IN THE MATTER OF LAND SOUTH OF PARK HOUSE FARM, MERIDEN ROAD, FILLONGLEY

CLOSING SUBMISSIONS OF THE PARISH COUNCIL

INTRODUCTION

1. The Parish Council accepts that renewable energy is very, very important and that the government looks for once in a generation shift in approach and in the pace of delivery is required. However, it remains firmly of the view that this particular location is unsuitable and unsustainable.

ALTERNATIVE SITES AS A MATERIAL CONSIDERATION

2. The Parish Council, in a nutshell, relies upon these 3 propositions:

a) There is no evidence in respect of alternative sites;
b) The appeal development *could* be accommodated in a different part of the borough which would cause less harm;
c) This is capable of being a material consideration in the final planning balance.

3. It is common ground that a third of the borough lies outside of the GB. There is plenty of room in the borough to have solar farms without encroaching on to the GB. This is not a case where the borough is highly constrained such that it is inevitable or at least likely that GB land will have to be used. Further, it is common ground that over 96% of the appeal site is BMV. Whilst there is no requirement for a sequential test, that does not mean that the absence of alternative sites is not a material consideration. It is trite to observe that where there are clear planning objections to development upon a particular site then "it may well be relevant and indeed necessary" to consider whether there is a more appropriate site elsewhere: Trusthouse Forte Hotels Ltd v Secretary of State for the Environment (1986) 53 P & CR 293,299–300. The need to consider alternative sites will particularly arise where the proposed development, though desirable in itself, involves on the site proposed such conspicuous adverse effects that the possibility of an alternative site lacking such

drawbacks necessarily itself becomes, in the mind of a reasonable local authority, a relevant planning consideration upon the application in question: R (Jones) v North Warwickshire Borough Council [2001] 2 P LR 59, paras 22–30. This is a planning judgment for the Inspector (as was said in Opening: the Parish Council does not say that the Inspector is obliged to consider alternative sites).

4. Bramley is authority for the proposition that it was not unlawful of the Inspector to disregard alternative sites (ie there is no requirement to consider alternative sites). The appellant relies upon this case, but it does not provide an answer to the point being advanced by the Parish Council. We submit that given the borough is not highly constrained and there is obvious harm caused (not least to the character and appearance of the area given the unusual topography of the appeal site and the harm to the designated heritage assets), the Inspector can (and we say, should) identify alternative sites as a material consideration on the particular facts of this case. The appellant has been warned about this point from the outset: SB agreed in xx:

a) The issue of alternative sites and site selection formed the basis of objections to the planning application (and was raised in the R6's Appeal Statement of November 2024).
b) The appellant has had plenty of time to provide site selection evidence to justify the choice of this site if it wished to. It chose not to.

5. SB agreed in xx that post Bramley (November 2023) there are 3 Inspector decisions which were non-EIA development, within the green belt, which were accompanied by a ASA [CD7.3 para 47; CD7.34, para 78/9; CD7.34 para 78/9]. This shows that Bramley does not provide the watershed, directing that applicants do not need to bother with ASAs, which the appellant seemed to suggest during the xx of GC.

6. The Appellant has not demonstrated why the development of the appeal site, representing a significant development on higher quality agricultural land, is necessary. Whilst there is no blanket requirement, there are number of policy/guidance indicators that an ASA (in substance rather than form: the evidence does not need to be labelled an ASA) may be relevant in some cases. These include:

    a) The 15 May 2024 Ministerial Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land states: "*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*" [CD6.58].

b) NPS EN-3 states at para 2.1031: "*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*" [CD6.28].
c) NPS EN-1 states at para 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. It goes on at para 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*" [CD6.27].

7. That the appellant has not provided any evidence to show that it has considered alternative sites or explained in any meaningful way which it chose this site means that the appeal has not substantiated the preference required by EN1, EN3 and the May 2024 Ministerial Statement. The total sum of the appellant's evidence on this point can be summarised as:

a) SB's oral evidence that it considered 3 sites proposed by the site landowner;
b) A brief non-comprehensive list of locational requirement criteria within the Planning Statement – SB agreed in xx that it was incomplete as it does not include the predominant slope direction which apparently disqualified the Daw Mill Lane site [CD1.29, p.12];
c) It was with some surprise that AC stated in xx that he had considered site selection and alternative sites but he did discuss the matter with SB. Stranger still: he had chosen not to include this evidence in his proof because he was concerned that it would be disproportionate and render his proof which ran to 68 pages too lengthy (!)
d) Reference to the Self Build Register and Brownfield Register provides a useful starting point but SB agreed in xx that it provides an incomplete picture as it is limited to volunteers and may exclude potential sites which had not been promoted.

8. SB agreed in xx that he did not know what search radius had been applied, but he was clear that the extent of the search was limited by the specific grid connection point which had been chosen. That the appellant has self-limited its search is self-serving. What about the third of the borough which is non-GB (and less constrained by heritage assets and topography)? SB did not know. He did not know where the connection grid points were elsewhere in the borough. Nor had he investigated alternative sites in the two closely neighbouring authority areas of Nuneaton and Bedworth and Coventry. This illustrates how shallow and lacking in rigour is its justification. There is no objective, transparent appraisal whatsoever.

9. The appellant clouds the issue by saying that there is no requirement in the caselaw for a ASA. We have never said that there was. But given the particular sensitivities of the site (SB states that moderate weight should be afforded to the harm caused to 4 designated heritage assets), this is a case where a ASA ought to have been undertaken. The reason why it was not is obvious. The appellant knew or suspected that it would identify alternative sites which would harm its case at this inquiry. If it was confident that the ASA would not throw up any alternative sites which brought about the same benefits but with less harm, why did it not produce a ASA as is routinely done for appeals for development of this scale?

10. How does this issue feed into the final planning balance? It is submitted that as a material consideration it can be afforded some negative weight as it means that the appellant has failed to show how the preferences required by EN1 and EN3 are satisfied. If the appellant had presented evidence to show that it was unlikely that the appeal could be accommodated outside the GB or at a location which caused less harm to BMV or heritage assets, it would provide a different context in which the Inspector decides whether the extent of the harm identified was acceptable.

GREEN BELT

11. It is agreed that the appeal site qualifies as grey belt because FN7 is not engaged as the heritage objection would not represent a strong reason for refusal given that it is agreed that all of the public benefits taken together outweigh the heritage harm on its own in accordance [para 215 of the NPPF]. That said, the Parish Council contends that the appeal represents inappropriate development such that the onus lies on the appellant's shoulders to demonstrate VSC. This is because the appeal site comprises land which strongly contributes towards the purposes (c) and (e) and offends NPPF para 155(a). GC agreed in xx that if one read para 155(a) in the literal and strict way proposed by the appellant, the appeal complied with it and the appeal would therefore not be inappropriate development. Of course, that presupposes that the appellant's reading of the para is correct. For the reasons ventilated during the xx of SB, it was not. His erroneous interpretation flowed from the rigid dogma that the term "together" denoted that all 5 purposes are of equal importance (the image of 5 equally sized cups). That cannot be correct because:

    a) SB agreed that different areas of a GB may serve different purposes to a different degree. It therefore makes no sense to treat each of the 5 purposes of equal importance. Plainly, one can prioritise one over the others. Here: purpose (c) is plainly head and shoulders above the others ("the pint glass sat alongside the shot glasses"). Given that this area of the GB does not contain a historic town, it makes no sense for example to give purpose (d) equal importance and weight to purpose (c).

b) It was fatuous and contrived of SB to cleave to an arithmetic focus ("how could a development occupying less than 1% of the GB possibly be said to fundamentally undermine the remaining 99%?"). The exercise is quintessentially qualitative. SB refused to accept, as a matter of principle, that a proposal representing a small part of the GB of the borough which makes an important contribution to a key purpose was capable of fundamentally undermining the purposes taken together of the rest of the GB area. This hypothetical example underlined SB's overly rigid and dogmatic approach.

12. The PPG states [para 08 Reference ID: 64-008-20250225]:

How can the impact of releasing or development on the remaining Green Belt in the plan area be assessed?

(i) A Green Belt assessment should also consider the extent to which release or development of Green Belt land (including but not limited to grey belt land) would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area as whole.

(ii) In reaching this judgement, authorities should consider whether, or the extent to which, the release or development of Green Belt Land would affect the 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.

13. It is common ground that deciding whether para 155(a) is satisfied is a planning judgment for the Inspector. Given the nature of the test ("*fundamentally undermine…the purposes together…over the plan area*") it is a paradigm example of an evaluative judgment. As was explored in xx of SB, (i) is in substance a recital of the para 155(a) test. (ii) identifies a mandatory factor which ought to be considered when reaching an overall planning judgment about (i). It follows that even if the Inspector finds that the appeal would not affect the 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, it does not mean that the appeal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area as whole. In other words: (ii) is a factor but not necessarily the determinative factor in the overall evaluative judgment of para 155(a). If a proposal "fails" test (ii), it does not follow that it inevitably "fails" (i).

14. Turning to the facts of this case: the appeal would fundamentally undermine the purposes taken together of the remaining GB across the area of the plan [GC proof, para 3.25]. It cannot be right that a proposal needs to conflict with every purpose (or the majority of purposes). Conflict with a single purpose is capable of offending para 155 as a whole

[CD7.80, paras 9 and 11]. Here: the extent of the encroachment, under purpose (c) is particularly important. SB was wrong to observe in xx that all of the purposes are of equal importance or resonance in every case. Here, purpose (c) is plainly head and shoulders above the others. The site lies equidistant between Birmingham and Coventry within one of the narrower parts of the West Midlands GB. Constructing an industrial energy generation facility will "*punch a significant hole in the GB*" [JW xic]. The scale and location of the development (particularly given that it can be seen from the M6 connecting Birmingham and Coventry and the "amphitheatre effect") will significantly impact on how the GB performs the function of safeguarding the countryside from encroachment. Whilst JW ultimately agreed that the appeal passed the para 155 test, this was not a concession which binds the Parish Council and in any event his underlying analysis was sound (in rex it was said that the appeal has a substantial impact fundamentally undermining the purposes of a significant portion of the GB of the borough, area 10, and so it is a question of planning judgment for the Inspector whether this harm). The approach promoted during the xx of SB ought to be preferred by the Inspector rather than the literal, strict (and rigid) interpretation of the appellant. It also has the advantage of sitting comfortably with the only appeal decision where para 155 was a controversial issue between the main parties [CD7.80, paras 9 and 11]. On the other hand, if the Inspector adopts SB's approach, it is agreed that the GB test is passed.

15. In respect of purpose (e): the appellant asserts, but has not provided any evidence to demonstrate, that the appeal could not be accommodated on derelict or other urban land. The appellant's division of labour set AC the task of analysing purpose (e) rather than SB. In xx AC agreed that he provided no evidence to substantiate his assertion that purpose (e) was not offended. For the first time in xx he stated that he had in fact undertaken his own research using the local plan and confirmed that he could find no other location in the borough which would allow regeneration. I pressed him for the reason why this important evidence was not included in his proof and he said that he thought it would be disproportionate and he wanted to avoid making his proof needlessly lengthy. I asked him when he undertook this exercise and he gave a vague answer that it was sometime before he wrote his proof. He confirmed, surprisingly the Inspector might think, that he did not discuss this issue of alternative sites with SB, but he did with the developer. As I put to AC in xx: there is a huge hole in the appellant's case in respect of purpose (e). AC and SB boldly assert that the appeal would not offend purpose (e) but provides no evidence beyond the inadequate Brownfield Register extract to demonstrate it. In the absence of this evidence, the Inspector is invited to find that she cannot be satisfied that purpose (e) is not contravened.

HARM TO THE CHARACTER AND APPEARANCE OF THE AREA

16. The appeal site and its environs feels and is appreciated as a rolling, rural landscape. SO was right to say that it felt "deeply rural" notwithstanding the presence of the M6.

17. AC agreed in xx that the visualisations produced by the appellant do not accord with good practice: they use the wrong lens so as to distort and flatten the image "*to a marginal degree*" which would undermine the reliability and accuracy of these photomontages "*to a marginal degree*". It is surprising that the appellant does not rely upon the visualisations which accompanied the planning application and yet chose not to commission any further ones notwithstanding that problems with the visualisations were raised at the CMC by the Council [Cook xx]. If it were not for the Parish Council fundraising to commission visualisations from a reputable consultancy, there would be no reliable visualisations before the inquiry. Leaving aside the issue of the incorrect lens, the viewpoints selected can be criticised. The appellant has not provided any visualisations from the PROW which crosses the appeal site or from the SM [AC xx]. AC's contention in xx that he thought it was "*unnecessary*" to commission further visualisations was deeply unconvincing. The following factors provided a compelling justification for providing further visualisations:

    a) The landscaping scheme had changed;
    b) The Inspector had identified the impact on the SM as a main issue at the CMC; and
    c) The Council had raised concerns with the visualisations at the CMC (ie the incorrect lens issue).

18. If there is one feature of the site, more than any other, which illustrates its unsuitability as a location for this form of industrial energy generation development it is the unusual topography. Its undulating character with a ridge at its heart renders the appeal site highly conspicuous. The difference in levels of some 27m means that any vegetational screening is likely to have a very limited mitigating effect [GC para 2.8, p.10]. The site is and will continue to be visible from public vantage points such as the top of the church tower, Meriden Road, Coventry Road, Sandy Lane, the footpaths M294A and M294, the SM and Tippers Hill Lane. The panels, particularly at a distance, are unlikely to be seen individually but rather as a whole .

19. The appellant has sought to downplay the impact of the appeal on users of Meriden Road. AC does not appear to have considered, until confronted in xx, the effect on horse-riders. Whilst he stated that he had not seen any evidence of heavy traffic flow from horse-riders (as illustrated by the absence of faeces on the road), he agreed in xx that there are a number

of livery yards in proximity to the appeal site including the Fillongley Livery Yard opposite the entrance to the appeal site.

20. The appeal will cause a dramatic loss of openness and will have a significant urbanising effect on this attractive area of open countryside. That the footprint of the proposed industrial energy generation scheme is many times larger than the village itself is a potent indicator of the scale and incongruent nature of the proposal. Further, the appellant's expectation for how advanced the vegetational screening by year 5 seems unrealistically optimistic. On the 6th day of the inquiry, William Higgins presented photos of a hedge which had been planted 2 years ago. It is plain that it is unlikely that the hedge will be as tall and full as the appellant expects (William Higgins estimated as a general rule of thumb that hedgerow grew about 3 inches a year). The appellant has also downplayed the impact on the PROW which crosses the western part of the appeal site. Because the appellant chose not to commission any visualisations, it fell to the Parish Council to dip into coffers to fill the gap. AC conceded in xx that one's enjoyment and experience of these sensitive receptors would "*notably change*". Quite so.

21. The appeal offends FNP policies 1 and 2 together with LP14, LP30 and LP35:

a) SB agreed in xx that FNP policy 1 was offended as the appeal breached the 1st two bullets. The 3rd bullet would be offended if the Inspector accepts CT's assessment of heritage harm to the church.
b) FNP policy 2 is offended not least given that the appeal will manifestly have an adverse impact on the appearance and natural landscape of the village and fails to protect and enhance wherever possible existing definitively mapped footpaths that criss-cross the Parish.
c) The appeal offends LP30 as it does not harmonise with both the immediate setting and wider surroundings, enhance views into and out of the site both in and outside of the site or make appropriate use of landmarks and local features. The appellant asserts that it does not apply because it is focused at dwellings and buildings (by relying upon the accompanying explanatory text). That cannot be right. The text of the policy is explicit ("*built form…all development*"). That the policy will usually address buildings does not mean that it is ill-suited to solar panels.

HERITAGE IMPACT

22. Everyone now recognises that the original heritage assessment, which accompanied the planning application, was flawed as it underestimated the extent of the impact of the

proposal on designated heritage assets. Having realised that its heritage assessment could not be convincingly relied upon, the appellant went to a different expert. In fact, putting to one's side some of the disagreements about detail, the headline is that HA's overall assessment is closer to CT's than the appellant's own heritage assessment.

23. The appellant's criticisms of CT's methodology are arid and get it nowhere. First: using a matrix to display the planning judgment reached is an acceptable method consistent with HE guidance particularly when one is dealing with a number of assets [CD6.7, p.8]. Second: even if the use of a matrix can be problematic and could give rise to double-counting this difficulty does not arise here as CT was clear that she considered each impact in turn and did not mindlessly feed the inputs into the "sausage machine". The appellant relies upon a case where a heritage expert's use of a matrix was unsatisfactory [CDxxxxxxxxxxxx]. Fine. But, that does not mean that it is inappropriate to ever deploy a matrix to display the planning judgments reached. The Inspector was not offering a broad sweeping denunciation of matrices. She was critical of the particular way the Council's expert, in that case, arrived at his conclusions.

Scheduled Monument Ringworks – Castle Yard

24. It is common ground [HA xx]:

a) It is a rare breed of medieval monument: there are only about 200 in the UK and only one other in the county.
b) Its location was chosen, in part at least, by its proximity to the 2 streams which helped to fill the ditches alongside it.
c) Whilst there is no formal public access on the southern portion of the SM, there is longstanding informal access. The Inspector will have noticed on the site visit that there is a well-trodden path and a lady was jogging along it with her dog. The extent of this longstanding informal public use is evidenced by the email appended to the Note on Ownership and Accessibility which sets out the views of the County Council footpath officer following a site visit on 28 February 2025 [ID.14]. For many years, the site is leased by the Girl Guide Association who camp on the castle fields and use the SM for many activities.

25. This particular SM derives much of its historic understanding from the fields to the south including the appeal site. It is disappointing and surprising that notwithstanding that the impact on the SM was identified as a main issue at the CMC, the appellant has chosen not

to produce any photomontage from the SM to help the Inspector forecast the likely extent of views and impact. In xx AC said that this omission was not an oversight. It was deliberate as he considered that further visualisations were "*unnecessary*" [xx]. That is unsustainable. It was plainly a tactical device: the appellant knew or suspected that such a photomontage would reflect poorly on the scheme and so did not produce it (loathed, one imagines, to produce evidence which could be used against it). The appellant relies upon the existing vegetation on the southern edge of the SM as screening views, to a very large degree, of the appeal site. The Inspector will have seen on her site visit that the appellant's characterisation is overly optimistic. Further: it is unsafe for the Inspector to assume the level and coverage of vegetational screening, as exists today, persisting for the lifetime of the development. If it is feared that the roots of the vegetation are interfering with the ruins, the owner may be encouraged to remove the vegetation [AC xx].

26. If the appeal is allowed, the solar panels will help to mask the attractive agrarian landscape and harm the undeveloped and open land which provides such an attractive setting for its appreciation. HA is wrong to say that the only harm caused by the appeal is confined to field 5. The Inspector is invited to find that the appeal will cause harm at the upper end of LSH.

Fillongley CA and St Marys and All Saints Church

27. It is common ground that the appeal site falls within its setting and the statutory duty is engaged [HA xx].

28. The CA and the church derive much of their significance from the attractive agrarian landscape which includes the appeal site. HA agreed in xx that historically the church is likely to have had a strong social and cultural relationship with the agrarian fields surrounding. It is common ground that given the antiquity of the CA document one cannot deduce that the absence of any discussion or analysis of setting or views to/from the fields around the village means that the setting makes little contribution to the significance of the asset [HA xx]. CT explained how there is a strong cultural and historic relationship between the church and the rural parish. The church tower can be seen from the fields to its south. There is a stark contrast between the open, undeveloped quality of the setting of the village to its south and the inward-facing and more insular village. This contrast and sense of arrival contributes to how one understands and appreciates the CA and the church. HA was wrong to conclude that the only contribution which the appeal site makes to the significance of the CA is how it allows one to understand the SM [her proof para 4.43]. That is a blinkered and artificially narrow conception. If HA is right it means that absent the contribution to the SM, the appeal site makes no contribution to how one experiences

the CA [HA xx]. That cannot be right. HE guidance tells us: "*Heritage assets can gain significance from their relationship with their setting whilst views from within or outside an area form an important way in which its significance is experienced and appreciated…perhaps by providing approaches along historic routes or visual connections between different areas that illustrate an important historic relationship, such as between a village and its surrounding agricultural landscape*" [CD6.75, para 58]. So it is here.

29. We now know, thanks to the photos submitted by Jack Simmons, that there are very clear views of the appeal site from the tower of the church. HA has understated the importance of the tower. Outward views of the tower are likely to have been important in Medieval times (church bells being chimed to warn the parish of an impending danger was the example which confronted HA in xx).

30. If the appeal is allowed, one's appreciation and experience of the village as one travels north will be changed significantly. It will be a change for the worse. HA referred to guidance on "small-scale development" [her proof, para 4.115]. She was pressed repeatedly in xx to agree that the 61H industrial energy production development cannot convincingly be characterised as small scale. She considered that because the solar panels will "only" be 2.3m high the guidance may still apply. That was plainly nonsense. Nobody with eyes to see could possibly conclude that the size of the development covering 10 fields is small scale.

31. Further: the proposed landscaping mitigation (whilst helping to screen the development and giving rise to biodiversity benefits) will itself be harmful to the historic environment by (i) introducing hedges where historically there were none and (ii) transforming a historic footpath into an inappropriate canyonised "*green droveway*"

32. The Inspector is invited to find that the appeal will cause harm at the upper end of LSH.

Park House Farm, White House and Fillongley Mount

33. These listed buildings represent dispersed settlement farmsteads set in isolation within the open countryside. They are located on elevated positions and orientated towards the SE. This makes them all sensitive to the change proposed by the appeal.

34. Park House: HA agreed in xx:

a) When deciding on the extent to which the significance of an asset is affected by development within its setting, determining the principal elevation can be important.

b) Development which faces towards an asset's principal elevation could cause a greater impact than development which can only be seen from its rear or side elevation.
c) When she conducted her assessment, she mistakenly thought that the principal elevation was to the north.

35. It was surprising, in these circumstances, that she said that this change in principal elevation made no difference to her conclusion on harm. It is common ground that PH was sited and orientated deliberately to take advantage of the attractive views to the SE.

36. White House: It is common ground that the appeal site falls within its setting and the statutory duty is engaged [HA xx]. CT explained that the historic maps show that the approach of the drive deployed a choreographed "trick" which turns right in front of the house with a turning circle rather than adopting the more convenient position to the rear of PT. The Inspector will have seen on her site visit that the fields of the southern part of the appeal site are plainly visible from the asset.

37. Fillongley Mount: The front wing which was added to the property faces towards the appeal site. The property has plainly been orientated and designed (for example the presence of the turning circle to the front of the house) to take advantage of the views towards the SE. HA states in her proof that views from Fillongley Mount were restricted to the immediate pleasure ground [para 4.80, p.33], but changed her mind in xx by describing the appeal site as part of a "*borrowed landscape*".

38. If the appeal is allowed, the attractive setting provided by the appeal for these listed buildings will be noticeably and appreciably damaged.

Non-designated HAs

39. It is common ground that whether this section of the historic footpath and the remnants of the deer park are of sufficient historic interest to qualify as NDHAs is a question of planning judgment for the Inspector. There are no hard and fast rules. HA agreed in xx that these features were capable of being characterised as NDHAs, but she explained why in her view they were insufficiently worthy to be characterised as such. She also agreed that the Inspector did not need to look at the whole length of the footpath; it would be open to the Inspector to characterise a section of it as a NDHA. The current estimate of the deer park boundaries is drawn from field boundaries, place names and absence of early farmsteads. The Inspector is invited to accept CT's evidence that the sinuous or curvy boundary of the deer park makes it legible on the ground to an educated eye. Whilst the exact alignment of the footpath may have changed over time, it is likely that a footpath in

the approximate position as it is today has existed for hundreds of years [HA xx]. As Sylvia Martin described it in her presentation on the 1st day "*walking the routes demonstrates a rich heritage learning, observing – a powerful aesthetic experience*". If the Inspector accepts the Parish Council's evidence characterising the deer park and the footpath as NDHAs, she is invited to find that the appeal will cause harm to them. This adverse impact falls to be considered in the final planning balance [NPPF, para 216]. Nobody is suggesting that the element of the case is decisive. But: the presence of harm to NDHAs enhances the overall heritage harm, modestly.

40. The appeal offends FNP policies 1 & 6 and LP15 ("*specific historic features which contribute to local character will be protected and enhanced and, development, including site allocations, should consider all relevant heritage assets that may be affected, including those outside the relevant site*"). Considerable importance and weight ought to be afforded to the heritage harm in the final planning balance. The appellant's case that only moderate weight ought to be afforded to the agreed harm to 4 designated heritage assets represents a serious underestimate.

BMV

41. If the appeal succeeds the 10 fields will be lost, for the entire period of the development, for meaningful agricultural production. Given that 96% of the site is BMV means that this loss is material. Further, TK agreed that the permanent addition of hedgerows will have the effect of shrinking the fields to a degree which will reduce how productive the holding will be. This will give rise to a permanent modest diminution of the arable productivity of the appeal site.

42. The Parish Council has no difficulty with the proposition that sheep grazing *could* be undertaken alongside the solar panels. The question is how *likely* this is and so what weight can be afforded to this *possibility*. TK agreed in xx that the landowner is not a sheep farmer and (presently) has no sheep. Further, KT confirmed in xx that he did not know who would undertake the sheep grazing (whether by the landowner or someone else) and whether they sheep would be there all year around (or simply occasionally parachuted in for a fortnight). When pressed on whether the landowner had been asked about the practicalities of sheep grazing on the site, TK stated that "*he had not given too much thought to it*" yet. The evidence that, if the appeal is allowed, sheep grazing is likely to be undertaken is sparse rather than firm. Accordingly, the Inspector should not proceed that sheep grazing is a probability. It remains a possibility. This diminishes the weight which can be properly accorded to the benefit of continuing agricultural production.

43. TK estimates that the appeal will give rise to a marginal 65 tonnes loss of arable produce per year. This is likely to be a underestimate if the Inspector accepts Peter Antrobus estimates that the true figure is around 262 tonnes.

44. The loss of BMV ought to be afforded moderate weight against the proposal. The Parish Council does not say that it is reason of itself to dismiss the appeal. But, together with the other harms identified, outweighs the benefits.

Time-limited nature of the consent

45. Given the planning permission sought is time-limited, it follows that the harms are largely time-limited (save for those elements which will persist beyond the decommissioning stage) and also the benefits. Beyond the additional vegetation, there are no benefits beyond the 40th anniversary (the ponds are to be removed). Whilst the level of harm would not be permanent, "*40 years far exceeds what is regarded as long term*" in accordance with GLVIA which refers to long term as "*10-25 years*" [CD7.4, para 36]. The Parish Council commends the analysis of Inspector Parker for a 40 year proposal [CD7.82, para 18]:

    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.

PLANNING BALANCE

46. It is common ground that there are a number of benefits which ought to be afforded considerable weight. However, in its enthusiasm to promote its case the appellant has overstated some of them. 2 examples stick out. First: SB's rebuttal relies upon a jobs figure of 7fte/MW derived from research by the BRE in 2013. On this basis, SB stated that the appeal could support approximately 347 FTE jobs across the supply chain [para 3.29]. The linear calculation of 7fte jobs for each unit of electricity generated makes no sense. As was put to him in xx, that would mean that a solar farm which got larger and so increased its output from 50 to 60 MW would create 70 additional fte jobs. Second: SB's weight in respect of the BGN benefit was based upon the ponds remaining in place beyond the lifetime of the solar farm. It was for the first time in the conditions session that it was confirmed that the ponds would be removed when the solar farm is decommissioned. As it

happens, this change only alters the BGN gain by a little; the Parish Council does not say that this materially alters the planning balance. But the point remains: had the issue not been raised by the Local Flood Group, all the parties would have made their Closings and the Inspector may well have determined the appeal on an erroneous basis.

47. There are a number of permutations depending on how the Inspector deals with the NPPF para 155(a) point.:

a) The benefits do not accumulatively represent VSCs given the substantial harm arising from the GB [NPPF para 153] together with the landscape and heritage harms.
b) If the appeal is found to be not inappropriate development, the appeal would not offend GB policy but would still breach the development plan as a whole because of the landscape and heritage objections (the latter we know ought to be afforded considerable importance and weight).

48. Either way: the appeal offends the development plan as a whole and the undoubted benefits of the appeal do not outweigh this conflict. The Inspector is invited to dismiss the appeal.

JACK SMYTH

No5 CHAMBERS

17 April 2025