very long linear CA (IR10.69). However, he finds the harm to the setting of the GUC, even in this short stretch, is moderate and in the lower to middle end of less than substantial harm unlike the Inspector who finds limited harm at IR10.69.
30. For the reasons given at IR10.70-71 the Secretary of State agrees that the Gayton CA would be preserved.
31. The Secretary of State agrees that the Turnover Bridge provides important context to the historic use of the canal and its significance is therefore both architectural and historic (IR10.72). He further agrees at IR10.72 that its historic value and functional purpose is intrinsically linked to the canal, which is therefore the key component of its setting, although on crossing the bridge, parts of the northern parcel would be evident. The Secretary of State finds, unlike the inspector at IR10.73 who finds low harm, that the northern parcel is part of the setting of the bridge and even with proposed planting the introduction of solar panels here would cause moderate harm to the setting of the Turnover Bridge in the lower to middle end of less than substantial harm.
32. In line with paragraph 205 (formerly 199) of the Framework, The Secretary of State assigns great weight to the collective harm to the Heritage Assets and concludes the proposal would conflict with Local Plan policy S10(i) which seeks to protect, conserve and enhance the natural and built environment and heritage assets and their settings. In line with the heritage balance set out at paragraph 208 of the Framework (formerly 202), the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of GUC CA and the Grade II listed Turnover Bridge, is outweighed by the public benefits of the proposal. The Secretary of State notes the Inspector's analysis at IR10.117 and returns to this in paragraph 47 below.

Best and Most Versatile Agricultural Land

33. The Secretary of State notes IR10.76-78 and prefers the findings of the Agricultural Quality of Land Report in line with the Inspector at IR10.78. He agrees there is 10.64Ha of Grade 3a land spread across both parcels and that this is not contiguous and cannot practicably be farmed separately to the lower grade land (IR10.78).
34. The Secretary of State accepts the evidence put forward by Nick Pleasant in his representation dated 30 January 2024 that the site was most recently used for animal feed/crops and not for 'food production'. He also notes that the Grade 3a land on this site is not capable of being farmed separately to 3b. For these reasons, and those reasons given at IR10.79-80 and IR10.82-85 the Secretary of State agrees that the loss of BMV land should be afforded limited weight. He further agrees at IR10.85 that the loss of some BMV land conflicts with Policy SS2 of the LPP2.

Other Matters

35. The Secretary of State agrees, for the reasons given at IR10.87-94, that for the temporary construction period, the additional HGV movements would be utilising an acceptable route and be of such a level that there would be no unacceptable additional highway safety concerns, nor would the residual cumulative impacts on the road network be severe.
36. For the reasons given at 10.96-97 the Secretary of State agrees that future grid connections are a matter for the Distribution Network Owners (DNO).
37. For the reasons given at IR10.98-10.99 the Secretary of State agrees that there are significant ecological benefits associated with the proposal (IR10.99). He agrees at IR10.112 that enhanced biodiversity planting and measures identified which represent a BNG of 195%, should be afforded significant weight.
38. For the reasons given at IR10.100-102 the Secretary of State agrees that there will not be residential noise impacts associated with the northern parcel (IR10.102). He is also satisfied that there are opportunities to ensure sufficient separation from the recreational receptors and the finalised layout of panels and inverter/transformers, as required by conditions (IR10.102). For the reasons given at IR10.103-105 he further agrees that for the southern parcel the effects should be fully reviewed when the final layout, notably the type and positioning of transformers and inverters, is known through a condition for a final noise assessment.
39. The Secretary of State further notes IR10.106 that decommissioning proposals are agreed by the Council and would be secured by condition and at IR10.107 that roof areas would not, on the basis of current conditions, meet the expectations of the significant, rapid expansion needed in renewable energy generation.

Benefits

40. The Secretary of State agrees for the reasons given at IR10.111 that the production of renewable energy, identified as meeting the expected needs of up to 49.72MW and providing for in excess of 13,000 homes, with carbon savings estimated in excess of 11,000 tonnes per annum, should be afforded significant weight.

41. The Secretary of State agrees at IR10.113 that the scheme is a temporary one meaning the site could be returned to agricultural use at some stage and considers this should be afforded negligible weight.
42. For the reasons given at IR10.114 the Secretary of State agrees that private investment funding should be afforded very limited weight and the creation of employment opportunities limited weight.

Planning conditions

43. The Secretary of State had regard to the Inspector's analysis at IR10.95, IR10.105 and IR10.120-128, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

44. The Secretary of State, like the Inspector at IR10.109, finds compliance with local and national renewable energy policy. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with parts of LPP1 Policies S10 and S11 and parts of LPP2 Policies EMP6 and SS2 of the development plan. The Secretary of State finds the appeal scheme is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
45. Weighing in favour of the proposal is the production of renewable energy which carries significant weight. Enhanced biodiversity planting and BNG also carries significant weight. The reversibility of the proposal in landscape or visual terms, which carries little weight. The creation of employment opportunities carries limited weight and private investment funding also carries very limited weight. The site being returned to agricultural use at some stage carries negligible weight.
46. Weighing against the proposal is the less than substantial harm to designated heritage assets which carries great weight. Visual harm to landscape character and appearance carries major weight reducing to major-moderate over time, and the loss of BMV land carries limited weight.
47. In line with the heritage balance set out at paragraph 208 (formerly paragraph 202) of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall the Secretary of State considers that the benefits of the appeal scheme are not collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the heritage assets. He considers that that the balancing exercise under paragraph 208 (formerly paragraph 202) of the Framework is therefore not favourable to the proposal.

48. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.
49. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

50. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a temporary Solar Farm of up to 49.72MW, to include the installation of solar panels with transformers, a substation, a DNO control room, a customer substation, GRP comms cabin, security fencing, landscaping and other associated infrastructure, in accordance with application Ref. WNS/2021/1858/EIA, dated 22 October 2021.

Right to challenge the decision

51. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
52. A copy of this letter has been sent to West Northamptonshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

This decision was made by Simon Hoare MP, Minister of State for Local Government, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

Representations received in response to the Secretary of State's letter of 17 January 2024

| Party | Date |
|--------------------------------------|------------------|
| Gayton Parish Council | 25 January 2024 |
| West Northamptonshire Council | 30 January 2024 |
| Stantec (on behalf of the appellant) | 31 January 2024 |
| Gayton Parish Council | 20 February 2024 |
| Stantec (on behalf of the appellant) | 7 March 2024 |

Report to the Secretary of State

by Mike Robins MSc BSc(Hons) MRTPI
an Inspector appointed by the Secretary of State

Date 15 November 2023

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL MADE BY

ANNESCO Ltd

against

WEST NORTHAMPTONSHIRE COUNCIL

Inquiry Opened on 23 May 2023
Site Visit 25 May 2023

OFFICIAL

Land at Milton Road, Gayton, Northampton NN7 3HE

File Ref: WNS/2021/1858/EIA
Appeal Ref: APP/W2845/W/23/3314266

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GLOSSARY

| | |
|-----------|---|
| BMV | Best and Most Versatile agricultural land |
| BNG | Biodiversity Net Gain |
| CA | Conservation Area |
| CEMP | Construction and Environment Management Plan |
| Council | West Northamptonshire Council |
| CRT | Canal and Rivers Trust |
| CTMP | Construction and Traffic Management Plan |
| EN-1 | National Policy Statement for Energy |
| EN-3 | National Policy Statement for Renewable Energy Infrastructure |
| Framework | National Planning Policy Framework |
| GLVIA3 | Guidelines for Landscape and Visual Impact Assessment (3rd Edition) |
| GUC | Grand Union Canal |
| Ha | Hectares |
| KWh | Kilowatt-hours |
| LCA | Landscape Character Area |
| LEMP | Landscape and Ecology Management Plan |
| LHA | Local Highway Authority |
| LVIA | Landscape and Visual Impact Assessment |
| LVSoCG | Landscape and Visual Statement of Common Ground |
| MW | Megawatts |
| nPPG | The National Planning Practice Guidance |
| PRoW | Public right of way / Footpath |
| SAP | Site Appraisal Photographs |
| SCP | Site Context Photographs |
| SoCG | Statement of Common Ground |
| Y | Year |
| ZoI | Zone of Influence |

File Ref: APP/W2845/W/23/3314266
Land at Milton Road, Gayton, Northampton NN7 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Annesco Ltd against the decision of West Northamptonshire Council.
- The application Ref WNS/2021/1858/EIA, dated 22 October 2021, was refused by notice dated 26 October 2022.
- The development proposed is the construction of a temporary Solar Farm of up to 49.72MW, to include the installation of solar panels with transformers, a substation, a DNO control room, a customer substation, GRP comms cabin, security fencing, landscaping and other associated infrastructure.

Summary of Recommendation: That the appeal be allowed and planning permission granted subject to conditions.

Procedural and Preliminary Matters

- 1.1 The Inquiry was held in person and sat for 4 days.
- 1.2 A virtual Case Management Conference (CMC) was held on 9 May 2022 to discuss procedural matters related to the Inquiry. The CMC was attended by the appellant and West Northamptonshire Council (the Council).
- 1.3 The scheme considered by the Council was altered on submission of the appeal. A revised description and plan, along with a revised traffic management plan was submitted. The appellant confirmed that consultations had taken place on this change, for which evidence was provided. The Council agreed that they considered this sufficient to avoid prejudice to any party. While the scheme under consideration at appeal should be that considered by the Council, in this case, on review of the evidence and accepting that interested parties would have had opportunity to comment on the revised proposal, I confirmed that I would accept the revised plans. All proofs of evidence (PoE) and other submissions throughout the course of the Inquiry referred to the revised scheme, and the description of the proposal in the above banner heading reflects this. The proposal has been considered on the basis of these revisions.
- 1.4 A request for a Screening Opinion was made initially to the Council in March 2021 and subsequently a formal request for review and adoption was made to the Secretary of State in June 2021. In September 2021, the Secretary of State confirmed that this was Schedule 2 development and, referring to comments from Natural England (NE) and other statutory consultees, confirmed that the proposal was considered likely to have significant environmental effects and that an Environmental Statement (ES) was required. This is found in Core Documents (CD) 1.19-1.22c.
- 1.5 I am satisfied that the ES was produced in accordance with the 2017 EIA Regulations, and the information produced has been taken into account in preparing this Report. All other environmental information submitted in connection with the appeal, including that arising from questioning at the Inquiry has also been taken into account.
- 1.6 During the course of the Inquiry there were suggestions of a lack of appropriate consultation or public engagement involving both the Council and the appellant. The Council's reporting in their initial officer report of the full suite of

consultation responses was challenged¹. However, as was pointed out in the Inquiry, this is a matter for the Council and I am satisfied that during the appeal process, proper notification and consultation was carried out and all interested parties have had full opportunity to present their case, either in writing or in person.

- 1.7 The appellant's community engagement in relation to their initial and amended proposals, as referred to in paragraph 1.3 above, were also questioned². While I accept that local residents often feel such schemes are not developed with their full engagement, I have reviewed the notification and consultation processes during the initial application and particularly during the appeal after the submission of the amended proposals. The provided Statement of Community Involvement included details of some 421 leaflets distributed in the Gayton Area in April 2021, and details of the website and webinar consultation, which remained available to the public for review. This, in addition to the statutory notification process of the Council, is considered an acceptable level of consultation.
- 1.8 The matter of the revised scheme was addressed at the CMC and evidence provided to confirm that consultation on the amendments had taken place, and that the process was accepted by the Council. I am satisfied that the consultation in relation to the amendments was appropriately carried out and that there was no prejudice arising from that procedure.
- 1.9 I requested that the main parties, in liaison with the Parish Council, produced a site visit itinerary³. I was able to carry out unaccompanied site visits to view the proposed route for construction vehicles accessing the site, and at school drop off time to the primary school in Gayton. After the end of the presentation of evidence, I carried out the accompanied site visit on 25 May 2023, following the agreed itinerary, including the circular footpath route from Rothersthorpe and the canal marinas and towpath near to the northern parcel. The route also extended to Gayton village and the southern parcel, including the roads either side and views from the rear garden of No 15 Blisworth Road, Three Chimneys, the road towards the school and that around the Church. Further areas covered included the footpath links from within the Gayton Conservation Area (CA) towards the site.
- 1.10 On the 12 April 2023, the Secretary of State for Levelling Up, Housing and Communities (the Secretary of State), under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, directed that they would determine the appeal. The reason for this direction is that the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.
- 1.11 Statements of Common Ground (SoCG) were submitted to address both the overarching scheme and landscape matters. These and all other documents associated with the scheme were made available virtually and can be accessed on West Northamptonshire Council's Planning Register ([West Northants](#)).

The Site and Surroundings

¹ ID8

² ID3

³ CD5.16

- 2.1 The proposal comprises two separate parcels of land. The smaller parcel, referred to as the southern parcel, would be located on a field to the east of Gayton village, while the larger, northern parcel, comprises a number of fields to the north of the west coast mainline railway and the Grand Union Canal (GUC), which itself lies within a CA.
- 2.2 Combined, the parcels run to approximately 70 Hectares (Ha) and are currently agricultural fields. This is a predominantly rural area, and the village of Gayton, located at a relatively high point, is a small, historic village and is itself a CA. While hedgerows and small woodland areas provide some containment, from elevated positions there are some expansive views, although historic transport routes, the GUC and more recent links, including the A43 and the railway do cut through this landscape.
- 2.3 Two public rights of way (PRoW) run through the northern parcel and form part of a circular route from Rothersthorpe. Further PRoWs extend along the canal and there are routes that run southward towards Gayton, although no footpaths cross the southern parcel.
- 2.4 There is a single dwelling, Sandlanding Wharf, close to the northern parcel, albeit there is also the large marina, boatyards and longboats, some in residential use, along the GUC. There are further properties along the Milton Road and Blisworth Road near to the southern parcel. A caravan site lies between the two parcels.

Background and Planning Policy

- 3.1 At a national level, the drive to boost delivery of renewable energy sources has come from increasing recognition of the impacts of climate change and the need to reduced dependence on fossil fuels. Legally binding targets are set to reduce emissions to Net Zero by 2050. White papers and government strategies have identified that there is an urgent need to decarbonise the energy sector.
- 3.2 In this context, National Policy Statements (NPS), EN-1 and EN-3, identify the approach to delivering nationally strategic level energy schemes. Large-scale solar is not specifically addressed in EN-3, Renewable Energy Infrastructure, albeit it forms a part of the draft update to EN-3, on which consultation has taken place but which has not yet been designated. Nonetheless, although this can be given limited weight at present, draft EN-3 clearly sets out that solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector, and aligns with national guidance and strategies on this matter.
- 3.3 It is important to set out that they are focused on national scale infrastructure, in this case schemes in excess of 50MW output. As a consequence, different policies and approaches apply, particularly in relation to the scale of associated benefits. The regime under the Planning Act 2008 is therefore different, although the NPSs acknowledge that they are likely to be a material consideration in decision making on relevant applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, an NPS is a material consideration should be judged on a case-by-case basis.
- 3.4 The proposal here is for a peak output of up to approximately just under 50MW and therefore falls to be considered under the Town and Country Planning regime, notably section 38(6) of the Planning and Compulsory Purchase Act

2004. This is just below the threshold for consideration as a national infrastructure scheme.

- 3.5 In this context, the development plan includes the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (the LPP1), adopted in 2014 and the South Northamptonshire Local Plan (Part 2) (the LPP2). The full list of policies relevant to the appeal are set out in the SoCG. In particular, the Council's reasons for refusal alleged non-compliance with Policies S10(i) and S11 of the LPP1 and Policies SS2 (1b and 1d) and EMP6 (1b) of the LPP2.
- 3.6 The overarching SoCG indicates agreement between the main parties that Policy S11 of the LPP1 was the relevant policy for determination of the development. This policy seeks that renewable energy proposals should be sensitively located and designed to minimise potential adverse impacts on people, the natural environment, biodiversity and historic assets and should mitigate pollution. Also mentioned in the reason for refusal, Policy S10(i) states that development will protect, conserve and enhance the natural and built environment and heritage assets and their settings.
- 3.7 Policies of the LPP2 referred to in the reasons for refusal include the general design principles in Policy SS2, parts 1(b), which seeks a design led approach for development compatible with its surroundings and distinctive local character, and 1(d), that expects suitable landscape treatment as an integral part of the planning of the development. Policy EMP6 part 1(b) states that farm diversification will be acceptable subject to the character, scale and type of proposal being compatible with its location and landscape setting.
- 3.8 The National Planning Policy Framework (the Framework) along with the national Planning Policy and Guidance (nPPG) represent the national planning policy approach and are material considerations. The above development plan policies are generally consistent with the Framework, which sets out that planning policies and decisions should recognise the intrinsic character and beauty of the countryside and the wider benefits, including economic and other benefits of the best and most versatile agricultural land, and of trees and woodlands⁴.
- 3.9 National policies clearly recognise the need to plan positively for renewable energy that maximises the potential for suitable development while ensuring that adverse impacts are addressed satisfactorily⁵. The Framework notes that schemes need not justify the need for the energy and that authorities should approve schemes where the impacts are (or can be made) acceptable⁶. The nPPG supports this, noting that increasing supplies from renewable sources where local environmental impact is acceptable, will help make sure the UK has a secure energy supply, reduce greenhouse gases, slow down climate change and stimulate investment. Particular considerations for solar farms are addressed, noting that they can have a negative impact on a rural environment, particularly in undulating landscapes⁷.

The Proposal

- 4.1 The proposal is for fixed tilt, ground mounted solar panels at a maximum height of approximately 2.67m. There would be inverters, transformers and a sub-

⁴ Paragraph 174

⁵ Paragraph 155

⁶ Paragraph 158

⁷ nPPG Paragraph 013 Ref ID: 5-013-20150327

station for export of the energy generated, but no on-site battery storage. Subsequent connection to the grid, a matter I address further in other matters below, is reported by the appellant to not form part of this application, but to be subject to further work by the Distribution Network Owner (DNO).

- 4.2 The proposal would include deer fencing and a laser security beam system, but also landscaping, including trees and the introduction of new hedgerows, scrub and other planting.
- 4.3 The site, if operated to the full proposed capacity, is reported by the appellant to be sufficient to provide for some 13,250 homes, saving 11,750 tonnes of CO₂ per annum. These figures were questioned, and I deal with this in my planning balance section below under scheme benefits.
- 4.4 While there will be traffic associated with the construction phase, the indicative programme suggests an average of eight HGV movements per day over a 36-week construction period. The nature of the road network means that the appellant has agreed with the local Highway Authority (LHA) that articulated HGV deliveries will only be to the southern parcel with smaller, rigid vehicles delivering to the northern parcel. Operationally, the site will only have the occasional visit for maintenance purposes.
- 4.5 The solar farm is proposed for a period of 40 years, with conditions being sought to ensure decommissioning to remove all operational equipment and returning the site to its present agricultural use.

The Case for the Appellant

- 5.1 The full submission made by the appellant can be found at ID14, the material points are as follows:

Introduction

- 5.2 The issues between the main parties to the appeal are strikingly narrow as it is agreed that the only potential reason for refusal is based upon landscape and character.
- 5.3 Within that, it is agreed that there are no significant effects on any of the landscape character areas as a whole, whether at national, regional or even local level⁸. It is agreed that there are no significant effects on longer range views⁹ and, in character terms, that the site is not designated and is of 'medium' landscape value.
- 5.4 It is agreed that the Landscape and Visual Impact Assessment (LVIA) methodology is sound, with the only differences between landscape witnesses being matters of reasonable differences in professional judgement.
- 5.5 Whilst the Council alleges some heritage harm, contrary to the appellant's case of no harm, this is said to attract only limited weight and is agreed to be outweighed by the public benefits. The harm relates to the Grand Union Canal CA and the Grade II listed Turnover Bridge (Bridge 47).
- 5.6 It is agreed that there is no harm to the Gayton CA and no publicly accessible views of the appeal site from the Gayton CA. There are no other harms alleged by the Council.
- 5.7 The benefits of generating renewable energy are agreed to be, at least, significant. It is also agreed that significant weight should attach to the ecological enhancements that would be brought about by the scheme¹⁰.
- 5.8 Interested parties raised concerns in relation to a number of other issues such as loss of agricultural land, highways objections, including proximity to the Gayton School, grid connection and impact on tourism. The appellant's professional evidence demonstrates an absence of effect on highways, as agreed by the Highway Authority, the HGV route does not pass the school, grid connection is not a matter for this appeal, although early connection is secured, there is no evidence of any effect on leisure or tourism and the loss of BMV land, around 10Ha split across both parts of the site, has been taken into account but is afforded limited weight by the Council and very limited weight by the appellant.

Landscape Character

- 5.9 The focus at the Inquiry on the points of difference between the witnesses should not obscure the extensive areas of agreement listed in the SoCG. In particular, it is agreed that there would be no significant adverse effects on any of the character areas as a whole, be that national, regional or local.

⁸ CD5.4 Landscape SoCG para 1.7 and 1.11

⁹ CD5.4 Landscape SoCG para 1.26

¹⁰ CD5.7 para 5.10

- 5.10 Further, it is agreed that there would be beneficial effects on two landscape receptors, canopy trees and hedgerows.
- 5.11 The only points of difference in relation to negative effects on landscape receptors relate to open fields / land use in relation to the susceptibility and therefore sensitivity of this element and the magnitude of change.
- 5.12 In relation to susceptibility and therefore sensitivity, given an agreed medium value for the site, the appellant considers the site to be of low susceptibility and, on a precautionary basis, of medium sensitivity, whereas the Council considers that the site has a high susceptibility and a high sensitivity. However, the 'high' rating is out of kilter with relevant guidance on this subject provided by Natural England (NE)¹¹ and endorsed by the authors of GLVIA¹² in which characteristics of this appeal site fit far more closely with characteristics associated with those types of landscapes said to have a lower sensitivity to solar development including: larger open fields; not being rugged, steep or natural in land cover; not being parkland; that the site includes major infrastructure such as the A43 and West Coast Mainline, roads and tracks; that it is not remote or wild; and that there are no important designated views into the site and no landscape designations.
- 5.13 Accordingly, the appellant's evidence should be preferred as being based upon the most relevant guidance and, as a matter of common sense, the landscape is not right at the top end of sensitivity.
- 5.14 In this regard, the appellant and those who reviewed the LVIA and updates on behalf of the Council, were eventually in broad agreement, with that review finding that the site had a medium sensitivity or medium-high in some places¹³. The Southern Green review finds that the site and immediate vicinity "***vary between low to medium sensitivity depending on the presence of local negative detractors such as compounds, the railway corridor and major roads, with associated loss of tranquillity***". The Council's witness is therefore something of an outlier in ascribing a high susceptibility and sensitivity when all other experts have determined that the site should be better described as having around a medium sensitivity.
- 5.15 In relation to magnitude of change, the Council's assessment that there would be a large magnitude of change at Year (Y) 1 and not diminishing at all at Y15 again skews their conclusions towards the more severe end of the spectrum. At site level they concluded a major adverse effect at Y1 and remaining major at Y15. This, the appellant considers, fails to reflect a balanced approach, where, on the Council's own assessment, two of the site landscape receptors experience beneficial rather than negative effects, and fails to reflect the GLVIA recommended inputs into magnitude, which would include consideration of the temporary nature of the scheme and its reversibility.
- 5.16 The Council accords solar development the highest level of change and harm, but this shows that they have not applied the methodology in a way which would acknowledge that other developments such as housing or other built form would have an even greater impact. As such, the Council's judgements are skewed unreasonably, the appellant states, towards the higher end and do not reflect the

¹¹ CD4.12

¹² CD4.11 Q41

¹³ CD3.2 para 1.5

true impacts of this type of development, which would see panels only up to 2.67m. This is much lower than housing and naturally of a much lower volumetric or spatial impact than housing as well as including large areas of natural planting, including wildflowers, scrub and hedgerow, and leaving room for an ongoing agricultural use in the form of sheep grazing. It is therefore not a site wide, complete loss of agricultural use as suggested by the Council.

Visual effects

Canal

5.17 The Council agreed in cross examination that given the 26 miles of canal in South Northamptonshire and 6 miles in this character area, the appeal site and this location was not one of the most tranquil and remote parts of the canal, particularly given the A43 and West Coast Rail Line. It is agreed that there are no key views into the site and that the views that do exist are filtered by an existing hedgerow.

5.18 It is accepted by the appellant that there are some gaps in that hedge, as with any hedgerow, but the site is demonstrably not contributing to any sense of openness or “long views out across the countryside”¹⁴ in this location which instead, is achieved by looking to the south towards Gayton and along the key views that are identified. Further, those gaps will be infilled as part of the landscaping plan¹⁵. The panels are also set back beyond 10 and 20m of scrub planting and around 30-40m from the hedge in total in this location, which further contributes to reducing views of the proposal. Whilst the Council criticised the heights that might be achieved by the proposed species mix on the landscape strategy plan, this is merely a strategy plan at this stage, it is not a planting plan and a proposed condition secures final details, which the Council can input into to agree an appropriate species mix and management regime.

5.19 Again, the Council’s views that the effects would not reduce over time are not in accordance with others. The appellant considers that the effects would reduce from moderate at Y1 to minor at Y15 for users of the canal, whereas the Council sees no reduction at all. This is, in the appellant’s view, plainly unrealistic. It is also again contrary to the Council’s own review of the LVIA, which concluded that planting would assist to mitigate effects as the planting matures¹⁶.

Close range viewpoints on public rights of way adjoining and in the site.

5.20 As a matter of context and common sense, it would be striking if any major development proposal did not cause significant effects when standing in the site or on the site boundary. As the Council agreed, the receptor, that is the person walking the route, should be assessed and not the static photo or viewpoint. With that in mind, the time spent walking through the site is limited on both routes, which are longer routes broadly between the canal and Rothersthorpe, or parts of a circular walk or route from Gayton to Rothersthorpe. Regardless of the route, the time spent in the site itself is limited and in relation to both PRowS through the site, views diminish very rapidly upon leaving the site given topography and, in relation to views of the appeal site from the north.

¹⁴ CD4.18 para 31

¹⁵ CD5.11

¹⁶ CD3.2 para 1.6

Intervening woodland and vegetation mean that there is no lengthy experience of walking towards a solar farm.

- 5.21 It should be noted that the appellant does not consider that both parcels could be seen together in views from the north on PRowS LA3 and LA4.

Walkers on roads

- 5.22 It was agreed that no significant effects would be experienced by passengers or drivers of vehicles. However, the Council argued there would be an effect on walkers using Milton Road and Wrights Lane.
- 5.23 Simultaneous or sequential views may be experienced when travelling on Milton Road. However, this route is most unlikely to be undertaken by foot given the lack of footway, and, if it is used by walkers, their attention is likely to be focussed upon the traffic and not on any scenery available over the hedges on either side of the road. Further, any view is oblique, fleeting and partial.
- 5.24 In relation to Wrights Lane, the majority of this route does not afford views of the northern parcel. For a short stretch of the southern section towards Gayton, part of Field E in the northern parcel is visible as part of an oblique view to the east. The higher portion of this field is most visible, and the appellant has amended the scheme to pull the panels down the hill and away from the most visible areas of this field. In context, this is not a significant effect, and as part of the wider journey on Wrights Lane, the experts agree the view is intermittent, partial and oblique¹⁷. The view also takes in the West Coast rail line and the periphery of Northampton including development on the M1 corridor.

Viewpoint SCP14¹⁸

- 5.25 The Council witness agreed in cross examination that this should more properly have a medium value as a view. The appellant contends that this has to be right, as 'high' value views in the agreed methodology would be of national importance. The view is of attractive countryside, but it is neither from within, or to a designated landscape. In paragraph 1.37 of the SoCG on landscape the experts agreed that this right of way affords opportunities for longer range, intermittent and oblique, partial views of the northern part of the appeal site. Essentially, the view is very similar as that from Wrights Lane but is even further from the appeal site and therefore the site is an even smaller component in a relatively busy view.

¹⁷ Landscape SoCG para 1.36

¹⁸ Site Context Photographs (SCP)

Viewpoint SCP28

- 5.26 The Council witness picked out this viewpoint from a longer route moving through this landscape, which takes in SCP7, 8 and 29, none of which he considered to give rise to significant effects. This says much about an approach which has focussed upon the photo viewpoint rather than the walk as a whole. When looking at the walk as a whole, neither witness identifies a significant effect, the appellant states negligible/minor and the Council minor/moderate. It was agreed in cross examination that the view is part of a sequence where the land rises and falls, and this was at the worst point.
- 5.27 It should be noted that it is viewpoint SCP29 which is most akin to the important view from the Gayton Conservation area and not SCP28 which is much further outside the CA, although both are in fact outside the CA. Neither witness considers there to be any significant adverse effect from SCP29, and SCP28 is too far from the CA to be sensibly associated with it, given it is the second field away from the boundary.

Landscape and visual overall

- 5.28 In the round, there are some landscape effects from the scheme. However, these are remarkably limited given its scale. No landscape designations affect the site, and it is not a valued landscape in Framework terms. The topography and vegetation act to largely screen the site from the most sensitive element, being the GUC and its users. The Council's main concern appears to be that the hedge planting will not be effective. However, there is no evidence to support that view. Gapping up a hedgerow is commonplace and a management plan will be in place to ensure that the planting takes or, if it doesn't, that it is replaced and maintained. Otherwise, the Council's approach appears to have been to assume a sensitivity which in reality does not exist and is not in line with relevant NE guidelines, or the views of other landscape experts assessing the site.

Other matters

Highways and HGV routing

- 5.29 The Inspector and Secretary of State have the transport statement¹⁹ and supplementary note²⁰ provided by Motion together with the swept path analysis for the sharp bend in Gayton²¹. Further, the Council raises no issues in relation to highways and the Highway Authority does not object subject to the imposition of conditions securing a construction management plan. That condition is proposed and agreed between the parties, it will include securing a route for HGVs and appropriate hours of working during the construction phase amongst other things.

- 5.30 Together, these documents demonstrate:

- An absence of any significant or severe effect on the highway as a result of traffic generated during either construction or operation.

¹⁹ CD 1.26

²⁰ ID9

²¹ ID10

- The construction phase is 36 weeks. It will generate 8 construction vehicles per day. Spread over the day and timed to arrive separately through the management plan, this is very far from a severe impact.
- An absence of any harm caused by HGV construction routing. The route avoids sensitive areas, does not pass any schools, does not require HGVs to cross any bridge with a weight restriction²² and is wholly adequate for the 8 movements a day.
- An HGV is well capable of making the tightest turn on the route at the bend in Gayton as demonstrated by the swept path. This works in both directions.

5.31 If the Secretary of State considers it necessary to impose a condition requiring a survey of the condition of the road and that the appellant be asked to put the highway back into this condition following the construction phase, the appellant is content to agree to such a condition and one has been drafted.

Best and Most Versatile Agricultural Land

5.32 10.46Ha of the site is Grade 3a and therefore BMV land. However, the land does not in fact function as BMV, as the mapping shows that the parcels of 3a are within the broader 3b site and are not capable of being farmed in any different way to the remainder of the site, which is 3b, non BMV land. They are not usable or meaningful in extent²³.

5.33 The threshold for consulting NE as a potential significant loss of BMV land is 20Ha; this proposal results in a loss of just over half of that quantum. The loss therefore cannot be described as significant in planning terms and, rightly, the Council did not pursue this as a reason for refusal. Indeed, the debate between expert planning witnesses was between whether very limited or limited weight should be attached to this harm.

5.34 In so far as this relates to a wider point in relation to agricultural land loss, there is no policy support for this and in any event, there remains the potential for agricultural use, if not arable use. The Framework specifically refers to the economic benefits of BMV rather than agricultural land per se. Further, as agreed by the Council, the appellant considers that it is common sense, and acknowledged within draft EN-3, that solar farms of this scale are likely to need to be built on agricultural land; the aim is to avoid BMV and other designations. In this context, the less than significant loss of BMV at 10Ha is only afforded negative weight, at the lowest end of the spectrum.

5.35 In so far as this relates to an objection from the tenant farmer about loss of business, planning is about land use in the public interest rather than private business interests. There is a wider economic benefit associated with agricultural land and BMV in particular, as referred to in the Framework at paragraph 174(b).

Decommissioning

5.36 Interested parties raised issues relating to decommissioning. However, the Council and appellant have drafted an appropriate condition to require a

²² Smaller vehicles will be used over the Turnover listed bridge in response to CRT concerns that this bridge could in the future have a weight restriction.

²³ CD1.2 para 7.26-7.28 Fig 7.1

decommissioning strategy within an appropriate time frame prior to the end of the 40-year period. There is no reason to suspect that the appellant will not abide by the condition requiring the site to be dismantled at that point.

Noise / tranquillity

- 5.37 The appellant has undertaken a thorough noise assessment²⁴, which assessed noise sensitive receptors, including residential canal boats and dwellings, and concluded that internal noise criteria would be met for sensitive receptors. The BWB rebuttal note²⁵ confirms that noise levels would also be met for garden areas.
- 5.38 Finally, the appellant has submitted a tranquillity assessment²⁶ to consider receptors on PRowWs including through the site and on the GUC towpath. Again, the conclusion is that noise generation would be below background levels as the area is demonstrably not tranquil given the nearby presence of the West Coast mainline and the A43.
- 5.39 No other technical noise evidence has been presented to the Inquiry and the Council's only comment by their witness in cross examination was that he wasn't convinced that BWB had assessed receptors at the western end of the northern parcel. However, as explained by the appellant, this is not correct, the plan of survey locations within the assessment shows a number in and around the western end of the site including on the PRow and the GUC towpath. Accordingly, there has been no evidence to undermine BWB's assessment that there are no material negative noise effects associated with the appeal scheme, merely assumptions which are not supported by evidence.
- 5.40 There is no proper basis either for the imposition of a condition requiring yet further noise surveys or a finding of any harm in this regard. Particularly, there is no basis for assuming conflict with paragraph 100 of the Framework which should be seen as referring to PRowWs as a physical, usable resource rather than a policy which takes in amenity concerns – this is more accurately paragraph 174(e) and a reference to noise pollution and needs to be seen in the context of the Council's planning witness agreement that the Council did not take issue with the part of Policy S11 which referred to minimising pollution.

Grid connection and cabling

- 5.41 The appellant has a grid connection offer, which permits connection to the grid from late 2024. As suggested by interested parties, many projects are currently facing lengthy delays to obtain a grid connection offer or are provided within offers in around 10 years' time when it is hoped that the grid will be strengthened and able to take the additional generating capacity. This is therefore a notable benefit of this scheme in that it can provide renewable energy in the immediate future, rather than providing a benefit much further down the line. Rather than being a negative, this is a significant positive and

²⁴ CD 2.10

²⁵ CD 2.11

²⁶ CD 5.5 Appendix 1

sites which benefit from early grid connections should be rightly prioritised in order to make best use of the grid capacity that exists at present.

- 5.42 Cabling between sites is not part of this application, nor is connection from the site parcel(s) to the grid. The latter will be undertaken by the DNO under permitted development rights. If any further application is required for cabling infrastructure in the future, the appropriate consenting regime will determine it.

Heritage

- 5.43 The Council asserts that there is a low level of less than substantial harm to the GUC and to the Grade II listed Turnover bridge (bridge 47), for which it collectively affords limited weight.
- 5.44 The careful note from the appellant's heritage expert²⁷ explains that there are areas of the setting which do positively contribute to the significance of the GUC as a heritage asset (see para 4.1.9). However, that cannot be applied to the appeal site. No identified 'important views' within the CA Management Plan²⁸ include views of the appeal site. To the contrary, the existing hedgerow between the northern parcel and the GUC towpath is an '*important hedgerow*' and will be maintained and enhanced as part of the proposals.
- 5.45 The heritage statement explains that the site is an incidental and barely perceptible aspect of the setting. In the appellant's view, the northern parcel does not contribute anything to the significance of the GUC CA and therefore any harm to the site is not to be equated to harm to the significance of the canal as a heritage asset²⁹.
- 5.46 The GUC Management Plan does make reference to the importance of landscape to the setting of the canal. The appellant accepts that, but it is not equally true for all parts of the setting for the full 26-mile stretch of the canal through the authority area. That is why the management plan has identified what truly is 'important' to the significance of the canal and it does not include the appeal site or views towards it. Further, the general amenity provided by the landscape surrounding the canal should not be conflated with heritage significance, the two are separate and in terms of visual receptors experiencing any harm to amenity, this falls to the landscape evidence to assess. This applies equally to the bridge.

Planning Policy

- 5.47 The planning witnesses agreed that the main policy against which the proposals should be assessed is Policy S11. The other parts of policies referred to in the reason for refusal are all references to protecting the landscape character of the area and add little to the policy test in S11.
- 5.48 Policy S11 needs to be read in the context of the plan as a whole and specifically its own supporting text. That text refers expressly back to Objective 1 of the Joint Core Strategy (JCS) which is "*To minimise demand for resources and mitigate and adapt to climate change, by: ... Encouraging renewable energy production in appropriate locations*".

²⁷ CD5.5 Appendix 2

²⁸ CD4.18

²⁹ CD5.5 App 2 para 4.1.20

- 5.49 Policy S11 therefore needs to be read as a policy which seeks to implement the objective of seeking to encourage renewable energy schemes. It is also the tool by which the plan determines whether a location is "appropriate".
- 5.50 In doing so, two tests are agreed to arise (1) that the proposal be sensitively located and (2) that it be designed to minimise harm to a range of factors, the only ones of which are said to be in play relate to landscape, visual receptors and heritage (in the limited sense covered above, albeit that the Council's evidence does not assert that heritage should be a reason why Policy S11 should be found to be breached). The other factors in S11 are either not in play (pollution) or there is an agreed benefit (biodiversity). These should be taken into account on a balanced approach to Policy S11.
- 5.51 In relation to whether the proposals are sensitively located the Council relies upon (1) landscape evidence, (2) the GUC and listed bridge as heritage assets and (3) the GUC as a green infrastructure corridor, for their argument that the site is not sensitively located because it is itself a sensitive location.
- 5.52 The first, landscape, is agreed to be bound up with the landscape evidence. The heritage argument does not greatly assist the Council as even on its case the harm attracts limited weight and, on the appellant's professional evidence, which represents the only heritage expert to provide evidence to the Inquiry, the harm is instead, nil.
- 5.53 In relation to the green infrastructure corridors and Policy NE3. The Council does not allege any conflict with this policy, nor could it sensibly do so, as green infrastructure policies seek to protect green infrastructure as a resource or asset. Green infrastructure is not a landscape designation and there is no associated "setting". The site is not within a green infrastructure corridor and whilst it adjoins the GUC corridor, the landscape proposals are to add additional planting and therefore green infrastructure in this location and thereby expand the corridor and increase the value of the green infrastructure as an asset. There is no direct or indirect harm to the green infrastructure.
- 5.54 The Council's argument boils down to the northern part of the site sharing a boundary with the GUC. However, the area hosts 26 miles of canal, and it cannot be that development is banned on both sides of the canal for the whole stretch. Instead, the sensitive parts of the canal should be avoided, which the appeal site does.
- 5.55 Further it is right that the appellant has taken steps to sensitively locate the development within the site itself by amending the scheme to pull panels away from the highest part of Field E, by including planting along the GUC corridor and large areas of scrub in this location to provide set back. These points also go towards satisfying the second part of Policy S11 in relation to minimising effects. Steps have been taken to minimise potential effects and, as agreed by the Council, the policy cannot be read as requiring effects to be eliminated altogether.
- 5.56 Draft EN-3 is agreed to be relevant and includes a recognition that solar projects are likely to cause significant impacts, largely in rural areas, but are nevertheless a key part of Government policy to address climate change, energy security and achieve net zero. In fact, the proposals are to increase solar energy production five-fold. The parties agree that at least significant weight should attach to the benefits of renewable energy generation in light of the national policy context.

While it was agreed that there would be significant landscape effects in Y1, the appellant considers that this reduces below the point of significance by Y15, so there will be no residual significant effects.

- 5.57 The parties are also in agreement that the proposals represent an opportunity to secure meaningful biodiversity net gain in the order of 195% on the site, a benefit which should also be afforded significant weight.
- 5.58 The proposal will also generate economic benefits in terms of effects arising from the construction and decommissioning phases and smaller economic effects generated during the lifetime of the project associated with monitoring and maintenance of the panels, landscaping and the output of the scheme.
- 5.59 The appellant rightly notes the long-term landscape benefits arising out of the landscaping scheme, which will endure beyond the lifetime of the project. The Council's concern that the trees might also come down in 40 years with the panels is, the appellant states, fanciful, and would likely require a felling licence.

Conclusions

- 5.60 Overall, Policy S11 is reflective of government policy in terms of being permissive of renewable energy projects but encouraging them to be on less sensitive sites by avoiding designations and avoiding higher quality agricultural land. This site fits the brief. It is therefore in compliance with the development plan, and government policy and should be granted without delay in line with paragraph 11(c) of the Framework.

The Case for West Northampton Council

- 6.1 The full submission made by West Northampton Council can be found at ID13, the material points are as follows:

Background

- 6.2 The Council accept that the site is not part of a designated landscape or a valued landscape for the purpose of the Framework, paragraph 174. There would be no significant impacts at a national or regional character area level and no significant impacts at a county or district level character area looked at as a whole.
- 6.3 There are two PRoWs through the northern parcel in addition to the towpath along the Grand Union Canal, although there are none which affect the southern parcel. Neither part of the site is located within a CA, although the canal itself lies within a CA and the northern parcel adjoins the canal. The bridge over the canal is Grade II listed.
- 6.4 Following resolution by the Council to refuse planning permission in October 2022, the appellant altered the scale and nature of the scheme, including the reduction of panels to the eastern part of the northern site and increased levels of landscaping.
- 6.5 A landscape SoCG has been agreed with the remaining differences about the level of impacts at the local and site levels. It is agreed that effects assessed as moderate or above are 'significant' for the purpose of decision-taking.
- 6.6 These submissions address the two main issues identified by the Inspector.

Main Issue 1 - the effect on the landscape character and appearance.

Landscape Character

- 6.7 The Guidelines for Landscape and Visual Impact Assessment (3rd Edition) (GLVIA3)³⁰ states at paragraphs 2.11 and 2.12 that landscape is important because it provides "*a shared resource which is important in its own right as a public good*", provides "*the setting for day to day lives — for living, working and recreation*", allows "*opportunities for aesthetic enjoyment* [and provides] *a sense of place*", and has "*continuity with the past through its relative permanence*". GLVIA3 also states at paragraph 5.26 that "*the fact that an area of landscape is not designated either nationally or locally does not mean that it does not have any value*".
- 6.8 The methodology used in the LVIA is agreed³¹ and the Council has adopted its vocabulary for the sake of consistency. Both experts have sought to be objective and transparent, while recognising that professional judgment plays a large part

³⁰ CD4.9

³¹ CD1.24a Appx A.1

in assessment. The LVIA terminology allows a 'sense check' on the components and outcomes of the process.

6.9 For example, the definition of adverse landscape effects are set out in CD1.24a Appendix A in Table 1.7:

- a) Negligible - Alterations that result in a very slight deterioration to the existing landscape resource, not uncharacteristic within the receiving landscape.
- b) Minor - Alterations that result in a limited deterioration of the existing landscape resource. Characteristic features would be lost to a limited degree.
- c) Moderate - Alterations that result in a partial deterioration of the existing landscape resource. Valued characteristic features would be partially lost.
- d) Major - Alterations that result in a pronounced deterioration of the existing landscape resource. Valued characteristic features would be wholly lost.

6.10 Having applied the methodology, and reached a professional judgment on an individual impact, it is helpful to stand back and compare that judgment with the language in Table 1.7. Is the impact "pronounced"?; would valued features be wholly lost? If the answer is "no" then the sense-check suggests that a professional judgment of "major" should be revisited.

6.11 The areas of disagreement with the appellant are identified at paragraph 2.5 in the LVSoCG and in Table 1.

- a) There is disagreement as to the degree of physical benefit to trees and hedgerows resource caused by additional landscape mitigation planting. The dispute centres on whether by Y 15 that change should be regarded as "limited", a small magnitude of change, or whether it is "partial", a medium magnitude of change. The Council consider it to be medium.
- b) The dispute on the impact on the open fields/arable land use resource turns on whether the effect is a partial deterioration, moderate, or pronounced, major. The Council submit it is major.

6.12 It is agreed that there would be no significant physical impacts to the landscape receptors 'Public footpaths and public access' and 'Water courses and water bodies'.

6.13 There is disagreement as to the degree of impact to the character of the Site and its immediate vicinity in the local landscape. At the site level there are differences as to:

- a) Susceptibility: The appellant contends for "low" (site able to accommodate the development with little or no consequence to the site's overall

integrity); The Council contends for "high" (undue consequences on the site's integrity);

- b) Y1 magnitude of change: appellant - medium (partial); Council – large (pronounced);
- c) Y15 magnitude of change: appellant - small (limited); Council – large (pronounced).

Widening the area to include the immediate vicinity of the site, which includes part of the GUC CA, and is accepted be about 800m, the disagreement centres on:

- d) Y1 magnitude: appellant - small; Council - medium/large.
- e) Y15 magnitude: appellant - very small; Council - medium / large.

Visual Amenity

6.14 The LVIA presents two sets/types of photographs. Site Appraisal Photographs (SAP) taken from within the site and Site Context Photographs (SCP) taken from outside it. SCP, including those added during the appeal process³², form the representative views agreed to be appropriate for the Inspector's assessment in this case (LVSoCG paragraph 1.21). This is no substitute for a comprehensive site and area visit and an agreed Site Visit Route Plan was produced (LVSoCG Appx 1) to which Cllr Cooper added some points to visit having consulted interested local residents.

6.15 The Zone of Theoretical Visibility (ZTV) is agreed in the SoCG as being a fair representation of the extent of landscape in which views of the proposals may occur. The LVSoCG also sets out the locations where it is agreed that receptors will not experience significant effects.

6.16 The language used in the assessment of visual effects is also set out in the tables of the LVIA methodology. In table 1.8 the potential overall effects are described on a 'sliding scale' thus (*with Council emphasis added*):

- a) Negligible - Alterations that typically result in a barely perceptible deterioration in the existing view.
- b) Minor - Alterations that typically result in a limited deterioration in the existing view.
- c) Moderate - Alterations that typically result in a noticeable deterioration in the existing view.
- d) Major - Alterations that typically result in a pronounced deterioration in the existing view.

³² CD5.18 are the reference photographs.

- 6.17 The areas of disagreement are again best understood by reference to LVSoCG paragraph 2.5 and Table 2.
- 6.18 The first two rows in Table 2 concern receptors living, traveling on or walking beside approximately 500m of the GUC³³. The GUC is not simply important as a designated heritage asset. The Local Plan makes clear, as have very many local people, that it is an important cultural, recreational and wildlife asset. It is also part of a network of multi-functional green space giving rise to quality of life benefits. It is a "*tranquil haven from which to enjoy unspoilt countryside*", as well as being "*an important landscape feature*" in its own right and the quality of the surrounding landscape is "*vitaly important*"³⁴. These descriptors do not simply apply to a consideration of mooring policy as was suggested by the appellant³⁵, they are careful and considered statements in the Local Plan's section on protecting and enhancing the canal network.
- 6.19 Both landscape witnesses agree that the effects in Y1 will be significant. However, the appellant contends that, as a result of mitigation planting, the effect in Y15 will not be. The Council disagrees. The Inspector will be well placed to judge having seen the section of the canal on an embankment that would be difficult to plant, and the area proposed for 'scrub' landscape planting some 6m below the canal and having read the proposed management regime for the scrub³⁶.
- 6.20 The Council notes a tendency by the appellant during the Inquiry to rely on changes to the landscape strategy that might be undertaken when the conditions come to be discharged. This does not display confidence in the strategy submitted with the appeal, which has been revised from that submitted with the application.
- 6.21 Having regard to Table 1.5 in the LVIA methodology the Council consider it is difficult to understand why the appellant's witness should regard those travelling on PRow RL/001 (Northampton Round) between Gayton and Anchor Farm³⁷, as having anything other than a "high" sensitivity. Walkers on this local circular route plainly fall full-square within the category of people enjoying outdoor recreation where their attention is likely to be focussed on the landscape. The Council also contends for a greater magnitude of change in the view than the appellant's "barely perceptible". The Inspector will doubtless have seen for himself.
- 6.22 For those travelling on the PRow, when passing through the Site and its immediate vicinity, as represented by SCP01, SCP02, and SCP06, the appellant again down-grades their sensitivity. Inexplicably, the Council say, they also reduce the magnitude of change likely to be experienced so that the overall effect is "moderate" adverse and not "major", that is to say, merely a "noticeable deterioration" and not one which is "pronounced". This assessment, in particular, illustrates a trait of the appellant to downplay impact judgments such

³³ SCP10

³⁴ CD4.1 South Northamptonshire Local Plan paras 11.41, 12.21-4

³⁵ Mr Pleasant in Re-examination

³⁶ CD5.11

³⁷ SCP14

that their planning witness, naturally enough, gives less weight to in his planning judgments.

- 6.23 The appellant appears to do the same thing in their assessment of the impacts on residential receptors on Blisworth Road and Milton Road. Only the residents at Sandlanding Wharf are ascribed a significant impact (moderate adverse). The inspector will have seen all these receptors.
- 6.24 While views by vehicle-borne users of local roads such as Milton Road and Wrights Lane may not experience significant effects, we say that the Council's assessment that pedestrians walking local roads will appreciate a significant impact should be accepted, although again, this is probably best appreciated on site. The same applies to those walking north on footpath RL/003 (SCP28 and 8).
- 6.25 Overall, the Council submits there will be many significant visual and landscape impacts to weigh in the planning balance.

Main Issue 2 - planning policy and the planning balance.

- 6.26 The adopted development plan consists of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (2014) (LPP1) and the South Northamptonshire Local Plan (Part 2) (2020) (LPP2). There is no relevant Neighbourhood Plan for the site.

- 6.27 The main SoCG confirms the development plan policies considered to be offended against:

a. The LPP1.

(1) Part (i) only of Policy S10 which provides that "Development will. . i) protect, conserve and enhance the natural and built environment and heritage assets and their settings."

Policy S11. "Proposals should be sensitively located and designed to minimise potential adverse impacts on people, the natural environment, biodiversity, historic assets and should mitigate pollution. In addition, the location of wind energy proposals should have no significant adverse impact on amenity, landscape character and access and provide for the removal of the facilities and reinstatement at the end of operations."

a. The LPP2.

- (1) Parts 1b and 1d only of Policy SS2: "Planning permission will be granted where the proposed development:

(b) uses a design-led approach to demonstrate compatibility and integration with its surroundings and the distinctive local character of the

area in terms of type, scale, massing, siting, form, design, materials and detail; and

(d) incorporates suitable landscape treatment as an integral part of the planning of the development"; and

- (2) Part 1b only of Policy EMP6: "Development that relates to the diversification of an existing farm, agricultural estate, or other land-based rural business will be acceptable in principle provided that:

(b) The character, scale and type of proposal is compatible with its location and landscape setting.

6.28 There was disagreement over the meaning of Policy S11. The appellant considers Policy S11 only requires the adverse impacts of any proposed renewable energy development to be minimised. The Council disagrees with that interpretation of policy. The requirement to "minimise impacts" in this context requires a consideration of whether in principle a scheme is acceptable at all, and whether any scheme is too big for the location chosen. Not all sizes of scheme are going to be acceptable in all locations. But perhaps the disagreement is not as important as it might be given that both expert witnesses agreed that all four policy tests substantially require the decision taker to take into account a proposal's size/scale, location and impact and assess compatibility with the landscape's character and local amenity.

6.29 The relevance and requirements of national planning and energy policy have not featured prominently during the Inquiry. That is because they are essentially agreed. In the very recent appeal decision in Telford, Shropshire³⁸, both the Inspector and the Secretary of State made the position very clear.

6.30 In that context, the agreed benefits of the proposed development are set in the main SoCG:

- a) The development would significantly contribute towards meeting national renewable energy targets and reducing carbon emissions. It would provide up to 49.72MW of electricity, which is equivalent to approximately the annual needs of in excess of 13,000 houses and can result in a carbon saving of approximately 11,750 tonnes per annum. Energy production is plainly a benefit that attracts significant weight³⁹.
- b) The development would support direct and indirect jobs during the construction phase (and a smaller number of jobs when the solar farm is operational). The Council gives this benefit limited weight⁴⁰. Any jobs created in construction would have to be balanced by the loss of tenant farming jobs during the 40-year operational phase.
- c) In terms of Biodiversity Net Gain (BNG), it is agreed that based on the Defra Biodiversity Metric 3.0, the development would enable a net gain of 195% and this is a significant benefit from an ecological perspective which goes significantly above and beyond policy and legislative requirements. The Council accepts this should attract significant weight.

³⁸ CD6.0

³⁹ As in the Shropshire Appeal

⁴⁰ As in the Shropshire Appeal

6.31 Of the other benefits claimed, the Council does not accept that any further weight should be given to:

- a) The "investment" by the applicant. That is the role of all applicants; the benefits are those realised by the investment; any other approach would simply be 'double counting'.
- b) The "suitability" of the site chosen. Again, this is a matter that is the product of the planning balance outcome. Even though the officer report to committee identified such a benefit, it was wrong to do so.

6.32 The agreed matters that weigh against the development are set out in the main SoCG:

- a) Harm to the landscape and character of the area. Plainly given that the parties are at odds over the impact, the weight is not agreed either. However, the Council submits that the appellant has seriously underestimated the scale of the change that will be brought about in the area, particularly close to the village of Gayton. The Inspector has heard from local people how that change will affect them on a daily basis. Similarly, the appellant stresses the temporary nature of the permission, but 40 years is a generational change, perhaps even longer than that. Local people feel that they are being asked to shoulder too great a burden on behalf of the national need for clean energy.
- b) There will be a loss of around 10.46Ha of Grade 3 agricultural land⁴¹. Draft EN3 advises 'avoid where possible'. This is a matter to which the appellant gives very limited weight and the Council, limited weight. Some 16% of the appeal site is BMV. The appellant has stressed that the site would be "sheep ready" so that an agricultural function would remain. However, no real examples of practice elsewhere were given, and the evidence from local farmers is that stocking levels are very much reduced. It sounds to the Council like a management mechanism rather than a serious agricultural enterprise.

6.33 To these may be added matters on which there is disagreement. The first is harm to the GUC CA and Grade II listed bridge over the canal on Milton Road.

- a) The appellant's heritage assessment concluded that the northern parcel is "*not considered an aspect of the setting of the conservation area that contributes to its significance.*" Unsurprisingly, faced with that advice, the appellant gives the alleged harm no weight at all.
- b) The Officer Report⁴² identifies some harm to the setting of the GUC CA. The area appraisal and management plan⁴³ recognises how important the landscape setting is to the heritage significance of the area⁴⁴.
- c) The Council is correct to give this heritage harm limited weight in the overall planning balance even though it was considered to be outweighed by the public benefits of electricity generation in the overall Framework balance.

⁴¹ CD1.2

⁴² CD3.1 p6 and p18, para 8.58-59

⁴³ CD4.18

⁴⁴ CD 3.1 para 6.1 and 8.3

- 6.34 The Council has not identified any harm to the Gayton CA but submit that the development will diminish the overall tranquillity of the area and this too is a factor on the 'negative' side of the overall planning balance in addition to the visual harm to amenity. While there is no highway objection from the local highway authority, the construction traffic on narrow country local roads with the potential at least for temporary conflicts and 'reversing up', will make the area a much less tranquil place to live in. The appellant proposes construction traffic on a Saturday; although this was debated in the condition session.
- 6.35 In the overall planning balance, the Council recognises, like the Inspector did in the Shropshire case, that there are conflicting demands on the countryside resource, and that the demands on the countryside to help meet the need for renewable and clean energy generation are increasing. However, the Council submits that in this particular corner of the countryside, the demand being made by the appellant is excessive and that the appeal should be dismissed.

The Case for other persons appearing at the Inquiry.

7. A number of interested parties, either individuals or those representing groups or organisations made oral representations to the Inquiry. Their complete statements, where submitted, are included under ID3 to 8 but the material points are set out here, albeit where necessary avoiding repetition:

Statement by Mr Knibbs, Local Resident – Objecting (ID3)

- 7.1 Mr Knibbs set out this is not an objection to the rights or wrongs of solar energy, and he accepts that there are compelling arguments as to why renewable energy sources are vital to the country's long term energy requirements. His objection is based on the geographical location of this proposal and the irrevocable and protracted harm that it will create in Gayton and the wider West Northants area.
- 7.2 There is currently 170 acres of productive farmland, delivering over a 13% higher yield than the national average, which will be lost to food production for years to come. The proposed site was only identified based on revenue generation for the landowner, this is not a reason to refuse but a reason to question the appropriateness of the selection and consider if taking this land out of production is sensible. Defra has recently graded the land as Grade 2 and 3, and it is odd that the application seems to downgrade this.
- 7.3 The Gayton Parish Council submission details eleven issues and provides an excellent summary of why the development in this location is flawed and contravenes so many Council policies. Even now the appellant is changing the application and has, for the first time, confirmed the position on the proposed installation of battery storage⁴⁵.
- 7.4 This is a huge application that will impact forever on the local landscape and the rolling countryside that locals and visitors use. It would not only be visible from the village but also from across the Nene valley and the Grand Union Canal.
- 7.5 Thousands of visitors use the canal and come to the local marinas and, for over a kilometre, the first thing they will experience is moving slowly past acres of solar panels. Solar farms are needed, but in the right place. There are thousands of acres of roofs across Northamptonshire with not a single panel on them. While it is accepted that this would require government direction, are we prepared to irrevocably change the open countryside?
- 7.6 There has been no dialogue with the village by the applicant, no proper consultation, just a questionnaire, a leaflet extolling solar power and recently a letter dealing with the changes made in the appeal. The application is flawed, with ambiguity, vagaries and a lack of detail. For example, no mention is made over how the two sites will connect across the GUC, the A43 and M1 to get to the nearest grid connection. Must we assume later applications for overhead power lines and more negative impacts on the countryside?
- 7.7 The Transport Statement significantly underestimates the transport movements and the impact on the village. The applicant states eight commercial vehicles per day, but this is misleading as it relates only to the panels and not access by

⁴⁵ Note – the appellant has clearly stated that battery storage is not part of this application.

construction workers, management teams, heavy plant, waste removal or deliveries of ancillary equipment.

- 7.8 This is believed to be a gross underestimation and rather than 2,880 movements a more realistic figure would be 7,500 HGV movements. This would be on single track roads passing through the heart of the village.
- 7.9 The breaches of planning policy, impact on the landscape, loss of productive land, negative impact on the canal, tourism and the loss of open field wildlife habitat and ecology are all reasons to refuse this application. A scheme of this scale and nature will change the area forever and set a precedent for further open field development.

Statement by Councillor Glanville – Gayton Parish – Objecting (ID4).

- 7.10 These concerns are centred on the visual impact of the development and the appellant's inadequate proposals to mitigate the visual intrusion.
- 7.11 Hedgerow infilling. A central plank of the proposal is to reduce visual impact through infilling and tree planting. We believe this will have no perceptible effect during the lifetime of the development. The existing hedgerow must be at least 40 years old and does not exclude views into the northern site from the GUC or the towpath.
- 7.12 The appellant claims a BNG of 195% but this only through the arable crop cultivation that would be sown with grassland meadow seed mix. The scale of gain is simply due to the vast area to be planted. The Ecological Study did not mention new gain from hedgerows, which appears to be a mere 2.7% over 5 years. This is insufficient time to gain any screening, and the Metric calculations suggest that any tree benefit would take 30 years to achieve the intended result. The appellant's case for mitigation relies on this.
- 7.13 A further significant concern is in relation to batteries, but it is accepted that these may not be in the scheme now.
- 7.14 In relation to the canal and towpath, as well as being a CA, these are a valuable recreational resource which make an important contribution to the leisure, tourism and employment economies of the area, as well as the health and well-being of residents and tourists alike. The strip of land alongside the GUC is within the solar site and is a green infrastructure corridor, but this seems to have been given little credit in the appellant's design⁴⁶.
- 7.15 The GUC Character Appraisal and Management Plan⁴⁷ states the need to 1) Protect the surrounding countryside from inappropriate development affecting the setting of the canal; 2) Encourage appropriate new tree planting and manage existing trees and hedgerows and; Action 1: The landscape setting to the canal

⁴⁶ CD1.12 Site Context Plan

⁴⁷ CD4.18

must be protected and enhanced. It is considered that point 2) has been selectively quoted, and points 1) and 3) have been completely ignored.

- 7.16 The Plan seeks to protect the important views into and out of the CA. With the proposed development directly adjacent, how can this be described as 'protecting'?

Statement by Councillor Clarke – Gayton Parish – Objecting (ID5).

- 7.17 There was a decision to unanimously refuse this application by the Council owing to the location and size of the site. This appeal is not considering the same application, which has many changes and some misleading claims and errors.
- 7.18 There is a comprehensive response from Gayton PC, but this response deals with two aspects.
- 7.19 Firstly, the negative impact on the GUC CA, which the site borders for almost 1 km. This former method of transportation is now very much considered to be for leisure and wellbeing, and is of national and international interest to thousands of people. There is a Grade II listed 'turnaround'⁴⁸ bridge that directly overlooks a significant section of the industrial solar site.
- 7.20 The Council recognises the recreational potential of the GUC, and I refer to Policy RC7 of the South Northamptonshire Local Plan, which identifies the potential offered by the GUC and other canals as well as the Rivers Nene, Tove, Cherwell and Great Ouse, and seeks opportunities to increase the recreational use of these resources and safeguard the quality of these special environments.
- 7.21 Secondly, as advised by the local feed mill, this site of 70Ha produces enough corn to make over 1 million loaves of bread, that could feed 2 million people for a week. 44,000Ha are reported to have already been given over to solar and lost from food production. As a country, we are only 68% self-sufficient and rely on imports which come with their own energy usage.
- 7.22 Fertile land is a diminishing asset and Defra rate this as Grade 2 and 3, producing 9.2 tonnes per HA compared to the national average of 8.5 tonnes. Although sheep grazing is proposed, typical densities of 15 to 20 per acre would likely be 1 sheep per acre under the proposal.
- 7.23 Although landscape details have been adjusted, these would not mature to a degree to camouflage the panels over a 20-40 year timeframe, and the point of decommissioning is not covered. While parishioners are not against alternative forms of energy production, it is vital, at the same time, to preserve good, fertile agricultural land for food production, and protect the landscape, particularly where it is so important.

Statement by Mrs and Mr Taylor – Local Residents – Objecting (ID6).

- 7.24 While recognising the need for more green energy projects, it is believed that this project would be in the wrong place. It is well known that the roads to Gayton are a narrow, mostly passing over old, weak, weight-restricted canal bridges and in a poor state of repair.

⁴⁸ Referred to as Turnover in the GUC CA Plan and throughout this Report

- 7.25 The only reasonable vehicular access would be up the Bugbrooke Road and hence past the school, a road already made difficult by parking and a chicane⁴⁹. HGVs regularly passing would cause chaos and considerable danger, with frustrated drivers competing with parents and children trying to access the school. The primary school has been open for over 100 years and there have been accidents when people cross the road, Students regularly walk from the school to the church.
- 7.26 The major disruption will be to traffic flows around the village, as well as noise and pollution, and all the HGVs are likely to damage roads. In routing this all through Gayton, it will have a very serious impact on the quality of life for the village as a whole.
- 7.27 Visually it will be impossible to hide the ugly installations leading up to the village along Milton Road and being in immediate proximity to our ancient, rural village; it will seriously detract from its desirability. It would be wholly incongruous with the surroundings and local CAs.
- 7.28 It is still not clear how it is intended to connect to the Grid across the canal or railway line, and national media suggest that there is currently over £2 Billion worth of green projects still waiting for access to the Grid, with waits of up to 10 years being reported. What guarantees are there that even were it to proceed that it would not be sitting there redundant and unused for years?

Mr Price– Local Resident - Objecting.

- 7.29 Made a short statement highlighting that he had not heard an answer to the issue of connection to the main Grid or about traffic movements.

Mrs Auld – Local Resident - Objecting.

- 7.30 The primary concern is traffic with issues over the use of rural, damaged roads with many potholes, the sharp right hand turn at the Church, including necessary reversing manoeuvres, and the use of the two bridges with weight limits. The roads are just not suitable and will lead to stuck lorries and much inconvenience.
- 7.31 Furthermore, the fragility of food supply must be secured, and this is fertile farming land. With land being lost to housing, freight links and more, rural areas will soon no longer exist. Alternatives must be thought of instead of just being put on the fringes of rural villages, and the appellant has not taken into account the views of villagers. It is all about money and there is nothing for local residents who get the disruption but no benefits.
- 7.32 With other issues of noise, ecology, light pollution and long-term recycling of the panels, it is inappropriate in this rural and tranquil location.

Mr Ayres – Local Resident - Objecting.

- 7.33 A local resident for 23 years. The size and location are inappropriate taking out of use perfectly usable agricultural land. The war in Ukraine drives up the cost of

⁴⁹ Note – the appellant has presented a route that does not pass the school

food and this project should just not be contemplated; brownfields and large warehouses should be used instead.

- 7.34 The road infrastructure is not good enough. HGVs will not be able to turn by the Church, and in any case, how will HGVs be required to stick to that route? This area has suffered with the stress of HS2 and now this, which adds considerably to the pressures on residents.
- 7.35 There is no plan for removal of the panels, and probably no intention to do so, leaving a wasteland.

Statement by Councillor Cooper – District Councillor – Objecting (ID7)

- 7.36 Reported to be speaking on behalf of 66 residents of Gayton who have objected to this scheme. In addition to the objections of the Council and the Parish Council, there were objections from both Rothersthorpe and Blisworth Parish Councils. There has been a tremendous level of support from local residents opposing this appeal, and while it is understood that there is a need to increase energy output and that green energy is good, the 'environment' is not simply energy related. It encompasses the visual, the quality of life, the impact on the surrounding area, the entire carbon footprint of a project, including the manufacture, installation and final decommissioning of the products, not purely the output during its working life.
- 7.37 The world's call out for climate change is also about protecting the Earth's nature and food supplies, not ripping it up for generations to come. This proposal is a highly invasive solar industrial site; it cannot possibly be described as a farm, and 40 years is not a temporary scheme.
- 7.38 Nature plays a huge part in our physical and mental well-being. People benefit from Green Prescribing. This site is a vital part of open, green and natural space for the local communities of Gayton and far beyond, who are incredibly fortunate to have it, but it has never been more important to preserve it. The prospect of walking alongside acres of solar panels in an area used and appreciated by so many people, and the impact this will have on people enjoying the GUC, is unthinkable. Solar farms are essential, but they must be in the right place and there is clear and conclusive evidence that this is not the right place.
- 7.39 Agricultural Land: Gayton is a true farming community, and a solar farm would undermine the local Tenant Farm business and employment. It would extinguish agricultural land much needed by our country to grow crops. Food security is as important as electricity generation and the bountiful harvest from 170 acres should not be sacrificed.
- 7.40 The appellant claims this will power 13,250 homes, assuming three people per house, this is less than 18% of the population of Northampton. This is not an efficient use of a large area of valuable agricultural land, it cannot be justified covering so much land for so little energy. Solar farms have a limited lifespan and ruin the ground beneath them.
- 7.41 Size and Scale: 98 football pitches of highly visible rural landscape, dwarfing the size of the inhabited area of the village and running alongside the gardens of many homes and impossible to screen from view. This will change the character of the village forever.

- 7.42 The Northamptonshire M1 motorway corridor is lined by warehouses, most of which are not forced to have solar energy as the power source; this should be made compulsory and the land alongside used for solar so as not to affect the rural landscape. There are large estates around Northampton with roof space where it would make perfect sense to put solar panels.
- 7.43 Site Construction: Gayton is one of the most inaccessible villages in the country. There are weak bridges, narrow village roads, tight 90-degree bends between a Grade II listed church and a Grade I listed manor. What damage would be caused?
- 7.44 There would be noise and pollution and risk to pedestrians as most routes do not have pavements. HGVs would be a huge safety hazard; residents feel life would be unbearable.
- 7.45 Gayton is a peaceful, historic village in the English countryside, its history can be traced back to 1086 and it should be treasured and protected. It has a 'slow-paced' feel, you can hear birds sing and the Church clock chime, the roads are country lanes. It sits on a hill with panoramic views, and people come from miles around to appreciate these historic views. The area is used extensively for horse riding, with many stable yards in and around the village. Positioned immediately behind housing, the site is highly visible.
- 7.46 Grand Union Canal: While the appellant states there are no important assets to be harmed, this is incorrect. The GUC within its CA is a most significant asset. The proposed development would be immediately adjacent to the CA, which runs the length of the canal.
- 7.47 This beautiful and quiet landscape attracts tourists and walkers. The marinas offer boat hire to explore the canal and there is a peaceful campsite for holiday makers to stay and enjoy the views. Many boats, for some people their homes, moor along the canal, and tourism, which supports many local businesses, will decrease.
- 7.48 Wildlife and Ecology: There would be a loss of open field habitat, flora and fauna and other ecology impacts. The land is valuable for wildlife. Residents have seen deer, badgers and foxes in the fields and several species of birds. The development will disrupt their habitat forever.
- 7.49 Health and wellbeing: a solar farm would have a significant negative impact on the quality of life and wellbeing of Gayton residents due to the loss of unspoilt scenic countryside. A resident wrote to highlight concerns over disruption from HGVs and impact on their livestock during construction, as well as on their horses, which they ride locally on the roads. There is currently a limited number of HGVs using these roads.

7.50 We ask that the appeal is dismissed.

Duncan Wakelin and Clive Wakelin – Tenant Farmer - Objecting

- 7.51 Originally submitted as a written response presented by Councillor Cooper, the tenant farmers statement was as follows.
- 7.52 As a tenant farmer, he objects, from a selfish point of view, as the fields are good and there is plenty of lower value land available. There is a choice between food and energy, energy can be produced in many ways, but food can only come

from the land. Such land is not likely to come back to production because no-one will pay to remove the panels. Imported food will always be a risk.

- 7.53 At the planning hearing there were questions about connection across the canal, railway and motorway, there is concern that later applications to achieve this will be forced on the local authority. Councillors voted 12 to 0 that it should not be allowed, that result should stand.
- 7.54 Having farmed and lived on the land, he wanted to express anxiety over the proposal. It is wrong that these solar farms are inflicted onto local communities and spoil villages and good farmland. What are the government's priorities, food or energy; there is a right place for all these things. Northampton is a town full of warehouses, why aren't there solar panels on those?
- 7.55 It is hard to move around the narrow roads around the village with tractors and large machinery, the local bridges have been damaged in the past by large vehicles that cannot manoeuvre over them, and there are then weeks of waiting for them to be rebuilt. There will be an increase in lorries and other machinery, and this will make it impossible to move on the roads at times. The government should do the right thing and have this solar farm built in a more sensible place.

Statement by Dr Buus – Local Resident – Supporting (ID8)

- 7.56 The statement raised some issues with the way the original application was handled by the Council, submitted as a separate written comment. Presented to the Inquiry was the following submission.
- 7.57 There is a clear and urgent need for low CO₂ impact electricity generation to reduce the use of fossil fuels, meet the need for electric vehicles, heat pumps and hydrogen generation and reduce our present high reliance on energy imports. Currently 38% of the energy used in the UK is imported and of that produced here, about 40% is gas. In contrast, we are importing about 32% of our food, based on consumption figures from opponents of this scheme, which could be significantly reduced by a modest change in eating habits.
- 7.58 There are few existing low CO₂ technologies for electricity generation. Biofuels are renewable but not a low CO₂ source, and will require considerable land areas compared to solar. Nuclear power is low CO₂ but planning and construction times are very long, and it is not a near-term option.
- 7.59 In the future, there may be new, low CO₂ technologies, but these are likely to take decades to develop to a point where they can make a significant contribution. This only leaves solar and wind as sustainable options for electricity generation.
- 7.60 With a relatively low capacity figure, solar should not be used for more than around 15-20% of the total energy consumption. Even at that level the land required would correspond to less than 1% of the present total area of agricultural land. Solar panels on buildings, houses and warehouses, can make a useful contribution but are not in themselves sufficient. Furthermore, solar power is far simpler and cheaper to decommission than both nuclear and wind.
- 7.61 Having set out the case for a significant expansion of ground based solar power it would be disingenuous not to accept that it might be visible from the roads leading to Gayton. The limited visual impact of the proposed development is a

small price to pay for reduce CO₂ emissions, increased electricity generation and less reliance on energy imports, consequently the appeal is supported.

Written Submissions

- 8.1 At the application stage the Council reported 44 representations against the proposal and one in support. In response to notification of the appeal, there were 5 individual letters of representation, and concerns passed on by the local MP, Mr Heaton-Harris. The MP supported the position of a constituent that highlighted the fact that 85% of the village had objected, along with the Parish Councils and that the Highway authority has also objected, although it must be noted that this was not the position presented to the Inquiry, that their final comments raised no objection to the proposal.
- 8.2 Other comments were from the neighbouring Parish Council expressing concern over the routing of construction traffic, including through Blisworth Village, and also from the Canal and Rivers Trust (CRT), highlighting their concerns over the Turnover Bridge and the area between Bridges 46 and 47, and raising specific concerns regarding traffic over the bridges, and the proximity of the northern site to the GUC, which they identify as being prized for its tranquillity, recreational and amenity value.
- 8.3 Comments from CPRE highlighted concerns over the loss of agricultural land and noise, but also questioned the carbon footprint calculations and the absence of alternatives being considered.
- 8.4 For the most part, the matters raised are substantially the same as those raised above.

Conditions

- 9.1 Suggested conditions were discussed at the Inquiry based on a final agreed draft between the main parties⁵⁰. The focus of the discussions was to ensure that all matters of control and mitigation were properly addressed, and all conditions were necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects.
- 9.2 Were the Secretary of State to consider that this proposal should be allowed, and permission granted, I have considered in my assessment below possible conditions that I recommend should be applied. These can be found in Appendix 4.

⁵⁰ ID11

Inspector's Conclusions

10.1 Taking account of the evidence in this case, including the submissions and representations on which I have reported above, I have reached the following conclusions. References in square brackets [] are to earlier paragraphs in this report.

Introduction

10.2 Following a full assessment of the submissions from both the main parties and others interested in the appeal, I now set out the main issues as:

- the effect of the proposal on the landscape character and appearance of the area;
- the effect on heritage assets;
- the effect on best and most versatile agricultural land; and
- whether the proposal would conflict with the development plan and if so whether there are any material considerations that would outweigh that conflict; the planning balance.

Landscape Character and Appearance

10.3 The appellant argues that overall, there would be only moderate adverse effects which would be limited to the appeal site and its immediate vicinity, with the beneficial effects of planting and mitigation leading to a more robust landscape framework. Nonetheless, the introduction of panels and other infrastructure, including transformers, inverters and fencing, will inevitably introduce a fundamental change to agricultural land. Considering the scale of this proposal, there would also, inevitably, be a degree of change to the landscape and to peoples' experience of the area. [5.28]

10.4 This is acknowledged in national and local policy approaches, which are generally supportive of such schemes subject to appropriate design choices in terms of both location and mitigation. This is encapsulated in Policy S11 of the LPP1, which seeks that schemes be sensitively located and designed to minimise harm, and in the Framework, which recognises the need to plan positively for such schemes but to satisfactorily address adverse impacts. [5.34, 5.56]

10.5 The issue is not therefore whether there would be a material change and resultant adverse impacts, but the extent of those, the approach taken to minimising any effects and then the balance to be taken against any benefits that would arise.

10.6 The appellant submitted an LVIA and a proof of evidence from the consultancy who prepared that LVIA. During the application process, in response to Council concerns, they also commissioned a Landscape and Visual Advisory review⁵¹. The Council itself reviewed the LVIA during the application process⁵² and presented evidence at the Inquiry. No alternative LVIA was submitted and the SoCG on landscape confirmed, among other matters, that the two parcels of the

⁵¹ Southern Green - September 2022

⁵² CD 3.2 - Askew Wilson

site do not lie within a designated or protected landscape and should not be considered as a valued landscape, in terms of paragraph 174 of the Framework. There was also agreement that the methodology used for the LVIA was generally in accordance with GLVIA3 and that the sites have a medium value in the wider landscape. [5.3, 5.4, 5.14, 6.2, 6.5, 6.7, 6.8]

- 10.7 Notwithstanding this, there are clear differences in the main party's assessment of landscape and visual effects, and I am aware of the significant concerns of some local residents and the Parish Councils, that the change from agriculture to panels could be so marked as to represent a wholesale degradation of the area, impacting on tourism as well as their own enjoyment and experience of the area.

The Value of the Existing Site

- 10.8 The proposed development is divided into two separate parcels, it is necessary to consider the value of each independently, albeit both lie within the National Character Area 89 – Northamptonshire Vales. At a district level, the South Northamptonshire Landscape Character Assessment identifies the parcels as lying within the undulating hills and valleys landscape and specifically 13b, the Bugbrooke and Daventry Landscape Character Area (LCA). It is common ground between the main parties that the proposal would have no material effect at the national or district level. [5.9, 6.2]
- 10.9 Locally, the southern parcel is identified as being within the 13f Gayton local LCA and the northern parcel within 13e, the Rothersthorpe local LCA. Again, it is accepted by the main parties that there would be no significant impact on the landscape of these LCAs. [5.9, 6.2]
- 10.10 Having driven and walked extensively over the local area, I would agree that the character of these relatively large-scale areas would not experience material or significant change. Nonetheless, they do assist in understanding the value of the sites.
- 10.11 The southern parcel, notwithstanding its position relatively close to the village of Gayton and location to the rear of some residential gardens, is not a prominent site. Experienced in oblique views over the hedge from Milton Road, in some long views and from the rear gardens of a few properties on Milton Road or Blisworth Road, it is a large arable field with hedgerow or woodland boundaries, notably the tree belt to the east. There are no major detracting elements from a typical agricultural field set in a rural landscape, but its relative containment means it is not an important component in terms of the setting of the village.
- 10.12 The northern parcel is more extensive and set within a more complex landscape. It is a flatter landform located towards the valley floor, but with rising land to the east. While the northern parcel itself has an agricultural, rural character, it lies adjacent to a number of strongly defined transport routes, the GUC in particular, but also the main line railway, the A43 corridor to the east and a short distance to the north, the M1. Although the motorway is not directly experienced within the immediate local context, it is in the long views across the valley, and represents a strong division between the built up and industrialised

edge of Northampton and the more rural area around Rothersthorpe. [2.1, 2.2, 5.12, 5.17, 5.24]

- 10.13 These features introduce activity, noise and man-made forms into this area. However, it is important to note that the industrialised heritage of the canal has given way to its present-day role as an important recreational resource, for which its predominantly rural setting and tranquillity are one of its attractions. However, although part the northern parcel shares a boundary with the hedgerow alongside a length of the towpath of the canal, I do not consider that it is as important to the character or the enjoyment and experience of those using the GUC as the canal route itself and views to the south. [6.18, 7.14, 8.2]
- 10.14 This is confirmed when reviewing the GUC CA Character Appraisal and Management Plan and designation maps⁵³. This, in considering landscape and views, agrees with my experience of walking the towpath here, that the canal, in maintaining its route along a contour, is embanked, with the proposed panels on this part of the site set notably lower along much of the stretch. Furthermore, the hedgerow to the northern bank, although somewhat patchy in places, nonetheless provides a visual barrier. While the maps note the important views to the south towards Gayton, the section here is otherwise relatively enclosed, with the typical experience for those using it being of the long linear views along the canal towards the bridges. [5.17, 5.18, 5.44, 5.46, 6.33, 7.15, 7.16]
- 10.15 To the eastern end of this parcel, where it is set back from the main canal section, but closer to the Northern Arm and marinas, the Plan identifies these areas as being compromised by road noise from the A43. I found that this is the experience across much of the site, although considerably less so to the western end. There are regular trains, which themselves introduced defined periods of activity and noise, and while the frequency of the trains passing was questioned, it is nonetheless a component of this landscape, and experienced from the northern parcel and the footpath network running through and alongside it. [5.14, 5.38, 6.18]
- 10.16 The footpaths which cross the site towards the western and eastern ends, LA/004 and RL/004, pass from the rural areas to the north and into the complex of the marinas and towpaths nearer to the site, and currently walkers experience a short stretch of typical agricultural field when traversing the site. To the east, the footpath emerges near to a large, fenced utility pumping station, which again introduces a detractor to the rural character here.
- 10.17 Overall, I find nothing to disagree with the main party's findings that the site is of medium value. [5.3, 5.12]

Effect of the Proposal on the Character and Appearance of the area and its Value

- 10.18 The points of difference between the main parties are essentially judgments of effect based on the susceptibility and sensitivity of the landscape, and the extent of visual harm from the introduction of panels in views from the footpaths, the canal and to a lesser extent, identified longer views from outside of the appeal site parcels. These are helpfully set out in Tables 1 and 2 accompanying the Landscape SoCG and accompanying text. [5.11, 5.12, 6.11, 6.13, 6.17, 3.18]

⁵³ CD4.18 and CD4.19

- 10.19 In terms of landscape effects, the appellant argues that the Council have unacceptably given a high value to the susceptibility of the site to change and its sensitivity, contrary to guidance. [5.12]
- 10.20 Susceptibility, the ability of a landscape to accommodate a proposed development must, in my view, be a function of both the existing landscape form, quality and features and the nature of the development. The appellant argues that the Council have considered this proposal as industrial development, and of a scale and effect akin to large-scale housing or other energy infrastructure. [5.16]
- 10.21 Having reviewed the relevant guidance⁵⁴ referred to, I am satisfied that while the proposal would introduce large area of panels and other distinctively man-made structures of a hard and unnatural regular form in close views, they are low-level, in this case to a maximum of under 3m, with limited noisy or distracting elements. From distance, the perception of their character will change for different viewers. To some this could be to something more positive, perhaps reminiscent of water, to others less so, with glint or glare elements and a continued unnatural shape and form.
- 10.22 Nonetheless, while of a large horizontal extent, a factor which can lead to an exaggerated perception of harm in some cases when viewed two-dimensionally on a plan or in an aerial view, understanding the impacts of such as scheme is essentially site-specific, dictated by the topography, existing character and relationships and level of containment, but also, as a matter of perception.
- 10.23 I appreciate many view large-scale solar developments as harmful in a rural setting, but others view them as a necessary and relatively benign alteration to our landscape. While there can be no question that, at this scale, there will be significant landscape and visual change associated with any solar farm, there are sites where, with suitable mitigation, they have been successfully integrated into rural landscapes. The appellant refers me to a number which have received support at local or national levels⁵⁵. Nonetheless, there are cases where harm to landscape, alone or cumulatively with other matters have led to refusal of schemes. Judgements depend on site specific circumstances.
- 10.24 I find these examples exemplify the need for careful appraisal of each scheme, and while material, are not determinative of the suitability of any particular proposal.
- 10.25 In this context and having set out the value of the appeal site above, I find both northern and southern parcels to be of medium susceptibility to change from a solar farm proposal. The southern parcel is well contained and in my view of only medium sensitivity, leading to a moderate adverse effect in early years and reducing with appropriate levels of set back and maturing of the mitigation planting.
- 10.26 Development of the northern parcel would introduce unnatural elements into a landscape with a number of existing man-made influences. However, it would be of larger scale and more readily perceived and experienced as an additional landscape element. Critically, the Council also argue that the northern parcel is an important component of the green infrastructure corridor, as defined in the

⁵⁴ CD4.11 and CD4.12

⁵⁵ CD6.0, CD6.1 and CD6.2

LPP2, and encompassing the GUC; and in effect part of the corridor's setting. [6.18, 7.14]

- 10.27 I do not support the Council's consideration that it is part of the 'setting' of a green infrastructure corridor. Such corridors, by their nature provide relief from surrounding land use or provide publicly accessible routes through an area; rightly the Council did not promote any conflict with the relevant policy on this matter. Although I have found that the northern parcel is not a key component of the experience of the GUC, the bounded nature of the canal and occasional enclosure by development or historic industrial settings, is generally relieved by the open fields to either side when passing through more rural areas. While I deal in more detail with the heritage implications below, the change to a solar character rather than an agricultural one would materially affect the experience of the canal, albeit limited by the factors that reduce the importance of the northern parcel's relationship to the canal set out above. [5.51, 5.53]
- 10.28 The introduction of panels and other infrastructure on the northern parcel would be another element of a more industrial, man-made character than the wider rural context, and the existing fields are in and of themselves valuable as an open and rural element providing some contrast to detractors already within the landscape. For those experiencing the landscape from the road bridges, notably where the route to access the canal from the Gayton Junction parking crosses the Turnover bridge, those crossing the rail line further to the east, or even those crossing the site on the circular routes to Rothersthorpe or up to Gayton, it would be perceived as a significant and harmful addition to the landscape.
- 10.29 However, to my mind, this does not take the susceptibility of this landscape to the highest value, it remains medium because of the existing character and the nature of the scheme. The northern parcel itself is well contained in parts, and the alterations to the scheme to set back areas and remove the panels from the higher land to the east are positive in this regard. Nonetheless, notably in the early years and during seasons when the existing and proposed screening would be more limited, the experience of this landscape as a rural area with transport links would be harmed by the proposal.
- 10.30 The CRT highlighted the value of the tranquillity of the GUC for users and the Council argued at the Inquiry, that there would be an effect on the tranquillity around the northern parcel to the detriment of the character of the area. [6.18, 7.32, 8.2]
- 10.31 The appellant had commissioned a noise assessment, a noise rebuttal and a tranquillity technical note to inform their finding that there would be no effect on tranquillity, in part because of the existing noise climate, even at the western end of the parcel. [5.37, 5.38, 5.39]
- 10.32 I fully accept that there is a background presence of road noise across the northern parcel, albeit reducing to the west, and I noted even during my site visit the regular passing of trains on the railway next to the canal. However, there remains some sense of tranquillity here which, to my mind, is not just about noise. It is enhanced here by the nature of the GUC corridor itself, by the slow movement of the water and the quiet movements and activity of boats and people along it. While noise is a fundamental component when assessing tranquillity, there is a relative level of calm that also can contribute.
- 10.33 There is no reason why solar development should be significantly harmful to that experience, it lacks significant moving elements or activity, but it is not

correct to suggest that there is no noise associated with it. In this case, I only have the appellant's evidence on noise which concludes, in relation to tranquillity, that any noise associated with the proposal would not have any impact on the relative tranquillity of the waterways and PRowS. I address the effects on residents below, but subject to the careful placement of transformers and inverters, I concur that the proposal would not be harmful to the tranquillity or the character of the area in that sense. [5.38]

10.34 The Council raised in closing statements the effect on tranquillity for residents of Gayton from construction traffic. I deal in detail with highway matters below, but do not consider that the low level of HGVs during the temporary construction period can be considered to represent material harm to the long-term tranquillity of the village, even were there to be occasional delays or disruption on the route. [6.34]

10.35 I note concerns that the presence of two separate parcels would lead to a cumulative level of harm extending over a much greater area, but I have found the character of these areas are different and they are mostly experienced independently. Despite some suggestions of significant levels of intervisibility, there are no well-used or designed views that would allow appreciation of both appeal parcels at once. [5.21, 7.4, 7.27, 7.41, 7.45]

10.36 Overall, I consider that the effects of the proposal on the landscape character would be moderate adverse reducing to minor adverse over time.

10.37 Turning to visual effects, a set of representative views were agreed between the main parties and, subject to some concession at the Inquiry, the points of disagreement are set out in the Landscape SoCG. [5.25, 6.14, 6.17]

10.38 I consider there to be three main groups of receptors in this area, the users of the canal, walkers on the PRowS and residential properties near to the site. There was some discussion on the views from cars driving through the area or other road users. I accept that there would be intermittent oblique views from Wrights Lane, and shorter-range views from Milton Road, which, subject to mitigation, would show some extent of the northern parcel when crossing over the Turnover Bridge and heading north, or heading south and west on Milton Road from Sandlanding Wharf. However, I consider that vehicle occupants are not sensitive receptors in this context.

10.39 The view from Wrights Lane would be at distance and while parts of the northern parcel could be seen along with the hedgerow along Milton Road, I do not consider that the proposed panels on the southern parcel would be visible from here, which is also not a route on which I would anticipate any significant pedestrian use. [5.22, 5.23, 5.24, 6.24]

10.40 There is a point on Milton Road, SCP21, where road users, in very early years of the proposal may be able to see to the northern parcel and over the hedge into the southern parcel. In my view, this is not a route attractive to walkers and while it may be used by occasional horse riders, this is a narrow road from which hedgerow growth would increasingly limit sideways views into the southern parcel and the northern parcel would make up only a very small part of the view northward. [5.23, 7.27]

10.41 While there would be more open views of the northern parcel from the lower parts of Milton Road, these are transient routes with views lasting a relatively

short period on fairly narrow lanes where attention is likely to be on the road. I do not dismiss these views, they contribute to an awareness of a solar farm within the landscape, but I view the impacts as being minor adverse.

- 10.42 For users of the canal, either moored or on slow-moving boats, or those walking the towpath or footpaths from the marinas or the car parks, there will be points where gaps in the northern hedgerow allows views of the proposed development. In addition, there would be raised views from the bridges providing more open views into the northern parcel. I am conscious that the revised proposal has promoted enhanced tree planting and scrub planting as well as strengthening of the northern hedgerow, a characteristic feature of the canal, with further scrub planting on the slopes behind it. While these would provide screening and reduce views, and for many utilising these routes, their attention is a generally linear one along the canal, these are receptors with high sensitivity, many using the area for its rural character, and even glimpsed views must be considered to be moderate adverse, major in some places, albeit this will reduce over time as the planting becomes more established. [5.18, 5.19, 6.18, 6.19, 7.4, 7.15, 7.19]
- 10.43 Despite the concerns of some parties, I can see no reason why properly managed planting should not be successfully established on the land between GUC and the proposed panels, even on the sloping part of the site. Such requirements can be addressed in conditions.
- 10.44 The footpath network here is well marked and likely to be popular, I note that the circular walk utilising RL/004 and LA/004 is reported to be a promoted route, and I was able to cover all of these stretches during my site visit. From areas north of the site, in which the majority of this route takes place, there would be little experience of the northern parcel and none appreciable of the southern. Approaching in a southward direction, some views, particularly in winter, would open up on close approach to the northern parcel, and quite clearly, crossing the site would introduce users to close range and relatively unfiltered views of panels, particularly in the early period of the proposal. [5.20, 6.21, 6.22]
- 10.45 For these crossings, where existing users experience seasonal changes and an open outlook, the panels would be a significant detractor leading to major adverse effects. However, these crossings are a relatively short part of the routes. The perception reduces relatively quickly at points beyond the crossings themselves, particularly to the north, and walkers heading south are exposed to routes on the road network, which generally do not have footways, notably Milton Road, and to significantly greater exposure to noise and activity associated with the pumping station, the marinas and increasingly the railway and the roads, amongst others.
- 10.46 I was referred to longer range views on walking routes, and in particular RL/003 which connects Gayton to the canal, and RL/001 heading northwest from Gayton. RL/003, passes over a pronounced ridge and consequently, despite a number of interested party statements made that the northern parcel would be visible from Gayton⁵⁶, views only open up some way along this route at SCP28, and intermittently from there down to the railway bridge. [5.25, 5.26, 5.27, 6.24]
- 10.47 Walkers would unquestionably notice the layout of panels on the northern parcel, an adverse element within a predominantly rural landscape, albeit this is

⁵⁶ It was accepted by the Council that there were no views from the Gayton CA to either part of the site.

a broad panorama, from which the railway and associated fencing as well as distant views to the urban fringe of Northampton are also perceived. As a relatively small component of the view, I consider impacts would be minor adverse here.

- 10.48 The longer-range views from RL/003, SCP14, provide a similar panorama, and while parts of the northern parcel would be within the view, the effects on a route, within which only intermittent views can be taken within a wide field of view, would be minor adverse.
- 10.49 There are residential properties from which there may be some views of the proposal. Sandlanding Wharf is the nearest house to the northern parcel. This has a small upstairs window looking toward the west and the upper part of Field E in the northern parcel. Removal of the panels from this area under the latest amendments would reduce direct impacts, but some views are still likely, notwithstanding the planting and hedge management proposed. However, the predominant view for this property is eastward and over the canal. Overall, I consider this would be a moderate adverse effect, reducing to minor. [6.23]
- 10.50 There is also a row of houses along Milton Road, the nearest of which to the site may experience some views, and along Blisworth Road, where a number of houses back onto the southern parcel. These properties lie on the fringe of the village and generally have a relatively open outlook to front and rear, although garden boundaries would appear to be mature and substantial relative to the southern parcel. The proposed set back and planting on site would limit the lower-level views from these properties, nonetheless, there may be some views in which the fencing and some extent of panels might be seen. Consequently, I consider these represent moderate adverse views in the early years of the proposal, but the effect would reduce considerably with planting. [6.23]
- Interested parties' concerns.
- 10.51 When considering the more significant concerns of the interested parties, I cannot agree that the proposal would lead to the dramatic impacts suggested for Gayton village or the tourism offer of the GUC. Canal users, were they to find opportunities to glance through the occasional gaps in the hedgerow, would, in early years of the scheme, be able to see the panels on the northern parcel. As the proposed planting to the hedge and scrub planting to the rear matures, even those views would be noticeably reduced. [5.8, 7.9, 7.14, 7.47]
- 10.52 I have dealt with the experience of those using the footpath network above, including concerns relating to horse riders and walkers using Milton Road who over time, in my view, would have reduced awareness of the panels on the southern parcel, subject to managed hedgerow growth and planting. I do not consider that the additional height proposed to the hedgerow here would have a material effect on the character of the area; strong hedgerows bound rural roads and are very characteristics of the area, and the approach to Gayton, and the prominence of the woodland element to the north of the village and later, the Church tower on that approach, would be unaffected. [7.27]
- 10.53 Furthermore, having walked that route, it is not one attractive to walkers, or likely to be taken by many in preference to the footpaths that cross the fields to the west, which themselves provide very little appreciation of the southern parcel development. I appreciate that horse riders may be more aware, but they would

also have increasingly limited views with planting and set back here, and would have greater appreciation of views retained to the north and west. [67.45, 7.49]

10.54 I could find no views of either parcel from the marina area, and the impact on the initial stretches of the canal heading west have been addressed above. I do not accept that this would represent a substantial negative impact sufficient to materially affect use and enjoyment of the canal in this area.

Conclusion on Landscape and Visual Effects

10.55 Before concluding on this matter, it is necessary to consider the issue of the temporary status of the proposal. At a number of points in the submission of evidence on matters relating to landscape effects, as well as effects on agricultural land, reference was made to this being a temporary proposal and that the site would revert to its existing condition, or even an improved condition, at the end of that period.

10.56 However, 40 years is a considerable length of time during which peoples' experience of the development within the rural landscape or its role as part of the recreational resource would be altered. For some people, were the proposal to gain permission, it would establish a landscape that may be all they know and whose effects may progress through to later generations. The proposal may not be a permanent change but would reflect a very long-term change, and over such a period of time, there can be no guarantees on the future need for such energy sources or the pressures that might lead to re-powering or extending its life. Consequently, I would recommend that little weight is given to the aspect of the potential reversibility of the proposal in landscape or visual terms. [6.32, 7.37]

10.57 Taking all these matters into account, I consider that the proposal would have a material adverse effect on the visual and landscape character of the site and the contribution that the development parcels would make to the wider landscape. I have set out above that, in my view, and reflected in policy and guidance, all solar farms of this scale will cause some harm when developed within rural sites. Nonetheless, there are degrees of such harm and very different circumstances in which they are experienced.

10.58 The effect on landscape character is less for the southern parcel and more for the northern parcel, albeit this site in a more complex landscape with a number of transport routes crossing it. However, the rural component of this landscape would be eroded. For those using the area, notably walkers on the footpaths and users of the canal, there would be a changed and somewhat degraded view in some areas. There are a number of initial and amended proposals that have been considered to screen and mitigate this harm, and in some cases enhance the site, but overall, I consider this proposal would harm the character and appearance of the area. While to some receptors the visual harm would be major in the early years of the proposal, overall, I consider this would reduce to moderate harm over time.

10.59 I note the Council argue that this has implications in terms of the specific compliance with policy and notably the issue of sensitive location set out in Policy S11. This policy seeks that development be '*...sensitively located and designed to minimise potential adverse impacts...*'. The appellant considers that the scheme has been sensitively located within the site, while the Council argue that this is a sensitive location where the principle of promoting such a large scheme

should be central to the assessment of whether it is sensitively located. [5.50, 5.51, 5.55, 6.27, 6.28]

- 10.60 In my view, S11 must be read on its face, and any proposal must be able to show that it has been chosen with sensitivity to the location. For solar farms there is an unavoidable and very strong locational driver of being able to connect to the national grid in an area with capacity to accept the connection. I deal with the issue of grid connection below, but this is a fundamental driver for location, coupled with the need for a large area of land, which invariably drives such schemes into rural areas. This is acknowledged in local and national policies.
- 10.61 While there may be sites where the sensitivity precludes large scale solar, notably, but not exclusively, nationally designated or highly valued landscapes or even landscapes of great heritage value, these are not in play in this case, although there are sensitive elements here that may not be present in other locations.
- 10.62 This area is essentially rural, although crossed by transport routes which bring other components to the character of the area, it also has small historic settlements, such as Gayton, and attractive and valued features, such as the GUC. In my judgment, although it is clear that there have been design elements seeking to minimise adverse impacts, notably the set back of panels in more prominent areas and the introduction of large areas of scrub, hedgerow and tree planting, I have still found the proposal to be moderately harmful. In this context, there is a degree of conflict with Policy S11, but also with that part of Policy S10 that seeks to protect the natural environment and those parts of Policies SS2 and EMP6 in the LPP2, which seek development compatible with its surroundings.
- 10.63 Such policy conflict must be weighed against supporting policies and the benefits of the scheme in the planning balance.

Heritage Assets

- 10.64 While this was not a main issue in the Council's refusal, on full assessment of their case and those of the interest parties it is necessary to consider the effect of the proposed development on the character or appearance of the conservation areas and on the setting of nearby listed buildings. There are three principal heritage assets I consider to be relevant in this case: the GUC CA, the Gayton CA and the Grade II listed building, the Turnover Bridge, Bridge 47. The appellant provided heritage evidence as an appendix to their planning evidence, which concluded that there would be no harm to heritage assets. However, many interested parties raised concerns over heritage matters and the Council, who agreed there would be no harm to the Gayton CA, still found some harm to the GUC CA and the listed bridge, albeit accepting that public benefits would outweigh this. The CRT also raised specific concern over harm to the GUC and to the setting, but also the integrity of the listed bridges in the area. [5.5, 5.44, 5.45, 5.46, 6.18, 6.33, 7.15, 7.19, 7.26, 7.27, 7.38, 7.43, 7.46, 8.2]
- 10.65 The Planning (Listed Buildings and Conservation Areas) Act 1990 s66(1) requires the Secretary of State have special regard to the desirability of preserving a listed building or its setting. Although the site does not lie within

the CAs, nonetheless, the effect on the setting of these assets also needs to be assessed.

- 10.66 The GUC CA borders the northern parcel. The CA Management Plan describes the overall character as being defined by the gently curving canal, the modest grassy towpath and the surviving bridges, with its setting being of particular note as it passes through the river valleys. It acknowledges that, in places, the hedgerows completely contain views along it, which to an extent is the experience here when considering the outlook to the north and the appeal site. The significance of the GUC lies in its historic and architectural value, which to my mind includes the engineering of the contoured route of the canal.
- 10.67 I have found no particular relationship and no views between the marina area and the northern parcel, nor do I consider that it forms part of the setting here. However, an appreciation of the raised and embanked form is a component in understanding the historic and architectural significance of the canal, and the northern parcel has a part to play in that. In addition, views from raised areas, and the Turnover bridge provide exactly that, allowing an appreciation of not just the engineering, but also the rural setting through which parts of the canal run. The northern parcel is therefore an element of the setting of the GUC CA.
- 10.68 The effect of the site on the landscape or visual experience are not the same as its contribution to the heritage significance of the canal, nonetheless, I consider the introduction of solar panels would alter the relationship to the canal and appreciation of its embanked form within a rural landscape. Consequently, I consider there would be harm to the setting of the GUC.
- 10.69 The scale of this is limited to the short stretch in what is a very long linear CA. The harm to the CA as a whole, would therefore be limited and at the lower end of less than substantial harm, when considered on the context of the Framework.
- 10.70 Turning to Gayton CA, notwithstanding the Council position, there were a number of very concerned residents who felt that the historic value of the village would be harmed by the proposals. Gayton is a village which retains a compact form, with many high-quality vernacular buildings and some listed ones, and which retains its strong historic character. Its significance lies in its archaeological and historic context and the architecture, but also its rural setting. The occasional panoramic view out from the core of the village, in particular to the north is an important component. However, I have found little visual connection between the village and the appeal site parcels, although glimpsed views of the southern parcel on approach to the village may slightly alter perceptions of the rural setting in the early years of the proposal. I consider the character and appearance would be preserved.
- 10.71 A particular concern raised was the construction phase and the introduction of additional HGV movements through the village and past the Church, which is Grade II* listed, and Gayton Manor, which is Grade I listed. Notwithstanding the high value of these assets, they are already set within a road network through which traffic passes in the course of regular day to day activities. While I deal with the detail of traffic movements below, I do not consider the scale of the movements and the temporary period over which they would be experienced would be perceived as an impact sufficient to diminish the settings of these listed

buildings or the character or appearance of the CA. Overall, I therefore find that the Gayton CA would be preserved. [6.34]

10.72 Turning then to the listed bridge. The Turnover bridge is identified in the GUC CA management plan, as a Grade II listed bridge providing an opportunity for horses to cross from one side of the canal to the other. It provides important context to the historic use of the canal and its significance is therefore both architectural and historic. As set out above, this bridge provides access from a nearby car park to the canal and towpath and a link on the Rothersthorpe circular walk. Its historic value and functional purpose is intrinsically linked to the canal, which is therefore the key component of its setting, although on crossing the bridge, parts of the northern parcel would be evident. [5.46, 6.3, 6.33, 7.19, 8.2]

10.73 I consider the northern parcel is part of the setting of the bridge. Although the proposed planting, which would increasingly screen those views which establish a relationship between the site and the bridge, there would be a low level of harm to that setting. I consider this to be at the lower end of less than substantial harm as set out in the Framework.

Conclusion on heritage assets

10.74 I have found there would be some harm at the lower end of less than substantial harm to the GUC CA and the listed Turnover bridge but no other heritage harm. The harm to heritage significance should be weighed against the public benefits of the proposal, which I address in the planning balance below.

Best and Most Versatile Agricultural Land

10.75 The appellant argues that while there would be some loss of BMV, it should be accorded only very limited weight, while the Council considered it to be of limited weight. [5.8, 6.32]

10.76 However, the Parish Council and interested parties argued that the land has greater value and is more productive than suggested by the appellant. In this they argue that a Defra assessment suggested much greater levels of BMV on the site as well as pointing towards its productivity exceeding national averages. [7.2, 7.21, 7.22, 7.23, 7.33, 7.39, 8.3]

10.77 The appellant's finding that there is some 10.64Ha of Grade 3a land spread across the appeal site comes from a site-specific Agricultural Quality of Land Report, May 2021. It is unclear what evidence supports the suggested Defra findings, although I am aware that, as agreed by the Council and the appellant⁵⁷, this may be high level maps sourced as part of their assessment. I am also aware that Natural England produce strategic maps identifying likely BMV areas and agricultural land classification. I accept that these may have shown good or even very good land in the area, and the extract provided in the CPRE written representation is indicative of this. However, such strategic mapping is not sufficiently accurate for use in individual site assessments. [5.16, 5.32]

10.78 I have reviewed the Agricultural Quality of Land Report and prefer those findings that there is some 10.64Ha of Grade 3a land spread across both parcels.

⁵⁷ ID12

I note that this is not contiguous and cannot practicably be farmed separately to the lower grade land.

10.79 While the use of higher quality agricultural land is discouraged, it is not precluded by national policy, and where such land is not within a discrete parcel that could be retained in agricultural use, then any harm must be considered in that context. [5.34, 6.32]

10.80 The proposal is for a temporary period of 40 years and while this remains a very long period, and no clear understanding can be made on the pressures on land at that point in the future, the agricultural land would not be permanently lost. The continuation of some agricultural use is also possible, albeit it must be accepted that this would not represent the productivity potential of the land under full stocking or cultivation levels.

10.81 Although it is often argued that this extended period would allow the land to recover from its more intensive agricultural use, and the soil condition and structure improve, this is challenged, notably by CPRE. In their written representations they refer to a Secretary of State decision in Wales⁵⁸. It is suggested that this finds solar farms to be harmful, causing soil compaction and disturbance and overall leading to permanent loss of BMV. I do not have access to the evidence presented, but note that, in that case, the majority of the site was found to be Grade 2 and Grade 3a land. Nor do I know the nature or agricultural activity associated with that land, the soil type or nature of use.

10.82 For the site before me, which has clearly been most recently in arable use, it will typically have been worked with machinery and will have had fertilizer and other inputs added to support and enhance production. Consequently, while I acknowledge that were the scheme to go ahead, there would be immediate loss of some BMV, the provision of panels over a large part, but not all of the site, is not generally a high impact construction operation and does not require significant disturbance or extensive foundations; panels are also readily removed, again without significant disturbance generally.

10.83 I therefore consider that the likely outcome would be soil improvement with the short and relatively light-touch construction required and the long period when the land would be left with limited or no artificial inputs. I can see no reason, were the panels to be removed in future, that the land and soil quality would not remain at BMV levels, or even experience some improvement.

10.84 The promotion of grassland under the solar panels should therefore serve to improve soil health, and the proposed Landscape and Ecology Management Plan (LEMP) and the monitoring of biodiversity targets, both of which can be secured by condition, would ensure measures are maintained to also improve the biodiversity of the land under and around the panels.

10.85 I do not discount the points put that the land is of value for food production, it self-evidently is in productive use now, nor the importance that it has to existing farmers. I address the conflicting demands on the countryside below, but any large-scale solar proposals will compete with other uses of rural land, in this case food production. Nonetheless, the loss of some BMV land conflicts with Policy SS2 of the LPP2. This seeks that development does not result in the loss of

⁵⁸ Blackberry Lane, Pembrokeshire. Ref DNS/3245065

BMV, and this conflict must bring with it some measure of harm, which because of the scale of loss and, in this case, the long-term reversibility, I give limited weight.

Other Matters

- 10.86 I note the concerns of the local Parish Councils, organisations and interested parties on the proposal's effects on other matters including highway safety, future grid connection, ecology and noise.
- 10.87 The appellant provided highway evidence, which included a Transport Statement⁵⁹ as part of the application, and a Construction and Traffic Management Plan (CTMP), which assessed construction and operational traffic levels. This included details of the required HGV numbers specifically set against the elements of plant and materials required for construction. This evidence was assessed by the Local Highway Authority (the LHA) and a number of changes made as a result of matters raised by the LHA and statutory consultees, including CRT. [5.29, 5.30]
- 10.88 These included a specified transport route and timings of deliveries to be set out in a management plan, specified access points to each parcel and associated visibility splays, along with the proposed transfer of loads from HGVs to smaller rigid vehicles for delivery across the canal bridge from the southern to the northern parcel.
- 10.89 The Transport Statement assessed there to be an average of 8 two-way movements over the 36-week construction period, 4 arrivals and 4 departures. Operational traffic for occasional security or maintenance checks would be at around 4 two-way movements per month. These matters were set out in evidence and summarised in a Transport Note provided to the Inquiry⁶⁰. The LHA and Council raised no specific highway safety or capacity issues with the proposals.
- 10.90 Nonetheless, considerable concerns were expressed at the Inquiry and in written submissions with reference to the proposed HGV numbers and the routing. There were concerns about effects on pedestrians on the proposed routes, on other villages and specifically on the village of Gayton itself. Further concerns were raised over potential damage to the roads and particularly the canal bridges. [7.8, 7.25, 7.26, 7.34, 7.44, 7.49, 8.2]
- 10.91 The appellant has clearly set out a proposed route via A-roads from the M1 and then along Towcester Road, Station Road, past the Walnut Tree Inn, and finally along Blisworth Road to the relatively sharp bend past the Church into Milton Road. Access to both parcels would be off Milton Road. This route therefore entirely avoids Blisworth Village and, despite the considerable concerns of some residents about the primary school and those walking to it, it would avoid Bugbrooke Road and Back Lane. I took the opportunity to drive the route and while there are a few parts without footways, and a number of junctions, including that in Gayton itself, I saw nothing to challenge the appellant's position, endorsed by the LHA, regarding the acceptability of the route. The appellant has committed to this route, which can be secured by an enforceable condition. [5.8, 5.29, 5.30]

⁵⁹ CD1.26

⁶⁰ ID9

- 10.92 The assessed HGV numbers were provided by an experienced transport consultancy, were reviewed by the LHA and accepted by the Council. I note specific concerns that they represent an underestimation of traffic levels as the 8 movements per day were perceived to not include other movements, including workers, management, plant deliveries or waste removal, notwithstanding the details set out in the CTMP. While I accept there may be other ancillary movements, I am satisfied that the HGV movements are quantified and this addresses the types of traffic that, on these rural roads, may differ from normal everyday users.
- 10.93 I am also satisfied that the swept-path analysis⁶¹ confirms that such vehicles can negotiate the junction near the Church. I do not underplay the nature of the road here and noted the parking outside of the terraced cottages in front of the Church which narrows the road to a single lane, nor do I suggest that there will never be events involving the construction HGVs that may lead to frustration, delay or minor disturbance to other users. [5.30]
- 10.94 However, this is not the relevant test. Overall, I am satisfied that, for the temporary construction period, the additional HGV movements would be utilising an acceptable route and be of such a level that there would be no unacceptable additional highway safety concerns, nor would the residual cumulative impacts on the road network be severe.
- 10.95 Concerns about the existing poor state of the roads being made worse by the construction traffic can be addressed through the recommended condition for pre- and post-construction surveys and reinstatement works. [7.26, 7.34]
- 10.96 There were also a number of concerns raised about the future grid connections. The appellant very clearly identified that they were one of the solar schemes which had a confirmed grid connection and that this was available from 2024. However, the appellant also confirmed that any connection across the two sites or to the grid was a matter for later consenting if required. [5.8, 5.41, 5.42]
- 10.97 I have some sympathy for local residents who question how those connections may be made and whether there would be more above ground infrastructure to achieve this. However, this, as set out by the appellant, is a matter for the DNO and not before this Inquiry. This was accepted by the Council in the SoCG [7.6, 7.28, 7.29]
- 10.98 Turning to ecology, The Council agree that the proposal would represent a BNG of some 195%. I accept that this is challenged by some objectors who consider that the hedgerow element, and possibly trees also, would not be a benefit for a considerable period. Nonetheless, this value was calculated against an agreed Metric and the conversion of semi-improved agricultural land to grassland and meadow is an acknowledged ecological improvement. The introduction of scrub areas and extensive hedgerow and tree planting, the quality and retention of which can be secured by conditions, as can the delivery of the expected gains, will undoubtedly enhance the biodiversity potential of the appeal parcels. [6.30, 7.12, 7.23]
- 10.99 I note specific concerns raised over the effect on some larger species and others requiring open field habitats. While the panel coverage will potentially reduce habitat opportunities for some species, this will be more than offset by

⁶¹ ID10

the improved and protected fringe areas and the hedgerow improvement. Furthermore, while the sites may have had transient species crossing them, deer or foxes for example, these are mobile species, which generally prefer cover. The deer fencing self-evidently will exclude these larger species, but their mobility means that they will utilise other areas. Such matters do not lead to me to a conclusion that there would be anything other than significant ecological benefits associated with the proposal. [7.48, 7.9]

- 10.100 Turning finally to noise. I have dealt with the issue of noise effects on tranquillity as part of the character of the area. It is important also to consider the effect on residential living conditions for those near to the sites. I have previously set out the noise assessments and commentary from the appellant on this. [5.37, 10.30]
- 10.101 As I have set out above, solar farms are not without noise and there are concerns raised by objectors relating to footpaths and properties in the surrounding areas. [7.26, 7.32, 7.44, 8.3]
- 10.102 The noise assessment utilises weekday background readings and modelled potential noise sources, noting that the models are based on open-field, and hence worst-case scenarios. The Council did challenge that the background levels were not fully representative, but this was addressed by the appellant in rebuttal and elsewhere. I am satisfied that there will not be residential noise impacts associated with the northern parcel, albeit there should be consideration of recreational users on the canal towpath and the footpaths that cross the site. I am satisfied that there are opportunities to ensure sufficient separation from the recreational receptors and the finalised layout of panels and inverter/transformers, as required by conditions, has the potential to reflect that.
- 10.103 The modelling of the southern parcel found that with the development, the noise levels at the closest receptors would exceed existing background levels but that internal noise level criteria would be met. However, the appellant's noise evidence considered the exceedance to be in the context of very low background levels that would not exceed a general level set out in British Standards⁶² as desirable for garden areas. Internal noise levels, they argued, would be below the BS8233 guideline levels. Consequently, the appellant considers that there is no need for any further conditions in relation to noise. [5.40]
- 10.104 I accept that it is likely that, based on the modelled layout and parameters, the internal noise level impacts would be minimal. However, the level and tonality of inverter and transformer noise could materially affect the living conditions in garden areas as the level of this is dependant not only on the make and model of the units chosen but their layout in respect of noise sensitive receptors.
- 10.105 Consequently, although I acknowledge the findings of the assessment, and that there is continual improvement in the noise performance of technology used in solar farms, the effects should be fully reviewed when the final layout, notably the type and positioning of transformers and inverters, is known. As this is a requirement of proposed conditions, I consider it necessary, to protect the

⁶² BS8233:2014 - Guidance on sound insulation and noise reduction for buildings

living conditions of local residents, that a final noise assessment, following agreement on the final layout, is required.

10.106 Of the further issues that were also raised, the suggestion that the site would not be decommissioned is not supported, as decommissioning proposals are agreed by the Council and would be secured by condition. Furthermore, I am very aware of a perhaps understandable perception, that roof areas, especially on commercial buildings, should be hosting panels in preference to development on large rural sites. [5.36, 7.23, 7.32, 7.35]

10.107 However, such modest levels of generation as could practicably be achieved with all the associated issues of ownership, structural integrity, scale and economics, among other issues, would not, on the basis of current conditions, meet the expectations of the significant, rapid expansion needed in renewable energy generation.

Overall Planning Balance

10.108 I have set out above that I consider that the proposal would result in harm to the landscape character and appearance of the area, to heritage assets and to agriculture from the loss of BMV, and would conflict with the development plan.

10.109 However, the significant benefits associated with the production of renewable energy, and other benefits must be weighed against this harm. Accordingly, it is necessary to consider these benefits of the proposal, and the compliance with local and national policy and guidance in relation to renewable energy to understand whether the adverse impacts are unacceptable.

10.110 As set out in the Background section to this report, this country is actively seeking to promote renewables and reduce its reliance on fossil fuels sources as it moves towards its legal commitment to net-zero. National strategies call on large-scale solar as one of the key technologies to assist in this. The development plan is generally permissive of renewable energy schemes, and the Framework clearly supports increased use and supply of renewable energy. It states that applications should be approved where the impacts are, or can be made, acceptable.

10.111 Significant weight must be given to the production of electricity, identified as meeting the expected needs of up to 49.72MW and providing for in excess of 13,000 homes. Some objectors question whether this level of energy would be provided, the number of homes supported or indeed, whether that sort of level is significant. These figures are based on calculations using an annual average, typically around 3,600 kWh for a house, although there are clearly considerable variations in the electricity demand dependant on the size of property, the number of occupants or the type of energy use. Nonetheless, on this basis, the appellant's calculations represent a typical approach to quantifying such benefits and are fully accepted by the Council in the SoCG. Carbon savings, which differ from the electricity requirement for an average home, are estimated in excess of 11,000 tonnes per annum. This too can only be an estimate, but is also accepted by the Council. [7.40, 8.1]

10.112 Further benefits would arise from the enhanced biodiversity planting and measures identified at 195% BNG, some of which may be retained after the temporary period of the proposal. This would attract significant weight in

ecological terms, although not of the level of such weight associated with the renewable energy production.

- 10.113 There would not be a loss of all agricultural use, as it is accepted some could continue during operation of the solar farm, and the site is on land identified in the Framework as of mostly of poorer quality, with better land interspersed across the site and not viable for continued use were a solar proposal to come forward on the rest of the land. The scheme is a temporary one meaning the site could be returned to agricultural use at some stage; however, this carries negligible weight, in light of the proposed length of the temporary period.
- 10.114 Finally, the operation in terms of the construction phase would make some contribution to the economy, albeit it is not clear how much would contribute locally. While I give very limited weight to private investment funding, I do to the employment opportunities it would enable, albeit there will be some lost economic value from the change to the agricultural use of the site. I have therefore found the weight to be given to this benefit quite limited.
- 10.115 There is some disagreement with the Council, despite initial comments in the Officer Report, over benefits to be associated with the suitability of the site. Put simply, I consider that site location is a key factor in the assessment of policy compliance and not a factor associated with planning weight. [6.31]
- 10.116 The countryside is an asset on which there are conflicting demands. Rural areas in particular may be valued for their beauty and the pleasure and health benefits they give to those who access them. They are also the source of the majority of our food and other agricultural products and, in addition, are now expected to meet the need to diversify and decarbonise our energy sector, at least in part. These conflicting needs are clearly present here, with the valued recreational resource of the GUC, the local farmers' desire to see food security and continued productivity from the fields and the passion felt by local residents for the beauty and tranquillity of the countryside accessible on footpaths surrounding the villages. Consequently, while the overall thrust of government policy may be in favour of renewable sources, this does not give them unquestioned primacy over the other demands.
- 10.117 The harm to heritage significance should be weighed against the public benefits of the proposal. I give considerable importance and weight to the preservation of these assets, but have found that the harm would be at the lower end of less than substantial harm. The production of renewable energy for direct export to the national grid is one of significant public benefit, and, to a lesser extent the biodiversity enhancement would improve the public realm here and carry some positive public weight also. In accordance with the Council's own findings, I would recommend that the Secretary of State finds that the public benefits outweigh the less than substantial harms I have identified to heritage assets.
- 10.118 Turning then to then overall planning balance, the weight to heritage harms must be added to the initially major, but long-term moderate weight associated with harm to the landscape character and appearance, and the limited weight to loss of BMV. However, I have identified significant weight from renewable energy production, significant biodiversity enhancements and other moderate to limited weights in favour of the scheme. Overall, it is my judgement that the benefits would outweigh the harm. The benefits of the

scheme in combination also amount to material considerations sufficient to outweigh the conflict with the development plan.

- 10.119 I accept that this is a balanced decision and based on relative weights of the benefits against the harms. For the reasons given above I have concluded that planning permission should be granted.

Conditions

- 10.120 There were full discussions at the Inquiry on suitable conditions were the appeal to be allowed. These included the main and interested parties. I am satisfied that, for the reasons stated below, all these conditions meet the relevant tests and, in the event that permission were to be granted, they are recommended as set out in the attached Appendix 4. The draft conditions discussed may have been altered in minor terms so that they comply with the tests or avoid duplication.
- 10.121 Turning to reasons, the relevant conditions are listed in (). In addition to the standard implementation and temporary period conditions (1, 2), I recommend a requirement for compliance with the plans (3), accepting that some plans are to be in general accordance as other conditions seek further details on these matters. Compliance with the recommendations of the ES would also be required (4). These conditions would be necessary to provide certainty.
- 10.122 As the development is a temporary one, the restoration requirement is set out for both the end of that 40-year period or, if export of electricity ceases during that period, at any time before that (5), to minimise impact and ensure restoration. To ensure that the original ecological surveys remain valid, I recommend a condition for updated surveys (6)
- 10.123 To address any highway implications, a Construction Environmental Management Plan would be required to address, HGV routing and timings of construction traffic, among other matters (7). In response to concerns regarding the condition of the road network, a highway survey and reinstatement condition is proposed (8), as well as delivery of the visibility splays and access to the site (17).
- 10.124 For reasons of protecting the character and appearance of the area and biodiversity, commitments made by the appellant to ensure agreed delivery of landscaping and to secure biodiversity enhancements and protect habitats during the scheme would be secured through submission of a detailed scheme (9), as well as specific measures during the construction period (10) and for the operation period, through a Landscape and Ecology Management Plan (11). Tree protection (12) and specific measures to achieve the Biodiversity Net Gain benefits (13) over the period of the proposal are also proposed to be secured by conditions.
- 10.125 To meet the expectations of the landscape and biodiversity requirements and protect the character and appearance of the area, finalised details of the layout and materials to be used would also be required to provide certainty on the positioning of the equipment across the site (14). Similarly, a condition to ensure delivery of the proposed landscaping would be necessary (22).
- 10.126 With regard to noise, the Council remained concerned that the modelling work had not fully categorised the necessary mitigation. While this condition

was contested by the appellant, I have considered its necessity, and for reasons dealt with below, have recommended a condition to require a finalised noise assessment with measures, if required (15), to protect local living conditions. To address the potential for archaeological assets and their identification and recording, an archaeological programme of work would also be required (16).

10.127 To address flood risk, a scheme for surface water drainage would be necessary (18, 19). Also, to address the character and appearance of the area, as well as privacy and security matters, a condition would be required to finalise the proposed security system (20), to agree on signage across the site (21), exceptionally, to remove permitted development for additional security elements and unapproved buildings on the site (23) and to prevent the use of external lighting (24). Finally, to address the risk of contamination, a condition to address previously unassessed contamination would be necessary (25).

10.128 Conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 require matters to be approved before development commences. This would be necessary because these conditions address impacts that would occur during construction, or schemes of work that need to be agreed before construction commences in the interests of highway safety, protected species and the delivery of land management commitments, including archaeology, or the living conditions of local residents. The appellant has agreed to these conditions, other than where addressed in this Report.

Inspector's Recommendations

11.1 Accordingly, for the reasons given above, I recommend, on balance, that the appeal should be allowed subject to conditions.

Mike Robins

INSPECTOR

APPENDIX 1: Appearances at the Inquiry

FOR THE APPELLANT:

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|---------------------------|---|
| Stephanie Hall of Counsel | Instructed by Barton Willmore now Stantec |
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who called:

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| David Webster, BSc(Hons) MSc MA CMLI | Landscape and Visual Impact Landscape Planning Associate – Barton Willmore now Stantec |
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| Nick Pleasant, BA(Hons) DipTP MRTPI | Planning Policy Planning Associate Director – Barton Willmore now Stantec |
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FOR WEST NORTHAMPTONSHIRE:

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| Hugh Richards of Counsel | Instructed by the solicitor for West Northamptonshire Council |
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who called:

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| Stephen Wadsworth BA(Hons) DipLA DipUD CMLI | Landscape and Visual Impact Landscape Consultant - HCUK |
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| Gary Stephens BA(Hons) MA PGCert UD MRTPI | Planning Policy Planning Director - Marrons |
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INTERESTED PERSONS:

| | |
|----------------|--------------------------------------|
| Mr Knibbs | Local Resident |
| Cllr Glanville | Gayton Parish Council |
| Mr Clarke | Gayton Parish Council |
| Mr Taylor | Local Resident |
| Mrs Taylor | Local Resident |
| Mr Price | Local Resident |
| Ms Auld | Local Resident |
| Ms Ayres | Local Resident |
| Cllr Cooper | District Councillor - Bugbrooke Ward |
| Duncan Wakelin | Local Farmer |
| Clive Wakelin | Local Farmer |
| Dr Buus | Local Resident |

APPENDIX 2: Documents submitted during the Inquiry.

| Ref | Document |
|------|---|
| ID1 | Appellant - Opening Statement |
| ID2 | Council - Opening Statement |
| ID3 | Mr Knibbs - Statement |
| ID4 | Cllr Glanville- Statement |
| ID5 | Mr Clarke - Statement |
| ID6 | Mr Taylor- Statement |
| ID7 | Cllr Cooper - Statement |
| ID8 | Dr Buus - Statement |
| ID9 | Appellant – Motion Transport Note |
| ID10 | Appellant - Swept Path Analysis - Gayton |
| ID11 | Agreed draft Conditions |
| ID12 | Council/Appellant – Note on agricultural land |
| ID13 | Council - Closing Statement |
| ID14 | Appellant - Closing Statement |

APPENDIX 3: Core documents

CD1 Application Documents and Plans

| CD | Document | Reference |
|---------|---|-------------------|
| CD1.0 | Completed and signed application form | |
| CD1.1 | CIL Questions | |
| CD1.2 | Planning Statement | |
| | DAS/Plans | |
| CD1.3 | Design and Access Statement | |
| CD1.4 | Site Layout Plan | C0002451_01 Rev C |
| CD1.5 | Infrastructure Layout | C0002451_02 Rev A |
| CD1.6 | Location Plan | C0002451_04 Rev A |
| CD1.7 | Block Plan | C0002451_05 Rev A |
| CD1.8 | Typical Building Plan and Elevations | C0002451_06 Rev A |
| CD1.9 | Typical Section Through Array | C0002451_07 Rev B |
| CD1.10 | Typical Cable Ladder Detail | C0002451_08 Rev A |
| CD1.11 | Typical Fence Detail | C0002451_09 Rev A |
| CD1.12 | Site Context Plan | LN-LP-01 Rev A |
| CD1.13 | Topographical Features Plan | LN-LP-02 Rev A |
| CD1.14 | Landscape Character Plan | LN-LP-03 Rev A |
| CD1.15 | Site Appraisal Plan | LN-LP-04 Rev A |
| CD1.16 | Visual Appraisal Plan | LN-LP-05 Rev A |
| CD1.17 | Zone of Theoretical Visibility Plan | LN-LP-06 Rev A |
| CD1.18 | Landscape Strategy Plan | LN-LP-07 Rev B |
| | Environmental Statement | |
| CD1.19 | EIA Screening Request | |
| CD1.20 | EIA Screening Response from West Northamptonshire Council (22 nd April 2021) | |
| CD1.21 | EIA Screening Direction from the Secretary of State (17 th September 2021) | |
| CD1.22a | Environmental Statement | |
| CD1.22b | Environmental Statement Non-Technical Summary | |
| CD1.22c | Environmental Statement Appendices | |
| | Heritage | |
| CD1.23 | Gayton Solar Farm Northants Heritage Desk Based Assessment | |
| | Landscape | |
| CD1.24a | Landscape Visual Impact Assessment Report (and Appendices) | |
| CD1.24b | Landscape Visual Impact Assessment LR Figures 1 - 4 | |
| CD1.24c | Landscape Visual Impact Assessment Plates 5.1-5.22 | |
| CD1.25 | Landscape Strategy Plan | |
| | Transport | |
| CD1.26 | Transport Statement | |
| CD1.27a | Visibility Splays | 2105055-01 |
| CD1.27b | Visibility Splays | 2105055-03 |
| CD1.27c | Visibility Splays | 2105055-04 |

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|---------|---|------------|
| CD1.28a | Swept Path Analysis | 2105055-05 |
| CD1.28b | Swept Path Analysis | 2105055-06 |
| | Drainage | |
| CD1.29 | Flood Risk Assessment and Surface Water Drainage Strategy | |

CD2 Additional/Amended Reports and/or Plans Submitted After Validation

| CD | Document | Reference |
|--------|---|------------------|
| CD2.0 | Email regarding Road accident Data (24 th November 2021) | |
| CD2.1 | Visibility Splay | 2105055-01 Rev A |
| CD2.2 | Flood Risk & Drainage Note (28 th July 2022) | |
| CD2.3 | Winter Bird Report | |
| CD2.4 | Glint and Glare Study | |
| CD2.5 | Trial Trench Eval Interim Report | |
| CD2.6 | Landscape Rebuttal (Barton Willmore) | |
| CD2.7 | Southern Green LVIA Review on behalf of Anesco | |
| CD2.8 | MA Review of Updated LVIA | |
| CD2.9 | MA Review of Southern Green LVIA | |
| CD2.10 | Noise Impact Assessment | |
| CD2.11 | Noise Rebuttal (14 th July 2022) | |
| CD2.12 | Construction and Traffic Management Plan | |
| CD2.13 | Email clarification regarding highways matters (6 th September 2022) | |

CD3 Committee Report and Decision Notice

| CD | Document | Reference |
|-------|---------------------------------|-----------|
| CD3.0 | Decision Notice | |
| CD3.1 | Officer Report | |
| CD3.2 | Speakers List Agenda Supplement | |

CD4 The Development Plan and Policy Documents

| CD | Document | Reference |
|-------|--|-----------|
| | Development Plan and local supplementary documents | |
| CD4.0 | West Northamptonshire Joint Core Strategy Local Plan (Part 1) | |
| CD4.1 | South Northamptonshire Local Plan (Part 2) | |
| CD4.2 | Energy Efficiency (Part 1) and Low Carbon and Renewable Energy (Part 2) Supplementary Planning Document (July 2013). | |
| | National policy and guidance | |
| CD4.3 | National Planning Policy Framework (2021) | |
| CD4.4 | Planning Practice Guidance | |
| CD4.5 | National Policy Statement for Energy (EN-1) (2011) | |
| CD4.6 | Draft National Policy Statement for Energy (EN-1) (2023) | |
| CD4.7 | National Policy Statement for Renewable Energy (EN-3) (2011) | |

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| CD4.8 | Draft National Policy Statement for Renewable Energy (EN-3) (2023) | |
| | Other guidance and relevant documents | |
| CD4.9 | GLVIA, Third Edition (2013) | |
| CD4.10 | Technical Guidance Note 02/21: Assessing landscape value outside national designations | |
| CD4.11 | Technical Note 01/21 – GLVIA Webinar Q&As (Landscape Institute, 2021) | |
| CD4.12 | An approach to landscape sensitivity assessment – to inform spatial planning and land management (Natural England, 2019) | |
| CD4.13 | NCA Profile: 89 Northamptonshire Vales | |
| CD4.14 | South Northamptonshire Landscape Character Assessment (2020) | |
| CD4.15 | Northampton Urban Fringe Landscape Character & Sensitivity Study (2018) | |
| CD4.16 | Northampton Green Infrastructure Plan (2016) | |
| CD4.17 | Northampton Landscape Sensitivity and Green Infrastructure Study (2009) | |
| CD4.18 | Grand Union Canal Conservation Area Appraisal and Management Plan (2014) | |
| CD4.19 | Grand Union Canal Conservation Area Character Map | |
| CD4.20 | Gayton Conservation Area Appraisal & Management Plan (2016) | |
| CD4.21 | Gayton Conservation Area Map | |
| CD4.22 | Landscape Institution Technical Information Note: Tranquillity – An overview – Technical Information Note 01/2017 (Revised) (March 2017) | |
| CD4.23 | Northamptonshire – Current Landscape Assessment 2005 | |
| CD4.24 | West Northants Strategic Plan Green Infrastructure and Natural Capital Evidence (January 2022) | |

CD5 Appeal Documents

| CD | Document | Reference |
|--------|---|-------------------|
| CD5.0 | Planning Appeal Form | |
| CD5.1 | Appellant Statement of Case | |
| CD5.2 | West Northamptonshire Council Statement of Case | |
| CD5.3 | Statement of Common Ground (Planning) | |
| CD5.4 | Statement of Common Ground (Landscape) | |
| CD5.5 | Proof of Evidence by Nick Pleasant (Appellant, Planning) | |
| CD5.6 | Proof of Evidence by David Webster (Appellant, Landscape) | |
| CD5.7 | Proof of Evidence by Gary Stephens (WNC, Planning) | |
| CD5.8 | Proof of Evidence by (WNC, Landscape) | |
| CD5.9 | Agreed List of Planning Conditions | |
| CD5.10 | Revised Site Layout Plan | C0002451_01 Rev G |
| CD5.11 | Revised Landscape Strategy Plan | LN-LP-07 Rev C |
| CD5.12 | Landscape Character Plan | LN-LP-03 Rev B |
| CD5.13 | Appeal Site Appraisal Plan | LN-LP-04 Rev B |
| CD5.14 | Visual Appraisal Plan | LN-LP-05 Rev B |
| CD5.15 | Zone of Theoretical Visibility Plan | LN-LP-06 Rev A |

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|--------|----------------------------|----------|
| CD5.16 | Site Visit Route Plan | LN-LP-08 |
| CD5.17 | Site Appraisal Photographs | |
| CD5.18 | Site Context Photographs | |

CD6 Relevant Appeal Decisions

| CD No | Document | Reference |
|-------|---|-----------|
| CD6.0 | Secretary of State's Decision Letter and Inspector's Report – New Works Lane Telford (APP/C3240/W/22/3293667) (27 th March 2023) | |
| CD6.1 | Secretary of State's Letter and Inspector's Report – Development Consent Order at Little Crow Solar Park, Scunthorpe (5 th April 2022) | |
| CD6.2 | Appeal Decision – East Hanningfield, Chelmsford (APP/W1525/W/22/3300222) (6 th February 2023) | |
| CD6.3 | Appeal Decision – Land adjacent to the Grand Union Canal, Bugbrooke (APP/W2845/W/22/3307647) (17 th April 2023) | |
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APPENDIX 4: Recommended conditions should permission be granted.

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall cease to have effect no later than 40 years from the date when electricity is first exported from any of the solar panels to the electricity grid ('First Export Date'). Written notification of the First Export Date shall be given to the local planning authority within 14 days of its occurrence.

- 3) The development shall be carried out in complete accordance with the approved plans and details. The approved plans and details are:

Site Layout (drawing C0002451-01 Rev G)

Location Plan (drawing C0002451-04 Rev A)

Block Plan (drawing C0002451-05 Rev A)

And shall be carried out in general accordance with the following plans and details:

Typical buildings Plan and Elevations (drawing C0002451-06 Rev A)

Typical Section Through Array (drawing C0002451-07 Rev B)

Typical Cable Ladder Detail (drawing C0002451-08 Rev A)

Typical Fence Detail (drawing C0002451-09 Rev A)

Landscape Strategy Plan (LN-LP-07 Rev C)

- 4) The development hereby permitted shall be carried out in accordance with the recommendations, mitigation measures and enhancements set out in section 5 & 6 of the Environmental Statement (October 2021).
- 5) Within 12 months preceding the date of expiry of the permission hereby granted, a Scheme shall be submitted to the local planning authority for its written approval for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved Scheme of restoration shall then be fully implemented within the timescale set out in the scheme.

If any part of the solar array ceases to be used to generate electricity for a continuous period of 12 months, a Scheme shall be submitted to the local planning authority for its written approval within 3 months from the end of the 12-month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use.

- 6) No development shall take place (including demolition, ground works, vegetation clearance) until the site has been thoroughly checked by a suitably qualified ecologist to establish any changes in the presence, abundance and impact on protected species. The survey shall be undertaken no earlier than 2 months prior to the planned commencement of development.

If the survey results identify a material change then the survey, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.

- 7) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been

submitted to and approved in writing by the local planning authority. The CEMP shall include at a minimum:

- a) The parking of vehicles of site operatives and visitors;
- b) The routeing of HGVs to and from the site;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials used in constructing the development;
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- i) Delivery, demolition and construction working hours.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 8) No development shall take place (including demolition, ground works, vegetation clearance) until a highway condition survey of the construction traffic route as approved under condition 7 from Towcester Road to the site entrance(s) has been undertaken and provided to and approved in writing by the local planning authority.

Within 6 months of the construction phase being completed a post-construction highways condition survey of that route shall be provided to and approved in writing by the local planning authority. Should the condition survey identify any material changes in the highway condition directly resulting from the development, then the survey shall set out a scheme and timeframe for the remedy of such changes.

- 9) Notwithstanding the approved Landscaping Strategy Plan (drawing LN-LP-07 Rev C), no development shall take place (including demolition, ground works, vegetation clearance) until a detailed scheme for landscaping the site has been provided to and approved in writing by the local planning authority which shall include:
 - a) further details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc);
 - b) further details of the existing trees and hedgerows to be retained or felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and
 - c) details of the hard landscaping including access tracks within the development.

All species used shall be native species of UK provenance. Such details shall be provided prior to the development commencing. The approved scheme shall be implemented by the end of the first planting season following commencement of the development.

- 10) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include as a minimum:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'Biodiversity Protection Zones';
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 11) No development shall take place (including demolition, ground works, vegetation clearance) until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.
- 12) No development shall take place until the existing tree(s) to be retained have been protected in the following manner unless otherwise previously agreed in writing by the local planning authority:
- a) Protective barriers shall be erected around the tree(s) to a distance not less than a radius of 12 times the trunk diameter when measured at 1.5m above natural ground level (on the highest side) for single stemmed trees and for multi-stemmed trees 10 times the trunk diameter just above the root flare.
 - b) The barriers shall comply with the specification set out in British Standard BS5837:2012 'Trees in Relation to Construction – Recommendations'.
 - c) The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development [and / or demolition] and shall be maintained until all equipment, machinery and surplus material has been removed from the site.
 - d) Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the local planning authority.

- 13) Prior to the commencement of development, a Habitat Retention, Enhancement and Creation Scheme which accords with the agreed Biodiversity Net Gain calculations shall be submitted to and approved in writing by the local planning authority.

The proposed Scheme shall include measures for the implementation and oversight of works and monitoring and reporting of the biodiversity in years 1, 3,

5, 10 and 15 following the first export date. The Scheme shall be implemented as approved.

Should the expected biodiversity net gains not be achieved then a revised set of habitat retention, enhancement and creation measures shall be submitted to and approved in writing by the local planning authority. The amended measures shall be implemented and retained in accordance with the approved details.

- 14) No development shall take place until full details of the final locations, design and materials to be used for the panel arrays, inverters, control room, substations, power conversion system, fencing, and any other permanent infrastructure has been submitted to and approved in writing by the local planning authority. Subsequently, the development shall be carried out in accordance with the approved details.
- 15) No development shall take place until a noise assessment that outlines the likely impact, and the measures necessary to ensure that the noise does not unacceptably affect the identified residential receptors on Blisworth Road and Milton Road has been submitted to and approved in writing by the local planning authority. The assessment shall be determined by measurement or prediction in accordance with the guidance and methodology set out in BS4142: 2014 and other relevant standards.

Once approved the use hereby permitted shall be operated in accordance with the approved details and thereafter maintained in this approved state at all times.

- 16) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- a) Approval of a Written Scheme of Investigation;
 - b) Fieldwork in accordance with the agreed Written Scheme of Investigation;
 - c) Completion of a Post-Excavation Assessment report and approval of an approved Updated Project Design: to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority;
 - d) Completion of analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the local planning authority, production of an archive report, and submission of a publication report: to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority.
- 17) Before construction commences on site, access visibility splays shall be provided in accordance with Drawing Nos 2105055-01A, 2105055-03, 2105055-04.

These splays shall thereafter be kept clear of all obstacles or obstructions for the duration of the operations, including the decommissioning and restoration phase.

- 18) Before construction commences a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to the local planning authority for approval in writing. This shall include:
 - a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and other identified matters) of all elements of the proposed drainage system,

to include pipes, inspection chambers, outfalls/inlets swales and attenuation basins;

- b) Details of the drainage system are to be accompanied by full and appropriately cross-referenced supporting calculations that demonstrate the discharge to watercourses from the individual drainage catchments is at Q_{bar} for all events;
- c) Infiltration test results to BRE 365;
- d) Demonstration that any flooding for the 1 in 100yr plus 40% climate change storm event remains on site;
- e) A detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site, including details of any drainage elements that will require replacement within the lifetime of the proposed development.

The scheme shall subsequently be implemented in accordance with the approved details and the maintenance plan shall be carried out in full thereafter.

- 19) Prior to the development being brought into operation, a Verification Report for the installed surface water drainage system for the site based on the Flood Risk Assessment and Drainage Strategy shall be submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the local planning authority. The details shall include:
 - a) Any departure from the agreed design is keeping with the approved principles;
 - b) As-Built Drawings and accompanying photos;
 - c) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges.
- 20) Prior to the development being brought into operation, further details shall be submitted to and approved in writing by the local planning authority regarding the proposed security system. This shall include:
 - a) Details of the proposed security system specification and location;
 - b) Details of who will monitor security of the site and their proposed methods for responding to alerts.
- 21) Prior to the development being brought into operation, details of signage and other available information around the site for the general public shall be submitted to and approved in writing by the Local Planning Authority. This shall include as a minimum the size, location, and content of any signage to be installed.
- 22) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development, and shall be maintained for a period of ten years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent for any variation.
- 23) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), no CCTV cameras, fencing, outbuildings or other structures shall be erected (aside from those shown on the approved plans), without prior planning permission from the local planning authority.

- 24) No external lights/floodlights shall be erected on the land.
- 25) If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.



Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Appeal Decision

Hearing held on 29 and 30 November 2023

Site visit made on 1 December 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 21 March 2024

Appeal Ref: APP/J1860/W/23/3325112

Birchall Green Farm, Sinton Green, Hallow WR2 6NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Tyler Hill Solar Ltd. against the decision of Malvern Hills District Council ('MHDC').
- The application ref. 21/01846/FUL, dated 15 September 2021, was refused by notice dated 25 January 2023.
- The development proposed is described on the application form as '**development of a solar farm with ancillary infrastructure, security fence, access, landscaping and continued agriculture, to generate power to feed into the local distribution network.**'

Decision

1. The appeal is dismissed.

Preliminary matters

2. Only an applicant is entitled to appeal. The appellant is, however, the same corporate entity as made the application. Notwithstanding the plans referenced in the statement of common ground between the main parties, the appellant advanced revised plans at the hearing relating to the proposed southern access.¹ I did not reach a view at the hearing as to whether those revised plans should be accepted.²
3. I will return to those plans as necessary, albeit they are not significant in determining the appeal, to the description of development above, and also to a screening request for a scheme at Fitcher Brook in relation to the Planning (Environmental Impact Assessment) Regulations 2017 as amended (the '**EIA Regulations**'). **The proposal before me was screened** to the effect that an Environmental Statement was not required.

Statutory and policy context

4. Statute requires that planning proposals are determined in accordance with the development plan unless material considerations indicate otherwise.³ Here the development plan includes policies of the South Worcestershire **Development Plan (adopted 25 February 2016, the 'SWDP')**. The development plan must be read as a whole; different elements pull in different directions.

¹ Hearing documents 7, 8 and 9.

² With reference to *Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Harborough District Council* [1982] JPL 37, and *Holborn Studios Ltd. v The London Borough of Hackney* [2017] EWHC 2823.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

5. Paragraph 225 of the National Planning Policy Framework (20 December 2023, the 'NPPF') sets out how existing policies should not be considered 'out-of-date' simply because they were adopted prior to its publication. Their degree of consistency with the NPPF is, instead, relevant. Whilst an earlier version of the NPPF was extant at the time of the hearing, I have taken account of the **main parties'** comments in respect of the latest iteration.
6. I have had regard to various other material considerations in addition to the NPPF, including the South Worcestershire Renewable and Low Carbon Energy Supplementary Planning Document (adopted July 2018, the 'SPD'), the Planning Practice Guidance ('PPG'), and the emerging SWDP review (submitted for examination on 27 September 2023, the 'SWDPR'). On account of its stage of preparation the main parties agree that only 'limited weight' may, at most, be accorded to the SWDPR.
7. Two grade II listed buildings, Boatley Cottage and Lovely Cottage, are located nearby (the 'listed buildings').⁴ I have therefore determined the appeal in the context of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA1990'). My attention has also been drawn to a raft of documentation referring to the value of enabling renewable energy generation in the light of climate change.⁵

Relevant policies

8. MHDC's decision notice cites conflict with 5 SWDP policies in the context of a single reason for refusal centred upon landscape effects. As reflected in GLVIA3 and TGN02/21,⁶ there is a close relationship between landscape character and heritage. Whilst I will turn to those development plan policies individually, at this juncture I note that policy SWDP27 'Renewable and Low Carbon Energy Schemes' is broad-brush. It sets out how 'proposals for stand-alone renewable and other low carbon energy schemes are welcomed and will be considered favourably having regard to the provisions of other relevant policies in the Plan.' NPPF paragraph 157 similarly sets out how the planning system should support the transition to a low carbon future.
9. Policy SWDP1 'Overarching Sustainable Development Principles' is similar in that whether development complies with that policy relies on assessing the relationship of a scheme to the development plan as a whole. Following on from policy SWDP1, policy SWDP2 sets a settlement hierarchy to guide the distribution of development. Criterion A.iii. to policy SWDP2 sets out how the development strategy and site allocations are founded upon 'safeguard[ing] and (wherever possible) enhancing the open countryside'. Nonetheless, renewable energy projects are subsequently given as an example of development which may be acceptable in the open countryside.

Main issue

10. The main issue is the effect of the development proposed on landscape character and historic significance.

⁴ List entry nos. 1302063 and 1349351.

⁵ Including at section 7.8 of the appellant's statement of case, under section 7.6 of the Statement of Common ground, and referenced at schedule 2 to this decision.

⁶ The Landscape Institute and Institute of Environmental Management & Assessment's Guidelines for Landscape and Visual Impact Assessment: Third edition, and the Landscape Institute's Technical Guidance note 02/21 'Assessing landscape value outside national designations'.

Reasons

The site and its surroundings

11. The site is an irregular area of undulating, predominantly pastoral, land of about 36ha. It is bounded and subdivided by hedgerows. There are occasional copses within and next to the site. The site is, largely, part of a wider land holding.⁷ However an element of the site to the south, near where access to the substation is proposed, appears to extend beyond the land holding into a field opposite.⁸
12. The site falls within the open countryside some 1.2km from Sinton Green, the nearest settlement named in the SWDP. Sinton Green is described in policy SWDP2 as a 'lower category' village, reflecting its position in the settlement hierarchy relative to others. The nearest settlement higher in the hierarchy, Hallow, is some 3.2km away.
13. Broadly, the site slopes downwards from the east and north to the south-west towards Monk Wood, **a Site of Special Scientific Interest ('SSSI') and also a Local Wildlife Site** of ancient semi-natural woodland.⁹ Grimley Brook is to the north-west. The handful of properties at Oakhall Green, arranged around the convergence of historic lanes, are set at about 60m above Ordnance Datum ('AOD'). **Birchall Green Farm buildings** are set at about 54 to 58m AOD, a comparable level to land near the listed buildings.
14. By the irregular boundary of Monk Wood, the ground level at the appeal site is about 48m AOD, reflecting a significant level change across the site. That boundary is demarcated by a low bund and ditch, potentially remnants of the reclamation of the appeal site from woodland.
15. Reflecting principally the propensity of the land to drain, the **appellant's Agricultural quality report ('AQR')** identifies that 39% of the site is grade 3a in terms of **agricultural land classification ('ALC')**, **one category of best and most versatile agricultural land ('BMV')**.
16. There are two public rights of way passing through the site. Footpath 526(C) enters the site from the south-east. Footpath 525(C) tracks instead beside the site from the carriageway to the south, close to the proposed southern access. Those footpaths converge close to a copse beside the site, connecting thereabouts with footpath 524(C).
17. Footpath 524(C) tracks north-westwards through the site towards Grimley Brook, thereafter rounding the northern extent of Monk Wood before connecting with bridleway 503(B) and footpath 520(C). The former heads through the SSSI, the latter returns roughly along the western boundary of Monk Wood. There are also various permissive paths through Monk Wood.
18. The wider landscape here is also criss-crossed by public rights of way. Footpath 519(C), for example, connects footpath 520(C) referenced above to the carriageway running between Monk Wood and Monk Wood Green Site of

⁷ Blue-edged on plan no. P001.300.05.

⁸ As remains shown via hearing document 7.

⁹ Plan no. P001.001.02.

Special Scientific Interest. Reflecting the intimate historic evolution of the landscape, various rights of way stop at roads. That is the case, for example, of footpath 525(C) and 532(C), the latter by Oakhall Green.

19. The consequence of that arrangement of public rights of way and roads is that, in order to walk in a circular route, you would almost invariably need to do so along stretches of narrow rural lanes. I heard from many local residents how Monk Wood and Monk Wood Green are popular locations to visit in their own right. I saw a handful of walkers around those locations during my site visit. They are managed so as to encourage visitors. Many individuals here evidently experience the countryside actively, as opposed to it forming part of the backdrop to life.
20. Although the site is bisected by power infrastructure, that is not a particularly significant influence. There are three pylons only between the lanes to the north and south either side of the site, all of which are located close to hedgerows or trees. The power lines themselves are set high above a changing topography.

Boatley Cottage and Lovely Cottage

21. The listed buildings are either side of the lane to the north of the appeal site running between Oakhall Green and Ockeridge. There is some indication that they originated as part of the same historic holding; list entries indicate that elements of both date from the seventeenth century. There are visual differences between the two, notably in relation to latter alterations (to Boatley Cottage in particular).
22. Nevertheless both are modest properties. Both are something of a loose local vernacular featuring timber-framed walls with brick infill. The list entries indicate a sequence of alterations to them, likely reflecting changes in prosperity and building preferences over centuries. More recent alterations have not notably diluted the historic integrity that they possess (which attests to their evolution in connection with what could be wrought from the land).
23. The former agricultural connection between the listed buildings and the appeal site no longer exists. I acknowledge that there has been change to the character of the landscape over time, notably through some reduction in hedgerows. That reduction likely occurred since the mid twentieth century in order to accommodate modern agricultural machinery, as indicated in the **appellant's Cultural Heritage Baseline and Impact Assessment ('CHBIA')**.
24. Nevertheless there remains a significant historic character to the appeal site and its surroundings. The CHBIA, for example, sets out how there is an easily recognisable landscape structure relative to the 1840 Tithe map. There is little change to the boundaries of Monk Wood evidenced further back still, which is referenced in documents from 1240. There is also some archaeological interest embodied in the site. The history reflected by the site contributes positively to the setting, understanding and appreciation of the listed buildings.¹⁰

¹⁰ More so, from a visual perspective, in relation to Boatley Cottage (elements of which are visible from within the appeal site given that Boatley Cottage is set an elevated level relative to parts of footpath 524(C)).

Landscape policies

25. **Part A, criterion ii. to policy SWDP25 'Landscape Character' sets out how development proposals should be 'appropriate to, and integrate with, the character of the landscape setting'. Criterion A.iii. is that development should 'conserve, and where appropriate, enhance the primary characteristics defined in character assessments and important features of the Land Cover Parcel...'**
26. Criterion B to policy SWDP25 requires a Landscape and Visual Impact Assessment, or Landscape and Visual Appraisal for development which is not **'EIA' development** (as here). That is a terminological distinction drawn also in **GLVIA3, TGN02/21 and in Carly Tinkler's observations on behalf of Grimley Parish Council**. However that distinction does not, in my view, qualify the substantive reasoning in the appellant's **Landscape and Visual Impact Assessment (undertaken by UBU Design Ltd., the 'LVIA')**. Criterion B to policy SWDP25 further sets out how such assessment or appraisal work should **'include proposals to protect and conserve key landscape features and attributes and, where appropriate, enhance landscape quality.'**
27. **Policy SWDP21 'Design' is broad**, and summarily references, amongst other things, the more specific provisions of policies SWDP6, SWDP25 and also **SWDP24 'Management of the Historic Environment'**. In summary, and amongst other things, policy SWDP21 sets out how all development should integrate effectively with its surroundings, reflect the characteristics of a site, and complement character (including in respect of landscape quality).
28. In a similar manner to the foregoing, NPPF paragraph 180 sets out how planning decisions should contribute to and enhance the natural and local environment by, amongst other things, **'protecting and enhancing valued landscapes', and 'recognising the intrinsic character and beauty of the countryside.'** In my view **'recognising'** connotes a degree of protection regardless of whether a landscape is designated, or **'valued'**. Likewise NPPF paragraph 135 sets out how decisions should ensure, again amongst other things, that development will add to the overall quality of the area and be sympathetic to local character and history, including landscape setting.

Landscape methodology

29. **GLVIA3 and TGN02/21 (the 'technical documents') set out a methodological approach for evaluating the effects of schemes in landscape terms, TGN02/21 applying outside of designated landscapes. 'Landscape' itself is a complex concept**. The site may be said to be a landscape in itself, but it is also part of a wider landscape, or landscapes, of perhaps indeterminate extent. Both technical documents draw a distinction between landscape as viewed and as a resource, albeit there is inevitably some overlap between the two concepts.
30. **The appellant's LVIA and landscape statement of case, Carly Tinkler's observations, and UBU Design Ltd.'s response, all take GLVIA3 as a common methodology.**¹¹ Many local residents have also set out their perspective on landscape character. Those representations may not reference the approach

¹¹ Albeit that TGN02/21 is not referenced in the LVIA, UBU Design Ltd. has responded to Carly Tinkler's observations wherein TGN02/21 is referenced extensively.

in the technical documents. However that makes those observations, founded on lived experience, no less valid.

Landscape, the visual dimension

31. Establishing a visual baseline involves defining the area in which the development may be visible, the different groups of people who may experience views of the development, the places where they will be affected and the nature of the views and the visual amenity at those points.¹² **'Visual receptors' are the people who will be affected by changes in views or visual amenity at different places, who will likely have differing responses depending on the context.**
32. **GLVIA3 further guides that 'landscape professionals should assess the nature of a landscape or visual receptor's sensitivity by combining judgements about its susceptibility to change arising from the specific proposal with judgements about the value attached to the receptor.'**¹³ Different receptors may be differentially affected by change.
33. **Terminologically 'sensitivity' is arrived at by combining judgements about value and susceptibility. GLVIA3 gives further guidance as to the susceptibility of visual receptors to change and in respect of the value attached to views. The 'magnitude' of effect comprises judgements about the size and scale of the effect, the geographic extent of the area that will be affected, the duration of the effect and its reversibility.**¹⁴

Landscape as a resource

34. **GLVIA3 references the 'inclusive nature' of the term landscape as in the European Landscape Convention; ¹⁵ 'landscape is an area, as perceived by people whose character is the result of the action and interaction of natural and/or human factors'.¹⁶ Landscape character is therefore 'not just about the physical elements and features that make up a landscape, but also embraces the aesthetic, perceptual and experiential aspects of the landscape that make different places distinctive.'**¹⁷
35. Components of the landscape that are likely to be affected are often referred to as **'landscape receptors', being the 'constituent elements of the landscape, its specific aesthetic or perceptual qualities and the character of the landscape in different areas'**.¹⁸ **As above, landscape receptors' sensitivity is arrived at by combining judgements about value and susceptibility. 'Landscape value' is summarised in TGN02/21 as 'the 'inherent' component, which is independent of the development proposal, while the other component, susceptibility is development specific.'**¹⁹ Susceptibility to change is the ability of the landscape receptor to accommodate the proposed development.²⁰

¹² GLVIA3, paragraph 3.15.

¹³ GLVIA3, paragraph 3.24.

¹⁴ GLVIA3, paragraphs 3.26 and 6.39.

¹⁵ ETS No. 176.

¹⁶ Council of Europe, 2000.

¹⁷ GLVIA3, paragraph 2.19.

¹⁸ GLVIA3, paragraph 3.21.

¹⁹ TGN02/21, paragraph 2.3.1.

²⁰ GLVIA3, paragraph 5.39.

36. That a landscape is neither designated, nor **'valued'** as in NPPF paragraph 180.a), does not equate to an absence of value. MHDC explained at the hearing how, unlike elsewhere, there are no locally designated landscapes established via the SWDP. GLVIA3 and TGN02/21 are, however, **'evidence-based' in approach as opposed to drawing undue inference from the absence of local designations.**²¹

Landscape judgements

37. For all the detail and terminology in GLVIA3, and TGN02/21, assessing landscape and visual effects is founded on a sequence of judgements. For that reason, different practitioners may rationally arrive at different outcomes. For that reason also, GLVIA3 cautions how numerical scoring or weighting can **suggest a 'spurious level of precision', and therefore recommends word scales** to describe effects.²²
38. Word scales, however, vary from practitioner to practitioner and are **imprecise. For example here, the appellant advocates that 'substantial' weight** be given to the benefits of solar energy generation, MHDC favouring **'significant'**. NPPF paragraph 163 uses neither word. More broadly, balancing different factors in planning is not reducible to a mathematical equation. Relevant factors may exist in different equations, let alone in different units.

Heritage policies

39. Section 66(1) of the LBCA1990 requires, in summary, that I have special regard to the desirability of preserving (listed) buildings or their settings, i.e. the surroundings in which heritage assets are experienced. As with landscape methodology there is an experiential dimension to setting beyond visibility.
40. **Policy SWDP6 'Historic Environment' sets out how 'development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting. In particular this applies to:... ii. The historic landscape, including locally distinctive settlement patterns, field systems, woodlands and commons and historic farmsteads and smallholdings.'**
41. Neither the NPPF, nor the LBCA1990, require that proposals both conserve (or preserve) and enhance integrity.²³ Nonetheless, part A to policy SWDP24, in any event, sets out how development proposals will, amongst other things, be **'considered in accordance with the Framework [and] relevant legislation...'**
42. Recognising that heritage assets are irreplaceable resources, NPPF paragraph 205 **sets out 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'** The NPPF uses the terminology **'substantial'** and **'less than substantial harm'** to distinguish between levels of effects to heritage assets. Often a scale, or spectrum, is applied within the latter category for finer-grain analysis. Nonetheless NPPF paragraph 206 sets out how any harm, not just that which is substantial, **should require 'clear and convincing justification'**.

²¹ An issue addressed in TGN02/21 including at paragraph A3.5.

²² GLVIA3, paragraphs 3.27 and 8.10.

²³ As addressed in paragraph 6.4 of the appellant's Heritage statement of case referring to appeals ref. APP/X1355/W/21/3275009 and APP/X1355/Y/20/3265941.

Relevant landscape character assessments

43. **Of 159 National (landscape) Character Areas ('NCAs') defined by Natural England, the site falls within, and to the western fringes of, NCA106 the 'Severn and Avon Vales'. Albeit referring to an extensive landscape, the summary to NCA106 begins by describing that area as a 'low-lying open agricultural vale'. NCA106 is further described as a generally open landscape, with small pasture fields and isolated farmsteads prevalent in the west as opposed to a more regular pattern of enclosure to the east.**
44. **With reference to the Worcestershire County Landscape Assessment ('WCLA'), the site falls within the 'Wooded Estatelands' and 'Principal Timbered Farmlands' landscape character types ('LCTs'). Amongst other features, the WCLA describes the Wooded Estatelands LCT as an often open, rolling agricultural landscape with blocks of woodland (commonly ancient). The WCLA characterises the Principal Timbered Farmlands LCT as a small to medium scale wooded agricultural landscape with an organic enclosure pattern.**
45. **At a finer grain level the site falls within Land Cover Parcels ('LCPs') MW54a, MW54b and MW47.1g. MW54a and MW54b fall within the 'Hallow Principal Timbered Farmlands' LDU, which is characterised as a relatively open rolling lowland pastoral landscape with occasional farmsteads and scattered hedgerows. LCP MW47.1g falls within LDU MW47.1 'Ockeridge Wooded Estatelands', which is described similarly as above, albeit with greater emphasis on undulating topography and discrete blocks of ancient woodland.**

Landscape and visual baseline

46. There is a strong consistency in landscape character assessments here. The site presently reflects, and contributes clearly to, the characteristics identified above. It is agricultural, predominantly open and undulating. The appellant **describes the site as characterised by 'dense hedges'. However hedges within and around the site are instead comparatively sparse, aligned with the foregoing landscape characterisation in NCA106 and the WCLA. The appellant's Preliminary Ecological Appraisal ('PEA') itself describes hedgerows to the south as 'poor quality'.**
47. **Similarly, I did not observe what the appellant describes as 'belts of woodland'. There** are instead copses and discrete blocks of woodland about, including Monk Wood (again consistent with the foregoing). The relative absence of development nearby, and the distance of the site from settlements, contribute to a sense of remoteness and tranquillity. There is also a clear and appreciable historic character to the landscape here.
48. I acknowledge, given the topography and landscape features, visibility of the site in conjunction with its surroundings is not extensive (less than a featureless zone of theoretical visibility would indicate). However, on account of the topography, there are comparatively open views across the site from properties and their plots at Hallow Green and at Boatley Cottage.
49. There are also relatively open views of the site in conjunction with its surroundings along the two public rights of way running through the site. As above, public rights of way here appear well used and the landscape more

broadly is experienced actively by many. Albeit that my site visit was in winter, I also saw partial views across the appeal site from vantage points along carriageways to the north and south. In summary, the site as part of the landscape has a clear value, both as a resource and visually.

50. Moreover, in my view, the site performs relatively strongly in relation to the factors identified in box 5.1 of GLVIA3 with reference to table 1 of TGN02/21 **which may assist in defining whether a landscape is 'valued'**. Inherent in my reasoning above is that the site embodies some cultural heritage. There is a notable integrity of historic field patterns, and few detracting features in terms of landscape condition. The site possesses clear recreational and scenic qualities. Perceptually it is relatively remote and tranquil.
51. Moving from value to sensitivity, the LVIA explains how the Worcestershire County Council document entitled Landscape Character Assessments, Supplementary Guidance, Technical Handbook (2013); **'charts the sensitivity of the landscape character areas within the County. The majority of the proposed sites (sic.) falls within an area of high sensitivity'**. The Technical Handbook explains that sites or landscape units that have been classified with high sensitivity would be most sensitive and least accommodating to change, on the basis of loss of landscape character; here presumption would be against development on landscape character grounds (sic.).²⁴
52. **The appellant's LVIA, however, defines landscape sensitivity here as only 'medium high'. That appears to be** on the argument that the Technical Handbook is aimed at **'residential development rather than renewable energy schemes'**.²⁵ However that rationale in terms of susceptibility does not appear expressly set out in the Technical Handbook. Instead the Technical Handbook, aligned with landscape characterisation studies, looks at landscape receptors **such as hedges and field patterns as components of the 'resilience' of a given landscape component to change.**
53. Landscape receptors may be affected by renewable energy development as by other forms of development. Whilst solar panels are lower-lying than many other forms of development, they may nevertheless be of a comparable magnitude, including by virtue of covering an extensive area. Setting aside the Technical Handbook and drawing together my reasoning above, the site possesses a high degree of sensitivity,²⁶ and is visible by sensitive receptors (notably walkers and local residents). It is unclear why the LVIA ascribes only **a 'medium high' sensitivity to those making use of public rights of way.**²⁷
54. Similarly the LVIA indicates those travelling along rural lanes should be accorded a low sensitivity. However **GLVIA3 guides that travellers 'tend to fall into an intermediate category of moderate susceptibility to change'.**²⁸ That rating may also be **premised on the appellant's characterisation of the site as having dense hedges and bands of woodland (which, as set out above, does**

²⁴ Paragraph 2.3.9.4.

²⁵ LVIA, paragraph 5.1.

²⁶ Distinguishing landscape character here from circumstances at an unsuccessful appeal for a 45MW solar park at Woodhall Farm within MHDC's administrative area (ref. APP/J1860/W/16/3142020), where the landscape there was judged by the Inspector to have a 'medium' sensitivity to change.

²⁷ Potentially an extension of the argument regarding susceptibility with reference to the Technical Handbook addressed in paragraph 52 to this decision.

²⁸ GLVIA3, paragraph 6.33.

not accord with my observations). Many travelling along rural lanes by vehicle here will need to proceed slowly on account of their winding and narrow historic nature, and may well be travelling in order to appreciate the countryside rather coincidentally passing through it.

The development proposed

55. In summary, the proposal is for the installation of 43,440 solar panels which would have a peak generating capacity of 25MW. Panels would be arranged in rows aligned with the topography, in four clusters. There would be associated access provision, a substation built, and also 4.8 linear kilometres of 2m high deer fencing installed. **The panels' lowest edge would be around 1m from the ground**, in order to enable grazing of the land by sheep. No element of the panels would reach higher than 2.8m relative to adjacent ground level.
56. 1.78ha of the 36ha site is to be given over to habitat enhancement. There is some ambiguity in the information before me as to the height new hedgerows around solar panel clusters are proposed to reach, or to be maintained at; there are references both to 1.5m and 3m. In any event, however, hedgerow planting would be substantial, and maintenance thereof could be addressed via condition were the proposal acceptable as a whole.²⁹ As clarified at the hearing, 1.84 linear kilometres of new hedgerows would be planted, **contributing towards the appellant's intention to deliver biodiversity net gain ('BNG') of 24.69%.**³⁰ The installation is intended to have a generating life of 40 years.

The effects of the development proposed

57. As noted above, there has been some change in landscape structure over time. Solar panels themselves would be comparatively modest in height. Access and pathway provision would be at ground level. I also accept that, on account of the topography and intervening landscape features, visibility of the site is relatively localised, the appellant acknowledging that **'there would be a noticeable change to the character of the site itself'**.³¹
58. The LVIA sets out **how 'the magnitude of change to the landscape character types and areas will be small due to the relatively small proportion of the character areas being effected (sic.)', and that 'the proposals forming this planning application will not have a significant detrimental impact to the rural character of the landscape within South Worcestershire'. Those findings reflect** that extensive hedgerow planting and augmentation is also proposed. I acknowledge that planting would, over time, screen elements of the proposal from view to some extent. I have also noted above that the scheme is **designed with a generating life of 40 years, after which it is the appellant's intention to remove the panels.**
59. However for 5 principal reasons I disagree with the appellant's position that **the effects of the scheme should be ascribed 'limited adverse weight'**. Firstly the engineered and uniform nature of solar panel arrays and fencing, along with their extent, would significantly diverge from the presently open and

²⁹ Including to emulate the heights predicted in LVIA visualisations.

³⁰ Of relevant to policy SWDP5 also.

³¹ Statement of case, paragraphs 6.57 and 8.110, Landscape statement of case paragraph 8.5.

organic character of the site. New hedgerows would take some time to become established and therefore to afford screening.

60. Secondly, significantly, the clusters of solar panels and hedgerows proposed would be clearly at odds with historic landscape structure and its remaining legibility. The planting of 1.84km of linear hedgerows would, furthermore, be uncharacteristic of the landscape character here as described above (emphasising that it is generally open with relatively sparse hedges).
61. Whilst I acknowledge that the appellant has presented what they consider to be proportionate evidence,³² thirdly the LVIA quote in paragraph 58 of this decision does not expressly set out what character areas or assessments have been factored into that summation. Similarly with reference to that quote, it is difficult to conceive of a type of development of such magnitude that it could significantly detrimentally affect 'the landscape within **South Worcestershire**' as a whole.
62. Fourth, I have reasoned that the site and visual receptors have, in my view, a greater degree of sensitivity than they have been ascribed in the LVIA. The SPD and PPG, moreover, encourage solar farms to be located on relatively level ground (or reference the potential implications of their installation in undulating topography).³³
63. As noted above there is a significant level change through the site such that, even if new planting reached considerable height, solar panels would remain partially visible from various vantage points. Whilst I acknowledge that solar farms are becoming an increasingly common feature of rural areas, the site is characteristically remote with little meaningful influence of built development at present. Experientially panels and hedges would enclose the openness of views which is intrinsic to landscape character.
64. **Fifth, the appellant's evidence is, on occasion, ambiguous. The landscape statement appears to refer to two different versions of the 'most recent' landscape mitigation and enhancement plan.³⁴ The appellant furthermore states that that 'all [existing] hedges will be retained as part of the development'.³⁵ However that is incorrect. Both the PEA and the Arboricultural Impact Assessment ('AIA') indicate that some existing hedgerow will be lost to facilitate the southern access to the site.³⁶**
65. It also emerged at the hearing that not all elements of the scheme are intended to have a lifespan of 40 years. A lifespan of 40 years is, in itself, lengthy. Nonetheless, the substation and access to it, are intended to be permanent features. Hedgerow planting would also in all likelihood remain. **The development would not be 'reversed entirely at the end of the operational life of the scheme'.³⁷**

³² UBU Design Ltd.'s response to Carly Tinkler's observations.

³³ SPD paragraph 5.9., PPG Reference ID: 5-013-20150327.

³⁴ At paragraphs 2.5 and 4.17.

³⁵ Statement of case, paragraph 2.6.

³⁶ PEA page 17, AIA paragraph 5.3.4.

³⁷ Appellant statement of case, paragraph 8.12.

66. I therefore conclude that the proposal would have major adverse effects to the landscape as a resource and also visually, effects that would not meaningfully reduce over time. The scheme would be clearly detrimental to existing landscape character, seriously adversely affecting the experience and perception of the landscape here compared to present circumstances.
67. The scheme would also result in harm, albeit less than substantial and towards the lower end of a spectrum within that categorisation, to the setting of the listed buildings. The proposal would therefore fail to accord with relevant elements of SWDP policies SWDP6, SWDP21, SWDP24, SWDP25 (and thereby policies SWDP27 and SWDP1), the clear expectations of the LBCA1990, and would also conflict with the approach in NPPF paragraphs 135 and 180.b).

Other matters

Renewable energy generation

68. The appellant argues that the scheme would have various benefits, and I agree that the need for renewable energy generation nationally may fairly be ascribed substantial weight. I acknowledge that the scheme would also be economically beneficial, in terms of associated employment during construction and operation and associated supply chain implications. NPPF paragraph 163.a) sets out how applicants are not required to demonstrate the **'overall need' for renewable energy. That is, fairly, characterised in the appellant's 'Site Selection' paper ('SSP'),³⁸ as an 'unconstrained need for new renewable energy capacity'.**
69. The function of the SSP is, however, to explain the rationale for this scheme relative to other potential locations. The appellant invites me to give **'moderate positive weight' to the scheme on account of its location relative to elsewhere.**³⁹ In essence that is an argument relevant to NPPF paragraph 163.b) in terms of reaching a judgement as to whether or not the impacts of a **specific scheme 'are (or can be made) acceptable.'**
70. Notwithstanding the judgment in *Bramley*,⁴⁰ which also refers to other case law on consideration of alternatives, it has been expressly put to me that the SSP is material and should carry weight. I will return to the implications of the scheme in respect of agricultural land, but now turn to the two other principal arguments made via the SSP, the technical feasibility of grid connectivity and scheme viability.
71. Reflecting that the grid was designed for centralised generation, rather than more numerous smaller sites, the SSP explains initially **how 'project locations are determined in relation to available grid connection capacity'**, thereafter explaining how **the Bishop's Wood to Hereford circuit was 'identified as having some capacity to connect a generation project'**. Part of the 132kV overhead line is mapped at SSP figure 2.

³⁸ August 2021, updated via hearing document 10.

³⁹ Appellant statement of case, paragraphs 8.100 to 8.102.

⁴⁰ *Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing And Communities & Ors* [2023] EWHC 2842 (Admin) (15 November 2023).

72. The SSP then **sets out that 'connections to the 132kV network are expensive** and the identified overhead circuit needs to pass through or close to the site or landholding to ensure a viable connection can be made. Therefore, the line and area up to 1km on each side in Figure 2 forms the study area for potential **sites.'** **Within that study area,** only sites of a minimum of 21ha have been reviewed as anything significantly smaller than this is discounted on the basis that would **make 'the project unviable on a cost per megawatt basis'.**
73. Setting aside that it is impossible to interrogate why alternative sites became unavailable,⁴¹ **there is no evidence before me as to the extent of the Bishop's Wood to Hereford circuit.** It is certainly more extensive than the element shown at SSP figure 2, its name indicating that it may run for tens of miles. **As above the SSP refers to the capacity of the circuit to accommodate 'a generation project.'** That may be an offhand phrase. However if there is only capacity for a single project, that would suggest the need for a more expansive and thorough search to justify the specific location of a scheme.
74. Even given the extent of the 132kV overhead line shown at SSP figure 2, it is **unclear how that justifies the need for a connection 'to pass through or close to the site or landholding'.** Local residents drew my attention to an EIA screening request to the Council for a solar farm at Fitcher Brook relatively nearby.⁴² I was told at the hearing on behalf of the appellant that each scheme could operate in isolation, and there is no substantive countervailing evidence to that.
75. That said a plan submitted with the screening request for Fitcher Brook shows a cable connection between that site and the proposed substation here. The applicant in that instance is not the same as here, albeit a representative of the appellant clarified at the hearing that there is some corporate connection between the two. It therefore appears that, in theory, the two schemes could operate in conjunction.
76. It is outwith my remit to address whether any EIA screening opinion should, or would, take into account the cumulative implications of the two schemes (and any future scheme would be judged on its merits). However there is no indication that the Fitcher Brook site would be within the 1km area identified in the SSP if it were brought forward separately.
77. I note that while in the case to which *Bramley* relates there was consideration of a 5km search radius around existing substations, the SSP does not deal with existing substations in any detail. There is furthermore no evidential basis for 1km as opposed to any other distance. I acknowledge that applying **a 'sequential' test in respect of other planning matters** such as in respect of flooding or town centre development, involves some degree of comparability between a scheme and potential alternative locations. However, again there is no evidential basis for the SSP statement that projects smaller than 21ha **would be 'unviable'.**
78. For the above reasons the SSP is an inadequate evidential basis to robustly justify the particular location of the scheme before me, or thereby to give

⁴¹ SSP Table 1 simply refers to their being 'initially available but later became unavailable'

⁴² Ref. M/23/00707/SCR.

particular weight to meeting national needs or realising economic benefits here specifically.

Best and Most Versatile agricultural land ('BMV')

79. NPPF paragraph 180 sets out how planning should contribute to and enhance **the natural and local environment, including by recognising 'the economic and other benefits' of BMV. NPPF footnote 62 further sets out that 'where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality...'**. Paragraph 5.11 of the SPD expresses a preference for previously developed land or non-BMV land.
80. Supporting paragraph 16 to SWDP policy SWDP13 sets out how a locally-set **threshold of two hectares reflects a 'significant loss of BMV agricultural land'**, to which criterion H of policy SDWP13 relates. That paragraph also sets out how 17.1% of land in Worcestershire is not BMV, 26.9% is ALC grades 1 and 2 and the remaining 56% simply ALC grade 3 (undifferentiated between grade 3a and 3b). As above, the AQR indicates that 39% of the site should be considered ALC category 3a, therefore BMV. That is not incomparable with land in Worcestershire taken as a whole on account of the majority of agricultural land being undifferentiated ALC grade 3.
81. As noted above, the appellant contends that the scheme would enable continued grazing and therefore no loss of BMV. That is a principle accepted at other appeals.⁴³ Drawing upon those decisions, the appellant invites me to **ascribe moderate positive weight to the benefits 'arising in respect of agriculture, land quality and soil resource (with continued pastoral farming, and soils resting and recovering from intensive arable use)'**.⁴⁴ For 4 principal reasons, however I disagree with that position.
82. Some local residents suggested that much of the land on site is better quality than it has been assessed in the AQR. Heather Rendall, Chair of the Wichenford Local Heritage Group, referred me to historic evidence of crop yields associated with Boatley Cottage and Lovely Cottage. Ted Lewis, a neighbouring landowner and farmer, explained that the appeal site was used for growing wheat in the 1960s. He also explained how farming and farm machinery in particular has evolved since ALC was introduced.⁴⁵
83. However, and setting historic uses of the site aside, the evidence before Inspectors in other cases is not before me. As alluded to above, agricultural practices have inevitably moved on since even 1988, and not all place a toll **on the land requiring the necessity of 'recovering'. Moreover, on the appellant's own evidence, unlike circumstances potentially occurring elsewhere, there is no indication of intensive arable use here in recent times.**
84. Secondly the BMV figure of 39% does not relate to what proportion of BMV land would be covered by solar panels. Although I accept the SSR indicates

⁴³ Statement of case paragraphs 6.27 to 6.32. Notably appeal refs. APP/H1705/W/22/3304561, APP/G2712/W/23/3315877 and APP/C3240/W/22/3308481.

⁴⁴ Appellant statement of case, paragraph 8.95.

⁴⁵ ALC being introduced via the Ministry for Agriculture Food and Fisheries' Technical report 11 of 1966, the AQR **drawing from the Ministry for Agriculture Food and Fisheries' criteria for grading the quality of agricultural land of 1988.**

that there is potentially a greater prevalence of BMV towards the north of the study area, it appears that the scheme is not arranged so as to avoid transgressing BMV.

85. In direct numerical terms the quantity of available BMV land on site would be reduced (whether by posts supporting solar panels, infrastructure provision or hedgerow planting). It appears that the appellant accepts that there would be some loss of agricultural land, albeit only around 5% of the site as a whole.⁴⁶ Moreover, cross-referencing my reasoning in paragraph 65 of this decision, some land would be permanently lost.
86. Thirdly solar panels will shade the ground beneath them. I heard at the **hearing how the appellant's BNG** assessment had taken account of the potential in that respect, by ascribing a reduction in species richness to areas shaded by panels. Moreover in this instance clusters of solar panels would also be surrounded by 1.84 linear kilometres of hedges, which will cast further shade. At a basic level light is one of the three inputs to photosynthesis (upon which many forms of agriculture, including grazing, are intrinsically reliant).
87. Fourth the scheme would reduce the agricultural uses to which the land could be put. Continued sheep grazing may be achievable, but the land could realistically only be put to that purpose. Albeit that ALC is established without reference to field boundaries, the extensive subdivision of the site by hedgerows would likely render any future cropping impractical.
88. The implications of the scheme in terms of BMV cannot therefore reasonably be said to be either a positive or neutral implication of the scheme. Whilst policy SWDP13 and the NPPF do not prevent development of BMV land, I cannot rationally find other than the effects of the proposal in this respect carry limited adverse weight against the scheme.

Biodiversity

89. **As noted above, the appellant's position** is that the scheme aims to deliver significant BNG of 24.69%. Whilst that does not appear unachievable relative to the current nature of the site, there are also various ambiguities in the evidence before me in respect of ecology, particularly as regards Monks Wood SSSI (ancient semi-natural woodland protected on account of its fauna and associated flora, particularly invertebrates). Statute places duties on me in respect of conserving and enhancing biodiversity generally, and in respect of SSSIs specifically.⁴⁷
90. The PEA states '**through this assessment it is determined that some of the** impacted habitats on the proposed site, including the hedgerows and trees could provide supporting habitat for Monks Wood SSSI. The impacts have been assessed within the report and determined that they would be low but **also managed to limit their impact.**'⁴⁸ That cannot logically be read other than as indicating that there may be some adverse effect to the ecological integrity

⁴⁶ Statement of case, paragraph 8.94.

⁴⁷ Section 40 of the Natural Environment and Rural Communities Act 2006 as amended and section 28(G) of the Wildlife and Countryside Act 1981 as amended.

⁴⁸ Paragraph 4.12.

of the SSSI. It appears that there has been no specific survey of invertebrates or lower plants.⁴⁹

91. Moreover the PEA **does not recommend provision of bird boxes on site 'in an effort to discourage generalist species becoming established near Monks Wood SSSI'**.⁵⁰ It is unclear how bird boxes would afford a different function in that respect relative to 1.84 linear kilometres of new hedgerow.
92. Moreover the non-technical summary to the appellant's Bat Survey Report ('BSR') states, rather than the relevant study area, that **'the site area extends of approximately 65 hectares in total'**. It is unclear how that marries up with the site before me. The BSR further sets out, in the context of the PEA and preliminary roost assessment, that **'bat roosting features were seen in the trees on the boundaries of the fields in a number of locations.'**⁵¹
93. It is unclear if that refers to Monk Wood, nevertheless given that is ancient semi-natural woodland supporting populations of invertebrates, that may. **Whilst the BSR identified a 'low' activity of bat species across the sites based on a single survey of around three hours on 26 May 2021, that would not have accounted for certain bat activity by virtue of the time of year.**⁵² That is an evidential shortcoming,⁵³ particularly set against recent scientific research brought to my attention.⁵⁴
94. Opposite the existing pedestrian field access in the south-western corner of **the appeal site by Monk Wood is a post with a sign reading 'Worcestershire County Council Highways, Roadside Verge Nature Reserve' (the 'RVNR')**. That post is shown in PEA photo 12. There is a similar post and sign a short distance away to the east.
95. Those signs **further explain that 'the verge between the posts is designated for its rare plants or animals. It has specialised management to benefit them. Please do not cut or damage this area'**. I understand that stretch of verge is protected on account of its species rarity or variety, or both.
96. It appears that the visibility splay proposed at the southern access point comes close to the RVNR.⁵⁵ **There is reference to a survey of 'roadside verges' in the PEA, all of which were determined to be neutral grassland.**⁵⁶ There is also therein reference to **'poor quality hedgerows'**.⁵⁷

⁴⁹ Paragraph 2.6 of the Chartered Institute of Ecology and Environmental Management's Guidelines for Preliminary Ecological Appraisal, second edition, setting out that **'the availability of records of protect or priority species will vary in any particular location, as it may be dependent on the presence of local experts (particularly the case for invertebrates and lower plants)'**, albeit the PEA identifies a low potential for invertebrate associations with Monk Wood.

⁵⁰ Paragraph 5.13.

⁵¹ BSR, paragraph 1.4.

⁵² With reference to table 2.2. of the Bat Conservation Trusts' Good Practice Guidelines in respect of Bat Surveys for Professional Ecologists, 3rd Edition.

⁵³ ODPM 6/2005, paragraph 99 setting out how **'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.'**

⁵⁴ **'Renewable energies and biodiversity: Impact of ground-mounted solar photovoltaic sites on bat activity'**, Journal of Applied Ecology, Volume 60, Issue 9.

⁵⁵ Notwithstanding that hearing documents 7, 8 and 9 indicate there may be no need, in terms of vehicular tracking, to extend the appeal site into the field on the opposite side of the lane.

⁵⁶ Paragraph 3.22.

⁵⁷ PEA, paragraph 5.54.

97. However neither of those references appear to take account of the RVNR, and there is moreover no reference to that designation in the PEA. Consequently, notwithstanding the intention to deliver significant BNG, for the above reasons I cannot reach the view that the scheme would be acceptable in respect of biodiversity in the context of the statutory duties upon me.

Planning balance

98. Nationally there is a pressing and urgent need for renewable energy generation. Some representations express support for the scheme with that in mind. The proposal would also have economic benefits. However, as reasoned above, there is no compelling justification for the scheme here specifically. Whilst significant BNG may be achievable, the evidence before me is insufficient as regards potential adverse ecological effects elsewhere.
99. The scheme would result in major adverse effects to the landscape as a resource and also visually, seriously detracting from the intrinsic character and beauty of the countryside and the experience of it. I have also identified that harm, albeit limited, would result in terms of the effect of the proposal on BMV.
100. NPPF paragraph 163.b) guides that applications for renewable and low carbon development should be approved if its impacts are (or can be made) acceptable. The PPG sets out that the benefits of delivering green energy does **not automatically override 'environmental protections and the planning concerns of local communities'**.⁵⁸
101. Inherent in my reasoning above is that even if the scheme were acceptable in all other respects, and even were the public benefits of the proposal to outweigh the harm to the setting of the listed buildings set one against the other, no other material considerations would justify allowing the appeal.

Conclusion

102. For the above reasons, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow

INSPECTOR

⁵⁸ PPG reference ID: 5-003-20140306.

SCHEDULE 1, APPEARANCES

FOR THE APPELLANT:

| | |
|-----------------|---------------|
| Nigel Cussen | Pegasus Group |
| Emma Ridley | Pegasus Group |
| Laura Garcia | Pegasus Group |
| Chris Schofield | Enzygo |
| Derek Allan | Enzygo |
| Frances Horne | Pegasus Group |

FOR MHDC:

| | |
|------------------------|---|
| Simon Jones | Development manager |
| Chris Lewis-Farley | Tree and landscape officer |
| Jane Sedgeley-Strachan | Natural Heritage and Biodiversity officer |

INTERESTED PARTIES:

| | |
|-------------------|--|
| Adam Collett | Chairman, Grimley Parish Council ('GPC') |
| Dr Chris Betts | Local resident and on behalf of GPC |
| Carly Tinkler | On behalf of GPC |
| Lisa Stevens | Clerk, GPC |
| Francesca Beamish | On behalf of GPC |
| Heather Rendall | Chair, Winchenford Local Heritage Group |
| Steven Bloomfield | Worcestershire Wildlife Trust |
| Dominique Cragg | Worcestershire Wildlife Trust |
| Dean Clarke | Councillor, Hallow Ward |
| Kathy Parkes | Local resident |
| Richard Rees | Local resident |
| Annette Collett | Local resident |
| Jill Moffat | Local resident |
| Ted Lewis | Local resident |
| Gill Williams | Local resident |
| Andy Sinclair | Local resident |
| Ali Wilby | Local resident |
| Georgie Moore | Local resident |
| Keith Parker | Local resident |
| Maureen Guest | Local resident |
| Joanna Parker | Local resident |
| Roger Tym | Local resident |
| Bryn Parry-Jones | Local resident |
| Christopher Betts | Local resident |
| Jed Marston | Local resident |

SCHEDULE 2, HEARING DOCUMENTS

| | |
|----|---|
| 1 | Inspector's draft agenda for the hearing, 21 November 2023 |
| 2 | Participation list compiled during the hearing |
| 3 | Grimley Parish Council annotated site visit map (v1) |
| 4 | Grimley Parish Council annotated road map related to proposed vehicle routing |
| 5 | Plan no. P001.301.20 with viewpoints |
| 6 | Solar Panel Recycling sheet/ method statement |
| 7 | Revised southern site access, plan no. C20063-ATP-DR-TP-0015 |
| 8 | Revised site location plan, plan no. THJ002.300.06 |
| 9 | Revised proposed site layout plan, plan no. TH002.301.21 |
| 10 | Map entitled 'Birchall site selection alternative sites' along with detailed mapping in respect of areas A through E |
| 11 | MHDC report to committee for application ref. M/22/01073/FUL |
| 12 | Appeal ref. APP/J1860/W/16/3142020 |
| 13 | Worcestershire County Council Landscape Character Assessment, Supplementary Guidance: Technical Handbook, August 2013. |
| 14 | Worcestershire Wildlife Consultancy report to Worcestershire Wildlife Trust, ref. 2022/035 A-E v1, June 2022 |
| 15 | Map of site and surroundings illustrating ancient, veteran and mature trees and Worcestershire Wildlife Trust Reserves |
| 16 | Draft condition related to appeal ref. APP/A1910/W/23/3317818 regarding fencing |

NB. Documents above are ordered logically by whom they were advanced. In addition, reference was made at the hearing to a High Court judgement of 17 November 2023,⁵⁹ **to rights of way mapping, to the Government's Powering up Britain**,⁶⁰ and to the positions of the United Nations and Intergovernmental Panel on Climate Change on renewable energy. Those are matters of public record, as is correspondence on behalf of the Friends of the Gwent Levels and the Gwent Wildlife Trust regarding renewable energy. Neither the foregoing, nor other references to matters of public record, are listed specifically as hearing documents.

⁵⁹ Peak District and South Yorkshire Branch of the Campaign to Protect Rural England, R (On the Application Of) v Secretary of State for Transport [2023] EWHC 2917 (Admin) (17 November 2023).

⁶⁰ Published 30 March 2023.



Neutral Citation Number: [2024] EWHC 295 (Admin)

Case No: AC-2023-LON-002550

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

In the matter of an application for statutory review under Section 288 of the Town and Country Planning Act 1990

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 16/02/2024

Before :

HIS HONOUR JUDGE JARMAN KC
Sitting as a judge of the High Court

Between :

LULLINGTON SOLAR PARK LTD

Claimant

- and -

**(1) SECRETARY OF STATE FOR
LEVELLING UP, HOUSING AND
COMMUNITIES**

**(2) SOUTH DERBYSHIRE DISTRICT
COUNCIL**

Defendants

Mr Michael Humphries KC and Mr Mark Westmoreland Smith (instructed by
Pinsent Masons LLP) for the **claimant**
Mr Robert Williams and Mr Riccardo Calzavara (instructed by **Government Legal
Department**) for the **first defendant**
The second defendant did not appear and was not represented

Hearing dates: 30 January 2024

Approved Judgment

This judgment was handed down remotely at 10.30 am Friday 16 February 2024 and sent to the parties and to the National Archives

HHJ JARMAN KC:

Introduction

1. The claimant, with permission of Sir Duncan Ouseley, applies under section 288 of the Town and Country Planning Act 1990 (the 1990 Act) to question the validity of the decision of a planning inspector appointed by the first defendant dismissing its appeal under section 78 of the 1990 Act against the refusal by the second defendant as local planning authority to grant planning permission for a 49.9MW solar farm at a site (the site) near Lullington in South Derbyshire District. The site comprises about 70ha of arable land and the proposed development includes ground mounted solar panels, substations, converters, inverters, access tracks, and security fencing. Nearly half of the site contains what is known as the best and most versatile (BMV) agricultural land. The inspector attached significant weight to the provision of clean electricity to some 17,300 homes and moderate weight to biodiversity gains, long term landscape benefits and job creation which the development would bring. However he found that the harm of losing food production by the loss of BMV land over the 40 year period of the scheme would be of greater significance and would thus conflict with the development plan and the National Planning Policy Framework (NPPF).
2. There are two main grounds of challenge, each relating to the inspector's approach to the assessment of what other BMV land was available in other locations appropriately close to national grid lines and substations in the district, for connection purposes.
3. The first is that the approach was irrational or his reasoning inadequate in concluding that a site selection assessment (the assessment) submitted by the claimant with the application was not sufficiently robust. The second is that his approach to another solar farm proposal at Oaklands Farm was flawed in that he undertook his own research, made a mistake of fact, did not give the claimant or the defendant an opportunity to comment on the research, and failed to consider whether Oaklands Farm was available for a solar farm. Each of the grounds is disputed by the defendant (as I shall refer to the first defendant). The second defendant did not appear and was not represented.

Background

4. Before dealing with those grounds in more detail, I shall summarise some of the background. The claimant's application for planning permission was considered by the defendant's planning officer and was the subject of a report to the planning committee. The officers came to a planning judgment which was the opposite to that eventually arrived at by the inspector, namely that the loss of BMV land and other harms did not outweigh the benefits that would arise from the proposed development. The officers recommended that permission should be granted. However the committee, as Mr Humphries KC for the claimant properly accepts it was entitled to do, did not accept that recommendation and refused the application.
5. The reasons for the refusal were set out in a decision notice dated 8 August 2022 and only the first, namely the loss of BMV agricultural land, is relevant in this challenge. The detailed reasons are as follows:

“The proposed development would result in the loss of 10.5 hectares of Grade 2 and 23.1 hectares of Grade 3a best and most versatile (BMV) agricultural land, which amounts to 48% of the total site surveyed being taken out of active food production for up to 40 years as a result of this proposal. The loss and impact of losing this extent of BMV agricultural land is not considered to be outweighed by the renewable energy and biodiversity benefits arising from the proposed development. In addition written ministerial statements, national policies, national spatial guidance and policy BNE4 advise that proposals involving BMV agricultural land need to be justified by the most compelling evidence. The supporting information submitted with the application is not considered to amount to such compelling evidence in support of the proposed development at this location such that the loss of BMV agricultural land can be considered acceptable. The proposal is therefore considered to be contrary to NPPF paragraph 174, South Derbyshire District Council Local Plan Part 1 policy S2, BNE4 and Local Plan Part 2 policy BNE5 in that it will give rise to an undue impact on most versatile agricultural land and there are no material planning considerations which would justify taking a decision at variance to such.”

6. The claimant lodged its appeal in December 2022. In its statement of case for the appeal, it referred to the assessment which had been submitted with its original application. There had been no update to the assessment in the meantime, despite the fact that the authority’s reasons for refusal included a reference to the information in support of the claimant’s application not amounting to compelling evidence to justify the loss of BMV land. The assessment related to a search area where appropriate connection to the national grid could be made. It was based upon classification of agricultural land (ALC) carried out by Natural England, which was appended as an appendix to the assessment. However, that classification does not make a distinction between grade 3a agricultural land (which amounts to BMV) and grade 3b (which does not). This led to a difficulty in identifying BMV land in the study area.

7. The assessment referred to the ALC map and dealt with that difficulty in this way:

“4.4.5 Without undertaking intrusive investigations across the search area, it is not possible to determine the sub-grading make up of Grade 3 land, and the proportions of Grade 3a, 3b and any other grading they comprise. It is established that it is not appropriate for applicants to undertake what would be a logistically difficult and financially unviable exercise.

4.4.6 It is considered the Grade 3 land within the search area is likely to have a similar make up to the site (for which intrusive investigations have been undertaken – as described in Paragraph 1.1.4). Referring to the ALC map at Appendix 2, the site is distinct from the areas of higher Grade land. It seems unlikely other potential Grade 3 sites within the search area would have a significantly lower percentage of BMV than the site.”

8. The claimant's statement of case also referred briefly to a map which had been commissioned by the claimant from consultants Lanpro, based on methodology set out in a report from Cranfield University commissioned by the Welsh Government. It is a map showing the South Derbyshire District, the grid connection search area at the southern end of the district, and the site boundary within it. It is described as "Predictive ALC map for Lullington Solar Farm." It shows all grades of agricultural land class in different colours, with grade 3a shown in dark green, and grade 3b in light green. It is on small scale of 1:125,000 at A3, and, as far as can be made out, appears to show the site as grade 3b land, apart from a very small corner in the north east which is shown as grade 3a. This map was referred to in the claimant's statement of case as showing the site within the district, but there was also a brief reference to it as showing how few sites there are in the district that are appropriate for solar farm use.
9. Although the claimant's statement of case referred to the Cranfield report, a copy was not put before the inspector or before me. Counsel were unable to assist on what sort of predictive methodology produced the Lanpro map, or why it showed the site as comprising grade 3b land (apart from small slivers of grade 3a and possibly grade 2 land), when the soil investigations carried out by the claimant on the site which informed the assessment showed that nearly half of the site is BMV land.

Policy and guidance framework

10. The policies and guidance applicable to the consideration of the appeal were not in dispute before the inspector, or before me. National Policy Statements (NPSs) deal with the delivery of major energy infrastructure and recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) have been published. The draft NSPs recognise that to meet Government targets for net zero carbon emissions by 2050, significant large and small scale energy infrastructure is required, including a dramatic increase in the volume of energy supplied from low carbon sources to ensure a reduction in the reliance on fossil fuels. Draft EN-1 at [3.3.21] recognises that the lowest cost ways of generating electricity and providing secure, reliable, and affordable net zero energy systems are likely to be predominantly by wind and solar power.
11. The update of EN-3 current at the time of the of the appeal before the inspector is dated March 2023, and provides:

"3.10.14 While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land (avoiding the use of "Best and Most Versatile" agricultural land where possible).

12. At [3.10.15] it is stated that although the development of ground mounted solar arrays is not prohibited on BMV land, the impacts of such are expected to be considered. At [3.10.18] the point is made that the ALC is the only approved system for grading agricultural quality in England and Wales.
13. There are other national policies and guidance relating to the provision of such infrastructure on agricultural land. It was agreed that a written statement by the then minister responsible for planning dated 25 March 2015 relating to the unjustified use of agricultural land remains relevant. That states that any proposal for a solar farm involving BMV land needs to be justified by the most compelling evidence.
14. National Planning Policy Guidance (NPPG) provides that in respect of a proposal for the use of any agricultural land, consideration should be given to whether the proposed use has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and whether the proposed development would allow for continued agricultural use where applicable and/or where biodiversity improvements around arrays would be provided.
15. NPPF deals with the transition to a low carbon future in a changing climate. At [152] it is stated that the planning system should support this transition, as well as renewable and low carbon energy and associated infrastructure. At [158], it is stated that applicants are not required to demonstrate the overall need for renewable or low carbon energy. It also deals with use of agricultural land, by providing that where significant development of agricultural land is shown to be necessary, areas of poorer quality land should be preferred to those of higher quality. At [174(b)] it is stated that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural and ecosystem services, including the economic and other benefits of BMV land, and of trees and woodland. The glossary defines BMV land as that which falls within grades 1, 2 and 3a of the Agricultural Land Classification.
16. As for local plan policies, policy BNE4 of the South Derbyshire Local Plan states that the local planning authority will seek to protect soils in BMV land and wherever possible direct development to areas with lower quality soils. Policy BNE5 states that otherwise acceptable development outside of settlement boundaries in rural areas will be granted where it will not unduly impact on BMV agricultural land.

The appeal hearing and the decision letter

17. The appeal before the inspector took place in April 2023 by way of hearing rather than inquiry. There was discussion but no cross examination of witnesses. The claimant's witness on BMV land, Daniel Baird, referred to the Cranfield report and to the Lanpro map, which he said shows that there are significant amounts of BMV land within South Derbyshire district and beyond, so that alternative sites of lower grade agricultural land were not available.
18. The inspector in the decision letter referred to the national guidance and policies and local plan policies relating to competing needs for solar power energy on the one hand and for BMV land on the other as summarised above. No criticism is made that any of these references were irrelevant or misstated the policy framework.

19. The inspector then turned to consider the respective arguments as to the loss of BMV land, which the proposed development would entail. He summarised the claimant's assessment in the following terms in [13]-[15] of the decision letter:

“13. The appellant's Site Selection Assessment (SSA) fixed the study area for the appeal proposal by a requirement to connect to a viable local electricity network that was agreed with the local distribution network operator at the application stage. The agreed point of connection would be into the 132kv network that crosses the western end of the appeal site and which connects into the major substation at Drakelow, some 6km from the connection point. A 2km offset around the 132kv line was therefore drawn at a distance of no more than 8km from the Drakelow facility, which coincides with the maximum cabling connection that would be economically viable.

14. The SSA found that there were no suitable brownfield sites within the study area whilst there are only very few areas of lower grade agricultural land. These areas were grade 4 land but considered unsuitable for the siting of solar arrays due either to their being either too small or had physical or environmental constraints that limited their inclusion. The SSA was also informed by a number of other constraints, including levels of irradiance, sensitive landscape, ecological or heritage designations, sensitive human receptors and access/highway considerations, amongst others. The Council offered no evidence that would contradict these findings. The SSA confirmed that there were no sites of suitable size for a 50MW solar farm within a suitable distance from the grid connection point that lie wholly outside BMV land although on grounds of costs and practical feasibility, no soil survey work was completed other than within the appeal site. This factor is a significant omission.

15. The appellant provided an assessment of alternative sites to demonstrate why agricultural land is to be used for the appeal development. This included assessing the opportunities that might be available on previously developed land (PDL)/brownfield land, commercial rooftops and lower grade agricultural land (grades 3b, 4 and 5).”

20. In the following paragraphs, the inspector set out his conclusions on the assessment as follows:

“16. It is clear that a robust assessment has not been made of the grading of agricultural land within the remainder of the study area, which from the data held by Natural England has significant areas of Grade 3 agricultural land. While I accept the argument that it would not be practicable to undertake extensive investigation of the entire study area, I agree with the

Council who pointed out that the explanatory note to the Agricultural Land Classification maps sets out that Grade B reflects ‘areas where 20-60% of the land is likely to be ‘best and most versatile’ agricultural land’. This to my mind adds to the criticism that the evidence has failed to demonstrate that there is no land available for this development within the study area of a lesser agricultural quality, contrary to national and local policy. It also does not stand up to scrutiny as the ‘compelling evidence’, which is sought in the WMS.”

21. At [17], the Oaklands project was referred to:

“My attention was also drawn to the Oaklandss Farm Solar Limited (BayWa r.e. UK Ltd) Preliminary Environmental Information Report submission to the National Infrastructure Planning Unit of the Planning Inspectorate for the purposes of a Development Consent Order for a 163MW solar farm and onsite storage facility at a site also within the appellant’s study area to the north-west of the present appeal site and within South Derbyshire District. From the appellant’s evidence, it is clear that this site would also include extensive areas of Grade 3 land, which has not been assessed. It must be assumed that lower quality grade 3 agricultural land might well be available as an alternative to the appeal site.”

22. The overall conclusions on BMV were set out in [20]-[22]:

“20. While recognising that it may not be reasonable to expect developers to fully investigate every possible location for a solar farm within a wide study area and neither is it incumbent on appellants to demonstrate that there is no possible alternatives to an application site, nevertheless, the wider study area is expansive and sufficiently so that it is being earmarked as a potential national infrastructure project. In acknowledging that the main issues for food security as identified by DEFRA5 are climate change and soil degradation, this only serves to emphasise the importance of maintaining higher quality agricultural land where this is found in food production.

21. The hearing heard that the land hereabouts is a valued resource with tenant farmers under contract to a national potato crisps manufacturer who demand the highest quality of outputs. It was pointed out that there are only 80 such farms in the country producing the required grade of potato crop. Moreover, no calculation had been made of the existing bioenergy plant that is being generated each year and which contribute to renewable energy targets that may also close should the proposed solar farm goes ahead. The evidence presented at the hearing on this was scant however and has not featured highly in my consideration.

22. There is no definition of what might constitute ‘compelling evidence’ but I accept the Council’s arguments that the evidence fails to demonstrate that there are no suitable poorer quality areas of land in the study area that could be used or accommodate the appeal development save for a broad brush map-based review. In this regard, the appeal proposal contravenes relevant provisions of BNE4 of the SDLP, the NPPG and the WMS. The loss of just under 50% of BMV is a significant negative aspect of the appeal proposal which weighs heavily against the development.”
23. The inspector then dealt with landscape, landscape character, visual and heritage impacts of the proposed development. He accepted that there would be some adverse effects on these, save that he concluded that there would be no such effects on historic assets. He concluded that the adverse effects which he did find would be within acceptable tolerances.
24. At [46]-[53], under a heading “Planning balance and conclusion” the inspector expressed little doubt that the point is close where climate change is a reality, and that if left unchecked will have very serious consequences for large parts of the planet. He accepted that the development would make a significant contribution to providing energy from a renewable source, and that energy from solar farms will form a critical element of the plan to decarbonise the UK electricity sector. He concluded at [47] that:
- “These factors coupled by the timeliness of delivery and relatively easy connection to the national grid in this instance weighs significantly in favour of the appeal proposal.”
25. At [48] he said this:
- “I recognise the time limited nature of the appeal scheme and that agriculture may well continue during the scheme’s lifetime although no guarantees were offered at the hearing. Whilst the 40-year period may allow for the restoration of the soil structure and reduce the problems associated with nitrates usage, it appears to me, as it has done to other Inspectors at appeals cited by the Council, that 40 years would indeed constitute a generational change. I accept the appellant’s arguments that where sites are made up of a patchwork of agricultural gradings, it is not feasible or practical to separate small areas of BMV land from development, particularly as this would result in that land having little commercial agricultural utility. However, this proposal would harm the BMV resource, which amounts to just under half the total available hectareage and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time.”
26. He then dealt with biodiversity benefits of the proposed development, including a 270% gain in habitats and a 46% gain in hedgerows. He found that these together with

long term landscape benefits carried positive weight in favour of allowing the development, as did job creation.

27. However, his overall conclusion at [52]-[53] was as follows:

“51. While collectively the benefits arising from the appeal scheme are significant, the harm that would be caused by allowing the development of just below 50% of the site’s hectareage over a period of 40 years would be of greater significance.

52. Taking all this into account, the appeal proposal would be conflict with the development plan and the Framework and would not constitute sustainable development.”

Legal principles

28. Before I deal with the grounds of challenge in more detail, I will set out the legal principles as to how the court should approach decision letters of planning inspectors. These are well established and were not in dispute before me, and so I can summarise them here briefly.
29. The expertise of specialist planning inspectors should be respected: *Hopkins Homes Ltd v Secretary of State* [2017] 1 WLR 1865. At a hearing, the absence of the right to cross-examine imposes an enhanced and inquisitorial duty on the inspector: *Dyason v Secretary of State for the Environment* (1998) 75 P&CR 506.
30. Decision letters should be read benevolently and as a whole, in a reasonably flexible way and without excessive legalism. They need not refer to every material consideration. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal controversial issues, see eg, *St Modwen Developments Ltd v Secretary of State for Communities and Local Government* [2018] PTSR 746.
31. The meaning of planning policy is a question of law for the court, but its application is a matter of planning judgment which is within the exclusive province of the decision-maker. The courts will not interfere with the decision-maker’s planning judgment unless it is irrational or perverse: *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759. The same applies to the question of whether something is a material consideration (which is a matter of law) and the weight which should be given to it (which is a matter of planning judgment). There are three categories of material considerations. The first two of these are governed by statute, where statute provides that regard must, or alternatively must not, be had.
32. The third category comprises those considerations to which the decision-maker may have regard, in respect of which the court will only interfere if the decision maker does not refer to the consideration, and it is so obviously material that it must be taken into account. Where it is taken into account it is for the decision maker to decide how to deal with it, subject to irrationality: *R (Friends of the Earth) v Heathrow Airport Ltd* [2020] UKSC 52.

33. Whether the availability of alternative sites is a material consideration within the third category will depend on the circumstances. In *R (Mount Cook Land Limited) v Westminster City Council* [2017] PTSR 116, the Court of Appeal held that in the absence of conflict with planning policy or other planning harm, the relative advantages of alternative uses on the application site or of the same use on alternative sites are normally irrelevant. Where, in exceptional circumstances, alternatives might be relevant, schemes which are vague or have no real possibility of coming about, are irrelevant or should be given little or no weight. In *Stonehenge R (Save Stonehenge World Heritage Site Ltd) v Secretary of State for Transport* [2021] EWHC 2161 (Admin), Holgate J found that the issue of potential effects of development on the Stonehenge World Heritage Site amounted to such an exceptional circumstance so that the availability of alternatives sites for the proposed development was obviously a material consideration.
34. With those principles in mind, I turn to consider the grounds of challenge. Mr Humphries makes the overarching point that the inspector's approach to the adequacy of the claimant's assessment was central to the conclusion that the use of BMV agricultural land for the proposed development was inconsistent with policy BNE4 of the local plan, NPPG and the ministerial statement. As an overarching point, I accept it.

Ground 1

35. Under ground 1, the claimant submits that the inspector's approach was inherently contradictory. On the one hand he accepted in [16] and [20] that it is not practicable or reasonable fully to investigate every possible location for a solar farm within a wide study area or incumbent on appellants to demonstrate that there are no possible alternatives to an application site. On the other hand, he concluded that the assessment was deficient because no soil investigation was completed other than on the appeal site which was a significant omission and as a result he concluded that the assessment was not robust. It is further submitted that by so concluding the inspector was effectively imposing on the claimant the need to show soil surveys outside the appeal site in the absence of power of entry on to the land of others.
36. Reading the decision letter fairly and as a whole, in my judgment there is no such inconsistency. The inspector clearly accepted, twice, that it is not practicable to investigate every possible location for a solar farm within a wide study area. He also clearly accepted that it was not incumbent on the claimant to show that there were no possible alternative sites. It is not then necessarily inconsistent to conclude that an assessment which involves no soil survey outside the appeal site is not sufficiently robust. As Mr Williams submits, this may be achieved by sample surveys on other possible sites with the permission of the owner. It is common ground that it is not only the quality of land which imposes a constraint, but many other factors such as connection to the grid, landscape, ecology, heritage assets, highways, flooding and availability. These also would narrow the area of search.
37. The claimant also submits that the inspector in coming to these conclusions failed to grapple properly or at all with the Lanpro map, which it is agreed was a material consideration. Mr Humphries, during oral submissions, accepted that the inspector's reference in [22] to "save for a broad brush map review" can only sensibly refer to the Lanpro map. In circumstances where this did not form part of the claimant's

assessment, had the limitations referred to in paragraphs 8 and 9 above, and was only briefly referred to in the claimant's statement of case in its appeal, the inspector was entitled to deal with it this way even though it was referred to at the hearing. In such circumstances the inspector's inquisitorial duties did not require any further inquiry.

38. Mr Humphries next submitted that by referring to the ministerial statement of 2015 in the way that he did, the inspector failed to take into account that the amendment to a 'net zero' target and delivery budgets constituted a major development in the approach to climate change which post-dated that statement, which effected the need for more renewable energy and the consequent policy framework for solar to meet that need, including NPPF and the local plan both of which came after the ministerial statement. He also failed to take into account the consequent need for many more solar farms.
39. In my judgment, that is to be unduly critical of the decision letter. It is clear from the opening paragraphs that the inspector had well in mind the net zero targets. The parties agreed that the ministerial statement was still extant, as he put it. He referred to the latest updates of the NPPs. He gave significant weight to the contribution that the development would make to the need to decarbonise the supply of electricity.
40. In my judgment the high threshold of irrationality under ground 1 has not been reached. As for reasons, they are adequately clear. The inspector took the view that the claimant's assessment was not sufficiently robust because it failed to carry out any investigation of soil quality outside the appeal site. It assumed that all grade 3 land in the search area was likely to have a similar BMV as the appeal site (namely nearly half), whereas the authoritative ALC shows that there is likely to be a range of between 20-60% of BMV, suggesting the possibility of sites with far less BMV than the appeal site. In my judgment ground 1 is not made out.

Ground 2

41. As for ground 2, Mr Humphries accepts that there was little material before the inspector on the Oaklands Farm proposal, but criticises him for carrying out his own research by clicking on a hyperlink in the authority's evidence. There is some discrepancy as to whether he did so before or after the hearing, but in my judgment nothing turns on this. By doing so, it was established at the hearing before me, he would have seen reference to a preliminary environmental report submitted for the purpose of obtaining a development control order for a 163 MW solar farm at Oaklands Farm. Mr Humphries submits that this does not mean that attention was drawn to it as set out in the decision letter at [17] as set out above, but in my judgment this is overly critical in circumstances where a party's evidence provides a hyperlink which goes to a webpage where such a reference then appears. There is nothing wrong in this in my judgment.
42. Mr Humphries also submits that the percentage of BMV land for the Oaklands Farm part of the site is higher than the appeal site and the grade 3b land there is dispersed so as not to be suitable for a 50MW station. The inspector misunderstood that by assuming that grade 3b land might well be available, and should have given the parties a chance to deal with that. Moreover, he did not grapple with availability of Oaklands Farm, but drew from it that there were other potential sites on lower grade

land that had not been assessed. The inspector wrongly relied on the Oaklands Farm as a potential alternative to the appeal site.

43. However, as Mr Williams submits, on a fair reading of the decision letter, the inspector referred to Oaklands Farm not as an alternative to the appeal site, but to underline his conclusion that the claimant's assessment was not robust in that it did not involve soil samples outside the site and it assumed that all grade 3 land within the search area is likely to have the same amount of BMV land as the appeal site. As Oaklands Farm includes grade 3 land, the omission to assess the BMV there was used by the inspector as an example of why the claimant's assessment was not robust. This was in the context of the reference in [16] to ALC maps showing a range of BMV land as between 20-60%.
44. Read in that context, in my judgment the irrationality arguments relied upon by the claimant under ground 2 are not made out.

Conclusion

45. The consequence is that the challenge fails on both grounds. The inspector had to make a planning judgment as to the competing benefits and harms of permitting the proposed development on the one hand and of refusing it on the other. In so doing, he came to a different conclusion to the authority's planning officer, but it was one which he was entitled to come to and one with which this court should not interfere.
46. Mr Williams submitted in the alternative that in any event, insofar as one or more of the errors relied upon by the claimant is made out, it is nevertheless highly unlikely that the outcome would have been any different, so relief should be refused on the basis of the principles in *Simplex (GE) Holdings Ltd v SSE* (1989) 57 P & CR 306. In light of my conclusions it is not necessary for me to deal with that, but if it is helpful for me to express a view briefly, I would accept that submission.
47. I am grateful to all counsel for their focused written and oral submissions. They helpfully indicated that any consequential matters not agreed can be dealt with on the basis of written submissions. Any such submissions, together with a draft order agreed as far as possible, should be filed within 14 days of hand down of this judgment.