

Planning | Architecture | Master Planning

Appeal by

Enviromena Project Management UK Ltd

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

**Proof of Evidence on behalf of Fillongley Parish
Council
(CD13.3)**

Witness: Gail Collins BSc (Hons) DipTP MRTPI DMS

The Tyler Parkes Partnership Ltd

11th March 2025

Endorsement:

The evidence which I have prepared and provide for this appeal [reference APP/R3705/W/24/3349391] in this Proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution, The Royal Town Planning Institute, and I confirm that the views expressed are my true and professional opinions. I am 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.

Gail Collins BSc (Hons) DipTP MRTPI DMS

The Tyler Parkes Partnership Ltd

11th March 2025

Contents

Endorsement	Pg.2
Executive Summary	Pg.4
1. Introduction	Pg.6
2. Background – Fillongley, the appeal site & relevant policies	Pg.8
3. Fillongley Parish Council’s Objections to the Appeal Proposal	Pg.12
Green Belt	Pg.12
Heritage Assets	Pg.21
Character and Appearance	Pg.21
Best and Most Versatile Agricultural Land	Pg.22
Use of Best and Most Versatile Agricultural Land	Pg.25
Other matters	Pg.32
4. Conclusion and Planning Balance	Pg. 34

Executive Summary

This Proof of Evidence sets out the 'planning' grounds of objection on behalf of Fillongley Parish Council to the appeal arising from North Warwickshire Borough Council's refusal of planning application PAP/2023/0071 for the proposed development of a solar farm on land 800 metres south of Park House Farm, Meriden Road, Fillongley, Warwickshire, CV7 8BP, being considered under APP/R3705/W/24/3349391. It has been prepared by Gail Collins, BSc (Hons), DipTP, MRTPI, DMS.

It is one of a suite of documents setting out the Parish's evidence for objecting to this proposal and is accompanied by a Heritage Proof of Evidence (CD13.7) and visualisations (CD9.11 and 9.12).

This Proof addresses the Inspector's Main Issues, with evidence confirming the following -

Main issue 1 – Green Belt - The evidence confirms the solar farm would be inappropriate development in the Green Belt, notwithstanding recent policy changes. The proposal will have an undeniably harmful effect on Green Belt openness by virtue of the visual effect of the development proposal and is of a scale of development that would be impossible to hide through landscape mitigation. Furthermore, the proposal will also affect the remaining ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way, failing to meet the requirements of the Framework. Substantial weight should be given to Green Belt harm. The appeal site is not grey belt because the application of policies relating to designated heritage assets provide a strong reason for refusing its development. Even were the Inspector to hold that the appeal site is grey belt, it does not automatically follow that development proposals should be approved in all circumstances.

Main issue 2 – Heritage – The Parish's evidence is set out in the accompanying Heritage Proof of Evidence (CD13.7) which concludes that the harmful impact on the historic environment resulting from the proposed development is likely to be 'less than substantial', with harm to individual heritage assets extending to the very upper end of that scale. Collectively, the impact on the historic environment as a whole is considerable to the point of being unacceptable, with the greatest level of harm being caused to the setting, and thereby significance, of a rare and highly designated class of medieval scheduled monument. This less than substantial harm is not considered to be outweighed by the public benefits of the proposal. Great weight should be given to the conservation of heritage assets, with the more important the asset, the greater the weight that should be given. The conflict of the proposal against the Framework policies relating to designated heritage assets and non-designated heritage assets provide a strong reason for refusing or restricting the appeal development.

Main issue 3 – Character and Appearance - The evidence, including the Parish's own visualisations (CD9.11 and 9.12) confirm that the impact on the character and appearance of the area will be substantial, and will have a particularly harmful effect upon users of the public rights of way. The scale of the development and the topography means that it will not be possible to screen the development, only soften its impact, and the harm will endure throughout the lifetime of the development.

Main issue 4 – Best and Most Versatile Agricultural Land – The Appellant’s evidence confirms the appeal site is over 96% Grade 2 and Grade 3a agricultural land. Highest quality agricultural land is least appropriate for solar proposals and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. The Parish Council considers the loss of BMV attracts material weight which weighs against this appeal in the final planning balance. The Appellant has not provided, as required, sufficient evidence for the selection of BMV for the appeal proposal.

This Proof of Evidence confirms that the appeal proposal would not be 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 Framework, which indicate the proposal should be determined other than in accordance with the development plan.

The Parish Council consider the renewable energy benefits are not unique to this appeal site and could be accrued elsewhere on a similar sized site or a series of sites. The identified harm will endure for 40 years, a considerable period. In the balancing exercise, to weigh whether any harm by reason of inappropriateness, and any other harm, it is not considered would be clearly outweighed by other considerations including the nature and extent of any benefits of the proposal including the wider environmental benefits associated with increased production of energy from renewable sources.

Fillongley Parish Council respectfully request the Inspector to dismiss the appeal.

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 This proof is accompanied by the 'Heritage Proof of Evidence' prepared by Keystone Heritage (CD13.7), and the 'Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited (CD9.11 and 9.12). These documents, alongside this proof and the Statement of Case (CD9.9), form the Parish Council's comments in respect of the appeal.
- 1.3 This proof has been prepared by Gail Collins, a Director at the Tyler Parkes Partnership Ltd and a Chartered Member of the Royal Town Planning Institute, with considerable experience in development management and planning policy.
- 1.4 The Parish Council first instructed Gail Collins to represent them in this appeal under the Hearing procedure in September 2024. The appeal site and its environs were first visited in October 2024, on a dry sunny day, with good visibility. It was clear from that site visit that the Appellant's submitted visualisations were not fully representative of the likely impact of the appeal proposal and therefore the Parish Council was advised to commission the aforementioned further visualisations. In addition, the Parish Council was also advised to appoint a heritage consultant to advise on heritage impact.
- 1.5 The Parish Council submitted 2no. detailed Statements (on planning matters and heritage respectively) to the Inspectorate on 19th November 2024 at the time the appeal remained to be heard under the Hearing procedure. With the change to Inquiry procedure, the Parish Council successfully applied for Rule 6 Status, and these statements were resubmitted to the Inspectorate on 3rd January 2024. Gail Collins, Catherine Tuck of Keystone Heritage and Heather Badham of the Parish Council attended the Case Management Conference on 7th January 2025.
- 1.6 This Proof of Evidence builds on the Parish's 'Planning' Statement of Case, updating it in light of changes in national planning policy and practice guidance and changes to the development plan.
- 1.7 It addresses the following issues, considering the revised Framework, and the Appellant's position:
 - 1) Whether the proposed development would not be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - 2) Likely effects upon the significance of various heritage assets. – this is dealt with in the separate Proof of Evidence of Catherine Tuck (CD13.7).
 - 3) Likely effects upon the character and appearance of the area having regard to landscape and visual effects – including public viewpoints and effects upon users of public rights of way.

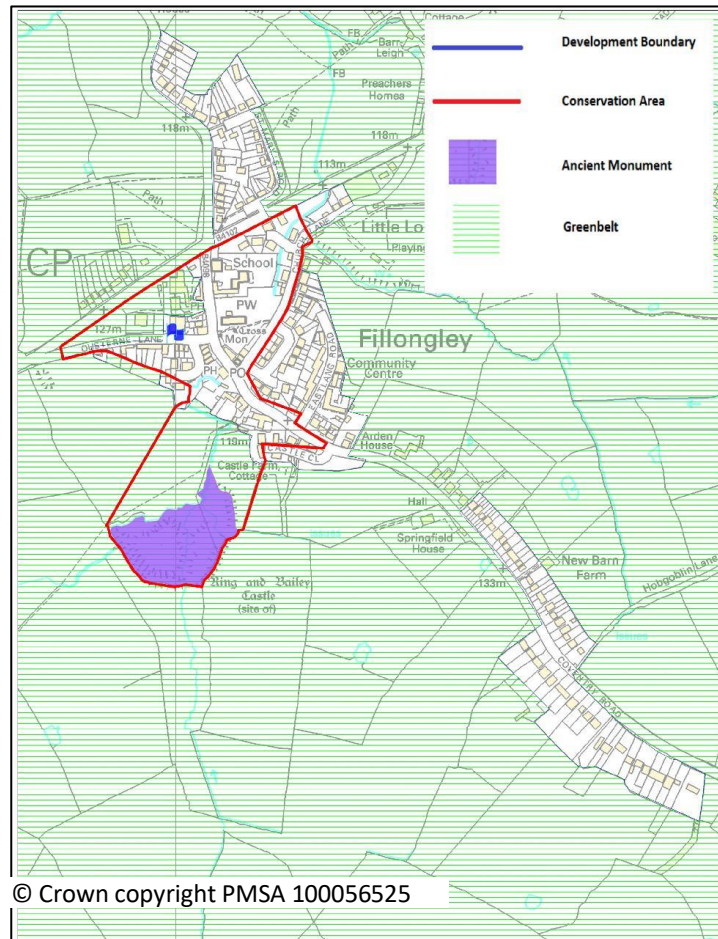
4) The weight to be attached to effects upon Best and Most Versatile [agricultural] Land.

- 1.8 Other matters may include flooding and drainage. The Parish Council agree that it is possible to mitigate/ engineer solutions to the flooding impact would not solely provide a sound basis to dismiss the appeal.
- 1.9 The evidence for the main issues will lead to a balancing exercise, to weigh whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations including the nature and extent of any benefits of the proposal including the wider environmental benefits associated with increased production of energy from renewable sources.

2. Background – Fillongley, the appeal site and relevant policies

- 2.1 This section builds on rather than duplicates the originally Submitted Statement by Fillongley Parish Council (CD9.9) and does not replicate points agreed in the Main Statement of Common Ground (CD12.2).
- 2.2 The Parish of Fillongley covers a large geographical area and is made up of the village at its core and numerous hamlets deriving from the farming history of the Parish, which is still very much in evidence today.
- 2.3 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 heart of the village, and that includes a number of listed buildings. In addition, the Conservation Area includes Fillongley Castle which is a Scheduled 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 of Case references this incorrectly as being some 2kms from the appeal site, however this has been corrected in the Main Statement of Common Ground (CD12.2, point 11). **Figure 1** shows the extent of the Conservation Area, the site of the Scheduled Monument, the village development boundary and the Green Belt boundary.
- 2.4 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.
- 2.5 The appeal site is crossed and encircled by a number of Public Rights of Way (PRoW) as shown on **Figure 2**.
- 2.6 The appeal site is to the south of the village towards the M6. As agreed in CD12.2, the appeal site 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.
- 2.7 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.

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



The screenshot shows a map of Warwickshire with a network of roads and paths. A large yellow star is placed in the center of the map. Red lines and markers highlight specific areas of interest, including a large red area on the left and several red dots along the roads. The map includes a scale bar at the bottom and a legend on the right side.

Legend:

- Rights of Way
- Rights of Way 1998 Definitive Map
- Rights of Way Legal Changes Post-1998
- PROW_watermark

Feature data:

- Inquire
- Disclaimer

Text:

The image is based on the 1998 Definitive Map but it is NOT the Definitive Map. It has no legal status. Do not rely on it to determine where paths exist. Paths are subject to legal change. The map was published at 1:10,000 scale. Viewing the data at a larger scale than this will not increase its

Warwickshire County Council

¹ <https://maps.warwickshire.gov.uk/rightsofway/>

Relevant Policies

- 2.9 Further to its Statement of Case, the Parish Council has progressed the Neighbourhood Plan. In addition, the Framework has been updated December 2024 and February 2025.

Fillongley Neighbourhood Plan

- 2.10 The Neighbourhood Plan (NP) is at the time of writing, at Regulation 14 stage and is now out for consultation until 16th March 2025 (CD4.3). It is therefore a material consideration of some weight in the consideration of this appeal. The Regulation 14 Neighbourhood Plan contains changes to the wording in respect of a number of policies.
- 2.11 In particular, the Parish has amended policies FNP01 'Built Environment', FNP02 'Natural Environment', FNP03 'Flooding' and FNP06 'Heritage'. All are of direct relevance to this appeal. In respect of FNP01 'Built Development', it is noted that it now includes reference to the need for development proposals to preserve the landscape, take account of landscape character and topography. The previous caveat 'where possible' is also removed from the policy.

3. Fillongley Parish Council's Objections to the Appeal Proposal

Inspector's Main Issue 1: Whether the proposed development would not be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies

Inappropriateness

- 3.1 The Parish Council consider the proposed development to be inappropriate development in the Green Belt. This is a view shared by the Borough Council. Planning policy confirms that substantial weight is given to any harm to the Green Belt, including harm to its openness, and inappropriate development should not be approved except in very special circumstances.
- 3.2 As shown in Figure 3 of the Parish Council's Statement of Case (CD9.9), some 65% of the area of the Borough is designated Green Belt, meaning that some 35% of the Borough is outside the Green Belt. The north-eastern part of the Borough of North Warwickshire lies 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**). The Borough is not highly constrained; it is not the case that in order to provide solar farms it is inevitable (or even likely) that they will have to be located in the Green Belt. There is plenty of non-Green Belt land available for this form of development.
- 3.3 As set out in the 'Coventry & Warwickshire Joint Green Belt Study' of April 2016(CD5.3), which forms part of the evidence base towards the adopted North Warwickshire Local Plan, the appeal site falls within Broad Area 10 of the Study (Figure 4 of the Parish Council's Statement of Case). 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.'*
- 3.4 The Local Plan Inspector (CD4.4) 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.'*
- 3.5 Therefore 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'.

- 3.6 It is noted that the latest Framework does not list solar farms as one of the exceptions to inappropriate development in the Green Belt (paragraph 154). Indeed, paragraph 160 confirms that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development and, in such cases, developers will need to demonstrate very special circumstances if projects are to proceed (as referenced in the Main Statement of Common Ground between the Appellant and the Parish Council – CD12.2, section 39).

Whether the appeal site is Grey Belt

- 3.7 Notwithstanding the changes to the Framework regarding grey belt and the subsequent revised Planning Practice guidance (CD6.70), the Parish Council maintains its position that the appeal proposal is inappropriate development in the Green Belt, for the following reasons –
- i) As per the Glossary to the Framework, pg. 73, 'Grey belt' excludes land where the application of policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
 - ii) Footnote 7 to the Framework confirms that the policies referred to are those in that Framework (rather than those in development plans) relating to, *inter alia*: designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75).
 - iii) As evidenced in the Parish Council's Heritage Proof of Evidence (CD13.7), the policies in the Framework that protect the referenced areas of particular importance, namely designated heritage assets provide a strong reason for refusing the development proposed in the appeal.
 - iv) The Parish Council concede that the appeal proposal does not conflict with Green Belt purpose (d), further to the revised PPG on Grey Belt and the clarification of the historic towns point.
 - v) However, in accordance with footnote 7, by definition, the appeal proposal would not utilise grey belt land and the appeal proposal is not one of the listed exceptions to inappropriate development in the Framework. Therefore the appeal proposal is inappropriate development in the Green Belt and the Appellant must 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.
 - vi) The Appellant's Statement of Case of October 2024 (CD9.1, paragraph 5.58) sets out the VSC relating to the development, referring to the detail in Santec's Planning Statement (summarised at paragraph 6.23 of that document – CD1.29)

and its addendum.

- vii) 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. However, the harm to the Green Belt is substantial and coupled with the heritage impact, landscape and visual impact, and the effect on BMV, as set out elsewhere in this Proof, it is not considered these VSC would outweigh the harm. The Parish Council considers the impact of the proposal enduring for 40 years and the fact that any adverse impacts would be (mainly) reversible when the site might be de-commissioned in 40 years, should only be given limited beneficial weight.
- viii) The Parish Council consider that other arguments put forward by the Appellant are of insufficient potency to be characterised as VSC. 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 would be considered to have moderate weight.
- ix) The Appellant's suggestion in their October 2024 Statement (CD9.1) 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 and no weight is attributed to them by the Parish Council as they would not be VSC.

- 3.8 In summary, the Parish Council consider the appeal proposal remains inappropriate development in the Green Belt, for which substantial weight should be given, and in this case, the harm to the Green Belt by reason of inappropriateness and the other harms resulting from the proposal, is not outweighed by other considerations. The harms are discussed in more detail below.

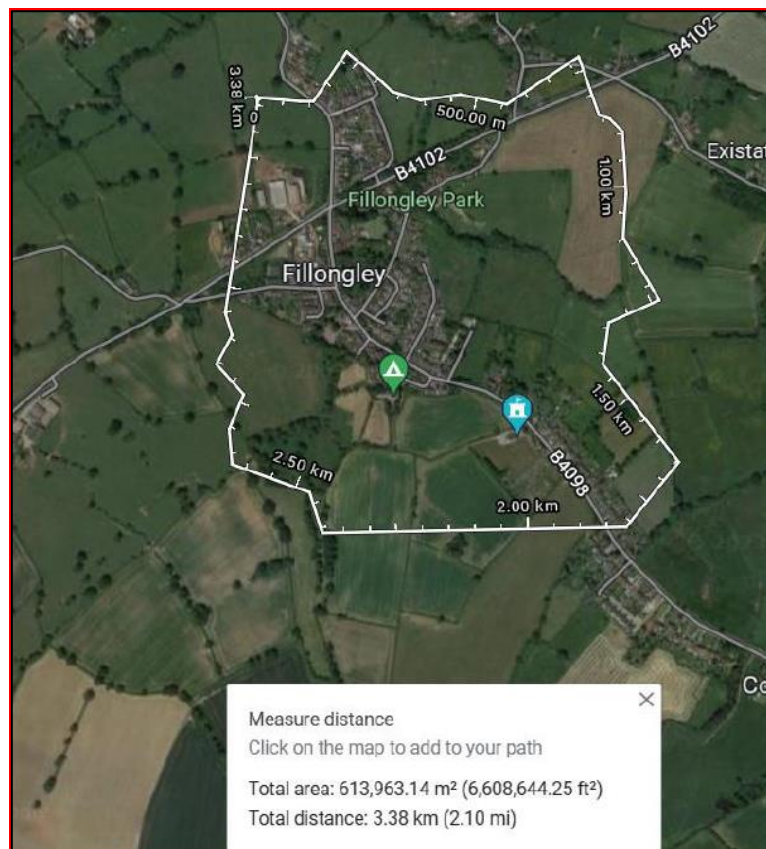
Harm to Openness

- 3.9 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 to the south of the village of Fillongley. 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; there is an undeniable harmful effect on openness by virtue of the visual effect of the development proposal and it is of a scale of development that would be impossible to hide through landscape mitigation.
- 3.10 The appeal proposal would alter the appearance of a significant area of land incorporating open and undeveloped agricultural fields, constituting a substantial harmful impact on the openness of the Green Belt that would lead to a significant urbanising effect as a direct neighbour to the village in the open countryside on otherwise open fields. As agreed in CD12.2 between the Parish and the Appellant under section (11) the appeal site is characterised by its agricultural use, its absence of

buildings, structures and above ground infrastructure. The absence of any built form is also confirmed as characteristic of the fields adjacent to the appeal site.

- 3.11 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 characteristically 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 which is reproduced here (**Figure 3**). It demonstrates how the scale of the appeal proposal would dominate the village. The appeal site 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 Local Plan 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.
- 3.12 As set out in revised Planning Practice Guidance (CD6.70), 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.

Figure 3: 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



- 3.13 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 significant 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.
- 3.14 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, CD1.36) – see extract **Figure 4** below. The Parish

Council's visualisations are also in the autumn, whereas the Appellant's photomontages are exclusively when all the trees and hedgerows are in leaf.

Figure 4: Extract from Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited, November 2024 (CD9.11 and 9.12)



- 3.15 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).
- 3.16 Furthermore, as demonstrated in these photomontages, the proposed new hedging running alongside 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 with CCTV posts and hedging or would be enclosed by fences with CCTV posts 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.
- 3.17 The impact of the appeal proposal on the visual amenity of users of the public rights of way is explored in more detail in the commentary on 'Landscape and Visual Impact'.
- 3.18 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 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.

- 3.19 The Parish Council consider the harm to the Green Belt to be substantial because of the physical extent of the proposal and its substantial harmful impact on openness. Contrary to the Appellant's Assessment concluding 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 Appellant's own visualisations and the Parish's accompanying photomontages. This harm will endure for 40 years. 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.

Effect on the purposes of Green Belt

- 3.20 The next step after considering inappropriateness and harm to openness, is the effect of the proposal on the purposes of the Green Belt. If the Inspector considers that the appeal site could be defined as grey belt land, the Parish Council consider the proposal remains to be determined as inappropriate development as it would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
- 3.21 Interpreting paragraph 155(a), the recent guidance (CD6.70) confirms there should be a consideration whether, or the extent to which, the development of Green Belt land would affect the remaining ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way. No caselaw has clarified the exact way in which one ought to approach this matter. Further, it is noted that there is a difference between the words of the Framework and the guidance; in the opinion of the Parish Council, the former ought to take priority as it has been subject of consultation and formally adopted by the government and therefore enjoys a higher status. Notwithstanding that, the Parish Council consider 'meaningful' as synonymous with 'material', which does not mean that a proposed development has to impact on an entire area of Green Belt as obviously no development can do that, unless it is of a considerable extent; this cannot possibly have been considered the intention of the policy maker. Absent any caselaw, the Inspector is invited to approach the matter in the broad way suggested here. The strict or overly literal approach, which is anticipated will be urged on the Inspector by the Appellant, would distort the real purpose of this element of the policy.
- 3.22 As set out above, the appeal site falls within Broad Area 10 set out in the 'Coventry & Warwickshire Joint Green Belt Study' of April 2016 (CD5.3). The Study found that Broad Area 10 makes a considerable contribution to all of the Green Belt purposes.:
- 3.23 In respect of Green Belt purpose (a) of paragraph 153, the Joint Green Belt Study found that Broad Area 10 checks the sprawl of Nuneaton and Bedworth, Kingsbury and

Piccadilly, Coventry, Coleshill, Fillongley, Old Arley, New Arley, Hurley and Shustoke. It is of course adjacent to the built-up areas of Birmingham, Solihull, Coventry, Nuneaton and Bedworth. Notwithstanding that, given the interpretation in the Planning Practice Guidance (CD6.70) the appeal site itself is not considered close enough to those built-up areas such that its development would lead to 'sprawl' to conclude that it makes a strong contribution to Green Belt purpose (a).

- 3.24 In terms of purpose (b), to prevent neighbouring towns merging into one another, it is noted that the appeal site forms a significant part of the gap between these adjacent large urban areas. The M6 motorway forms the most important road link between Birmingham/Solihull and Coventry. The appeal site would be visible to many thousands of motorway users having a substantial urbanising effect on this gap. The development of the appeal site will inevitably weaken/ compromise the strategic contribution of the area as a whole and could set an unwanted precedent for further development on this part of the Green Belt. For these reasons the adverse effect on purpose (b) would be substantial.
- 3.25 There would be clear substantial adverse conflict of the proposal with Green Belt purpose (c), namely, to assist in safeguarding the countryside from encroachment. All parties agree that purpose (c) is offended, and the Parish Council consider the appeal proposal fundamentally undermines this purpose of Green Belt across the area of the plan. It will introduce built development where there is none and will set an unwanted precedent for the development of the remainder of the parcel of open agricultural to the south of Fillongley and further afield.
- 3.26 In terms of the appeal proposal fundamentally undermining purpose (d) of Green Belt, the latest Guidance confirms that this purpose relates to historic towns, not historic villages, and therefore, whilst the Parish Council are of the strong opinion that the appeal site strongly contributes to the setting and special character of the historic village of Fillongley (and detracts from the setting of its heritage assets) – a matter addressed in the Heritage Proof of Evidence (CD13.7) – it is conceded that upon a straightforward reading of the Framework this Green Belt purpose is not offended.
- 3.27 Finally, the Parish Council consider that the appeal proposal also conflicts with Green Belt purpose (e), namely the Green Belt's role in assisting in urban regeneration by encouraging the recycling of derelict and other urban land. The Appellant has provided no substantive evidence that derelict and other urban sites were considered for the appeal proposal and/ or the reason why such sites were discounted. The Appellant has provided no indication of the site selection process, the extent of the area of search etc; there has been no demonstration that the appeal proposal could not have been located on a less sensitive site, including sites in the nearby conurbation. In failing to undertake that exercise, the potential for regenerating derelict and other land has not been satisfactorily explored or demonstrated to not be an option. To permit the appeal proposal on a greenfield site in the absence of that exercise has the consequence that in this case, the proposal has not assisted in urban regeneration and in general, sets an unwanted precedent for permitting solar farms exclusively on greenfield and also Green Belt sites.

- 3.28 In summary, the Parish Council consider the appeal proposal fundamentally undermines the purposes, taken together, of the remaining Green Belt across the area of the plan.

Summary under Main Issue 1 – Green Belt

- 3.29 The Parish Council consider the proposed development to be inappropriate development in the Green Belt. This is a view shared by the Borough Council. Planning policy requires that substantial weight is given to any harm to the Green Belt, including harm to its openness. Solar farms are not listed as an exception to inappropriate development in the Green Belt.
- 3.30 The appeal site is not grey belt land because the application of policies relating to designated heritage assets provide a strong reason for refusing its development, as set out in the accompanying Parish Council's Heritage Proof of Evidence (CD13.7).
- 3.31 The appeal proposal will have an undeniable harmful effect on openness by virtue of its visual effect and the scale of development that would be impossible to hide through landscape mitigation. 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. This is demonstrated in the visualisations provided in the appeal.
- 3.32 If the Inspector considers the site could be defined as grey belt, the Parish Council consider the proposal remains to be determined as inappropriate development as it would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. This includes Purpose (b) to prevent neighbouring towns merging into one another, through inevitably compromising the strategic contribution of the area as a whole between Birmingham and Coventry, setting an unwanted precedent for its development; Purpose (c) to assist in safeguarding the countryside from encroachment, against which there is a substantial adverse conflict with all parties agreeing that this purpose is offended; and Purpose (e) – where the development of this greenfield Green Belt site, in the absence of any demonstrative exploration and discounting of derelict and other urban land, fails to assist in urban regeneration.
- 3.33 Assessing the case against the policies of the development plan in this regard, there is conflict with Policy LP3 'Green Belt' of the adopted Local Plan which is considered consistent with national planning policy and guidance in respect of inappropriate development in the Green Belt.

Inspector's Main Issue 2: Likely effects upon the significance of the various heritage assets

- 3.34 Issue 2 is largely dealt with in the Proof of Evidence of Catherine Tuck of Keystone Heritage (CD13.7).
- 3.35 By way of summary, the Heritage evidence confirms that an assessment of the appeal site and relevant heritage assets has been carried out as a desk-based exercise and during site visit. This found that the harmful impact on the historic environment resulting from the proposed development is likely to be 'less than substantial' in NPPF terms, with harm to individual heritage assets extending to the very upper end of that scale.
- 3.36 While this magnitude of harmful effect is not substantial in regard to any single heritage asset, collectively the impact on the historic environment as a whole is considerable to the point of being unacceptable, with the greatest level of harm being caused to the setting, and thereby significance, of a rare and highly designated class of medieval scheduled monument.
- 3.37 While the public benefits of reduced carbon production are well known, these potential benefits must be weighed in the planning balance against any harm to the historic environment. The NPPF requires 'great weight' to be given to the conservation of heritage assets - the more important the asset, the greater that weight should be. No evaluation of other viable sites that could accommodate the proposed solar farm development was included in the planning application. As such, it cannot be concluded that the same public benefits cannot be achieved elsewhere whilst avoiding the long term, and in some cases irreversible, impact on a surviving area of historic palimpsest countryside at the heart of the Ancient Arden landscape.
- 3.38 The conflict of the proposal against the Framework policies relating to designated and non-designated heritage assets provides a strong reason for refusing or restricting the appeal development.

Inspector's Main Issue 3: Likely effects upon the character and appearance of the area having regard to landscape and visual effects and effects upon users of the public rights of way

- 3.39 Paragraph 187 of the Framework 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 Framework paragraph 187(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, Framework 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, and the Regulation 14

updates to these policies (CD4.3)

- 3.40 The North Warwickshire Landscape Character Assessment and Capacity Study Final Report August 2010 (CD5.7) 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.
- 3.41 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 (CD2.2) 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. This is carried through into the policies of the development plan. The appeal proposal would appear out of place in this rural landscape.
- 3.42 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. Furthermore, this caveat is deleted in the Regulation 14 Plan. Whilst the appeal proposal meets some of the listed 'considerations' e.g. increasing biodiversity (which is of course now a mandatory requirement) and interconnectivity of wildlife corridors through hedge planting, the Parish consider that the appeal proposal fails to enhance the affected Public Rights of Way by introducing unsympathetic built form in an otherwise rural environment.
- 3.43 The Appellant's Statement (CD9.1) 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. It is also the case that users of the national motorway network would observe the site thus emphasising an impact of wider than local proportions.

- 3.44 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.
- 3.45 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.
- 3.46 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. The proposed development will appear as a utilitarian, discordant feature that results in significant harm to the visual amenity of the area. Whilst 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.
- 3.47 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 had 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 of CD1.36) on this path, but this is set some way back from the road behind a field hedge with trees partly framing the view.
- 3.48 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. These visualisations help to fill the hole in the evidence base provided by the Appellant and, it is hoped, will assist in the Inspector's determination of the matter. 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.

- 3.49 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.
- 3.50 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 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.
- 3.51 The fact that the Appellant has not identified any significant detrimental effects from any of the viewpoints after Year 5 greatly underplays this impact. Experientially the proposed panels, hedges and fences would enclose the openness of views which is intrinsic to the landscape's character.
- 3.52 The significant impact on the landscape and visual amenity should be afforded great weight in the planning balance. 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, and the Parish consider the 'temporary period' of 40 years is in effect half a lifetime, taking the development of the site until at least 2065. The Inspector in the South Cambridgeshire appeal (CD7.81) 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. In the Uttlesford District Council appeal (CD7.82), which involved an 80ha site for a solar farm for 40 years, the Inspector, in addressing character and appearance, considered that:
- "This would be highly contrasting industrial infrastructure that would be present for an extended period of around 40 years. This extended chronological span, together with the scale and size of the proposal, would be perceived as permanent rather than temporary features within the landscape. Whilst there is the potential to use planting to mitigate some of the impact, this would take time to establish and would not completely screen the site from public vantage points."*
- 3.53 There are clear similarities to the current appeal proposal; the landscape harm will

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, CD7.85). 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, CD7.85).

- 3.54 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 to reflect that described in the listed landscape character assessments and guidelines. Policy LP30 states that proposals should ensure they are well related to each other and harmonise with both the immediate and wider surroundings; make use of and enhance views into and out of sites (both inside and outside of sites); and reflect, *inter alia*, the landscape of the area. Policy LP35 requires renewable energy projects to respect the capacity and sensitivity of the landscape. 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 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. The Regulation 14 Neighbourhood Plan tightens up this wording. None of these development plan 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.

Inspector's Main Issue 4: The weight to be attached to the effects upon Best and Most Versatile [agricultural] Land

- 3.55 The Parish Council considers the loss of 'Best and Most Versatile' BMV agricultural land (BMV) attracts material weight which weighs against this appeal in the planning balance.
- 3.56 It is agreed by all parties that the appeal site constitutes BMV; in fact, the previous advice from the Appellant that the site is 95% BMV is now superseded by a more recent report (CD1.49) The appeal site is in fact 96.23% BMV, comprising 33.6% Grade 2 land and 64.6% Grade 3a land. Non BMV accounts for just 3.8% of the site and comprises 1.9% Grade 3b and 1.8% non-agricultural land.
- 3.57 This provides a striking difference with the other solar planning permissions granted by the Borough Council. Most of those sites contain either no BMV, or at most, a minority of the site being BMV. Some solar sites have also been approved in the northern part of the Borough outside of the Green Belt and contain no BMV. The appeal site is unusual in that it is located within the Green Belt and the overwhelming majority of it is BMV.

- 3.58 The following solar farm schemes have been approved in North Warwickshire since 2013 (**Table 1**), which is 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 (CD1.6).

Table 1: 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 2: 0ha Grade 3a: 0Ha No BMV	No
PAP/2021/0651	Land North of Park Lane Farm, Astley	Granted: July 2022	Solar farm and battery storage	39.6Ha	Grade 2: 2ha Grade 3a: 9Ha 22.7% BMV	Yes
PAP/2021/0605	Land at Smorrall Lane, Astley	Granted: July 2022	Agricultural building, solar farm, and battery storage	21.5Ha	Grade 2: 0ha Grade 3a: 9Ha 41.9% BMV	Yes
PAP/2022/0544	Land 550 Metres East of Vauls Farm, Astley	Granted: 19 th July 2023	Solar Farm	28ha	Grade 2: 0.91ha Grade 3a: 3.31Ha 15.1% BMV	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 BMV	No
			Site Total	105.1Ha	24.22Ha, comprising Grade 1: 0Ha Grade 2: 2.91ha Grade 3a: 21.31Ha	-
			% BMV Total:	23.04%		

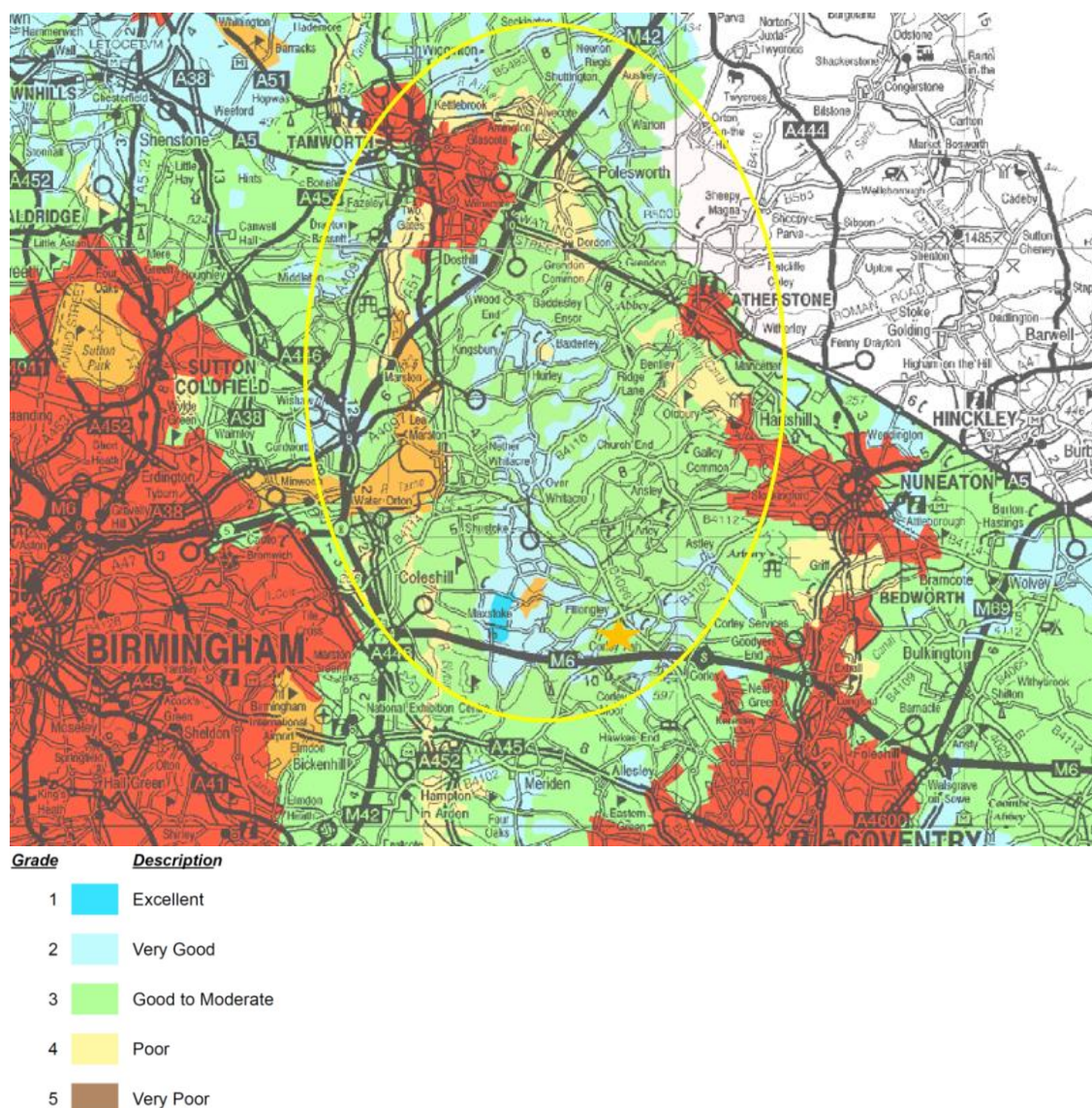
- 3.59 This table somewhat contradicts the Appellant's statement (Santec Planning Support Statement, Addendum, November 2023, pg. 3 – CD1.30) regarding agricultural land quality in North Warwickshire:

"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."

- 3.60 Furthermore, the Agricultural Land Classification map West Midlands Region (ALC004) 2011 (CD5.14) confirms that in the Borough there are areas of lesser soil quality

(Figure 5). This plan also demonstrates that the proximity of the appeal site to the neighbouring urban areas and hence the undocumented potential for using urban land and buildings.

Figure 5: Extract from Extract from Agricultural Land Classification map West Midlands Region (ALC004) 2011; North Warwickshire Borough area (approx.) circled in yellow and appeal site location (approx.) marked by orange star



- 3.61 The fact that the appeal site is almost exclusively BMV is a material consideration supporting dismissal of the appeal and carries weight in the decision for the following reasons. The Appellant underestimates the weight which ought to be afforded to this material harm in the final planning balance.
- 3.62 The Officer report to the Borough Council's Planning Board on 4th March 2024 (CD2.2) rightly confirmed at paragraph 4.62 that substantial weight should be given to the use of

BMV in the 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 were unavailable, as well as the extent of the area of search undertaken in relation to the proposed point of connection.

- 3.63 Whilst it is accepted that there is no requirement to undertake a sequential approach to site selection and national planning policy does not prevent the use of BMV, it does require justification for the use of higher quality land to be provided. The Parish Council consider the Appellant's evidence of site selection 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.
- 3.64 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, e.g. 2.10.31 of EN-3 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*'.
- 3.65 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 countryside, 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.
- 3.66 Ministerial Statements, National Planning Policy and other government documents referenced in the Statements of Common Ground agreed between the Appellant the Parish Council confirm that the use of land for food production is a consideration in the assessment of proposals for solar development. Food security is becoming increasingly important for the UK; whilst there is no current food security 'problem', the Government is consulting on its 'Land Use' document (CD6.66), which it proposes will create a toolkit to support decision making and inform discussion on how the UK can guarantee its long-term food security, how it can support development and how it can achieve its targets on nature and climate that deliver multiple benefits and supports economic growth. Under 'Principles; Taking a spatial approach' the Land Use consultation advises that suitable locations for clean power generation are restricted by the capacity of the electricity grid and should take account of the potential of land for food production:

“Playing to the strengths of the land: Support and spatially target land use change to locations where benefits are greater and trade-offs are lower. Give priority to land uses that are more scarce or spatially sensitive (for example grid capacity places restrictions on new renewable generation sites or protecting land that is best suited for food production).” (‘Principle 3’, page 18, CD6.66)

- 3.67 The Government, and of course the Parish Council, appreciate that all development is to some extent a ‘trade off’ of competing demands but in the case of the appeal proposal, it is not considered that the Appellant has adequately demonstrated why the development of the appeal site, representing a significant development of higher quality agricultural land is necessary. Whilst the ‘Land Use’ document is still at consultation stage, it does of course show the direction of Government policy on this issue and reinforces existing government policy, as follows (all underlining is author’s emphasis)
- i) The 15 May 2024 Ministerial Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land (CD6.58) confirmed that “...applicants should, where possible, utilise suitable 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.” NPS EN-3 repeats these requirements.
 - ii) NPS EN-1 states at 5.11.12 that Applicants should seek to minimise impacts on the best and most versatile agricultural land and preferably use land in areas of poorer quality At 5.11.34 “*The Secretary of State should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. Where schemes are to be sited on best and most versatile agricultural land the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality*”.
 - iii) Powering Up Britain: Energy Security Plan (CD6.21) clarified that while “solar and farming can be complementary” developers must also have “consideration for ongoing food production.” The Statement confirmed that due weight needs to be given to the proposed use of BMV when considering whether planning consent should be granted for solar developments.
- 3.68 It is notable that under the current Government, in late July 2024 (CD6.73), the Parliamentary Under-Secretary of State for Energy when asked specifically about whether the Written Ministerial Statement of May 2024 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 Framework). In summary therefore, there remains an onus on developers of solar farms on higher quality agricultural land to show why its use is necessary.
- 3.69 It is acknowledged the revised Framework has amended the former footnote 62 with revised footnote 65 which states 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.' With the appeal site comprising nearly 100% BMV, the Appellant has not demonstrated why areas of poorer quality land could not be used for the proposal.

- 3.70 In a 2014 S78 appeal, the Inspector succinctly explained the need to demonstrate that the agricultural use of land is necessary for a proposal as follows (which, although somewhat dated, is reflective of current planning policy in this regard):

"The Sequential test. The first question to ask is whether the use of agricultural land is necessary. This exercise should demonstrate that no suitable brownfield land or non agricultural land is available within a reasonable search area... ..there is no policy guidance which advocates restricting searches to within a local authority's administrative area... Even if the use of agricultural land were considered to be necessary, the Appellant has not demonstrated that poorer agricultural land has been chosen in preference to higher quality land... Whilst the sequential test must be proportionate, no good reasons have been advanced to show why it could not involve a robust desk based assessment supported by surveys of selected sites within a realistic area of search. Simply surveying one site is wholly inadequate." (CD7.83)

- 3.71 A summer 2024 appeal in the Forest of Dean also has parallels with the current appeal (CD7.84). The case similarly proposed a 49.9 MW solar farm on a site comprising just under 80% BMV. In that case, the Inspector acknowledged that apart from the area covered by the substation, the remainder of the BMV agricultural land would not be permanently lost through the development of the site, and he was satisfied that the proposal would be unlikely to have a negative effect on the agricultural land use classification of the appeal site. However, the Inspector was clear that whilst national or local (in that case) planning policies do not prevent the use of BMV land for solar schemes, they do however require justification to be provided. In that case, the Appellant's Environment Statement did look at other site options, and the Inspector did appreciate that proximity to a grid connection is an important criterion when assessing the suitability of sites for development such as that proposed, however limited evidence had been provided to indicate that a greater distance from the connection would make a scheme unsuitable or unviable. In terms of assessing sites with a lower agricultural land value, the Council itself produced an overview of the District's Grade 4 and 5 agricultural land but the Appellant did not assess such sites for their suitability. Instead, the evidence submitted focussed on a smaller area and the Inspector was not satisfied that the Appellant had demonstrated there was no suitable land of a lesser land value than would be suitable.
- 3.72 In addition, in that appeal, the Appellant, whilst highlighting that preference for previously developed land was a factor in identifying optimum locations for solar photovoltaic development, no substantive evidence was provided in this regard, despite the Appellant advising that potential non-agricultural, urban and previously developed land (or 'brownfield land') was identified and considered but was found to be unsuitable. In concluding in that case that there were clear 'other benefits' in providing a renewable energy scheme which attract significant weight, the Inspector held that such benefits

were not unique to that site and could be accrued elsewhere on a similar sized scheme which does not use BMV land or such a large area of BMV land.

- 3.73 The Inspector also referenced the Thaxted decision (CD7.38) where the amount of BMV land used was also high (85%) and the Inspector in that case found that the climate change emergency, the Framework and statements amounted to compelling evidence which justified the use of BMV. However, in that case, an alternative site assessment was before the Inspector, covering a seemingly larger area, no lower quality agricultural land was identified, and the decision was issued before the publication of the WMS of May 2024, so the additional emphasis that this included on the use of BMV land for solar development was not considered.
- 3.74 The increasingly greater emphasis on food security was also a factor in the appeal for a solar farm on land north of Lullington, Swadlincote (CD7.79). In that case, 49% / 34Ha of BMV land was involved, for a proposal for a temporary period of 40 years. The Inspector acknowledged that the main issues for food security identified by the Government are climate change and soil degradation, which were considered only served to emphasise the importance of maintaining higher quality agricultural land in food production. 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).
- 3.75 That case was subject to a High Court challenge on 2 grounds, each relating to the Inspector's approach to the assessment of what other BMV was available in other locations appropriately close to national grid lines and substations for connection purposes. In dismissing the challenge, His Honour Judge Jarman KC held that (paragraph 40, CD7.86):
- '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.'*
- 3.76 All parties acknowledge that the appeal proposal would limit the agricultural uses to which the land could be put, with points G and H of the SOCG on agricultural matters between the Appellant and the Parish Council (CD12.8) agreeing that arable farming operations using conventional farming machinery will not be possible with the solar PV arrays in place and the land under and around the arrays could be used for the grazing of small livestock such as sheep. It is clear that the land would certainly not be able to be put to its optimum use for 40 years. It is presumed that there is no history of sheep rearing on the appeal site. Traditionally the fields have been used for crops and there is no evidence that livestock rearing will be undertaken if the appeal is allowed. Sheep can of course be grazed on land of more inferior quality – the Parish Council consider it would be a waste of BMV for this land to be used for this sub-optimum purpose for 40 years. 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 and 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.

- 3.77 In summary, it appears that the appeal proposal has been largely driven by a willing landowner, a large site in single ownership, and the assumed 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 over 96% 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.

Other matters: Flooding and drainage

- 3.78 The Fillongley Flood Group has submitted 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.
- 3.79 In the run up to the Inquiry, the Appellant's Counsel requested that if the drainage measures that were included in the refused application, which the Appellant has sought to remove via amended plan Rev. H, are fully included in plans before the Inspector for determination, then the Parish Council will not pursue objections on the grounds of flooding nor call any flooding witnesses. These drainage measures are set out in the 'with ponds' 'Landscape Strategy Plan (CD1.20) and include 3no. basins ponds and additional landscaping on the appeal site.
- 3.80 The Inspector is therefore respectfully requested to determine the plan refused by the Borough Council.

Biodiversity

- 3.81 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 limited weight in the planning balance.

Economic Implications

- 3.82 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.

Renewable Energy Proposals in the context of sustainable development and climate change

- 3.83 Further to the refusal of the planning application subject of this appeal, it is accepted that Government policy has reemphasised the importance of a low carbon future and that policy emphasis has clearly been instrumental in the approval of a number of planning appeals regarding renewable energy development. 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 substantial weight in the planning balance. This is considered to constitute Very Special Circumstances in favour of the appeal proposal.

4. Conclusion and Planning Balance

- 4.1 The Parish Council and the Borough Council agree that the appeal proposal is inappropriate development in the Green Belt. Solar farms are not listed in the Framework as one of the exceptions to inappropriate development, and indeed, the Framework acknowledges that elements of many renewable energy projects will comprise inappropriate development.
- 4.2 It is therefore necessary to undertake a balancing exercise, to weigh whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations including the nature and extent of any benefits of the proposal including the wider environmental benefits associated with increased production of energy from renewable sources.
- 4.3 The Parish Council consider the appeal proposal will have an undeniably harmful effect on Green Belt openness by virtue of the visual effect of the development proposal and is of a scale of development that would be impossible to hide through landscape mitigation. The proposal will lead to a significant urbanising effect as a direct neighbour to the village in the open countryside on otherwise open fields. This substantial impact on Green Belt openness will be both spatial and visual. 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.
- 4.4 The appeal proposal will also affect the remaining ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way, including purposes (b), (c) – which is accepted by the Appellant – and purpose (e). The appeal proposal will set an unwanted precedent for further inappropriate Green Belt development. The Parish Council consider the appeal proposal fails to meet the requirements of paragraph 155(a).
- 4.5 In addition, the Parish Council submit that the appeal site does not meet the definition of grey belt because the application of policies relating to designated heritage assets provide a strong reason for refusing its development, as set out in the accompanying Parish Council's Heritage Proof of Evidence (CD13.7). The Borough Council has also confirmed they consider the appeal site is not grey belt. Even were the Inspector to hold that the appeal site is grey belt, it does not automatically follow that development proposals should be approved in all circumstances.
- 4.6 Substantial weight is given to any Green Belt harm. It is therefore necessary to undertake the balancing exercise, to weigh whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations including the nature and extent of any benefits of the proposal including the wider environmental benefits associated with increased production of energy from renewable sources.
- 4.7 The Parish Council consider the appeal proposal is counter to national and local planning policies relating to heritage, landscape and visual impact, and effect on BMV.

- 4.8 As identified, 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 and to the emerging Neighbourhood Plan. 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 187b) 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.
- 4.9 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. Collectively, the impact on the historic environment as a whole is considerable to the point of being unacceptable, with the greatest level of harm being caused to the setting, and thereby significance, of a rare and highly designated class of medieval scheduled monument. This less than substantial harm is not considered to be outweighed by the public benefits of the proposal. The appeal proposal is therefore contrary to Policy LP15 of the Local Plan and Policy FNP06 of the Neighbourhood Plan.
- 4.10 Furthermore, the appeal proposal comprises over 96% Best and Most Versatile Agricultural Land. National policy, EN-1, EN-3, planning case law, and Ministerial Statements 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. The Parish Council considers the loss of BMV attracts material weight which weighs against this appeal in the final planning balance. It is considered that the Appellant has not provided, as required, 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.
- 4.11 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 decommissioned in 40 years. Whilst not considered VSC, other matters such as the economic benefits (limited weight) and biodiversity gains (moderate weight) are considered to be material.

- 4.12 However, the Parish Council consider that against the identified harms, while the other considerations advanced include some benefits, 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. The Parish Council consider the renewable energy benefits are not unique to this appeal site and could be accrued elsewhere on a similar sized site or a series of sites not using Green Belt land, BMV and/ or land the development of which will harm the settings of a number of highly designated heritage assets.
- 4.13 In view of the Parish's findings relating to Green Belt, heritage, landscape and visual impact, and the effect upon Best and Most Versatile Agricultural Land, the Framework presumption in favour of sustainable development is not engaged. The Parish Council concludes that the conflict with the development plan as a whole is not outweighed by any material considerations, and therefore the appeal should be dismissed.
- 4.14 Even were the inspector to reach a different decision on the grey belt issue, where a development is not inappropriate in the Green Belt, this does not itself require development proposals to be approved. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, wider policies and considerations apply, including those in the area's adopted Plan, and in the Framework read as a whole.
- 4.15 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. 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, adversely affecting the setting of designated heritage assets and non-designated heritage assets and on BMV. The Parish Council do not agree that recent changes to planning policy create a situation where renewable energy developments should be allowed at all costs.
- 4.16 Overall, this Proof of Evidence confirms that the appeal proposal would not be 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 Framework, which indicate the proposal should be determined other than in accordance with the development plan.
- 4.17 The Inspector is therefore respectfully requested to dismiss the appeal.