

Supplementary Report for the Planning and Development Board

8th July 2024 – Agenda Item 5/c

PAP/2023/0071

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

Proposed Construction of a Solar Farm

1. Introduction

- 1.1 This application is reported to the Planning and Development Board for its 8th July meeting.
- 1.2 This is a Supplementary Report to that already published in order to update the Board on two matters – the response from the Fillongley Flood Group and clarification on a matter raised concerning other cases.

2. The Fillongley Flood Group

- 2.1 Members will have noted from the published report at para 2.8 that a response from the Group to the latest plans had not been received at the time of preparation of that report. A response was received on the afternoon of Friday the 5th July. That was circulated to Members at that time as well as to the applicant and to the Lead Local Flood Authority. It is attached here as Appendix A.
- 2.2 The LLFA provided a response on the morning of 8th July. This confirms that they do not wish to change the position as set out in May - Appendix 7 in the July Report. A copy is attached here as Appendix B.
- 2.3 If the applicant responds, that too will be circulated.

3. Appeal Clarification

- 3.1 The published report refers to planning appeal cases involving other solar farms – see paras 2.18 and 2.19 of that report, with back references to the previous March report at paras 4.62 to 4.66 at Appendix 1 to that report. The issue of whether an Alternative Sites Assessment was needed to accompany the current case, was not mentioned therein. That is now addressed.
- 3.2 The starting point is to re-iterate the one made in para 2.18 of the July report. Each appeal is determined on its own planning merits and not on other Inspectors' decisions. It is true to say that an appeal decision can be a material planning consideration in any determination to be made by a Local Planning Authority, but it is the weight that is given to it, that is the key factor. Because an Inspector has criticised the lack of such an Assessment in one case, does not mean that to say that Inspectors will do so in other cases, or indeed that Authorities should do so. As a consequence, those cases referred to in para 2.18 display different

outcomes. It is thus necessary in this case, to establish what weight is given to the call for such an Assessment.

3.3 Firstly, there is no statutory requirement for such an Assessment to be submitted with an application. Significantly, the recent Written Ministerial Statement - Appendix 2 to the July report – does not require such an Assessment.

3.4 Secondly, this is not an application for a Nationally Significant Infrastructure Project. As such, the Written Statement says that “due weight needs to be given to the proposed use of best and most versatile land (BMV) when considering whether planning consents should be granted for solar developments. For all applicants, the highest quality agricultural land is least appropriate and there is a greater onus on a developer to show that the use of higher quality land is necessary”. The “test” is thus to show that such land is necessary. This then relates back to the point made above in para 3.2 – each case is to be determined on its own merits.

3.5 Thirdly, the applicant here has undertaken this “test” and concluded that the use of BMV is necessary. This is provided in paras 4.62 and 4.63 of Appendix 1 to the July report. Officers have considered this conclusion and on balance, have agreed with it, outlining their reasons why - see paras 4.64 and 4.65 of the same Appendix.

3.6 As a consequence, it is in all of these circumstances, that officers would advise that in this case, the request for an Alternative Site Assessment as a material planning consideration does not carry significant weight.

Lindsay Gilliver

To: Jeff Brown
Subject: FW: PAP/2023/0071 - OBJECTION

----- Original Message -----

From:
Sent: Friday, July 5th 2024, 12:58
Subject: PAP/2023/0071 - OBJECTION

With regard to the above application and also to the exchange of emails between the Fillongley Flood Group (FFG) and Jeff Brown, FFG is now in receipt of its expert report from Edenvale Young Limited and a copy is attached.

FFG maintains its objection to the application and in particular upon the grounds clearly set out in the attached report.

FFG appreciate the assistance of NWBC in moving the date of the Planning Board (PB) to enable FFG to obtain an expert hydrologists report. Regrettably obtaining a report was not as straightforward or as speedy as it would have wished and in this regard a timeline of actions is attached. FFG trust that you will agree FFG has not been dilatory but has used its best endeavours to obtain the report without undue delay.

Given the proximity of the PB meeting next Monday, and to enable both NWBC and the Applicant to have an opportunity to consider the attached report, FFG respectfully requests that consideration of this application be deferred.

Yours faithfully,

Catherine France
Secretary for the Fillongley Flood Group



Application PAP/2023/0071

4th July 2024

Proposed Solar Farm South of Park House Farm, Meriden Road, Fillongley

Review of Drainage Strategy, Flood Risk Assessment and LLFA Consultation Response for Fillongley Flood Group

1 Introduction

Fillongley Flood Group (FFG) has been established to help reduce the impact of flooding in Fillongley, due to property having been flooded on frequent occasions. One of the many roles of the FFG is to remove debris from a screen in the village to reduce the consequences of blockage. This is a dangerous and disruptive activity.

A planning application has been submitted for a 62ha solar farm upstream of the village, and the FFG is concerned about the increased risk of flooding to the village. FFG has engaged with the Developer, their flood risk Consultants (BWB) and the Lead Local Flood Authority (LLFA) to seek to ensure that the opportunity is taken to reduce flood risk, in line with Paragraph 170b of the NPPF and Warwickshire County Council Local Flood Risk Management Strategy, April 2016. FFG has explained that the Motorway discharges into watercourses upstream of the proposed solar farm, and despite expectations that runoff would be attenuated in line with policies, Highways England did not incorporate attenuation on their discharges, exacerbating flood risk in the village.

In light of the concern about the potential increased flood risk, FFG has sought to try and ensure that if consented the solar farm incorporates appropriate measures to reduce flood risk (in line with Para 170b of the NPPF and the LLFA policy). It seems that the Developer has been sympathetic to this concern and has included ponds and swales in their proposal. In recognition of this the LLFA has recommended planning conditions to ensure that they have the opportunity to approve the detailed design, that the surface water drainage works is verified on completion and that there is a detailed site-specific maintenance plan in place.

The Planning Authority is reluctant to engage in enforcement of these requirements, so getting the works designed, built and managed properly and as approved, in cooperation with the Developer, is an important objective.

FFG has asked Edenvale Young (EY) to inspect the Flood Risk Assessment (FRA), Drainage Strategy (DS) (both dated 30th April 2024 by the LPA) and the LLFA Consultation Response dated 30th May 2024 and provide comments on the proposals. Our comments are based on our experience of advising on over 100 solar farms designed in the past, including some of the largest in the country. We have run through the documents, including BWB Plan 0001/P07 and have the following comments, with the relevant clause numbers; it is important to emphasise that the Developer and their advisors remain fully responsible for the proposals.

As a general comment, solar farms are expected to allow the soil characteristics to improve through the absence of ploughing and the establishment of vegetation. Solar farms are also recognised for becoming havens for wildlife, especially when compared with fields sprayed with nutrients and pesticides. During the construction phase there are risks of increased runoff, and Paragraph 170b of the NPPF expects development to reduce the risk of flooding, especially when downstream flooding is predicted and the receiving watercourse is considered 'sensitive', as at Fillongley. However, as the solar farm is supposed to be restored to the former fields after its lifetime, the extent of 'civil engineering' should be reasonable. But noting that the new NPPF allows the lifetime of renewable energy sites to be extended (NPPF Paragraph 163c), this possibility and the predicted increase in runoff due to climate change needs to be borne in mind.

The following sections follow an assessment of the relevant documents and the related paragraph numbers.

2 FRA P07 29th April 2024

- 1 3.12 etc We are surprised that the reference to historic downstream flooding is treated so lightly and not introduced early in the report to highlight the known flood risk to Fillongley. The clause refers to 'understood' whereas flooding in Fillongley is shown on the flood maps and it is referred to in the press and on the internet. The NPPF states at 170b that development should reduce flood risk overall (also referred to in the LLFA policy) – we are surprised that the FRA does not highlight this paragraph when it copies so many other references.
- 2 4.10 The FRA refers to a series of detention basins alongside the Ordinary Watercourses (OWs). These are dealt with in more detail in the DS.
- 3 4.13 The basins provide additional mitigation to the swales – again, the detail is in the DS.
- 4 5.6 This clause refers to runoff rate reduction 'above and beyond', implying exceptional mitigation measures, and yet the NPPF and LLFA expect development to reduce flood risk (Para 170b); it should not be considered exceptional. The proposals should also recognise site-specific circumstances.
- 5 5.9 The statement 'will not increase flood risk to the wider catchment' depends on the details of the mitigation, which are not covered in the FRA, but in the DS.
- 6 The FRA does not describe the existing fields and their use/character, nor does it consider the predicted permeability of the soil. The proposed vegetation is not discussed, nor the virtues it might bring. The DS doesn't cover this either.

3 Drainage Strategy (DS) dated 25th April 2024 P07

- 7 1.8 There is no reference to potential runoff from the Motorway entering the Site and what potential impact the detention basins might have – even broadly.
- 8 1.11 ii The proposed grazing by livestock needs more specification. It is conventional to allow low density occasional sheep to reduce grass level. The intensity is reduced to prevent areas becoming denuded and the soil compacted, which would result in increased runoff. Recognised guidance should be referred to and confirmed.
- 9 1.11 iii We agree that gravel drains are not sustainable, not practical, nor realistically restored at the end of the lifetime. Swales as in b are appropriate.

- 10 1.15 This refers to the policy for reducing flood risk overall (Para170b of the NPPF), but without the policy reference being given.
- 11 2.2 Does not define the existing nature of the agricultural land – is it arable or used for grazing? What are the consequences of the change to solar farm?
- 12 2.8 Geology – this section does not consider the soil characteristics – see Soilscales viewer page below – showing that the soil has slightly impeded permeability (consistent with the presence of watercourses).
- 13 3.19 We would expect all tracks to be permeable. Type 1 is not normally considered to be permeable – usually permeable granular material should have 30% voids. Tramlines in fields are noted to result in a significant proportion of the runoff.
- 14 3.24 etc I have no concerns about the increased runoff from the transformers/inverters etc in this context. Its de minimus.
- 15 3.35 States that the swales should be installed 'early on' – they should be done as a first activity after the fencing, to aid capture and management of runoff during the trafficking and construction activities.
- 16 3.31 etc Whilst the swales are welcomed, and although the FRA says they will have 0.4m3/m storage, the survey highlights undulations in the terrain, and the consequences have not been considered (ie the sales do not follow contours). So the water will flow out of the swales at low points which have not been identified, nor have the flow routes been identified. We suspect water entering the swales would flow to the lowest point and spill into the nearest watercourse, especially as they are only 300mm deep overall. As described, these swales will make little difference in this case due to the absence of storage capability. Check dams could be considered to mobilise storage and activate infiltration, subject to tests.
- 17 3.38 No objection to infiltration trenches.
- 18 3.41 There is no description of how water enters the basins from the watercourses, how the storage in the basins is mobilised, or what virtues the basins would bring in terms of reduced flows, estimated return periods, etc. Whilst detailed calculations are not expected at planning stage, an estimate/judgment of the benefits would be helpful for the FFG's expectations. A pipe acting as a side-weir is likely to intercept very little flow and what does leave the watercourse will run through the pond and re-enter the watercourse. The ability for the side offtake to manage flows and the mobilisation of flows needs explanation (ie will a flow control device be introduced?). As described, the basins will make no difference to site runoff.

4 LLFA recommended Planning Conditions dated 30th May 2024
 The three recommended conditions which require soakaway testing and detailed design, verification report and maintenance schedule to be approved are welcomed. These should be incorporated in the Decision Notice if approved, and Discharged appropriately following assessment.

5 Conclusions

Based on the above review we advise that the following are ensured;

- 19 The swale design as shown will not reduce the runoff rates anticipated. The design should be developed to ensure that water is captured and managed – such as by infiltration with check dams, and that the overflow mechanism is predicted and

- illustrated. The swales do not manage runoff as presently shown and would simply convey flows to the lowest points and cause unchecked erosion and silt mobilisation.
- 20 The detention basins as shown will not attenuate flows in the existing watercourses. The inlets need to be designed to receive water from the watercourses and the outlets designed to mobilise storage – they do not, as presently shown. An indication of the benefits delivered by these ponds should be given, to provide monitoring.
- 21 The scale and duration of grazing should be specified to ensure that the vegetation is effective in managing runoff.
- 22 Tracks should be formed in permeable granular material, usually expected to have 30% voids.
- 23 A project programme should be submitted showing the detention basins and swales installed as a first stage to bring benefits during construction.
- 24 It is customary to ensure that the fields are vegetated prior to trafficking and the commencement of construction, and that trafficking is avoiding in wet conditions when the soil characteristics in the long term can be damaged.
- 25 It is important to FFG and the community of Fillongley that the LLFA ensures that recommended planning conditions are included in the Decision Notice, if approved, and that the conditions are fully considered by the LLFA prior to being Discharged.
- 26 On other solar farms the Developer has agreed to have an annual walkaround with the community group to promote good relations and show that the maintenance is being undertaken. We suggest that FFG seeks to agree this with the Operator.

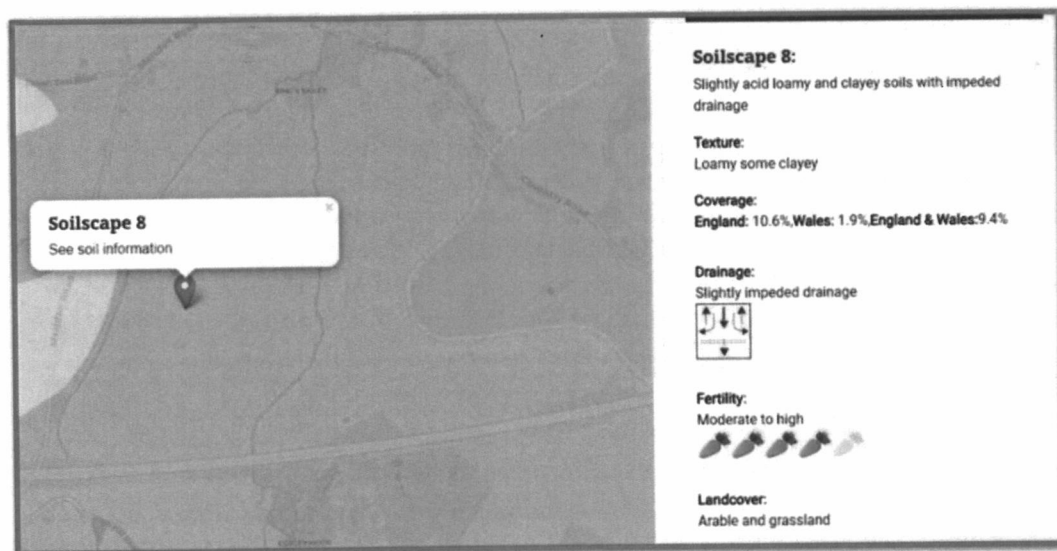


Image from Soilscape website showing soil infiltration slightly impeded, and quite fertile soil.

Lindsay Gilliver

To: Jeff Brown
Subject: FW: PAP/2023/0071 - OBJECTION

From: FRM Planning <frmplanning@warwickshire.gov.uk>
Sent: Monday, July 8, 2024 10:30 AM
To: Jeff Brown <JeffBrown@NorthWarks.gov.uk>
Subject: Re: PAP/2023/0071 - OBJECTION

Caution: Warning external email

OFFICIAL

Good Morning Jeff,

I am somewhat disappointed at the late nature of information being submitted once again, but the LLFA are committed in ensuring the planning decision is delayed no further and can be properly assessed at the planning board.

The LLFA do not currently have any objection to this site. We recommended conditions be applied should approval be granted. Please see attached our most recent formal response.

Section 4 (LLFA recommended Planning Conditions dated 30th May 2024) of the review provided states *'The three recommended conditions which require soakaway testing and detailed design, verification report and maintenance schedule to be approved are welcomed. These should be incorporated in the Decision Notice if approved, and Discharged appropriately following assessment.'*

We fully support this stance and will ensure that the site will be fully assessed and reviewed at the discharge of condition stage should permission be granted.

If you have any further questions do not hesitate to contact me.

Kind regards,
Scarlett

Best regards

Flood Risk Management

Please send responses to FRMplanning@warwickshire.gov.uk

Our updated Flood Risk Guidance for Development was published in June 2023. The new guidance is available here and our website details the changes within this update.

Flood Risk Management
Planning Delivery
Environment Services
Warwickshire County Council

Tel. 01926 412982

Email: FRMplanning@warwickshire.gov.uk

www.warwickshire.gov.uk

Emails sent to individual FRM officers may not be logged or processed promptly.
