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1st February 2024

Mrs Rebekah Morgan
Development Management
Communities Directorate
Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

Sent via email to rebekah.morgan@cherwell-dc.gov.uk

Dear Mrs Morgan,

Application Summary Letter for development of a ground mounted solar farm on land north of Manor Farm, Noke, pursuant to planning application reference: 22/O1682/F

1. Introduction

1.1. On behalf of our client, Oxford New Energy (hereafter to referred to as "**the Applicant**"), Pegasus Group submitted an application for full planning permission, in June 2022, for ground mounted solar development on land north of Manor Farm, Noke (hereafter to referred to as "**the Site**") to Cherwell District Council as the relevant Local Planning Authority (hereafter to referred to as "**the Council**"). The application was given the reference 22/O1682/F and comprises the following description of development:

"Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas".

1.2. As you are aware you are the current Case Officer for this application. In the 18 months that have passed since submission, a wide range of consultation responses have been received from statutory and non-statutory consultees as well as members of the public, some demonstrating support of, and some objection to, the proposed development. The Applicant has responded to each comment through the submission of further technical reports and plans during the course of the application to date, where needed.

1.3. During our meeting on the 20th of October 2023, held between representatives of the Council, the Applicant, and Pegasus Group as the planning agent, we collectively discussed all considerations related to the planning application. It was confirmed in

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the meeting, by the Council, that there are no outstanding technical issues (with confirmed no objections, subject to suitably worded conditions where required), for all matters related to the application proposals, before the required Green Belt 'very special circumstances' balance can be undertaken; except for the following outstanding matters:

- landscape & visual considerations, with the Council still needing to review the submitted Landscape & Visual Impact Assessment;
- ecology considerations related to outstanding concerns raised by the Council's Ecology Officer and the Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust; and
- a specific amendment required to the proposals related to providing a small 21 sqm flood compensatory area, as requested by the Environment Agency.

1.4. For reference, the minutes of this meeting, which have already previously been submitted to you, are contained in **Appendix 1** of this letter. It was agreed at the meeting that Pegasus Group and the Applicant would provide examples of appeal cases where grid capacity has also been incorporated as part of a Green Belt very special circumstances case (as is the case here). It was also agreed that Pegasus and the Applicant would provide relevant appeals for solar farms elsewhere in the country to assist in the application of appropriate weighting of matters in the planning balance.

1.5. This letter proceeds to provide the abovementioned requested information and summarises each outstanding matter, setting out how the Applicant has sought to resolve these matters. As requested by you and your senior colleagues at the meeting on the 20th October 2023, this letter also summarises the very special circumstances of this proposal related to the Site's position within the Green Belt and associated provisions of the Development Plan and national planning policy, with reference to appeal decisions, where applicable.

1.6. As a reminder, in line with national and Development Plan policies, very special circumstances will not exist unless any harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is outweighed by any identified benefits and /or other considerations. As such this letter assists in clearly outlining the harms alongside the benefits and any other considerations, and the correct weight to be attached to all, to allow the necessary balancing exercise to be undertaken in the determination of this application.

1.7. As noted in the minutes contained at **Appendix 1**, the Council agree that the following matters and consultee comments have been resolved and will be incorporated into the planning balance and assessment of Green Belt very special circumstances:

- Ecology Natural England – No objection



- NatureSpace – No objection subject to licence
 - RSPB – No objection subject to condition
 - Flood Risk & Drainage
 - LLFA – No objection subject to conditions
 - Cherwell District Council ('CDC') Land Drainage – No objection
 - Thames Water – No comments
 - Heritage/Conservation
 - Oxfordshire County Council ('OCC') Archaeology – No objection subject to condition
 - Historic England – less than substantial harm (minor end of scale) to be balanced against public benefits
 - OCC Conservation – No objection – harm so minimal that proposal is in an appropriate location from a heritage perspective (public benefits outweigh harm)
 - ALC – Natural England (Soils Network) – No objection – confirm Grade 3b Agricultural Land (non-best & most versatile land)
 - Trees – CDC Arboriculture – No objection subject to conditions
 - Amenity – Environmental Protection Officer – No comments
 - Transport – OCC Highways – No objection subject to conditions
 - Aviation / Glint & Glare – National Air Traffic Services Safeguarding – No objection
- 1.8. As has already been confirmed with you, the Applicant is happy to agree to the conditions requested by the above consultees, subject to agreement of detailed wording before determination of the application.

Outstanding Matters

2. Landscape & Visual Considerations

- 2.1. Comments from local residents have been received raising concerns that the proposed development will result in an adverse impact on visual amenity, be



irreversible and have a detrimental effect upon the character of the surrounding open farmland, and larger wildlife habitat and wetland area of the nearby Otmoor reserve. On 3rd October 2022, a consultation comment was received from the Council's landscape architect (Ms Baxter), who concluded that the proposed development was "*unacceptable in landscape and visual terms*". The objection was addressed by the Applicant's Landscape Consultant in a 'Landscape Rebuttal Letter' issued to the Council on 2nd February 2023. The Landscape Rebuttal Letter was written further to the Landscape & Visual Impact Assessment (hereafter referred to as the 'LVIA') submitted with the application in June 2022.

- 2.2. The Applicant's Landscape Rebuttal Letter concluded that the position of the Council's landscape architect should not be supported, highlighting errors in the conclusions that they had reached. Notably, as highlighted in the minutes contained at **Appendix 1**, the Council have subsequently acknowledged that they have a lack of any suitably qualified in-house expert at the Council capable of assessing a LVIA and associated landscape & visual considerations. Correspondingly, the Council made the Applicant aware of the consequential need to instruct an external landscape consultant to review the submitted LVIA and Landscape Rebuttal Letter that forms part of this planning application.
- 2.3. The Applicant was first made aware of the Council's intention to seek external landscape advice in May 2023 and an update on this matter has been requested on a regular basis. However, it is the Applicant's understanding that Huskisson Brown Associates, a landscape and environmental design consultancy, were not instructed by the Council to undertake this review until December 2023. Timescales for delivery of the work are at present unclear.
- 2.4. The Applicant would like to make it expressly clear to the Council that the landscape review report prepared by Huskisson Brown should be shared and discussed with the Applicant prior to the finalisation of your Officer Report for determination of the application at Planning Committee.
- 2.5. For absolute clarity, as set out in the minutes at **Appendix 1**, the Council have confirmed that they have disregarded the previous comments from Ms Baxter in relation to LVIA considerations and will focus on the comments to be provided by an external consultant.
- 2.6. The submitted Landscape Rebuttal Letter reinforces the conclusions of the submitted LVIA, in particular paragraphs 8.9 and 8.10 on landscape effects and 8.11 and 8.14 on visual effects. It concludes that the Site represents a good opportunity to bring forward proposals for solar development with minimal and highly localised landscape and visual effects, which include a landscape strategy that is consistent with and appropriate to the landscape context. These matters should be taken forward to the planning balance, including consideration of Green Belt matters and the weighing of harms against benefits and other considerations.



- 2.7. Large ground mounted solar farms, by their very nature, are almost exclusively located in the countryside outside of urban areas, related to obtaining a viable grid connection and a site area that is physically capable of accommodating the development required to generate a viable quantity of energy. This is required to make a sufficient contribution to the UK's renewable energy supply and energy security requirements and the need for renewable energy is clearly outlined at a national level as set out in the submitted Planning Statement. In this regard, it should be noted that the application is supported by a Viability Assessment that shows that the proposed development has been reduced to the minimum size possible whilst still being able to deliver a commercially viable scheme. There is an associated level of inevitability that solar farms will be seen in the landscape, due to their countryside locations, and therefore result in some degree of adverse landscape & visual impacts.
- 2.8. This has been recognised in numerous successful appeals, including, as examples, appeal reference APP/W1525/W/22/3300222 (decision notice contained at **Appendix 2**) allowed 6th February 2023 for a large 49.9MW solar farm, and appeal reference APP/C1950/W/19/3225810 (decision notice contained at **Appendix 3**) allowed 26th February 2020 for a small 20kW solar scheme, highlighting that impacts are inherent regardless of a scheme's size. Inspectors in these appeals noted that national planning policy recognises that solar schemes will result in landscape and visual impact harm, whilst also recognising the clear need for low carbon or renewable energy projects, with the Inspector of the appeal contained at Appendix 3 highlighting that *"the provision of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development set out in the Framework"*. This is all consistent with the National Policy Statements (NPSs) which, as noted in the appeal contained at Appendix 2, also recognise that large scale energy generating projects will inevitably have impacts, particularly in rural areas. As a reminder NPSs are a material consideration for planning application determined under the Town & Country Planning Act 1990 (as amended), as applicable in this case.
- 2.9. In a separate appeal for a 45MW solar farm (reference APP/H1705/W/22/3304561) contained at **Appendix 4**, the Inspector highlighted that once decommissioned, there would be no residual adverse landscape effects and that landscape and biodiversity mitigation and enhancements (which are also proposed within this application) would likely endure beyond the lifespan of the development. Although the appeal contained in Appendix 4 is not located within the Green Belt, the long-lasting landscape and biodiversity benefits of a scheme such as proposed as part of this application are relevant regardless and would apply to this application proposal. It is important that this is considered as part of the determination of the application.
- 2.10. Crucially with regard to concerns of local residents, solar farms are not a permanent feature in the landscape and are entirely reversible. The proposed solar farm, the subject of this application, is proposed to have a lifespan of 40 years and so any landscape harm limited to that lifespan. After 40 years, the electricity generation infrastructure will be removed from the Site and the land returned to agricultural use, but with the landscaping and ecology enhancement areas persisting. This temporary



nature can be secured by way of a time limiting and decommissioning conditions attached to any planning permission. The Inspector in the aforementioned appeal contained in **Appendix 2** highlights the temporary and reversible nature of solar farms, such as the application proposal, and highlights that this reduces the extent of harm to the landscape. This is a consideration as part of the overall very special circumstances assessment as well, including in relation to impact on openness.

- 2.11. The submitted LVIA concludes that the overall proposed development will result in limited impacts at a localised level, to both landscape character and visual considerations, with these impacts limited largely to the site area and its immediate context. In the wider landscape, potential views of the proposals would be generally filtered by intervening vegetation, and those from elevated positions will be reduced by additional landscape planting along internal field boundaries within the Site and along its boundaries, seen from afar in a wider context with other features and development forms, as shown in the photomontages contained at Appendix C of the submitted LVIA.
- 2.12. It is notable that in the aforementioned appeal contained at **Appendix 2**, the relevant Inspector concluded that the relevant solar farm proposal in that instance would *“result in moderate harm to the landscape character and convey moderate visual harm to the area”*. That harm when assessed with the identified harm to the Green Belt, limited harm to the loss of a proportion of best & most versatile arable land and limited harm identified to a non-designated heritage asset, was cumulatively all considered to be outweighed by the identified benefits, which the Inspector attributed *“very substantial weight in favour of the scheme”*. It is considered that the level of harm to landscape character and visual considerations is markedly less for this application proposal, as set out in the submitted LVIA, and yet demonstrates that even if a high level of harm were attributed, then benefits and other considerations could still outweigh the combined harm.
- 2.13. In this regard, as a reminder, I also draw your attention to the Planning Statement submitted with the application, and the reference to the nearby existing solar farm at Rowles Farm, Bletchington, and the associated appeal reference APP/C3105/A/13/2207532 (decision notice contained at **Appendix 5**). This appeal is addressed in the submitted LVIA which concludes that whilst this existing development is contained by mature vegetation on some boundaries there are several points at which there are direct views of the constructed solar farm development from the surrounding public right of way (**‘PRoW’**) network at a local level. This includes the part of the PRoW network which extends through the development, where there is no mitigation planting, and from breaks in boundary vegetation.
- 2.14. This has informed the design of the proposed solar farm at the Site, where mitigation planting can be incorporated to reduce/filter views of the solar farm at a local level and from the surrounding landscape. Notably, despite the Rowles Farm proposal having no mitigation planting along part of the PRoW network extending through the



Site, with clear localised impacts, the Inspector for the Rowles Farm appeal concluded that there would be overall limited landscape harm.

- 2.15. To be clear, this Site is not subject to any formal landscape designations and is not in the setting of any landscape designations, such as an AONB for example. Overall, it is considered that the conclusions of the LVIA submitted with the application for the Site are entirely robust and that the identified limited harm is acceptable in landscape & visual terms, to be considered in the overall planning balance for determination of the application. In this regard the proposal accords with policies ESD5, ESD13 and ESD17 of the adopted Cherwell Local Plan Part 1 and the relevant provisions of national planning policy.
- 2.16. Indeed, the determination of other applications and appeals have demonstrated that the benefits of solar farm schemes can overcome harm to designated landscapes such as those located in proximity to AONBs and National Parks. As an example of this, in the Welsh DNS decision contained at **Appendix 6** of this letter, the benefits of a 32MW solar farm were held to outweigh landscape and other adverse impacts, including those to a National Park and a World Heritage Site. The Inspector found that the scheme would have a moderate localised effect close to the Site and a minor localised impact on both the nearby Brecon Beacons National Park and the Blaenavon Industrial Landscape World Heritage Site. The development would also be sited on protected best and most versatile agricultural land. However, it was considered that with additional landscaping proposed, the effects would diminish. Overall, the significant benefits of the proposed solar farm were held to outweigh the adverse impacts of the proposal. Although not applicable here in terms of the Site not being in proximity to a designated landscape, it further demonstrates that some degree of harm to the landscape can be considered acceptable for solar farm schemes.
- 2.17. The Applicant awaits the outcome of the Council's external consultant review and the associated comments to the application. On receipt of these outstanding comments the Applicant reserves the right to respond to the comments if required/where appropriate, before the Council proceed to determine the application.

3. Ecology

- 3.1. As noted above, Natural England have confirmed their position of no objection on 14th July 2022, noting that the proposed development will not have significant adverse impacts on designated sites. NatureSpace confirmed their no objection on 20th July 2022.
- 3.2. Comments were received from the RSPB who confirmed their position of no objection on 22nd July 2022. The RSPB requested a pre-commencement condition and asked for a detailed Ecological Management Plan and associated drawings to be submitted and approved by the Council and the RSPB. This condition has been accepted by the Applicant.



- 3.3. Comments from local residents have been received raising concerns of the proximity of the Site to the RSPB Otmoor reserve and the migratory routes to and from that wetland reserve, and other concerns relating to impacts on biodiversity.
- 3.4. During the consultation period, ecology/wildlife objections were received from Cherwell District Council ('CDC') Ecology Officer, and Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust (hereafter referred to as 'BBOWT').
- 3.5. The Applicant commissioned an Ecology Rebuttal Letter (BSG Ecology, dated 03/03/2023) in response to these objections and wider ecology comments received. The letter assessed each consultation comment and provided a response on a thematic basis. Topics addressed in the letter included impacts on Otmoor SSSI, Otmoor Local Wildlife Site / RSPB reserve, protected species, birds, wildlife and mitigation.
- 3.6. In response to this, a further consultation response was received from BBOWT on 7th June 2023 maintaining their in-principle objection to a solar farm being located near to a reserve/habitat such as Otmoor. Other, more detailed objections previously raised by BBOWT, were confirmed to be addressed by the Ecology Rebuttal in the June 2023 BBOWT further response. This includes securing a Skylark Mitigation Strategy, which can be dealt with by way of condition or Section 106 Agreement, as appropriate. To address the outstanding in-principle objection, knowing of a large number of solar farms located near to other RSPB reserves, Pegasus and the Applicant submitted 'proximity analysis mapping' showing existing and consented solar farm developments sited in close proximity to other RSPB reserves across the country. Comments on this are still awaited from the BBOWT related to their outstanding in-principle concern.
- 3.7. Further to our meeting on the 20th of October 2023, the Ecology Officer provided further comments on the 17th of November 2023, with the Applicant responding back on the 15th December 2023. In a similar regard to the BBOWT, the Ecology Officer confirmed matters that have now been addressed and that can be conditioned, related to an updated grassland mix, skylark mitigation, no visible lighting being provided, and the extent of the biodiversity net gain being provided. The Ecology Officer also noted acceptance that there is already a precedent for solar farms to be approved and sited within close proximity of designated wetland areas.
- 3.8. The Ecology Officer also made some comments in relation to one sole specific solar farm (Cleve Hill) in order to justify a dubious line of objection to this proposal, related to RSPB concerns to that particular scheme, to which the Applicant has responded. The Ecology Officer also seeks more monitoring information, and the Applicant has responded back with links to numerous sources of relevant monitoring. Then finally the Ecology Officer has made an incorrect assertion related to the application proposal potentially preventing the future extension of the Otmoor RSPB reserve to the east of the Site, and the Applicant has responded highlighting that, to the contrary, the only ability for the reserve to potentially extend into this area would be if the solar farm is approved and implemented.



- 3.9. The Ecology Officer also made some comments in relation to one sole specific solar farm (Cleve Hill) in order to justify a dubious line of objection to this proposal, related to RSPB concerns to that particular scheme, to which the Applicant has responded. The Ecology Officer also seeks more monitoring information, and the Applicant has responded back with links to numerous sources of relevant monitoring.



- 3.12. As noted in the recent response to the latest CDC Ecology Officer comments, with regard to their principal concern of potential for birds colliding into the solar panels; an Inspector at paragraph 108 of the appeal decision (ref. APP/X1355/W/22/3299829) contained at **Appendix 7** of this letter, related to a 49.9MW solar farm, notably states;

“there are concerns that birds flying between the Burn and the coast to the east would mistake the solar arrays for bodies of water and fly into them, causing the birds harm. I have very limited evidence before me that this is more than a perceived risk”.

- 3.13. For clarity Hurworth Burn lies to the west of the appeal site and is a reservoir nature reserve. The Inspector notably attributed no weight to the matter of potential for birds striking solar panels in the planning balance, and instead proceeded to attribute significant weight to the BNG benefits that amounted to a 22.23% gain (which is notably less as a percentage than that proposed as part of this application).

- 3.14. In addition to this, the Applicant has extensive experience of developing and managing solar farms across the UK, including operational solar farms, and have no experience of reported bird collisions/deaths. The Applicant also manages several floating solar farms and have documented thriving bird life on them, with no deceased birds.



- 3.15. The application proposal includes significant new planting and ecological enhancements in the form of extensive new tree, hedgerow, shrub, and grassland planting, with designated ecological enhancement areas proposed, including new wetland habitat to the north-east of the Site. This new planting will have significant ecological and arboricultural benefits, with the proposal assessed to deliver an overall gain for habitats of 68.17% and a specific gain of 6.14% for hedgerow habitats, as set out in the revised Ecological Appraisal (dated 15th February 2023) and submitted updated Biodiversity Net Gain calculations. This far exceeds the 10% biodiversity net gain objective of upcoming legislation brought in by the Environment Act, as well as local planning policy requirements.
- 3.16. A condition related to the detailed landscape scheme could be imposed and used to ensure compliance with the proposed planting to ensure the net gains are delivered and managed in perpetuity. This net gain in biodiversity is a clear significant benefit of the scheme in the planning balance. As demonstrated in the submitted Ecological Appraisal the proposals will secure significant biodiversity enhancements that will help achieve the aims of the Otmoor CTA with the solar farm greatly improving upon the existing intensive arable farming use of the land. The proposed designated ecological enhancement areas around the River Ray will deliver an ecological corridor to harmonise with the Otmoor RSPB Reserve to the east. The submitted Ecological Appraisal shows that the proposal will protect and enhance the biodiversity and natural environment of the Site and surrounding area, and there will be a positive synergy between the solar farm and local wildlife & biodiversity.
- 3.17. The proposed development is therefore considered to be acceptable in ecological terms, with clear ecological enhancements identified. The proposal would therefore accord with the relevant criteria of Policy ESD5 and with policies ESD10, ESD11, ESD16 and ESD17 of the adopted Cherwell Local Plan Part 1; as well as with relevant provisions of the NPPF and NPPG.
- 3.18. The Applicant awaits further comments from the BBOWT and the CDC Ecology Officer, and if the current in-principle objections are sustained, then the Applicant strongly urges the Council to carefully consider the ecological material submitted with this application; the ecology related consultee no objections, including directly from the RSPB; the comments made here including the referenced appeal; and the large number of existing and consented solar farms in close proximity to RSPB reserves similar to Otmoor.
- 4. Flood Risk & Drainage**
5. Comments from local residents have been received raising concerns to an increased risk of flooding to Islip and Oxford.
- 5.1. Parts of the Site falls within Flood Zones 2 and 3 as identified on the Government's Flood Map for Planning service. These areas are along the Site's northern and eastern boundaries. The majority of the Site is within Flood Zone 1. A Flood Risk Assessment



(hereafter referred to as the 'FRA') was submitted with the application at the time of submission. This assessment confirmed that the extent of impermeable areas introduced by the proposal across the Site would be relatively small. The FRA shows that any additional surface water runoff will correspondingly be small and can more than adequately be managed by appropriate Sustainable Drainage Systems. Therefore, the FRA demonstrated that the proposal would have no impact on nearby watercourses and neighbouring areas of land, including Islip and Oxford. Details of the proposed mitigation measures for the development are set out in the submitted FRA.

- 5.2. The Applicant's Flood Consultant has been in dialogue with the Lead Local Flood Authority (hereafter referred to as the 'LLFA') regarding the proposals. Several comments have been made on submitted FRA update, and on behalf of the Applicant Pegasus and the Flood Consultant have worked in a positive and proactive manner to address all outstanding flood related matters with the LLFA. Confirmation of no objection subject to conditions was received from the LLFA on 9th August 2023.
- 5.3. An objection was received from the Environment Agency (dated 6th January 2023) on the basis that the submitted FRA did not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 22 of the Flood Risk and Coastal Change section of the planning practice guidance and therefore does not adequately assess the flood risks posed by the development. The comments were addressed in the submitted revised FRA. A revised comment was received from the Environment Agency confirming this had now been addressed but that there was now just the need to incorporate a small 21sqm flood compensation storage area. This has been addressed through the submission of a revised plan indicating the requested storage area in the location requested by the Environment Agency. It is therefore considered that this final minor matter has been resolved, and we are now just awaiting updated comments from the Environment Agency to confirm this. However, it was noted in the meeting with the Council that the absence of further comments from the Environment Agency should not preclude the issue of planning permission.
- 5.4. The proposal would therefore accord with the relevant criteria of policy ESD5 and with policies ESD6 and ESD7 of the adopted Cherwell Local Plan Part 1; as well as with relevant provisions of the NPPF and NPPG.

Resolved Matters

6. Heritage

- 6.1. Despite the resolution of matters, and confirmed acceptability, from relevant consultees, comments from local residents have been received raising concerns in relation to impact on the historic character of Noke and Oddington. This letter therefore seeks to address these concerns through the clarification of matters.
- 6.2. The heritage considerations of this application are outlined in detail in the submitted Archaeology & Built Heritage Assessment. There are no designated heritage assets on



the Site itself, though there are several designated heritage assets in the wider area, including statutory listed buildings at the neighbouring Manor Farm and within the nearby village of Noke. These include three Grade II Listed buildings which comprise Manor Farm, namely the Grade II Listed Manor Farmhouse, the Grade II Listed Farm Building and the Grade II Listed Barn; as well as the Grade II Listed Rectory Farmhouse. The Islip Roman Villa Scheduled Monument is located approximately 350 metres south-west of the Site. The Islip Conservation Area is located approx. 800 metres to the west of the Site.

- 6.3. During the consultation period, an objection was received from the OCC Planning Archaeologist (dated 20/06/2022). This objection was addressed through the submission of a revised Archaeological Evaluation Report (prepared by Cotswold Archaeology, dated November 2022). Following this, confirmation of no objection subject to conditions was received on 24th November 2022. Two conditions were proposed relating to the preparation and submission of an Archaeological Written Scheme of Investigation ('WSI') and the carrying out of a programme archaeological mitigation in accordance with the WSI. The Applicant is agreeable to both conditions.
- 6.4. Comments received from CDC Conservation on 27th June 2022 confirmed no objection. It was noted that the *"harm is so minimal that the proposal is an appropriate location from a heritage perspective."*
- 6.5. Historic England indicated less than substantial harm (minor end of scale) to the Islip Roman Villa and the Grade II Listed Manor Farmhouse and indicated that this would be a consideration for the planning balance.
- 6.6. In line with the consultee comments received and the submitted Archaeology & Built Heritage Assessment, the proposed development within the Site is anticipated to result in a very minor level of harm to the significance of the Grade II Listed heritage assets at Manor Farm, through changes to their setting. This harm is clearly less than substantial and lies at the lowermost end of this spectrum. As per paragraph 202 of the NPPF, such harm does not preclude development, but should be weighed against the public benefits of the proposals. The proposed development is not anticipated to result in harm to the significance of any other heritage assets identified in the wider vicinity. The proposal will therefore accord with the provisions of national planning policy and with policies ESD5 and ESD15 of the adopted Cherwell Local Plan Part 1.
- 6.7. With regard to the aforementioned appeals contained in **Appendices 2 & 4**, as examples, it is clear that the very minor level of harm attributed here can be considered acceptable, and ultimately outweighed in the planning balance by the benefits of solar farms, including with regard to Green Belt harm in combination.

7. Traffic & Highways

- 7.1. Despite the resolution of matters, and confirmed acceptability, from relevant consultees, comments from local residents have been received raising concerns in



relation to construction traffic impacts and the safety of members of the public. This letter therefore seeks to address these concerns through the clarification of matters.

- 7.2. A Construction Traffic Management Plan ('CTMP') was submitted with the application which assesses the potential transport impacts associated with the proposal. The CTMP concluded that the level of traffic during the temporary 3–6 month construction phase is not considered to be material and it is considered that this will not have a detrimental impact on the safety or operation of the local or strategic highway network. This is also the case for the operational access arrangements. The CTMP demonstrates that there is no highway safety pattern or problem in the vicinity of the Site.
- 7.3. During the consultation period, an objection was received from Oxfordshire County Council Highways (20/07/2023) on the basis that it had not been demonstrated that the visibility splays available from the proposed site access were adequate for vehicle speeds along Noke Village Road, and also requested public right of way improvements. Following this, a Transport Technical Note (dated October 2022) was submitted which demonstrated that the proposed site access arrangements are appropriate and that visibility splays can be provided in accordance with required DMRB standards for the recorded speeds along the Noke village road.
- 7.4. Confirmation of the Highway Authority's updated position was received on 30th November 2022, who gave their view of no objection subject to conditions. The Highway Authority requested two conditions, the first of which related to the submission of full details of the means of access between the land and the highway, including, position, layout, construction, drainage and visibility splays. This condition is reasonable and is accepted by the Applicant. The second condition related to the submission of a Construction Traffic Management Plan. This Plan was submitted with the initial planning submission, as noted above, and so to avoid unnecessary duplication it is requested that this condition be removed as it is not necessary, in line with Paragraph 56 of the NPPF and the associated tests. If a different form of CTMP is required with clear justification and scope outlined, then the Applicant would be willing to agree to such a condition if considered needed.
- 7.5. To conclude, with the confirmation of no objection and agreement with the necessary proposed condition, and with the mitigation proposed within the CTMP implemented, there is no reason why the proposals would result in any highway safety issue. Consequently, the proposal accords with policies ESD5 and ESD17 of the adopted Cherwell Local Plan and the provisions of national planning policy.

8. Arboriculture

- 8.1. Comments were received from CDC Arboricultural Officer requesting additional information in relation to whether the hedgerows at the Site were covered under the hedgerow regulations, as well as requesting scales and shading arcs on the plans, confirmation on security fencing installation, and the extent of pruning required for



two trees. In response to these comments, a Pre-development Arboricultural Report and Method Statement (dated 04/02/2023) was prepared and submitted.

- 8.2. On 2nd August 2023, the CDC Arboricultural Officer confirmed no objection. A replanting plan was requested to be conditioned, and the Applicant requests draft wording for this condition to be issued and agreed.
- 8.3. The proposed development is acceptable in arboricultural terms, with enhancements resulting from new planting. The proposal would therefore accord with the relevant criteria of policies ESD5 and ESD10 of the adopted Cherwell Local Plan Part 1; as well as with relevant provisions of the NPPF and NPPG.

9. Use of agricultural land

- 9.1. Paragraph 174(b) of the NPPF places value on recognising the intrinsic character and beauty of the countryside including the best and most versatile agricultural land. Best and most versatile agricultural land is defined in the NPPF's Glossary as being land in grades 1, 2 and 3a. The overall Site consists of Grade 3b agricultural land, and therefore does not fall within the definition of 'best and most versatile agricultural land' due to this categorisation. This category was confirmed in an Agricultural Quality report produced by Land Research Associates Ltd and submitted with the initial application submission.
- 9.2. The classification has been queried by several of the objections from members of the public, who commented that the land should be graded as 3A and therefore be within the NPPF definition. The previous case officer at the Council approached the matter with Natural England and received a response dated 2nd August 2022. This response was from a Natural England Soils Network officer and confirmed their qualified view that the area is classified as Grade 3b and so they had no concerns with the application in this respect.
- 9.3. In addition, the 40-year lifespan of the solar development means that the agricultural land would not be permanently or irreversibly lost and will be able to return to agricultural use at the end of the development lifespan. Inspectors in other solar farm appeals (including appeal ref. APP/H1705/W/22/3304561 contained at **Appendix 4** and appeal ref. APP/Z1510/W/23/3325681 contained at **Appendix 10**) concluded that the absence of intensive agricultural production is in fact a benefit to the land and would allow it to recover from the intensive agricultural use and improve soil structure and condition. The change of use for the 40-year period would also have no negative implications on the classification of agricultural land once it is returned to its original agricultural use.
- 9.4. As mentioned, the Site provides adequate capacity in terms of grid connection and total site area, in addition it provides suitable land orientation and local solar irradiation levels to accommodate the proposed development. As detailed in the submitted Planning Statement, the grid constraints in the area have meant that the proposal can



only be brought forward along the Bicester – Headington 33kV feeder power line and due to other constraints related to suitable land capacity unconstrained by other development proposals, and technical & viability constraints, there are no non-Green Belt locations along this power line that could accommodate this proposal.

- 9.5. It is also notable that the proposed use of the Site as a solar farm does not preclude use for agricultural purposes alongside. After construction, it is proposed that low density sheep grazing will occur between the solar arrays (within the perimeter fencing). This will form part of the long-term maintenance and management of these areas of the Site assisting in managing the grassland around the panels.
- 9.6. It is therefore the case that the temporary use of this lower quality agricultural land is both necessary and acceptable in planning policy terms.

Planning Balance

10. Green Belt Harm

- 10.1. As outlined in the submitted Planning Statement, paragraphs 149 and 150 of the NPPF set out the forms of development deemed not inappropriate in the Green Belt. Policy ESD14 of the adopted Cherwell Local Plan is consistent with national Green Belt policy. The proposed development does not fall into any of the identified categories in this context and therefore by definition represents 'inappropriate development' in the Green Belt. This is by definition harmful to the Green Belt. As such with reference to paragraph 147 of the NPPF, 'very special circumstances' are required in order for this application to be approved.
- 10.2. As set out in Section 7 of the submitted Planning Statement, it is accepted that the development would reduce Green Belt openness as three fields would now contain solar panels and associated electrical equipment. In addition, the proposal would involve the development of part of the countryside that is currently undeveloped and would thus constitute encroachment into the countryside, contrary to one of the five purposes of the Green Belt (the third purpose), outlined in the NPPF. Correspondingly the encroachment into the countryside would cause harm to the Green Belt.
- 10.3. As outlined in the submitted Planning Statement there would be no conflict with the other purposes of the Green Belt. With regard to the first two purposes of the Green Belt the Site it is not adjacent to any large built-up area and does not prevent neighbouring towns merging into one another. The fourth purpose is to preserve the setting and special character of historic towns. The proposed development is not located in close proximity to a historic town or urban area (such as Oxford).
- 10.4. Notably in relation to the fifth purpose of the Green Belt (to assist in urban regeneration, by encouraging the recycling of derelict and other urban land), the Inspector in the appeal contained in **Appendix 2** concluded that not only would it not be cost effective to locate a solar farm on previously developed land due to land



values and rates of return, but that the reuse of previously developed land for a solar farm would not secure the most efficient or optimum reuse of such land for a temporary period of time. Accordingly, the Inspector considered that the appeal proposal would not be in conflict with this purpose of the Green Belt. The Applicant submits that this would also apply in this case.

- 10.5. With regard to the essential characteristics of the Green Belt, openness and permanence; it is acknowledged that the proposal would compromise openness, however this would not be permanent due to the restricted lifespan of the proposed development. Once the development has reached the end of its lifespan the solar arrays would be removed, and the land returned to its former full agricultural use. The proposals would therefore not have a permanent harm to openness. Therefore, in line with numerous appeal decisions such as those contained at Appendices 3, 5 and 2 in particular, the impact on the openness of the Green Belt (and also the impact on the landscape) would be reduced with the Site ultimately reinstated to its former open character.
- 10.6. As outlined in the submitted Planning Statement it is accepted that the proposal would cause harm to the Green Belt by reason of inappropriateness, in line with national and local planning policy. It would result in conflict with the third purpose of the Green Belt related to encroachment, and harm to the openness of the Green Belt in both visual and spatial terms. In line with the NPPF, harm to the Green Belt carries substantial weight.

11. Site Selection – Grid Connection & Capacity

- 11.1. The main factor in determining the suitability of a site to accommodate a solar development is its proximity to an available point of connection to the local electricity distribution network, which crucially must also have capacity available to receive the renewable energy generated by the development.
- 11.2. Without a viable grid connection, there is no means of exporting, and therefore utilising, the renewable energy generated. As such, this is the starting point for any site selection process for a solar farm. Connecting a solar farm to the grid is costly. It involves engineering works (such as digging trenches), high raw material costs (such as copper cables), as well as legal works (such as securing easements). As such solar farms need to be in close proximity to a point of connection to allow the scheme to be commercially viable.
- 11.3. Then, in addition to finding sites that have access to a viable grid connection with adequate capacity for the development, it is also imperative that a site is physically capable of accommodating the development.
- 11.4. Cherwell District Council have declared a climate emergency and rightfully you and senior colleagues have to date acknowledged the substantial need to deliver, now in the short term, renewable energy schemes to meet local and national climate change



targets, as well as contribute to local energy security, at a time of ongoing geopolitical tensions. The local electricity distribution network across the District is however heavily constrained and therefore there are very limited places in which these much-needed schemes can be brought forward.

- 11.5. The grid constraints and locational context for this proposal is detailed in the submitted Network Availability Assessment (produced by Decerna), which was revised in light of comments received from the previous Council case officer, James Kirkham, to clarify and provide more detail on certain elements. The report demonstrates that for both technical and geographical reasons, the Site is the only viable connection point within the Cherwell District Council administrative area for the proposed 18MW AC/26.6 MW DC solar farm.
- 11.6. The grid connection offer for the site was made by Scottish and Southern Electricity and confirmed by National Grid in 2020. In the period since then, capacity in the area has become even more constrained. The report concludes that if approved, the proposed solar farm will be the last significant connection accepted from a grid connection perspective for the foreseeable future. Any further large-scale connections cannot be made before 2030 due to grid restrictions & issues and it may even be several years after that date before any additional connections are possible. This therefore provides the locational context for the proposed development site.
- 11.7. The Applicant works on renewable projects across the UK and searches for new grid connections. Since 2022, it has found almost no viable new grid connections. Inquiries in 2023 about potential new connections in Oxfordshire yielded likely connection dates in the 2030s.
- 11.8. The submitted Network Availability Assessment shows that there is a considerable amount of time between the current proposal and when it is estimated that there will be a possibility for new network connections to be accepted. Cherwell District Council have declared a climate emergency and have committed to "*ensure our own operations and activities are net zero by 2030*" and "*do our part to achieve a net zero carbon district by 2030 and lead through example.*" The Council has outlined an associated Climate Action Framework (2020) which recognises that a significant increase in both commercial and residential solar power in the District is necessary, in order to achieve this target. This evidences the need for energy production in the immediate future, rather than delaying the process until existing infrastructure is upgraded.
- 11.9. For absolute clarity, as outlined in the submitted Network Availability Assessment, this proposal would have no effect on the potential for rooftop solar schemes to be delivered on residential properties and / or employment/commercial buildings. Whilst the capacity to connect large generation assets to the higher voltage network is very constrained, there will continue to be capacity to connect solar rooftop systems to the network for the following reasons:



- in many cases, most of the solar output will be consumed within the building where the panels are located;
- the systems will connect to the lower voltage network; and/or
- most or all of the electricity exported by them to the network will be consumed locally before reaching the 33 kV network, and any surplus electricity that makes its way to the 33 kV network is unlikely to be large enough to create network management issues.

11.10. Rooftop solar is an important part of the Applicant's business. Its long experience of rooftop solar schemes gives it a clear understanding that rooftop schemes can only form a part of local and national targets for solar power generation capacity.

12. **Scheme Benefits and Other Considerations**

12.1. As outlined in the submitted Planning Statement, the application scheme provides very substantial benefits that together form very special circumstances which outweigh the harm to the Green Belt and all other identified harm.

12.2. As outlined in the submitted Planning Statement and with consideration to the criteria contained under policy ESD5 (Renewable Energy) of the adopted Cherwell Local Plan Part 1 and criteria contained in paragraph O13 of the Renewable and Low Carbon Energy section of the NPPG, there are a number of site specific considerations weighing in favour of this proposal, including the acceptable (subject to mitigation in certain circumstances) impacts in relation to matters such as landscape and visual impact; residential amenity and aircraft safety, including from glint and glare; impact on any heritage assets; highway impact; and flood risk. Furthermore, as noted already and discussed in more detail later in this letter, the proposal will have significant arboricultural and ecological benefits. These site-specific considerations contribute toward the very special circumstances of this case. For the avoidance of doubt, as confirmed through numerous appeals and chiefly through case law, namely; R (Basildon DC) v First Secretary of State and Temple [2004] EWHC 2759 (Admin), it is well established that very special circumstances will often consist of a number of factors, including in combination. In that instance the High Court concluded that "*a number of factors, none of them 'very special', when considered in isolation may, when combined together, amount to very special circumstances*".

12.3. As noted above, there are site specific reasons related to the grid capacity and connection which is a key element of the very special circumstances of this proposal. The development proposal would also provide up to 26.6 megawatts (MW) of installed electrical energy generation capacity through the deployment of ground mounted solar arrays. This will generate energy equivalent to powering around 7000 homes annually. It will help save approx. 12,000 tonnes of carbon dioxide emissions per year. The proposal would therefore clearly deliver significant environmental benefits for the area assisting in reducing carbon emissions, combating climate change and ensuring



local energy security. This would assist with delivering the Council's commitments under the declared Climate Emergency and Climate Action Framework 2020. There are ongoing geopolitical tensions, and the UK has seen a significant increase in the price of electricity in recent times. The proposal would help meet the need for the UK to increase its energy security.

- 12.4. The NPPF is clear that the planning system should support the transition to low carbon energy generation and help meet both local and national net zero carbon aims. Paragraph 151 of the NPPF states that elements of many renewable energy projects will comprise inappropriate development however the necessary 'very special circumstances' may include the wider environmental benefits associated with increased production of energy from renewable sources. Notably this is the only instance within the NPPF in which an example of a potential very special circumstance is prescriptively raised. As demonstrated in numerous appeals including all those Green Belt related appeals contained at **Appendices 2, 4, 5, 8 and 9** of this letter; Inspectors attribute significant and substantial weight to the environmental benefits associated with the production of renewable energy for a range of solar farm sizes, which were integral to the associated conclusions that very special circumstances were applicable. Notably the Inspector in the appeal contained at **Appendix 8** attributed very significant weight to benefits of the provision of a renewable energy scheme with a generation capacity of 25.6MW before considering other benefits and considerations of the scheme. The appeal was determined on the 30th of August 2023 and relates to a solar farm similar in size to that proposed here.
- 12.5. Another significant benefit of the proposals is the provision of the overall ecological and arboricultural benefits including overall biodiversity net gains of 68.17% for habitats and a specific gain of 6.14% for hedgerow habitats. These benefits would continue well after the lifetime of the development has ceased and would not be realised should the proposed solar farm not come forward for development. In line with the findings of Inspectors in numerous appeals including the aforementioned appeal at **Appendix 7**, significant weight should be attributed to the large extent of biodiversity net gains provided through this application proposal. Indeed, the Inspector in the aforementioned appeal contained at **Appendix 10** attributed very significant weight to biodiversity net gains as a public benefit and stated, "*even if a national requirement it would provide a public benefit which should not be automatically discounted or lessened just because it is not optional*". Correspondingly, as referenced in relation to the landscape & visual impacts and Green Belt harm, the temporary and reversible nature is a key element of the very special circumstances, in line with appeals, such as those included in the appendices of this letter. Other environmental benefits include the improvement in soil related to the additional planting and changes in the land use from intensive agriculture allowing the land to recover for the lifetime of the development. In line with other appeals, such as the appeals at **Appendices 4 & 8**, this is another benefit that contributes toward the very special circumstances of the proposal. As noted already in this letter, the use of non-



BMV (Best and Most Versatile) agricultural land and the ongoing use of the Site for sheep grazing also contributes to the very special circumstances of the proposal.

- 12.6. As identified in the submitted Planning Statement, the proposal provides clear economic and community benefits with the proposal delivering a new permissive footpath as requested by local residents, as well as contributing to the local rural economy, assisting with the future viability and stability of a rural farming business. The proposal would contribute to the local economy through the creation of employment opportunities in engineering, construction and transportation during the construction and ongoing management of the Site, including business rates and the ongoing management of landscape and biodiversity.
- 12.7. A Farm Diversification Statement from the landowner, who is a shareholder in the Applicant company, has been submitted and forms part of the application showing the clear benefits of the proposal to the landowner as a local farming business. The statement details the pressing need to diversify the farm business due to the variable and volatile nature of farming income. A regular rent payment from the proposed solar site would form an invaluable base income and source of stability for the farm business. The Applicant notes that Manor Farm is fortunate in being so close to a suitable grid connection point that enhances the viability of what would otherwise be a relatively small solar farm by today's standards.
- 12.8. As has previously been mentioned to you and your senior colleagues, the Applicant is proposing to compartmentalise 5MW of capacity from the proposed solar farm to allow the discounted sale of power to local businesses and households within a 5km radius of the solar farm, enabling this locally produced renewable energy to benefit the local community. An associated Community Energy Statement produced by the Applicant related to this part of the proposal is contained at **Appendix 11** of this letter for reference and consideration. This is a relatively new initiative, with little to no precedent, providing benefits directly related from the development to the local community, in a different way to the more common generic community benefit funds that are common with renewable schemes which fall as a separate consideration alongside the planning application.
- 12.9. Supporting the rural economy and assisting the ongoing viability and stability of a rural business is clearly supported by the NPPF (paragraph 84), as are the provision of community benefits through development proposals (paragraph 93). Policy ESD5 of the adopted Cherwell Local Plan Part 1 notably states that; *"economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications"* and indeed, Inspectors attribute weight to such benefits, such as the appeals contained at **Appendices 3, 4 & 5**.

Very Special Circumstances



- 12.10. In summary, it is accepted that the proposal would cause harm to the Green Belt by reason of the definitional inappropriateness (as per the NPPF) and because of the reduction in openness it would involve and conflict with the third purpose of the Green Belt related to encroachment. In addition, there would be a limited degree of inevitable harm to the landscape, and a very minor level of harm (lowest end of scale of 'less than substantial harm') to the significance of the Grade II Listed heritage assets at Manor Farm, through changes to their setting. However, the proposal, and therefore any harm, would be temporary and reversible. In carrying out the balancing exercise it is considered that the substantial weight attributed to the harm to the Green Belt, the limited harm to the landscape and the very minor harm to the significance of the Grade II Listed heritage assets at Manor Farm are outweighed by the identified very special circumstances of this particular proposal, as stated in the submitted Planning Statement.
- 12.11. To summarise, in line with numerous appeals, including those referenced in this letter, we outline the following factors which combined form the very special circumstances of this proposal:
- Renewable energy generation, assisting in reducing carbon emissions, and combating climate change – contributing to national climate change targets and the Council's commitments under the declared Climate Emergency and Climate Action Framework 2020.
 - Contribution towards local energy security at time of geopolitical tension.
 - Lack of other suitable non-Green Belt sites in the District due to grid capacity, connection and land area constraints (determined through the site selection process).
 - Formal National Grid offer received for a solar farm in this location, last available offer as the network has since become heavily constrained, with the scale of the proposal the minimum required to achieve a viable development.
 - Temporary and reversible impacts.
 - Significant ecological and arboricultural benefits of the proposal, delivering significant biodiversity net gains and designated ecological enhancement areas, which will function in excess of the lifetime of the development.
 - The use of non-BMV agricultural land, with some agricultural use (sheep grazing) maintained during the lifespan of the development.
 - Field laid to recover from intensive agricultural farming, leading to improvements in soil health and structure.
 - The identified economic and community benefits including assisting with the ongoing viability and stability of a rural business through rural diversification.
- 12.12. Notably when considered with the locational restrictions on site selection related to grid capacity and having a viable connection (in a similar vein to the circumstances of this case as noted above), the Inspector in the appeal contained at **Appendix 2** concluded that the environmental benefits of the generation of renewable energy from that scheme attracted "*very substantial weight in favour of the scheme*". The



Inspector concluded that this comprised very special circumstances, outweighing the substantial weight to the harm to the Green Belt and the other harm identified comprising moderate harm to the landscape character, moderate visual harm to the area, limited harm to the loss of a small proportion of Best & Most Versatile arable land, plus limited harm identified to the relevant non-designated heritage asset. It is considered, and submitted, that the balance of harms and benefits is even clearer in favour of this proposal than the proposal the subject of the appeal contained at Appendix 2. Proximity to a viable grid connection that can be delivered now in the short term also notably formed a key part of the very special circumstances of the appeals contained at **Appendices 4 & 9**. ‘Very substantial weight’ to benefits of the provision of renewable energy and reducing carbon emissions were also notably applied by the Inspector in the appeal contained at **Appendix 10** related to a 22.5MW solar farm.

- 12.13. Also of note: the approved planning applications for solar farm proposals within Green Belt locations referenced in Section 2 of the submitted Planning Statement, highlight cases where the environmental benefits of the production of renewable energy have been a fundamental consideration in the ‘very special circumstances’ for those applications, with limited other benefits being needed in addition, to outweigh the harm to the Green Belt, and any other harm.
- 12.14. The considerable benefits of this proposal, as outlined in this letter and all of the material supporting the planning application, clearly outweigh the identified harm to the Green Belt and other harm identified, and therefore constitute the necessary very special circumstances required to accord with Development Plan and national policy. In light of this, a strong and robust case for very special circumstances has been demonstrated through the economic, social and environmental benefits of the development which when weighed against the harm identified demonstrates compliance with national planning policy and the Development Plan when read as a whole. It is therefore respectfully requested that the application receives a positive recommendation for approval for determination at Planning Committee.

Yours sincerely,

David Pickford
Associate Planner

David.Pickford@pegasusgroup.co.uk

Enc.



Appendix 1

Meeting Minutes.

Project name: Land North of Manor Farm, Noke – Development of a ground mounted solar farm
Date of meeting: 20th October 2023
Meeting venue: Microsoft Teams
Project number: P19-2636
Reference: 22/O1682/F

In attendance: Rebekah Morgan (Principal Planning Officer, Cherwell DC)
 Paul Ihringer (Development Management Team Leader, Cherwell DC)
 Paul Seckington (Head of Development Management, Cherwell DC)
 Charlotte Watkins (Ecology Officer, Cherwell DC)
 Luke Hosking (Head of Large-Scale Development, Green Nation)
 Jonathan Thompson (Founder and CEO, Green Nation)
 David Pickford (Associate Planner, Pegasus Group)
 Hannah Race (Planner, Pegasus Group)

1	Introduction
1.1	<ul style="list-style-type: none"> • Introductions & Summary of Application Proposals • DP: summarised proposed development, highlighting that the application has been live since June 2022 (16 months) and we are therefore keen to reach a positive resolution.
2	Outstanding Matters
2.1	<ul style="list-style-type: none"> • CDC Landscape <ul style="list-style-type: none"> ○ RM: Set to receive quotes from external landscape consultants by end of day 20th October. ○ PS: Will review quotes and provide response to Applicant by Monday 30th October. Acknowledged lack of inhouse LVIA expert at the Council, hence the need for an external consultant. Confirmed that LPA will disregard previous comments from Julie Baxter in relation to LVIA considerations and focus on the comments to be provided by an external consultant. Noted costs usually recovered from Applicant for this work and that this is sought in this instance. ○ DP: Requested details on procurement process to ensure transparency. ○ PS: Will speak to procurement (Andy) to get details on how process has been undertaken. ○ RM: Scope was to review submitted LVIA and provide comments on behalf of the LPA. RM will provide names of consultants, stated 3 companies contacted for quote. ○ PS: The consultants will provide a review of the LVIA on behalf of the LPA, not a 'independent third view' as initially portrayed to the Applicant. Will provide clarity ASAP on consultant timescales for production of response. • CDC Ecology <ul style="list-style-type: none"> ○ CW: Confirmed seen rebuttal letter but not the submitted 'proximity analysis' document on the six solar farms identified as built or permitted next to RSPB reserves, and as relevant to Otmoor. PS issued document to CW during meeting. Discussion held on the findings of the analysis work and CW conveyed that she would need to review in more detail but the analysis work did appear to address

	<p>her initial concern that there may not be a 'precedent' for solar farms being located near to a reserve/habitats such as Otmoor.</p> <ul style="list-style-type: none"> ○ CW confirmed all other ecology issues previously raised have been addressed through the rebuttal work, however she has taken a precautionary approach regarding potential for bird collisions with solar panels. Discussion held regarding the lack of any evidence that there is any such potential, despite solar farms being in place near to RSPB reserves. ○ All agreed that there was a synergy between CW comments and Wildlife Trust's comments in terms of outstanding concerns. RM to chase up Wildlife Trust's updated response in light of rebuttal and proximity analysis work. ○ DP: Will ask Applicant's Ecologist (BSG) for any monitoring data or information on collision records related to existing solar farms. Noted RSPB no objection. Polarised light comments have been addressed and this matter is key to the potential for collisions and can be suitably dealt with via condition. ○ CW: Remaining ecology issue is not insurmountable and could be a matter for the planning balance. Will review proximity analysis, alongside rebuttal work, and will provide updated comments. Confirms great weight should be attached to no objection from RSPB. Aiming for Friday 27th October for revised response. <ul style="list-style-type: none"> ● Environment Agency – Flood Risk/Drainage <ul style="list-style-type: none"> ○ RM: Confirmed delays on EA side. HR requested compensatory storage plan be uploaded onto public register, RM confirmed she would do this, down to admin error. ○ PS: Outstanding issue from EA is not fundamental and could potentially go to committee without resolution as issue has been addressed. Will give EA ultimatum as we get closer to a Committee date which should hopefully trigger an EA response.
3	Matters resolved
3.1	<p>LPA agree the following matters have been resolved and will be incorporated into the planning balance and assessment of Green Belt VSCs:</p> <ul style="list-style-type: none"> ● Ecology <ul style="list-style-type: none"> ○ Natural England – No objection ○ Naturespace – No objection subject to licence ○ RSPB – No objection subject to condition ● Flood Risk & Drainage <ul style="list-style-type: none"> ○ LLFA – No objection subject to conditions ○ CDC Land Drainage – No objections ○ Thames Water – No comments ● Heritage/Conservation <ul style="list-style-type: none"> ○ OCC Archaeology – No objection subject to condition ○ Historic England – less than substantial harm (minor end of scale) to be balanced against public benefits ○ OCC Conservation – No objection – harm so minimal that proposal is in an appropriate location from a heritage perspective (public benefits outweigh harm) ● Natural England (Soils Network) – No objection – confirm Grade 3b ● OCC Highways – No objection subject to conditions ● Environmental Protection Officer – No comments ● CDC Arboriculture – No objection subject to conditions ● NATS Safeguarding – No objection
4	Green Belt Very Special Circumstances
4.1	<ul style="list-style-type: none"> ● DP outlined following benefits:

	<ul style="list-style-type: none"> ○ Renewable energy generation benefits including meeting the Council’s own declared climate change targets and ensuring local energy security at a time of ongoing geopolitical tensions ○ Grid capacity constraints – locational considerations – discussed findings of submitted Decerna report – PS understood as a VSC but said that they will review in more detail and would like direction to relevant appeal cases to direct on weight to be attributed (albeit each case should be assessed on its own merits). DP confirmed that a summary letter of the case and its VSCs will be provided which will include relevant appeal references, including related to the principle of this matter. ○ Community benefits – local electricity benefits <ul style="list-style-type: none"> i. JT explained how the proposed community benefits would work for this site. Direct secure and discounted energy from energy generated to local people/businesses, so get direct benefit from the solar farm being in that location. New technology and currently in talks with provider to finalise mechanism. Local residents receive green power at set price, with a discount, and price security as power not impacted by external forces. ii. PS: Have to ensure benefit meets CIL tests, and secure via legal agreement. Asked for any precedent of where this has been done for other schemes to assist them in ‘binding’ to any planning permission. ○ Ecological benefits – significant BNG – all parties agreed ○ Rural diversification – all parties agreed ○ Use of non-BMV – continued agricultural use – all parties agreed ○ Temporary & reversible – all parties agreed ○ Improvements to soil health & structure – all parties agreed ○ Economic benefits from construction phase and related to wider supply chain and renewable energy market – all parties agreed ● PS: Acknowledged long list of benefits and stated that LPA generally supportive of solar schemes in the right places, for example the avoidance of siting solar farms on undulating land. On the balance, resolving ecology impacts and agreeing to level of landscape harm in line with Applicant are key when considering planning balance. PI confirmed that renewable energy benefits could outweigh GB harm and so the ‘other harm’ identified will be key to outweigh from other benefits. DP confirmed that appeals that we will be directing to are clear on harms weighed against other considerations/ benefits in GB VSC balance and so this will assist the determination here.
5	Timescales for Committee
5.1	<ul style="list-style-type: none"> ● PS: Confirmed 7th December Committee is potentially doable but all parties agreed that 11th January Committee more likely. If we resolve matters for 11th January committee, RM officer report need to be completed by first week of January. ● JT: Keen to work with the Council to secure a recommendation for approval following the resolution of outstanding matters. DP request that we are given time to resolve any outstanding matters (if they still exist) before going to Committee
6	Key Actions
6.1	<ul style="list-style-type: none"> ● Pegasus to provide examples of appeal cases where grid capacity incorporated as VSC, and examples of where ‘community electricity’ has been done previously. Also to direct to appeals related to appropriate weighting of matters in planning balance. ● RM to upload compensatory flood storage plan and detailed landscape drawings (previously submitted) to public register. ● PS to provide information on landscape consultant on Monday 30th October following receipt of quotes.

Development of a ground mounted solar farm

Land North of Manor Farm, Noke



	<ul style="list-style-type: none">• CW to review submitted proximity analysis and provide comments aiming for 27/10/2023.• Pegasus to provide summary letter, including green belt VSCs.
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Appendix 2



Appeal Decision

Hearing held on 6 December 2022

Site visit made on 5 December 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/W1525/W/22/3300222

**Land east & west of A130 and north & south Of Canon Barns Road,
East Hanningfield, Chelmsford, Essex CM3 8BD**

Easting:575325, Northing:198892

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Low Carbon Solar Park 5 Limited against the decision of Chelmsford City Council.
 - The application Ref 21/00394/FUL, dated 22 February 2021, was refused by notice dated 9 December 2021.
 - The development proposed is the construction and operation of a solar farm and battery storage system together with all associated works, equipment and necessary infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the Installation of a solar photovoltaic (PV) park generating up to 49.9 MW of electricity spread over three sites (sited either side of the A130/Canon Barns Road), comprising of ground-mounted photovoltaic solar arrays, battery-based electricity storage containers, together with inverters/transformer stations, Distribution Network Operator (DNO) Substation, customer substation/switchgear and meter kiosk, batteries, internal buried cabling and grid connection cables, internal access tracks, security fencing and gates and CCTV cameras, other ancillary infrastructure, landscaping and biodiversity enhancements at Land east & west of A130 and north & south Of Canon Barns Road, Chelmsford CM3 8BD, in accordance with the terms of the application, Ref 21/00394/FUL, dated 22 February 2021, and the plans submitted with it, subject to the schedule of attached conditions.

Preliminary Matters

2. Since the Council's refusal of the proposal, two nearby solar farms have received planning permission. The 'Canon Barns site'¹ is southeast of the appeal site, would generate 8 MW of electricity, and is within the Green Belt. The 'Hill Farm site'² is northeast of the appeal site. This will generate 36.7 MW of electricity and is adjacent to the Green Belt. These decisions are material considerations that I will take into account within this decision.

¹ Planning Application Reference: 21/00502/FUL

² Planning Application Reference: 21/00555/FUL

3. A site visit was undertaken the day before the Hearing. During my visit I walked the site and its surroundings with a representative from the Council and the Appellant using a walking route agreed between main parties (Doc B). I therefore have a good awareness of the site and its surroundings.
4. A screening opinion, undertaken by the Council in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 concluded that the proposal was not deemed to be EIA development. I see no reason, within the evidence, to disagree with this view.
5. At the Hearing I was handed three letters of objection from the Parish Councils of West Hanningfield and East Hanningfield and from Mr Malcolm Thomas, a local resident (Docs D, E and F). These raised a range of points, the majority of which were already matters discussed in previously submitted objections. Nevertheless, I decided to accept these and am satisfied that no party would be prejudiced by my taking these into consideration as part of the appeal evidence.
6. The description of development, found on both the Council's Decision Notice and the appeal form, includes a more detailed description to that on the application form. The Appellant explains, at Section E of the appeal form, that the description was changed. As this has been agreed between main parties, and more accurately describes the scheme, I shall use the revised version in the permission.
7. Furthermore, since the refusal of the scheme the Appellant has continued discussions with UK Power Networks. As a result, the proposed 35 metre One Point of Connection Mast is no longer necessary. I understand that instead the development would be connected into the network at the point of an existing pylon. This has resulted in the submission of an amended plan, removing the mast. This alteration was discussed at the Hearing and has reduced the overall visual effect of the proposal, albeit to a small extent. Consequently, I have taken the revised plan into account without causing prejudice to any party.

Background and Main Issues

8. The proposed development is located within the metropolitan Green Belt. Section 13 of the National Planning Policy Framework (the Framework) establishes the national policy objective to protect the Green Belt. Paragraphs 149 and 150 define different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed solar farm would not comply with any such provisions. I see no reason, within the evidence or in matters discussed at the Hearing, to disagree with this assertion. The proposal would therefore be deemed to be inappropriate development in the Green Belt.
9. Paragraph 147 and 148 of the Framework state that inappropriate development in the Green Belt is, by definition, harmful and carries substantial weight. Such development should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the Green Belt by its inappropriateness, and any other harm, would be clearly outweighed by other considerations.
10. Turning to a separate matter, during the course of the planning application consideration, the Council undertook an Appropriate Assessment to consider

the effect of the proposed development on the Crouch and Roach Estuaries (Mid Essex Coast Phase 3) Special Protection Area (SPA). Following consultation with Natural England, the Council was content the impacts could be suitably addressed with mitigation secured by condition. Nevertheless, it is incumbent upon me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA. It is therefore still necessary to consider this matter as a main issue.

11. Accordingly, in consideration of the evidence, the main issues are:

- The effect of the proposal on the openness of, and purposes of including land within, the Green Belt;
- The effects of the development on the settings of the Grade II* listed building Church of St Mary and St Edward, and the Grade II listed building Church House and other non-designated heritage assets;
- The effects of the proposed development on the landscape character and appearance of the area;
- The effect of the proposal on agricultural land;
- The effect of the development on the integrity of the SPA; and
- Whether the harm caused by the proposal, by virtue of being inappropriate development in the Green Belt, and any other identified harm, would be clearly outweighed by other considerations to result in 'Very Special Circumstances'

Reasons

Green Belt - openness and purposes

12. The fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open³. Openness has both visual and spatial qualities. The site consists of six fields. These are enclosed by tree and hedge boundaries, including some woodland areas, especially to the south of the main site. In terms of topography, the site is within gently undulating land with higher land to the south, north and centre of the site. The landform, and extent of field boundary screening, would reduce the overall visual effect of the proposal from wider views.
13. The site is currently farmland. From a spatial perspective, the proposed solar arrays would introduce substantial development into the area in terms of ground cover due to the quantity of arrays within the scheme. Furthermore, the associated access track, substation, inverter stations, fencing and CCTV facilities would result in additional built form that would further diminish the openness of the Green Belt spatially.
14. Nevertheless, the proposed solar arrays would be relatively modest in mass and footprint and would be spaced out at regular intervals reducing the overall scale of the development. Furthermore, the scheme would be in place for a temporary 40-year period. It would then be fully demounted, and land returned to its former condition, at the end of its use. As such, whilst 40 years is a long period of time, it is not permanent. Therefore, the impact on the openness of the Green Belt would be reduced with the site ultimately reinstated to its

³ Paragraph 137 of the National Planning Policy Framework

former open character. Consequently, both visually and spatially, the proposed development would result in moderate harm to the openness of the Green Belt.

15. Paragraph 138 of the Framework defines the five key purposes of the Green Belt. These are to check unrestricted sprawl of large built-up areas, prevent neighbouring towns merging, safeguard the countryside from encroachment, preserve the setting of historic towns and assist in urban regeneration (by encouraging the reuse of urban land). It was agreed between main parties at the Hearing that historic towns would be unaffected. Furthermore, despite the comments of the Council I am unconvinced that the proposal would contribute towards urban sprawl or towns merging as the site is not close to a built-up area. Nevertheless, the proposal could result in encroachment and would not contribute to the reuse of urban land.
16. In terms of encroachment, the proposed scheme would place a large number of solar arrays across six fields. Their operation would be supported by consumer units and a main compound. Although maintaining some space between them, the arrays and associated equipment would fundamentally alter the appearance of the fields. These would alter from a sequence of open green spaces to accommodating solar equipment that would be interspersed with retained field boundaries. Such an effect would result in encroachment, in contradiction of a Green Belt purpose.
17. A further purpose of the Green Belt is to deflect new development towards previously developed land (PDL) to assist in urban regeneration. At the Hearing the Appellants stated that it would not be cost effective to locate such a use on PDL due to land values and rates of return. Accepting this I am also unconvinced that the reuse of PDL for such a scheme would secure the most efficient or optimum reuse of such land for a temporary period of time. Accordingly, the proposal would not be in conflict with this purpose of the Green Belt.
18. The proposal, as inappropriate development, would by definition harm the Green Belt. It would result in encroachment and moderate harm to the openness of the Green Belt in both visual and spatial terms. Accordingly, the proposed development would conflict with policies DM6 and DM10 of the Chelmsford Local Plan (LP) and the Framework. These seek to resist inappropriate development and only allow engineering operations that would preserve openness and not conflict with the purposes of including land within the Green Belt. All harm to the Green Belt carries substantial weight.

Heritage Assets

19. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or setting or any features of special architectural interest which it possesses. The Framework defines the setting of a heritage asset as the surroundings in which the asset is experienced.
20. The proposal has the capability to affect a range of designated and non-designated heritage assets found around the site. These are identified within

the Appellant's Heritage Assessment⁴ as including eight listed buildings and forty non-designated Heritage Assets (NDHAs). Four of these are identified as having an adverse effect on their settings. The setting of a heritage asset is not fixed and may change as the asset and its surroundings evolve. Guidance from Historic England explains that the extent and importance of setting is often expressed in visual terms but may also include other matters including our understanding of the historic relationship between places⁵.

21. The Church of St Mary and St Edward, a Grade II* listed building, is on the north side of Church Road set away from the highway, within West Hanningfield. It originates from the 12th century with 14th century additions including a timber frame belfry. It was also extended in the 18th and 19th centuries. The church consists of various facing materials providing an interesting if slightly eclectic appearance. Its significance derives from its intact historic fabric and the architectural interest of its unusual medieval belfry, and its spatial relationship with the surrounding village. It's setting includes the surrounding agricultural land to the north and south and include it's approach from Church Road.
22. However, due to the recessed nature of the building from Church Road and the site's relationship with surrounding built form, intervisibility between the listed building and its grounds and site would be highly restricted. Furthermore, whilst having a social and functional relationship with the surrounding countryside, there is nothing before me to indicate that the appeal site makes a specific or important contribution to its setting. As a result, the proposal would preserve the setting of this listed building and would not harm its significance.
23. Church House, a Grade II listed building, is a timber framed, plastered house that originates from the 18th century. It is a large two-storey dwelling with white rendered walls, clay roof tiles and brick stacks. Its significance appears to derive from its relationship with the adjacent church, its use of traditional materials located within a rural setting. Views from the front of the dwelling, over Church Road, take in fields and parts of the appeal site. Field boundaries and rising topography screen most of the site. Therefore, the site makes a limited contribution to the setting of the listed building. The proposal would also be largely screened from this vantage offering only distant views of the eastern part of the solar farm and boundary related features. The surrounding farmland contributes to its setting, but I am unconvinced that the appeal site itself makes a significant contribution to this. Due to the substantial separation distance, field boundary screening and topographical features, I am unconvinced that the proposal would result in any harm to the setting of Church House, which would accordingly preserve its significance.
24. The proposal would preserve the significance of the two identified listed buildings and would therefore accord with S66 of the Act. It would therefore comply with LP policy DM13, which requires proposed development within the setting of a listed building to not adversely affect its significance, including views to and from the building.
25. Cobb Cottage, a NDHA, was initially constructed as a pair of cottages in the C19 and has since been combined into one dwelling. It's significance appears to derive from its former use as a pair of agricultural worker's dwellings and being

⁴ Historic Environment Desk-Based Assessment, by AECOM, dated February 2021

⁵ Historic England – The Setting of Heritage Assets 2015

of a traditional agrarian style of farmstead. Its surrounding fields make a contribution to its setting as its rear elevation overlooks the surrounding open countryside. Views from this dwelling would be similar to those from Church House affording distant views of a small part of the proposal. Although nearer to the appeal site, than Church House, its significance is reduced. Accordingly, the setting of Cobb Cottage would only experience limited change, that would not affect the significance of this NDHA.

26. Hophedges, a NDHA, is a cottage adjacent to the north boundary of the site. It appears on the village map in 1840. It is a white render cottage with weatherboarding, decorative dormers and a central brick stack. Its significance appears to derive from its historic interest and traditional agrarian character within a countryside setting. The rear elevation of the dwelling is adjacent to a field with the appeal site including the adjacent field beyond. An access track is proposed beyond the boundary hedge, with solar arrays proposed in the far corner of this adjacent field, around 750 metres from the NDHA. The closest part of the appeal site therefore makes a small contribution to the setting of the NDHA being within its local context. Furthermore, occupiers of this dwelling would be likely to experience some views of the proposal from first floor windows, albeit over a significant distance. Due to the close proximity of the scheme to the NDHA, and its intervisibility, the proposal would result in harm to its setting during the construction and operation of the proposal, albeit limited. Accordingly, this change to the setting of the building would amount to harm at the lower end of such harm.
27. The Framework states that when considering harm to NDHAs a balanced judgement will be required having regard to the scale of any harm and the significance of the asset. The impact of the proposal would cause limited harm to the significance of a non-designated asset, being an asset of lower importance. The negligible harm conveyed to the NDHA would be offset by the separation distance to the track and operational site beyond, existing screening and the merits conveyed through the generation of renewable energy. Accordingly, the proposal would also comply with LP policy DM14, where harm to the significance of a non-designated heritage asset, must be justified following a balanced judgement.

Landscape and Visual Impact

28. Both main parties acknowledge that the proposal would result in harm to the character and appearance of the area. However, there is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where it can be viewed, such as from roads, public rights of way and individual dwellings.

Landscape character

29. The appeal site consists of six fields, the site and surrounding fields are used for a range of arable and pastoral purposes. The fields within the site are arranged in a cluster around the A130 and Canon Barns Road. Purely for convenience I shall refer to the various fields using the numbering convention found in the Appellant's Zoning Layout Plan⁶ that refers to Development Zones (DZs).

⁶ drawing number LCS039-DZ-01 revision 10

30. The site includes one field to the east of the A130 (DZs 4 and 6) with the remainder of the site being to the west of this highway, in two similar sized parcels. These are to the north (DZs 1, 2, 3, and 5) and south (DZ 7) of Canon Barns Road. The site is bound partly along its western boundary by a row of electricity pylons, that generally follow a ridge line, and the Essex and Suffolk Waters Hanningfield Water Treatment Works. Also, the A130 follows a shallow valley floor alongside and through the site. Consequently, the site's undulating landform includes a number of relatively substantial man-made interventions.
31. The site is within Natural England's National Character Area 111: Northern Thames Basin, including woodlands, mixed farming and arable land. The site is also within the South Essex Farmlands area E1, within the County Council's character assessment. This is defined as consisting of small to medium sized arable and pastoral fields where tall thick boundary hedges contribute to an enclosed character. It is notable that this also recognises that overhead pylons and major roads visually interrupt the landscape.
32. At a district level, the site is within the South Hanningfield Wooded Farmland: F11⁷ in the Council's Landscape Character Assessment. This area is described as consisting of undulating farmland of medium to large arable fields that include hedged field boundaries and wooded horizons. The site is also adjacent to the East Hanningfield Woodland Farmland character area: F12. This is defined as having large arable fields, pockets of pony and pasture paddocks and mature treed field boundaries. The appeal site appears to generally align with these character assessments, especially F11, and therefore makes a positive contribution towards the landscape character.
33. The pattern and arrangement of character area F11 form low-lying land with elevated ridges. This area is largely to the north and east of the site on gradually climbing land. The A130 passes through the landscape along embankments and cuttings, with the adjacent reservoir and its associated buildings and pylons adding to the features evident within the area. The proposed development would locate solar arrays within the existing field pattern. It would retain and enhance field boundaries, leaving most wooded areas. It would retain the structure of field boundaries and keep field patterns intact. As such, the proposal would have a largely non-invasive impact on the landscape features defined as important to the character areas.
34. The appeal site, whilst relatively extensive, represents only a small proportion of the national and county character areas. At a district level, the impact on the landscape would be greater, but as the existing natural features of the site would be largely retained and enhanced, the overall landscape effect would be limited. Furthermore, the solar arrays would be low-lying, open sided features that would be temporary in nature, limiting the overall effect on the wider landscape. However, the proposed development would alter the landscape with the introduction of industrial development and equipment across a relatively broad area. Therefore, this would result in some localised landscape harm. As a consequence, the scheme would result in a moderate adverse impact on the area's landscape character.

⁷ Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment

Visual Impact

35. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The Appellant's visual assessment was undertaken in December when leaves from deciduous trees would have fallen, offering a 'worst case scenario' of views through the site, when the site would be at its most exposed. Equally, my visit was undertaken at a similar time of the year enabling a similar useful assessment of the visual effects of the proposal to be most appreciated. The Appellant's Landscape and Visual Impact Assessment⁸ (LVIA) and its Addendum⁹ identify 33 viewpoints which assess the effect of the scheme on Visual Receptors (VRs). The viewpoints have been accepted by the council as being the most significant in understanding the visual effects of the proposal. These selected viewpoints provide only a snapshot of the site and would not necessarily reflect the experience of receptors walking through or around the site.
36. Figure 4 of the LVIA, shows the theoretical visibility of the scheme demonstrating that the majority of views outside the site would be from an arc from the northwest through to the east. In a southern arc around the site, from the west to the southeast, woodland and topography obscure most views. The LVIA considers the visual effects of the proposal both at year one and at year ten, the second assessment taking into account the growth of proposed landscape screening as it approaches maturity.
37. The general topography of the site, and its surroundings, provide screening from many wider views forming a degree of enclosure. Furthermore, man-made features also obscure some views of the site, such as by the embankments of Canon Barns Road and Church Road. The combination of these features would disaggregate and limit some views of the site.
38. The local roads and the A130 provide visual receptors from motorists that have a low sensitivity to change. Road users would primarily be paying due care and attention to other road users and hazards, taking in only limited glimpses of the site, resulting in only negligible adverse visual effect. Motorists of Southend Road (VR6a), Pan Lane (VR5) and Church Road (VR19 and VR21) would be travelling closer to the site and would have the opportunity to take in more of the area affected by development. Nevertheless, such views would result in only a 'minor adverse' effect in the first year, leading to 'negligible adverse' effects (for VR6a, VR19 and VR21) and 'neutral' effects (VR5) at year ten. The view of the scheme from motorists would be largely fleeting and offer only partially glimpsed views of constrained sections of the arrays and equipment. As such, the visual impact on motorists would be of low magnitude, resulting in only 'minor adverse' and 'neutral' effects.
39. Views of the proposal, from the northwest of the site and West Hanningfield, would be limited. Viewpoint VR18, for users of the Public Right of Way (PRoW) 236_26 and for residents of West Hanningfield (VR18a), southeast views take in fields and hedgerow planting and a ridgeline to the east. These features would limit most views of the solar arrays and their associated equipment. These viewpoints would experience only a small portion of the solar arrays, the fencing and CCTV columns that would enclose, and be within, area DZ2. Once

⁸ Landscape and Visual Impact Assessment, by AECOM, February 2021

⁹ Landscape and Visual Impact Assessment, by AECOM, September 2021

the proposed hedgerow screening has developed, after 10 years, the effect of such views would move from 'minor adverse' to 'negligible adverse'.

40. Views from VR26, on PRoW 236_36 looking southeast towards the site, would be similar to VR18 and VR18a, albeit closer to the site. These would also provide views of the edge of the solar array farm, only seeing those elements within area DZ2. This viewpoint would initially result in a 'moderate adverse' effect but would lessen over time. I am unconvinced that after 10 years this effect would remain 'moderate adverse'. The substation would be discreet beyond the ridgeline, with only boundary fencing and CCTV columns being evident in the distance behind the established landscape screening. Consequently, the visual effect after this period would be 'minor adverse' only after 10 years.
41. VR20a considers the rear view for occupiers of Hophedges. The SoCG identified that this VR point was in dispute, but the Council withdrew its dispute at the Hearing, but raised concerns due to the visual effect of the use of the access track. Vehicles using the access track would be infrequent based on the use of the site and as such the overall effect of the development on occupiers would be negligible. Accordingly, given the proximity and scale of existing tree and hedgerow screening views of the proposal from this vantage would be neutral.
42. Views from VR23 and VR24 look south towards the northern edge of the site, towards area DZ1. These take in viewpoints from walkers using PRoW 236_47. The addendum shows that these views would remain largely unchanged. The visual effect from these views would change from 'minor adverse' initially to 'minor adverse' and 'negligible adverse' effects respectively after 10 years.
43. The views from VR3 and VR3a, by users of PRoW 218_7 and occupiers of Hill Farm and Dunnock Cottage, are elevated and look down towards the site to the southwest. These take in the eastern and northern parts of the site in a wide context with the fields of Hill Farm and the A130 forming the fore ground and middle views respectively. Much of the development zones would be screened by field boundary landscaping and the bridge and road embankments of Church Road and Cano Barns Road where these cross the A130. The effect on the view to VRs would initially be 'minor adverse'. With landscaping developing over future years this effect would reduce to 'negligible adverse' after ten years. Even if parts of the solar farm remained visible these would be likely to be seen as small parcels of development, interspersed by field boundaries and the established new landscaping, within distant views. The impact on these would therefore be 'negligible' after 10 years.
44. Walkers, cyclists and horse riders, among other slow moving road users, using local roads would be highly sensitive to change. However, such views would only experience small pockets of the proposal and would not provide a broad perception of most of the scheme. These views would also be partially obscured by topography and natural screening that would limit the overall visual effect of the scheme from 'minor adverse' in year one to 'negligible' in year ten.
45. The site is crossed by a number of public rights of way (PRoW). PRoW 218_12 runs through the north and south parcels of the site either side of Canon Barns Road. The PRoW of 236_36 comes into the site from the northwest and runs between DZ2. Also, PRoW 218_15 connects to 236_36 and runs through the middle and side of the north parcels (DZs 1, 3 and 5). The PRoWs that cross the site cut through several fields and follow the perimeter of others within the

site. Users of these routes through the site currently enjoy an open aspect over the countryside. However, PRoW 218_12 exits the site to the west runs alongside the waterworks between tall hedges. This is within a relatively narrow walkway in an enclosed route.

46. VR27, on PRoW 218_15, assesses the typical effect of the proposed development on walkers from inside the site. These would be highly sensitive to visual change. Views of the scheme, from the routes that cross through the site, would fundamentally change from the current outlook over open arable land. The effect on users would be 'major adverse' in the first year. However, the sense of enclosure would partially replicate the effect of other sections of this route. Therefore, whilst views from the PRoWs through the site would become more enclosed, the visual impact on users of the PRoWs would be reduced to 'moderately adverse' by year ten.
47. A fence up to 5 metres high alongside the A130, has been offered by the Appellant to remove the Council's concerns with respect to glint and glare. In some viewpoints this would result in initial visual effects being diminished. The fence would screen the arrays, especially from views VR6 and VR7 from Southend Road. Accordingly, the proposed fence if deemed necessary, would moderate visual benefits of the proposal in screening some views.
48. Taking the above visual affects into account, most views of the proposal would be 'minor' or 'negligible' by year 10. Whilst the visual impacts of the proposal would be 'major adverse' from the PRoW from Visual Receptors through the site, these effects would be diminished to 'minor adverse' once the landscape screening has become established. Consequently, due to the arrangement of local topography the most adverse visual effects would be largely confined to localised effects only. Accordingly, taking all of the above impacts into consideration the visual impact of the proposal would result in moderate harm.

Cumulative visual and landscape effects

49. The proposal would be close to the two recently approved solar farms at Canon Barns Road and Hill Farm. Table 4-A, of the addendum LVIA, considers the cumulative visual effects from these viewpoints. The addendum shows how the visual effect from two viewpoints, VR9 and VR29, would change in cumulative terms. Viewpoint VR9, from Canon Barns Road, shows the eastern part of the scheme with the Hill Farm and Canon Barns sites having a 'moderate adverse' visual effect on this view. Viewpoint VR29, from Pans Lane, shows parts of the Hill Farm and Canon Barns sites but also illustrates that the proposed scheme itself would not be visible.
50. Accordingly, the LVIA demonstrates that the cumulative visual effects of all three sites would increase the visual effects of most views from 'negligible' impact to 'minor adverse'. Consequently, in most wider views, the proposal would not materially contribute to a cumulative visual effect of these sites. Accordingly, the overall visual effects of all three sites would be limited and would not substantially increase the visual effect of the scheme from moderately harmful.
51. As has been found above, the proposal itself would only result in localised and a 'moderate adverse' effect on the landscape, for the 40-year duration of the proposed development. The cumulative effect of the development on the landscape, in combination with the two approved schemes, would be greater.

Nevertheless, the combined effect, would only have a further limited adverse impact on the landscape character. Accordingly, the overall effect on the landscape character would remain as a 'moderate adverse' effect in this geographic context.

52. Consequently, despite its overall scale, the proposal would result in a 'moderate adverse' effect on the landscape character and moderate harm to the visual appearance of the area. In identifying harm, the proposal would conflict with LP policies DM6, DM10 and DM19, the Council's Solar Farm SPD and the Framework. These seek, among other matters, for development to not result in an unacceptable visual impact which would be harmful to the character of the area and to protect valued landscapes, to which I attribute moderate weight in the planning balance.

Effect on arable land

53. Paragraph 174(b), of the Framework, places value on recognising the intrinsic character and beauty of the countryside including the best and most versatile agricultural land. The Framework's Glossary defines Best and Most versatile (BMV) agricultural land as being land in grades 1, 2 and 3a. Most of the site would not qualify as BMV by this categorisation. Nevertheless, it is recognised that the site provides arable value. It would no longer be capable of providing such a function. Also, I recognise that the Appellant suggests that the site could be used for sheep grazing, but such an activity would be unlikely to fully offset the sites current capability for agricultural use.
54. The Appellant's Agricultural Land Assessment has considered the range of crops that can be grown, the type and consistency of yield and the cost of producing the crop. This has found that the appeal site mainly consists of grade 3b agricultural land. Only a small parcel (of two hectares) was identified as being 3a agricultural land. The methodology and findings of the Assessment has not been disputed by the Council.
55. The PPG¹⁰ requires local planning authorities to aim to protect BMV agricultural land from significant, inappropriate or unsustainable development proposals. The Council's Solar Farm SPD also advises that such development should first favour the use of previously developed land and arable land graded as 3b, 4 or 5. Nevertheless, as the significant majority of the site does not meet a BMV classification, the loss of the small parcel of 3a graded arable land is attributed minor harm in the planning balance.

Integrity of the SPA

56. Natural England identifies that the proposal could have potential significant effects on Crouch and Roach Estuaries (Mid Essex Phase 3) Special Protection Area (SPA) and Ramsar, Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI) and Hanningfield Reservoir SSSI.
57. The site is around 4.7km from the SPA. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations) and is a wetland of international importance. The Habitats Regulations impose a duty on me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA, either alone or in combination with other

¹⁰ Guide to assessing development proposals on agricultural land, 2021

- plans and projects. In 2018, the Court of Justice of the European Union held that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA), rather than at the screening stage¹¹.
58. Evidence shows that the SPA is used by a large number of skylark and corn bunting birds. Wintering dark-bellied brent geese, black-tailed godwit, shelduck and shoveler birds also regularly visit the SPA in nationally important numbers. In addition, the mud along the Crouch and Roach is used by redshank and dunlin for feeding and as a roosting site for lapwing and golden plover.
59. The site is also around 250 metres from the Hanningfield Reservoir SSSI. Its main scientific interest derives from its breeding and wintering wildfowl including Gadwall, Pochard, Shoveler, Teal, Tufted Duck and Shelduck.
60. The Appellant's Ornithological Survey¹² Report demonstrates that 46 species of wintering birds and 51 species of breeding birds visit the site. This includes small numbers of little egret, skylark and black-headed gull which are waterbird species found within the SPA. The Ornithological Report has concluded that the distance between the SPA and the Site, the absence of wetland habitat on site and the abundance of similar farmland habitat between the sites indicates that the site is not especially important to the populations of these birds occurring within the SPA. These seem to be reasonable conclusions and although the proposal would affect the integrity of the SPA, this effect would be limited.
61. The Appellant's Skylark Mitigation Strategy¹³ seeks to deliver long term habitats for the territories of skylark found on site, both during breeding and non-breeding seasons. These would include tightly mown plots, unmanaged grassland areas and cover-crops within the mitigation areas. This approach would ensure that the site would maintain a succession of occupation and productivity of the population of skylark as identified on site. The proposal would therefore minimise any direct impact on skylarks.
62. In assessment of the Council's AA, Natural England has concluded that the integrity of the SPA¹⁴ would not be adversely affected subject to the proposed mitigation within the Ornithological survey and Skylark Mitigation Strategy. I see no reason to disagree with this conclusion. Therefore, I am satisfied, based on the specific evidence before me, that a condition requiring the mitigation measures detailed in the surveys would prevent an adverse effect on the integrity of the SPA.
63. I therefore conclude through my AA that, with the provided mitigation, the proposal would not harm the integrity of the SPA and accord with the Habitat Regulations. I am also satisfied that the mitigation offered to address the adverse effects on the SPA and Ramsar site would mitigate the effects of development on the identified SSSIs.

¹¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

¹² AECOM Ornithological Survey Report, June 2021

¹³ Skylark Mitigation - Technical note, by AECOM, date 20 October 2021

¹⁴ Natural England letter dated 7 October 2021

Other matters

Flooding

64. The Appellant's Flood Risk Assessment¹⁵ identifies that most of the site is within flood zone 1. A small section is in flood zone 3a, alongside Sandon Brook, although no work is proposed within it. The Assessment finds that rainfall falling on solar panels would runoff at an angle and result in a small increase in post development run-off rates. To account for the extra volume a sustainable drainage system (SUDs) would be installed. The proposed drainage system would reduce current run-off rates from the site resulting in betterment over the existing drainage arrangements.
65. The County's SUDs team raised no objection to the proposal subject to the provision of a sustainable urban drainage strategy. As such, despite the concerns raised by interested parties that the development would increase off-site flooding especially onto Church Road, I see no compelling evidence that any off-site flooding would be exacerbated by the proposal. Consequently, the scheme would accord with the requirements of LP policy DM18.

Wildlife impacts

66. The fields within the appeal site are enclosed by hedgerows that include trees within the field boundaries. The hedgerows provide habitats for a diverse range of avian wildlife including hobby and barn owls and 12 priority bird species including skylark, thrush and yellow hammers. Whilst the hedgerows are considered to be a high value resource, the fields are of limited ecological interest being used as a combination of arable farmland and pastoral. The Appellant's desk based Ecological Assessment¹⁶ and associated surveys conclude that the effects on wildlife would be limited, and these could be mitigated through the preparation of a landscape and ecological management plan and a construction environmental management plan, both of which could be secured by condition.
67. In terms of bats, a bat survey identified that certain trees on site could offer suitable habitat. As these trees are proposed for retention, bats species would not be affected by the proposal. In terms of badgers, the submitted survey has been considered by the Council's ecologist and the required mitigation measures can be incorporated into an ecological management plan. A pond near Link House Farm has been found to include Great Crested Newts, a low impact class license would be required to be obtained from Natural England due to the proximity of this to the site.
68. The proposal includes new planting in the form of enhanced hedgerows both around the perimeter of the site, especially along the A130 corridor, and adjacent to the PRoWs that cross the site. The tree and species rich hedgerow planting, including reinforcement of existing hedging, would enhance the existing planting within the site and its wildlife value. Wild green grassland and new planting corridors would also be provided around the margins of the fenced area enhancing foraging routes.

¹⁵ Flood Risk Assessment and Drainage Strategy, by AECOM, dated February 2021

¹⁶ By Aecom, dated February 2021

69. The Bio-diversity Assessment¹⁷ concludes that the proposal would exceed the 10% bio-diversity net gain objective of upcoming legislation. The proposal would result in a loss of 33% river unit habitat, due to the encroachment of the access route into the 10m riparian zone of the Sandon Brook. Nevertheless, the access route could be partially adjusted when the final layout of the site is agreed by condition and the effect further reduced by habitat enhancement that could be secured by condition. Overall, the proposal would result in a net bio-diversity gain of around 82% habitat units and 29% hedgerow units which would be of significant benefit to the wildlife within the area. A condition for a landscape scheme could be used to determine compliance with the biodiversity net gain metric to ensure it would deliver and manage the calculated gains in perpetuity.
70. Interested parties have identified that the proposal would reduce routes through the site used by large mammals, such as deer. Large mammals, traversing the site, have not been identified as using the site through the ecological assessment and surveys undertaken. However, whether present or not, I am unconvinced that the site offers a particularly important route through the area. Furthermore, the proposal would retain the ability to accommodate some routes through the site for wildlife where within the landscape scheme that could be secured by planning condition.

Highway safety

71. The proposal includes six access points, four of which would be from Canon Barns Road. These would be used for construction access and then post construction occasionally used for maintenance purposes. The access into the site from Church Road would be for emergencies and to access the substation. Church Road is a single carriageway road with a 60mph speed restriction and is unlit. It also has limited passing points but has no recorded collisions within the prescribed study period. Speed analysis data has shown that actual recorded speeds are around 48mph and the proposed visibility splays, at the access, would enable safe egress and access in this context.
72. The Appellant's Transport Statement¹⁸ demonstrates that the proposal would generate a relatively low level of vehicular activity, with a nominal number of movements of four two-way vehicle trips a week. As such, due to the nature of the use, traffic associated with the operation of the facility would be light and infrequent. I am therefore satisfied that the use would operate without detriment to highway safety, a point supported by the County's Highway Authority.

Security matters

73. Essex Police has identified that solar farms, within other parts of the country, have been the target of theft¹⁹. The proposal would include security fencing and CCTV to attempt to protect the site and combat criminal activity. Interested parties have raised concerns that the proposal security measures would be ineffective to deter crime. Although recognising these concerns, there is no compelling evidence that the proposal would be especially vulnerable to theft, that the Appellants security measures would be ineffective or that the proposed

¹⁷ By Aecom, dated September 2021

¹⁸ Transport Statement, Low Carbon, February 2021

¹⁹ Essex Police – Design out Crime Team, Mr Stephen Armson-Smith, 22/03/21

scheme would raise criminal activity in the area. Furthermore, this could be suitably addressed through agreement of the specification of robust boundary treatment and CCTV coverage by planning condition.

74. The CCTV cameras would be a significant distance from the nearest residential properties. Consequently, I am unconvinced that these would be capable of substantive overlooking into private spaces. Furthermore, this matter could be further mitigated through a planning condition, with respect to camera views, if deemed necessary by the Council.
75. Other concerns raised by interested parties, such as the health effects of the production of solar panels and operation of solar farms, and its impact on local property values are noted but do not have a material bearing on the main issues associated with this appeal.

Other Considerations

Renewable energy

76. A material consideration in the determination of planning proposals for renewable energy are the National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) were published.
77. The draft NPS EN-3 states that:
- "solar farms are one of the most established renewable energy technologies in the UK and the cheapest form of electricity generation worldwide. Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large scale solar is now viable in some cases to deploy subsidy free and little to no extra cost to the consumer."*
78. Both the existing and proposed NPSs state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects.
79. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all²⁰.
80. The UK Energy White Paper, Powering our Net Zero Future (2020), describes the costs of inaction as follows:
- "We can expect to see severe impacts under 3°C of warming. Globally, the chances of there being a major heatwave in any given year would increase to about 79%, compared to a 5% chance now. Many regions of the world would*

²⁰ IPCC Sixth Assessment Report - Summary for Policymakers, paragraph D.5.3

see what is now considered a 1-in-100-year drought happening every two to five years.

At 3°C of global warming, the UK is expected to be significantly affected, seeing sea level rise of up to 0.83 m. River flooding would cause twice as much economic damage and affect twice as many people, compared to today, while by 2050, up to 7,000 people could die every year due to heat, compared to approximately 2,000 today. And, without action now, we cannot rule out 4°C of warming by the end of the century, with real risks of higher warming than that. A warming of 4°C would increase the risk of passing thresholds that would result in large scale and irreversible changes to the global climate, including large-scale methane release from thawing permafrost and the collapse of the Atlantic Meridional Overturning Circulation. The loss of ice sheets could result in multi-metre rises in sea level on time scales of a century to millennia.”

81. The draft NSPs recognise that to meet the Government’s objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to ‘dramatically increase the volume of energy supplied from low carbon sources’ and reduce the amount provided by fossil fuels. Solar and wind are recognised specifically in Draft EN-1 (para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are ‘likely to be composed predominantly of wind and solar’. The Government aims by 2030 to quadruple offshore wind capacity so as to generate more power than all homes use today. This would therefore be delivered in collaboration with solar energy, and other measures, to provide a robust supply.
82. Planning Practice Guidance (PPG), on renewable and low carbon energy, states that ‘there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.’²¹
83. The Framework explains that when dealing with planning applications, planning authorities should not require a developer to demonstrate a need for low carbon or renewable energy projects, and should recognise that even small-scale projects can help reduce greenhouse gas emissions. Paragraph 158(b) also explains that such schemes should be approved if any impacts are, or can be made, acceptable. Furthermore, it identifies once areas have been identified for such projects, by local authorities in local plans, any subsequent applications should demonstrate how they would meet the criteria used in identifying suitable locations.
84. The Council has not allocated any sites for renewable energy schemes in the district. However, it’s Solar Farm Development – Supplementary Planning Document-2021 (SPD) includes locational principles that guide its consideration of suitable sites. Paragraph 8.2 requires solar farms in the Green Belt to demonstrate very special circumstances and, among other matters, to not adversely impact on the identified character and beauty of the Rural Area. Paragraph 5.5 reiterates guidance of the Framework in identifying that Very Special Circumstances may include wider environmental benefits associated with the production of energy from renewable sources.

²¹ PPG, Paragraph: 005 Reference ID: 5-005-20150618

85. The approved Cannon Barns site was allowed in the Green Belt. The Council found that the benefits of renewable energy would outweigh the harm to the openness of the Green Belt, the low level of 'less than substantial' harm to heritage assets and the modest harm to landscape character. Whilst each case must be considered on its own merits, this recent decision provides a useful insight into the weight the Council has applied in the past to renewable energy projects in the Green Belt.
86. The proposed solar farm is substantially larger than the Canon Barns site, with clear contextual differences. Nevertheless, it is plainly evident that a larger site, such as the current proposal that may have a greater impact, would also deliver a greater level of power output thus making a greater contribution towards the production of renewable energy. This benefit weighs strongly in favour of the scheme.

Planning balance

87. I have concluded that the appeal scheme would result in harm to the Green Belt from inappropriateness and loss of openness, to which I afford substantial weight. Furthermore, the proposal would also result in moderate harm to the landscape character and convey moderate visual harm to the area. The proposal would also convey limited harm to the loss of a small proportion of BMV arable land, attracting limited adverse weight. The limited harm identified to the NDHA would be outweighed by the public benefits of the proposal. Nevertheless, for the purpose of my overall planning balance this harm contributes to the adverse effects of the proposal.
88. The proposed scheme would not harm the integrity of the SPA, weighing neither for nor against the proposal. Furthermore, the other matters identified raise issues that either result in no harm or raise technical matters that could be adequately addressed through the imposition of appropriate conditions to negate the harm.
89. Conversely, the proposal would deliver a renewable energy facility that would create up to 49.9MW of power. This would provide power for around 16,581 households, result in a carbon dioxide displacement of around 11,210 tonnes per annum and therefore help combat climate change. The appeal site, whilst large is relatively unobtrusive, within a depression of land that prevents most wide views of the site to be experienced. The surrounding landscape also includes a range of man-made interventions. These features enable the area to accommodate a degree of change where other locally approved solar farms would contribute to the visual evolution of the appearance of the area.
90. The Framework identifies that many renewable energy projects in the Green Belt will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances which could include the wider environmental benefits associated with the increased production of energy from renewable sources. Whilst this lends support for renewable projects in the Green Belt it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption against inappropriate development and the resultant substantial harm conveyed to the Green Belt by this.

91. The benefits of renewable energy raise substantial benefits in favour of the proposal. These benefits are recognised in the Council's local policies and guidance and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.
92. Also, a solar farm requires grid capacity and a viable connection to operate. As such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility. The Appellant explains that the national grid suffers capacity difficulties and limits suitable points of connection. The Appellant proposes to connect to the adjacent electrical pylons placing the site in an advantageous location satisfying the connection constraints that exist. The Appellant has therefore demonstrated that a rational approach was taken to site selection lending support for the selected site.
93. Accordingly, the public benefits of the proposal are of sufficient magnitude to outweigh the substantial harm found to the Green Belt and all other harm identified above. These benefits identified attract very substantial weight in favour of the scheme. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development exist. Accordingly, the proposal would satisfy the local and national Green Belt policies I have already outlined.

Conditions

94. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take the conditions within the agreed SoCG into consideration and impose these with some amendments and adjustments for clarity.
95. A number of conditions are necessary that relate to the submission of details prior to the commencement of development. These seek details relating to the specific placement of equipment on site, a landscape scheme, temporary fencing, arboricultural method statement, soil management plan, archaeological investigation and definition of exclusion zones, construction ecological management plan, construction traffic management plan and a surface water drainage strategy. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These details are required at a pre-commencement stage as they relate to matters that may influence the configuration of equipment on site and relate to its initial setting out.
96. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty. Conditions are also necessary to determine the precise location of the equipment, grant only a temporary consent, establish a decommissioning strategy, decommissioning in the event of early closure of the facility and to require notification as to when power provision begins. These conditions would be required to manage the overall landscape impact of the development and comply with LP policy DM19.
97. Conditions are necessary with respect to the provision of a landscape planting scheme, an ecological management plan, construction ecological plan, to

prevent the installation of external lighting, breeding bird mitigation and monitoring strategy and arboricultural method statement in the interests of the character and appearance of the area and to ensure the delivery of a net gain to Biodiversity.

98. It is necessary to require details of boundary treatment and the proposed CCTV system to ensure the proposed works integrate well with their surroundings.
99. During the Hearing the Council explained that it would also require a condition for temporary fencing to prevent glint and glare to motorists. I acknowledge that there is no clear evidence before me that clearly demonstrates that solar farms cause glint and glare that might contribute towards accidents. Nevertheless, the County Highway Engineer's evidence illustrates that some motorists have stated, in accident reports, that dazzle was a distracting component. Therefore, despite the solar panels not being especially reflective, I find that a requirement for screening would be necessary due to the site's proximity to the A130 and the extent of panels that would otherwise be visible from this vantage. Accordingly, this condition would be necessary in the interests of highway safety.
100. It is also necessary for the submission of a construction traffic management plan, site access point specifications and for hardstanding around the accesses to be hard bound, all in the interests of highway safety. Furthermore, conditions are necessary to satisfy the archaeological interests of the site and to define any localised exclusion zones in accordance with LP policy DM15.
101. It is also necessary for the provision of a surface water drainage strategy and its maintenance plan to ensure that a SUDs scheme is installed to mitigate against any flood risk. Furthermore, a condition would be required to ensure that a soil management plan is submitted to manage soil compaction, water runoff and drainage.

Conclusion

102. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions within the attached schedule.

Ben Plenty

INSPECTOR

APPEARANCES

For the Appellant;

Thomas Smith	- Technical Director, AECOM
Richard Hammond	- Landscape architect, AECOM
Jonathan Hill	- Associate Director, AECOM
James Hartley-Bond	- Low Carbon

For the Council;

Ruth Mabbutt	- Senior Planning Officer, Chelmsford City Council
Ryan Mills	- Place, Essex County Council
Sarah Hill-Saunders	- Planning Officer, Chelmsford City Council
Richard Mackrodt	- Highway Engineer, Essex County Council

Interested parties;

Cllr Richard Poultnier, for Bicknacre and East and West Hanningfield Ward
Cllr Sue Dobson, for Bicknacre and East and West Hanningfield Ward
Cllr Les Draper, East Hanningfield Parish Council
Cllr Malcolm Thomas, East Hanningfield Parish Council (and acting as resident)
Paul Galley, West Hanningfield Parish Council
John Dunton, West Hanningfield Parish Council
Mr and Mrs Hellings, residents

Additional documents

Doc A:	Statement of Common Ground (signed version)
Doc B:	Viewpoint suggestions and plan for site visit walking route from main parties
Doc C:	Plan of Public Rights of Way
Doc D:	objection from West Hanningfield Parish Councils
Doc E:	objection from East Hanningfield Parish Councils
Doc F:	objection from Mr Malcolm Thomas, a local resident
Doc G:	Attendance List

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice: LCS039-SP-01_rev02 (Site Location Plan), LCS039-DZ-01_rev10 (Zoning Layout Plan), LCS-SD-11_rev02 (Panel Cross Section), LCS-SD-01_rev02 (DNO Substation Elevations and Dimensions Plan), LCS-SD-02_rev02 (Customer Substation Elevations and Dimensions Plan), LCS-SD-03_rev01 (Indicative CCTV Post), LCS-SD-04_rev02 (Security Fence and CCTV Standard Detail), LCS-SD-08_rev02 (Inverter Elevations and Dimensions Plan), LCS-SD-01_rev01 (DNO Substation Floor Plan), LCS-SD-15_rev01 (Customer Substation Floor Plan), LCS-SD-16_rev01 (Inverter Floor Plan), LCS-SD-21_rev01 (53ft Battery Container (HVAC on roof) Standard Detail), LCS-SD-23_rev01 (POC Mast Compound), LCS-SD-25_rev01 (Meter Kiosk Standard Detail), LCS039-PLE-01_rev22 (Indicative Site Layout (amended post-decision)), 60644715-ACM-LCSF-SD-DR-DS-000001 Rev P02 (Sandon Brook Solar Farm Outline Drainage Strategy).
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to their installation, full details of the final location, design and materials to be used for the: (a) panel arrays, (b) transformers, (c) inverters, (d) battery storage, (e) control room, (f) substations, (g) CCTV cameras, (h) fencing and gates, and (i) Any other auxiliary buildings. These details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form unless otherwise agreed in writing with the Local Planning Authority.
- 5) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV park, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of works shall include the following: (a) a programme of works; (b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site; (c) details of any items to be retained on site; (d) a method statement for restoring the land to agriculture; (e) timescale for the decommissioning, removal and reinstatement of the land; (f) a method statement for the disposal/recycling of redundant equipment/structures. The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.

- 6) The applicant/developer shall notify the Local Planning Authority in writing within 10 working days of electricity being generated from the development being first exported to the National Grid.
- 7) If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.
- 8) No construction or decommissioning works shall take place except between the following hours: 08:00 to 18:00 Monday to Friday, and 08:00 to 13:00 Saturday. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.
- 9) Prior to the commencement of development, a landscaping scheme containing details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the works shall be carried out as approved prior to the first exportation to the National Grid, or in the first available planting season following such exportation and permanently retained and maintained in accordance with the agreed lifetime of the development. The details to be submitted shall include: (a) Hard surfacing including pathways and driveways, other hard landscape features and materials; (b) Existing trees, hedges or other soft features to be retained; (c) Planting plans including specifications of species, sizes, planting centres, number and percentage mix; (d) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife; (e) compliance with the biodiversity net gain metric and (f) the continuation of unobstructed movement of species within the site.
- 10) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority prior to first exportation to the National Grid. The content of the LEMP shall include the following: (a) Description and evaluation of features to be managed; (b) Ecological trends and constraints on site that might influence management; (c) Aims and objectives of management; (d) Appropriate management options for achieving aims and objectives; (e) Prescriptions for management actions; (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); (g) Details of the body or organisation responsible for implementation of the plan; (h) Ongoing monitoring and remedial measures. The LEMP shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 11) Prior to their installation, details of boundary treatment and CCTV cameras shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out as approved prior to first exportation to the National Grid and permanently retained and maintained in accordance with the agreed form subject to any such variation that has been previously agreed in writing with the Local Planning Authority. The details to be submitted shall include: (a) Details of the proposed treatment of all boundary fencing; and (b) Details of the CCTV cameras; (c) Whole perimeter fencing plan including provision for the ingress and egress of badgers and other small mammals.
- 12) Prior to the commencement of development, a scheme to deal with the provision of temporary boundary fencing to address glint and glare shall be submitted to and approved in writing by the Local Planning Authority. The temporary fencing should be installed to approximately 3 metres in height (or where necessary to a previously agreed greater height) and shall provide continuous unbroken screening, above the carriageway levels of the A130 and Southend Road. The fencing shall remain in place until the new planting and any additional planting to enhance the existing established planting has reached a minimum height of 3 metres (or greater), to be determined in writing with the Local Planning Authority. Prior to the removal of the temporary fencing, evidence shall be submitted to and approved in writing by the Local Planning Authority, which demonstrates the boundary landscaping has reached a height of 3 metres (or where necessary to a previously agreed greater height) and provides a continuous unbroken screen, above the carriageway levels of the A130 and Southend Road.

In the event of an extraordinary event, where the temporary screening along the perimeter of the site, as shown on the detailed site layout plan secured under Condition 4, is partially or completely removed or destroyed, an Emergency Plan shall be provided prior to the commencement of the development that identifies: i. the procedure to install temporary screening, with associated construction management plan; ii. permanent remedial actions; iii. the party or party's responsible; and iv. provision of any Traffic Management required to the A130 and Southend Road carriageways, as required by the LPA and the Highway Authority. Full details of the Emergency Plan will be agreed in writing with the Local Planning Authority and the Local Highway Authority prior to commencement.

- 13) In relation to tree protection, no works shall take place until an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall only be carried out in accordance with the submitted Arboricultural Method Statement subject to such minor variations as may be agreed by the Local Planning Authority. The details to be submitted shall include: (a) Details of trees and hedges to be retained and removed; (b) Details of tree surgery work to retained trees; (c) Specification for tree protection including layout and type of tree protection for construction including change that may occur during development; (d) Location and installation of services, utilities and drainage; (e) Details of construction within the root protection area of retained trees; (f) Details of site access,

temporary parking, welfare facilities, loading and unloading, storage of equipment, materials, fuels and waste; (g) Boundary treatments within the root protection areas; (h) Arboricultural supervision and inspection, including timings, reporting of inspections and supervision; (i) Boundary treatments within the root protection areas, and (j) Arboricultural supervision and inspection, including timings, reporting of inspections and supervision.

- 14) Prior to first exportation to the National Grid, a wintering and farmland breeding bird mitigation and monitoring strategy, that includes reference to skylarks, shall be submitted to and approved in writing by the Local Planning Authority prior to the completion of the development. Thereafter, the works shall only proceed in accordance with the approved mitigation and monitoring strategy, subject to any minor variation that may be agreed in writing with the Local Planning Authority. The strategy shall include details of the following: (a) Purpose and conservation objectives for the proposed measures; (b) Detailed methodology for measures to be delivered; (c) Location of the proposed measures; and (d) the Mechanism for implementation and monitoring of delivery. The farmland bird mitigation strategy shall be implemented in the first nesting season following completion of the development and in accordance with the approved details or any such variation that has been previously agreed in writing by the Local Planning Authority and shall be delivered for a minimum period of 10 years from first implementation.
- 15) No work shall take place until a soil management plan has been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form unless otherwise agreed in writing with the Local Planning Authority.
- 16) No unbound material shall be used in the surface treatment of the vehicular access hereby permitted within 6 metres of the highway boundary.
- 17) Prior to their construction, details of the construction of the site accesses, visibility sight splays, dropped kerb vehicular crossings of the footway and details of surface water discharge from the highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the access points shall be constructed ready for use prior to first export to the National Grid in accordance with the approved details. The accesses shall be permanently retained in accordance with the agreed form at all times.
- 18) No development shall take place within the whole site until a programme of archaeological work has been secured and implemented, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and: (a) The programme and methodology of site investigation and recording; (b) The programme for post investigation assessment; (c) Provision to be made for analysis of the site investigation and recording; (d) Provision to be made for publication and dissemination of the analysis and records of the site investigation; (e) Provision to be made for archive deposition of the analysis and records of the site

investigation; (f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation; (g) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

The solar farm shall not be brought into operation until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation, and the provision made for analysis, publication and dissemination of results and archive deposition.

- 19) Prior to commencement of the development a detailed site plan including Archaeological Exclusion Zones will be submitted to and approved by the Local Planning Authority. Following the approval and completion of the archaeological evaluation referred to in Condition 18 and prior to the commencement of development, a final detailed site layout plan with full details of the final locations, design and materials to be used for the panel arrays, inverters, customer switchgear, substations, CCTV cameras, fencing, foundations and cabling will be submitted for approval.

Should the archaeological evaluation identify any significant archaeological deposits, the final detailed site layout plan will define Archaeological Exclusion Zones within which below and above ground development will be excluded or provide sufficient design mitigation including but not limited to the use of above ground cables, concrete shoes or other means to avoid any impact on archaeological deposits if required.

The final detailed site layout plan shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the County Council's Lead Archaeologist. Subsequently the development shall be carried out in accordance with the approved details.

If there are archaeological areas to be preserved in situ, a management plan will be produced for any archaeological areas to be preserved in situ, setting out the methodology to secure the ongoing protection of these areas both during construction, operation and decommissioning of the solar farm.

- 20) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following: (a) Risk assessment of potentially damaging construction activities; (b) Identification of "biodiversity protection zones"; (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements); (d) The location and timing of sensitive works to avoid harm to biodiversity features; (e) The times during construction when specialist ecologists need to be present on site

to oversee works; (f) Responsible persons and lines of communication; (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; (h) Use of protective fences, exclusion barriers and warning signs; (i) Details for the control and management of noise and dust during the construction phase; and (j) Shall have due consideration of noise guidance contained within BS 5228:2009+A1:2014. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 21) No development shall take place, including any ground works or demolition, until a Construction Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Statement shall provide for: (a) Suitable construction vehicle routes for all construction vehicles, to be agreed with the Highway Authority; (b) The parking of vehicles of site operatives and visitors; (c) Loading and unloading of plant and materials iv. storage of plant and materials used in constructing the development; (d) Wheel and underbody washing facilities; (e) The location of the construction compound; and (f) Construction signage and traffic management measures.
- 22) No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority (LPA).
- 23) Prior to first use of the development hereby permitted a detailed maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. It should additionally show that there is a regular and strict maintenance plan in place for the outfall to reduce the risk of blockage. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.
- 24) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details, subject to any such variation that may be agreed with the Local Planning Authority. No additional external lighting shall be installed without prior written consent from the local planning authority.

End of conditions



Appendix 3



Appeal Decision

Site visit made on 17 February 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26TH February 2020

Appeal Ref: APP/C1950/W/19/3225810

94 Harmer Green Lane, Digswell, Welwyn Hertfordshire AL6 0EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Kempster against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2018/2199/FULL, dated 14 September 2018, was refused by notice dated 31 January 2019.
 - The development proposed is the installation of standalone Solar PV panels, associated planting and groundworks.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of standalone Solar PV panels, associated planting and groundworks at 94 Harmer Green Lane, Digswell, Welwyn Hertfordshire AL6 0EP in accordance with the terms of the application, Ref 6/2018/2199/FULL, dated 14 September 2018, subject to the conditions set out in Annex A.

Background and Main Issues

2. The site is located within the Green Belt as defined by Policy GBSP1 of the *Welwyn Hatfield District Plan (adopted April 2005)* (WHDP). The *National Planning Policy Framework* (the Framework) (paragraphs 145 and 146) set out the forms of developments that are not inappropriate in the Green Belt. The appeal scheme consists of engineering works to excavate an existing hollow in the landscape and create a bund around the site and the erection of 67 solar panels. The engineering works have already taken place. The Council have indicated that they consider the engineering works would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. As such, in accordance with paragraph 146 of the Framework, they consider this part of the proposal would not be inappropriate development. Nevertheless, it is agreed by both parties that the erection of the solar panels would be inappropriate development. From what I have seen and read, I would agree with this conclusion.
3. Therefore, the main issues in the appeal are:
 - the effect of the proposal on the openness of, and purposes of including land within, the Green Belt;
 - the effect of the proposal on the character and appearance of the area;

- the effect of the proposal on the living conditions of nearby residents with particular regard to outlook; and
- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Openness and Purposes

4. Openness is an essential characteristic of the Green Belt. It can be considered to be the absence of building and development. The appeal site forms part of a meadow belonging to No 94. It is currently devoid of any buildings or structures. As outlined above, it is agreed that the engineering works do not harm the openness of, or the purposes of including land within, the Green Belt. Nevertheless, the installation of 67 solar panels in 5 rows, covering an area of approximately 300 m² and having a height of around 1.2m would reduce the openness.
5. Moreover, in introducing man-made structures into what is currently an open field, the appeal scheme would represent encroachment of development into the countryside. This would be contrary to one of the purposes of including land within the Green Belt, as set out in paragraph 134 of the Framework.
6. Therefore, in addition to the harm arising from the fact that the development would be inappropriate, there is a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt.

Character and appearance

7. The appeal site is located to the rear of the gardens of large detached houses set in substantial plots. It sits within a natural hollow in the land, although the rest of the meadow is relatively flat. A new beech hedge runs north-south immediately to the east of the site along what appears to be the boundary between a more formal grassed area and the meadow.
8. The proposed solar array would consist of 4 rows of 15 panels and 1 row of 7 panels which would be aligned roughly in an east-west direction. The panels would be 1.2m at the highest point and would be mounted on black frames. They would be connected by an underground cable to the host property. 6 new trees are proposed to be planted to the south of the array and the regraded land is to be sown with wild flowers and grasses to match the wider meadow.
9. Both parties have identified that the appeal site is located within the 'Tewin, Dawley and Lockley Estate Farmland' Landscape Character Area. This area is defined as having a strong pattern of woodland and arable farmland on a strongly undulating canvas that is partly fringed by urban development.
10. The countryside surrounding the appeal site is representative of the character area, consisting of medium sized undulating fields and woodlands that slope down towards the Mimram Valley. Human activity in what is a quite intimate landscape is limited giving the area a tranquil character. The area is not covered by any national or local landscape designations.

11. Despite its limited size, the straight lines of the rows of panels and the horizontal emphasis of the scheme, to the extent that it would be perceived, would appear out of place in this rural landscape. However, the new planting proposed would reflect the landscape character of the area and, together with the regrading of the land, would help to diminish the effect of the uniform rows.
12. Bearing in mind the degree of containment and enclosure of the site and the proposed landscaping, I consider that the proposal would only have a slight adverse impact on the landscape character of the area.
13. Visibility of the site from the public realm is limited to views from the public footpath to the south. However, due to the topography these are limited to a very short stretch, and as intervening vegetation matures the views of the panels would be minimal. From the two adjacent houses some views may be possible from the upper floor windows but even so these will be interrupted by mature trees within the gardens and along the boundary. In addition, the development would only occupy a small amount of the wider panorama. As a result, the visual impact of the proposal would be minimal and very localised.
14. No 96 has solar panels on its south facing roof plane, but there is no intervisibility between these and the site. I have not been made aware of any other existing or consented solar developments in the area and saw none on my site visit. As such, no harmful cumulative effect in the wider area would result from the proposal.
15. Overall, the proposal would have a harmful impact on the character and appearance of the area. The proposal would therefore conflict with Policies D1, D2 and RA10 of the WHDP which seek a high standard of design, and that in rural areas developments should contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character. However, the harm to the character and appearance of the area would at worst be slight and very localised. In addition, the harmful impact would be both temporary and reversible. I consider that these material considerations outweigh the limited conflict with the development plan in respect of this matter.

Living Conditions

16. The solar array would be located a minimum of around 18m from the rear boundaries of the nearest dwellings, with the houses being set back some distance from this. A hedge of approximately 2m in height is located along this boundary and there are a number of mature trees within the gardens. The rear elevations of these houses have a number of windows, but the location of the array within a hollow and the intervening vegetation would restrict views from all but windows on the upper floors. Whilst the panels may be visible from some of these windows, the distance between them and the site means they would not have an overbearing impact. Moreover, as highlighted above, the panels would only form a small part in the wider panorama.
17. As a result, whilst there may be some change to views from some of the windows in these properties, the proposal would not have an unacceptable impact on the outlook from them.

18. Consequently, I consider that the proposal would not have a detrimental impact on the living conditions of nearby residents with particular regard to outlook. Accordingly, there would be no conflict with Policies D1 of the WHDP which requires a high quality of design or the advice in the Supplementary Design Guidance 2005. Nor would it be contrary to the Framework which seeks to ensure that developments provide a high standard of amenity for existing and future users.

Other Considerations

19. The proposed scheme is designed to generate 20KW peak supply to the host property. This has been calculated to be the energy required to run the borehole pump and the ground water pump as well as general domestic usage. This would reduce carbon emissions by 6 tonnes per annum.
20. The provision of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development set out in the Framework. There is strong national policy support for the development of renewable energy sources, including solar power, to ensure the country has a secure energy supply, and to reduce greenhouse gas emissions. Although the scheme is modest in size, paragraph 154 of the Framework confirms that even 'small-scale projects provide a valuable contribution to cutting greenhouse gas emissions'. Moreover, it is not necessary for the appellant to demonstrate the overall need for the proposal.
21. The policy support for renewable energy given in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.

Other matters

22. Third parties have suggested that the proposal could lead to various other developments on land owned by the appellant. I am dealing with the appeal on the basis that it involves the development of a solar array. The acceptability, or otherwise, of any future schemes would be considered by the Council at the time and does not constitute a reason for refusing this application which stands to be determined on its own merits.
23. It has also been suggested that the panels would be better located on the roof of the house or elsewhere in its grounds. The Design and Access statement submitted by the appellant sets out reasoning for why other potential locations were considered unsatisfactory, and why this site represented the best option. In the absence of any substantive evidence to the contrary I see no reason to dispute the conclusions that this represents the optimal site for the panels.

Planning Balance, Conclusions and Conditions

24. The proposal would be inappropriate development in the Green Belt, which, by definition, is harmful, and to this must be added further moderate harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 144 of the Framework indicates that any harm to the Green Belt should be given substantial weight.
25. In addition, there would be slight harm to the character and appearance of the area, but I have concluded that the harm arising from this would be

- outweighed by other material consideration, including the fact that it is temporary and reversible.
26. Paragraph 147 of the Framework accepts that very special circumstances will need to be demonstrated if renewable energy projects are to proceed in the Green Belt. It states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Although modest in scale, the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, and this attracts substantial weight.
 27. National policy advises that renewable energy projects should be located where impacts are, or can be made, acceptable. I consider that the location of the array within a hollow, together with the existing and proposed landscaping means that this would be the case here.
 28. Therefore, in my judgement, the environmental benefits of the proposal and the fact that the impacts can be made acceptable, are sufficient to outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do exist and the scheme would not conflict with Policy GBSP1 of the WHDP or the Framework.
 29. For the reasons set out above, I conclude the appeal should be allowed.
 30. As some works have already commenced on the appeal site the standard implementation condition is not appropriate, and I have altered the wording of some of the other suggested conditions to reflect this. However, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of the character and appearance of the area conditions are required to ensure the landscaping of the site. It is reasonable and necessary to limit the period of the permission, and to require that the site is decommissioned when energy generation ceases.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan showing Solar PV Panels Location Drawing No. 22823A-02 Rev P11; and Proposed Site Plan Sections Drawing No. 22823A-03 Rev P11
- 2) The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter.
- 3) The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
- 4) All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
- 5) This permission shall expire within 30 years from the date when electricity is first exported from the solar array to the host dwelling (the 'First Export Date'). Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after this event.
- 6) Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local planning authority prior to these works being carried out.



Appendix 4



Appeal Decision

Inquiry Held on 13-16 & 20-22 December 2022

Site visit made on 22 December 2022

by Richard McCoy BSc MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2023

Appeal Ref: APP/H1705/W/22/3304561 Minchens Lane, Bramley, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bramley Solar Ltd against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 20/03403/FUL, dated 30 November 2020, was refused by notice dated 21 April 2022.
 - The development proposed is the installation of renewable led energy generating station, comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, landscaping and biodiversity enhancements including a proposed Forest School, associated car parking and Nature Area.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of renewable led energy generating station, comprising ground-mounted photovoltaic solar arrays, battery-based electricity storage containers together with substation, inverter/ transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping biodiversity enhancements and Nature Area at Minchens Lane, Bramley, Hampshire in accordance with the terms of the application, Ref 20/03403/FUL, dated 30 November 2020, subject to the conditions set out in the attached annex.

Procedural matters

2. Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2015, the application as made to the local planning authority (LPA) was an Environmental Impact Assessment (EIA) application, accompanied by an Environmental Statement (ES)¹. In accordance with Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMP), the application was publicised by display of a site notice, by way of notice in a newspaper circulating in the locality and by the publication of information on a website maintained by the LPA. The publicity and neighbour notification publicised both the original application submission and the subsequent notifiable amendment to the application (June 2021).

¹ Core Document 28

3. Further amendments to the application received in December 2021 proposed no new significant environmental impacts such that the original ES remained adequate to assess the significant effects of the development on the environment. The full ES, which comprises both the original and the addendums, was subject to formal consultation. The conclusions of the ES are noted and it is considered that the EIA process has been undertaken appropriately.
4. The Bramley Solar Farm Residents Group (BSFRG) was granted Rule 6(6) status under the provisions of the Inquiries Procedure Rules.
5. A virtual Case Management Conference (CMC) was held on 27 October 2022 to discuss arrangements for the Inquiry. The CMC was attended by the appellant, the Council and BSFRG.
6. At the CMC, the appellant confirmed that planning permission was being sought for, *the installation of renewable led energy generating station, comprising ground-mounted photovoltaic solar arrays, battery-based electricity storage containers together with substation, inverter/transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping biodiversity enhancements and Nature Area*, rather than the scheme as determined by the Council and set out in the Header above. To that end, it was requested that amended plans ref. Landscape and Ecology Enhancement Plan 7520_012_Rev K, Landscape Mitigation Plan 7520_014_Rev G, Planting Schedule (1 of 2) 7520_020 dated July 2022, Planting Schedule (2 of 2) 7520_021 dated July 2022, Landscape and Ecological Management Plan Version 2.3 August 2022 and Proposed Site Plan BF2.0 Revision 20 B, be substituted for the relevant plans originally submitted.
7. The substantive changes introduced by the amendments comprise a small reduction in the number of proposed solar panels to increase offset distances from public rights of way, bolstering of the planting to enhance screening, and re-purposing of the proposed Forest School to an enlarged nature area. The Council did not object to the revisions and advised that it considers that primary consideration should be given to the amended scheme as it has been consulted on and discussed at the Inquiry and is an improvement on the submitted proposal.
8. As noted above, at the time of submission to the LPA, the application proposal was subject to publication under the DMP. With regard to the revised proposal under this appeal, I heard that the appellant carried out a further consultation exercise comprising letters, site notices, a website hosting scheme details along with a copy being placed at the Council offices in August 2022. Comments were invited before 30 September 2022. An amendment to the ES² in respect of the proposed revisions was undertaken, dated August 2022, and its conclusions are noted.
9. Given this further consultation on the revised scheme under this appeal, and as the modifications are minor and go towards addressing the reasons for refusal, I am satisfied that dealing with the appeal on the basis of the amended plans

² Core Document 85

would not prejudice the interests of any party, taking account of the Wheatcroft³ judgment. I have dealt with the appeal on this basis.

10. It was confirmed at the Inquiry, as set out in the Heritage Statement of Common Ground⁴ (HSoCG), that the Council is no longer pursuing a breach of Policy EM11 of the Basingstoke and Deane Local Plan 2011-2029 (LP) in respect of archaeological impact and that it agrees with the appellant that less than substantial harm would be caused to the significance of the Grade II listed buildings at Minchin's Farmhouse, Lower Farm and Old Meadow, and to the Silchester Conservation Area. In addition, the Council confirmed that it considers that no harm would arise to the significance of the Scheduled Late Iron Age oppidum and Roman town of Calleva Atrebatum and associated features from the proposal as a development within their settings, that the known archaeological remains within the appeal site are not demonstrably of equivalent status to a scheduled monument and that potential harm to the significance of any archaeological remains can be mitigated to an acceptable level, secured by means of a suitably worded condition attached to any grant of planning permission.
11. I have dealt with the appeal on this basis although having regard to the concerns raised in representations from the BSFRG and other interested parties, I go on to deal with a number of these issues below under Main Issues and Other Matters.

Main Issues

12. I consider the main issues to be the effect of the proposal on the character and appearance of the surrounding area, and the effect of the development proposed on the significance of nearby heritage assets, including below ground archaeology, the Scheduled *Late Iron Age oppidum and Roman town of Calleva Atrebatum and associated features*, the Grade II Listed Minchens Farmhouse and Buildings at Lower Farm and Old Meadows, and the Silchester Conservation Area.

Reasons

Background

13. The appeal site extends to around 85ha spread across 6 no. irregularly shaped fields. Situated between Bramley and the hamlet of Three Ashes, it stands around 1.5km from both Silchester and Little London to the northwest and west respectively. Currently used as arable farmland, the fields are mainly enclosed by hedgerows, hedgerow trees, woodland, and woodland belts, and are intersected by areas of woodland, treelines and watercourses. In addition, part of the site is traversed by overhead power lines which extend from the nearby Bramley Substation. Also adjacent to the site are Bramley Frith Wood (Ancient Woodland within which is located Bramley substation), Davnage Copse, Withy Copse (Ancient Woodland) and Little Holdens Copse (Ancient Woodland).
14. The site contains undulating land, the highest point being within Field 6. A number of public rights of way (PRoW) cross the site with PRoW 15 (which forms part of the Silchester Trail and the Camino Inglés to Santiago pilgrimage route) extending northwest to southeast through Fields 1 and 2 to connect with

³ Bernard Wheatcroft Ltd v SSE [1982] HC

⁴ Core Document 217

Bridleway No 7 (part of the Brenda Parker Way) which in turn extends along the southern boundary of Field 2. PRoW 16 also traverses the site along the northern perimeter of Field 2 to adjoin Bramley Road. Further to the east is the Mortimer - Bramley railway line.

15. Proposed is a renewable led energy generating station with an operational period of up to forty years, comprising ground mounted photovoltaic solar arrays installed across five of the six fields. It would generate up to 45MW for distribution to the national grid via the nearby Bramley Substation. The south facing Solar Photovoltaic (PV) panels would be ground mounted onto anti-reflective frames made of galvanized steel or aluminium, fixed to the ground by a combination of concrete feet and pile driven posts to below ground depths of around 2 - 2.5m. They would be tilted at between 15-30 degrees, have anti-reflective coatings and would be laid out in rows with gaps of approximately 2-6m between each row and mounted at a height of approximately 0.8m from the ground rising up to 3m at the highest edge and to 3.5m in areas of flood risk. They would cover a site area of around 22 hectares.
16. In addition, a battery storage facility would be created to store energy at times of low demand and release this to the grid when demand is higher or solar irradiance is lower. This would comprise the siting of twenty battery storage containers within a compound of approximately 25m by 26m.
17. There would be associated infrastructure comprising:
 - sixteen inverter/transformer stations distributed evenly about the solar arrays housed within green metal containers measuring 12m x 2.4m and 2.9m high, which would sit on legs above a 300mm deep gravel sub-base,
 - compacted internal crushed stone tracks (between approximately 3.5 - 6m wide) to allow vehicular access between fields,
 - access points from Minchens Lane utilising an existing farm track to enter into Field 6 and to the north from Bramley Road into Fields 1, 2 and 4,
 - 2.0m high security deer type fencing and gates to enclose the site and potentially allow sheep to graze securely within each field,
 - security and monitoring CCTV/infra-red cameras mounted on fence posts 2.4m tall along the perimeter of the Site to provide 24-hour surveillance,
 - a combination of over-ground and underground cabling to connect the panels, inverters/transformer stations and battery storage facility to the proposed on-site substation and control room,
 - a security-fenced enclosed substation and switchgear compound located on land to the south-west of the site, measuring 12.5m x 5.5m and 4.2m high, which would sit on legs above a 300mm deep gravel sub-base, and
 - landscape planting, biodiversity enhancements, surface water attenuation measures, creation of a nature area and a connection to public right of ways by providing a new 600m permissive path providing an off-road route for part of the Brenda Parker Way and linking into PRoW 16 to take pedestrians off of a section of Bramley Road.

Character and appearance

18. The National Planning Policy Framework (NPPF) in recognising the intrinsic character and beauty of the countryside, does not seek to protect all countryside from development, rather focusing on the protection of valued landscapes. However, this term is not precisely defined. The proposal is

- located in countryside which has not been given protection through a designation such as Area of Outstanding Natural Beauty (AONB) or National Park status, or through local planning policy. The nearest such designation, the North Wessex Downs AONB is located around 6km to the southwest.
19. While I note the strong feelings expressed both at the Inquiry and in writing by the BSFRG and the interested parties, regarding the esteem within which the local landscape is held, this of itself is not sufficient to elevate it beyond other countryside locations. In this case, the Council and the appellant agree that the appeal site is not a valued landscape for the purposes of paragraph 174 of the (NPPF) and nothing I heard at the Inquiry or observed during my visit would cause me to take a contrary view.
 20. Whilst not a designated valued landscape, Natural England's National Character Assessment places the appeal site within the Thames Basin Heath National Character Area (NCA) 129. This large area serves to set the wider landscape context being a patchwork of small to medium sized fields with a legacy of historic hunting forests which include veteran trees, ancient woods and hedgerows, and parklands.
 21. The Hampshire Integrated Character Assessment, Hampshire County Council 2012, provides an assessment of regional landscape character. The appeal site lies across two character areas. These are 2b North Hampshire Lowland Mosaic and 2c Loddon Valley and Western Forest of Eversley. The former is characterised by a rounded, organic landscape pattern with pockets of predominantly arable farmland and regular fields defined by a strong structure of hedgerows and shaw woodlands, while the latter has a high proportion of arable land, with woodland (often ancient) being a significant landscape component.
 22. At the local level, the Basingstoke and Deane Landscape Assessment (2021) places the site within two local character areas (LCA). Field 1 is located within the North Sherborne Character Area (LCA 4) and the remainder of the site is within the Loddon and Lyde Valley Character Area (LCA 6). Both areas contain patchworks of mixed farmland and woodland within a low lying and gently undulating landform. The character areas also have varying degrees of tranquillity, with the quietness of the North Sherborne Character Area disrupted by settlements, such as Bramley, the main roads and the railway.
 23. Turning to the fields which comprise the appeal site, Field 1 consists of a large arable field adjacent to PRow 15. Field 2 which contains the pylons has views from Bramley Road, PRow 15 and PRow 16 Brenda Parker Way. Field 3 is a small, flat area of scrubby grassland not scheduled for any PV panels. Field 4 consists of a large triangular arable field adjacent to Oliver Lane and National Cycle Route (Sustrans) 23. Open views exist across this field to the higher ground. Field 5 is a small, irregular arable field with hedgerows on all sides. Field 6 consists of a large arable field adjacent to PRow 15. The substation and battery storage facility are proposed to be located on the southern boundary of this field.
 24. From the evidence presented to the Inquiry and from what I observed on the extensive site visit, the landscape character around the appeal site is very much defined by a gently undulating landform of arable fields with hedgerow boundaries, framed by a wooded backdrop of Bramley Frith Wood, Davnage Copse, Withy Copse and Little Holdens Copse which are adjacent, and in some

cases, extend into to the site. The appeal site itself is permeated by a row of electricity pylons and criss-crossed by PRowS, including the Brenda Parker Way and Camino Inglés to Santiago long distance footpaths/pilgrimage route. Taking all of these elements together, the appeal site and surrounding landscape is of a medium landscape value and has a corresponding medium sensitivity to change.

25. In this regard, the appellant submitted a Landscape and Visual Impact Assessment, including a Zone of Theoretical Visibility (ZTV) which was supplemented by updated visualisations submitted at the Inquiry. It is clear from the evidence that the proposed development would change the landscape character for the duration of the solar farm. However, this would, in the main, be contained within the appeal site itself during the operational life of the development with the landscape beyond remaining physically unchanged.
26. Furthermore, topography and existing hedgerow and tree cover supplemented by the additional screening to be provided in the proposed Landscape and Ecology Management Plan⁵ (LEMP), would limit the overall effect of the proposal and prevent a change from an agricultural, to an industrial, landscape. The proposed landscaping measures would serve to mitigate the effects of the proposal as the planting matures and would endure after decommissioning. As such there would be no residual adverse landscape effects. These are matters that could be secured through suitably worded planning conditions as suggested by the appellant, were planning permission to be granted.
27. With the exception of infrastructure items such as the substation and battery storage unit, the proposed development would not sit heavily upon the land in terms of any need for deep or extensive foundations. There would be no material change to topography and the majority of the site would be retained in agricultural use as grazing pasture. The proposed arrangement of the arrays, their set back from the field boundaries, the existing trees and hedgerows which limit visibility, the existing presence of detracting influences such as the line of traversing pylons and the scheme of mitigation as set out in the submitted LEMP, would enable the proposal to integrate into this landscape setting.
28. Against this background, adverse effects on landscape character would be very localised (the landscape character of the wider area would prevail and remain rural) and would reduce over the lifetime of the scheme. Character area LCA4 within the immediate vicinity of the proposal would experience a moderate/slight adverse impact while character area LCA6, within the appeal site, would experience a slight adverse impact with the wider character area experiencing a slight/negligible impact.
29. Turning to consider visual impact, notwithstanding the criticism of the number of viewpoints within the LVIA, I consider that it, along with the supplementary views submitted by the appellant at the Inquiry and the viewpoints shown within the evidence of the Council and BSFRG, adequately show the impact of the proposal on a range of visual receptors within the vicinity of the proposal and the wider area. These views include seasonal changes throughout the year and at different timepoints across the lifetime of the proposed development. I took in these viewpoints during my extensive visit (both accompanied and unaccompanied) and I am content, that the ZTV as set out in the LVIA and the

⁵ Core Document 30

- viewpoints submitted by the parties, are representative of existing and proposed views both from within and outwith the appeal site.
30. As already stated, a proposal such as a large solar farm would be seen in the landscape and therefore is likely to result in some adverse visual effects. However, the 3m height of the panels would give them a low visual profile within the gently undulating topography. From what I observed, it would be unlikely that the proposal in its entirety would be visible from any one vantage point, given existing topography and tree and hedgerow cover, supplemented by the proposed mitigation planting. The greatest visual impacts therefore, would be within close proximity of the site with any longer distance views likely to take in certain parts of the proposed development, often with the existing power infrastructure of pylons and overhead lines also on view.
 31. Concerns were raised regarding the impact of the proposal on the recreational users of the PRowS. In this regard, I note that there have been paths through Bramley and Silchester since at least Roman times and that these paths are an important resource to the local community. It is clear from the evidence before the Inquiry and from my visit that the footpaths in the vicinity of the appeal site are well used and valued by the local community. It was pointed out that footpaths such as the Brenda Parker Way and Silchester Trail would be affected by having panels on one or both sides. It was claimed that screen planting would take a while to become established and would ultimately create a tunnelling effect. This, it is feared, would diminish the experience of being in open countryside by removing views across open fields and could dissuade the use of the PRowS on grounds of personal safety fears.
 32. However, the key paths – the Camino St James, Brenda Parker Way, and Silchester Trail – are long distance walking routes and not National Trails. They pass through very varied landscapes along their respective lengths and none appears to single out the appeal site for special mention. It is unlikely that a change in views that would occur as a result of the proposal, over short stretches of these paths would deter their recreational use.
 33. All PRowS, with the exception of a short section of the Brenda Parker Way, would have panels on one side which would be set back by around 10m. In the case of the Brenda Parker Way, in the area between Fields 1 and 2, where solar panels would be situated on both sides, the path would be set within a 70m wide planted corridor. While some may perceive this as a tunnelling effect, this would not be too dissimilar to the effect of walking along a rural lane which is lined by high hedgerows or trees. Similar effects may be seen at present where PRowS pass through Bramley Frith Wood. I note in this regard that in their consultation responses neither the Hampshire Countryside Access officer or the British Horse Society raised concerns regarding the green corridors or the mitigation planting.
 34. The proposed planting under the mitigation would take a while to mature to the point where the solar panels would be screened. Also, some views across open fields would be foreshortened by this planting, when mature. Nevertheless, views from PRowS within the appeal site to notable landscape features beyond would remain possible and views to the appeal site would continue to take in an arable landscape with hedgerow boundaries.
 35. Against this background, I consider that the greatest visual impact from the proposal would be to the Brenda Parker Way resulting in a moderate/slight

adverse impact within the appeal site. In the case of the other PRowS the visual impact would be slight adverse. I come to this view on the basis that the proposal is of a size and scale that would assimilate into the local landscape given the existing topography, and tree and hedgerow cover, which restricts visibility. This, along with the proposed mitigation planting, would serve to greatly lessen the visual impact of the proposal.

36. To conclude on the character and appearance issue, I have found in landscape character terms that the moderate/slight adverse effects would be very localised to within a small part of the appeal site (LCA4), that the slight adverse impact would occur within the rest of the appeal site (LCA6) and the wider landscape character would experience a slight/negligible impact. In visual impact terms, I have found that the proposal would have a moderate/slight adverse impact on the Brenda Parker Way within the appeal site and a slight adverse impact on the other PRowS. In wider visual impact terms, for the reasons given above, the effects of the proposal would be negligible. In the case of both landscape character and visual impacts, the adverse effects would be mitigated to a large extent by the proposed planting scheme.
37. LP Policy EM1 states that development will be permitted only where it can be demonstrated that the proposals are sympathetic to the character and visual quality of the area and are supported by a comprehensive landscaping scheme. LP Policy EM8 acknowledges that renewable energy projects need to have regard to the landscape and visual appearance. Similarly, Policy D1 of the Bramley Neighbourhood Plan also seeks to ensure that new development protects, complements or enhances identified character areas.
38. Accordingly, given the moderate/slight adverse effects of the proposal on the character and appearance of the area there would be conflict with LP Policies EM1 and Policy D1 of the Bramley Neighbourhood Development Plan 2011-2029. I return to this matter below under the planning balance.

Heritage

39. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) (the Act) states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development.
40. The NPPF defines the setting of a heritage asset (which includes listed buildings and conservation areas) as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
41. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. Historic England guidance: *The Setting of Heritage Assets*⁶, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a

⁶ Core Document 144

- fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
42. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
 43. A HSoCG was agreed between the appellant and the Council which identified several heritage assets that would be affected by the proposal as a development within their settings. These are: the Scheduled Late Iron Age oppidum and Roman town of Calleva Atrebatum and associated features, the potential for below ground archaeology within the appeal site as identified in the HSoCG and addressed by the BSFRG as likely to be affected by the proposal, the Grade II Listed Minchens Farmhouse and Buildings at Lower Farm and Old Meadows, and the Silchester Conservation Area. While other designated and non-designated heritage assets were drawn to my attention, from my assessment, I agree with the list of affected heritage assets as identified in the HSoCG. I deal with each of them below in terms of the effect of the proposed development.
 44. As already noted, the Council confirmed that it considers that no harm would arise to the significance of the Scheduled Late Iron Age oppidum and Roman town of Calleva Atrebatum and associated features from the proposal as a development within its setting. The significance of the monument is derived from its archaeological value with the visible character around it not reflective of a prehistoric or Romano-British landscape. Instead, it reflects a mainly post-medieval/modern landscape, with features contemporary with the asset either lost or contained in below ground archaeology. Its setting is therefore very much made up of the immediate agricultural surrounds of the asset and make a limited contribution to its significance.
 45. The appeal site, as part of the wider landscape, contributes very little to the setting of the asset given the intervening distance, topography and planting. Accordingly, I consider that the proposal would not harm the significance of this designated heritage asset.
 46. In terms of the known archaeological remains within the appeal site, from the evidence, I have no reason to disagree with the Council's assessment that they are not demonstrably of equivalent status to a scheduled monument and that potential harm to significance can be mitigated, to an acceptable level, secured by means of a suitably worded condition attached to any grant of planning permission.
 47. I heard further concerns regarding potential archaeology in terms of access being prevented during the lifetime of the proposal and regarding the experience of walking the Silchester Trail, through the appeal site, towards the scheduled monument. Regarding access, the situation would be little changed to the present arrangement in terms of public access to any potential archaeology. Moreover, the suggested condition would have the effect of increasing the understanding of the archaeological potential of the site, through engaging the services of an archaeologist to carry out an investigation.

48. As for the experience on the Silchester Trail, as stated above, proposal would not harm the significance of the scheduled monument through a change to its setting. The Trail is not itself a heritage asset and the section which passes through the appeal site is not one from which the significance of the monument is appreciated. There is nothing visible from the route within the appeal site that has historic illustrative value which contributes to the heritage significance of the monument.
49. Silchester Conservation Area has two distinct parts. The larger part is centred on the village of Silchester with a much smaller outlying settlement known as The Pound also forming part of the designated heritage asset. The proposal would stand over 1km to the south of the main village and the intervening distance, topography and vegetation would mean there would be no effect on its setting. The Pound however, is situated closer to the proposal at around 140m and the proposal is likely to be visible from the southern edges of the conservation area, as shown in the submitted ZTV. I observed that The Pound is characterised by dwellings dating in the main from the 17th – 19th centuries, standing in spacious plots along a winding, countryside road. Their layout and vernacular appearance very much defines the significance of this small outlier of the conservation area.
50. The Pound is not prominent in the landscape given topography and mature vegetation, and its setting is mostly confined to the immediately surrounding fields. The appeal site lies beyond this in the hinterland of the conservation area and contributes little to its significance. Inter-visibility between the proposal and the asset would be limited as would views across the asset towards the development and vice-versa. Furthermore, mitigation planting would reduce the impact of the proposal over time and the effect of the proposed development would be fully reversed on decommissioning. As such the proposal would have a very minor adverse effect on the significance of this designated heritage asset.
51. Minchins Farmhouse is a Grade II listed building of architectural and historical significance derived from its vernacular 17th century appearance as altered in the 19th century. Its setting is very tightly defined by the narrow Minchins Lane with its tall hedgerow boundary. The wider surroundings, including part of the appeal site, afford restricted views from where it can be appreciated as a vernacular farmhouse thereby making a limited contribution to the asset's significance. The change brought about by the proposal, which would be screened by existing and proposed planting, would be reversed following decommissioning and would have a minor adverse effect on the significance of the designated heritage asset.
52. Lower Farm contains a collection of 7no. Grade II listed buildings comprising the farmhouse and associated agricultural buildings. Their significance is principally derived from their architectural and historic interest as post-medieval vernacular buildings with an agricultural function. They are experienced from the fields which surround them to the north of Bramley Road and this very much forms their setting. It makes a limited contribution to their significance. Topography and vegetation, both existing and proposed, along with the temporary nature of the proposal means that the effect of the proposal on the significance of these designated heritage assets would be very minor.

53. The Grade II listed buildings at Old Meadows comprise the farmhouse, gates, gate piers, garden urn, garden walls, a barn, a former granary and an outbuilding. Most of their significance is derived from their group value as an example of a coherent farm complex of vernacular buildings. The group stands within The Pound, part of the Silchester Conservation Area. Their setting is similar to that described above for The Pound Conservation Area with the formal gardens of the settlement dwellings to the west and south, and the arable fields beyond, providing a means by which the gentrification of the farmhouse can be appreciated. This setting makes a limited contribution to their overall significance. The change brought about by the proposal, would have a very limited effect on the significance of these designated heritage assets within this setting given topography, existing and proposed planting. It would be reversed following decommissioning. This would result in a very minor adverse effect.
54. Accordingly, while the effect of the proposal on the significance of these designated heritage assets as a development within their settings would in all cases be minor, less than substantial harm would be caused to the significance of the Grade II listed buildings at Minchin's Farmhouse, Lower Farm and Old Meadow, and to The Pound (Silchester) Conservation Area. Under NPPF paragraph 202 this harm should be weighed against any public benefits of the proposal, including securing the assets' optimum viable use and this is a matter I return to below.

Other matters

55. Concerns were raised regarding a lack of detail demonstrating that alternative sites, including the use of previously developed land, was considered by the appellant. Reference was made to the advice contained in the 2015 iteration of the Planning Practice Guidance (PPG) regarding the range of factors to be considered for large, ground-mounted, solar developments. In particular, the use of greenfield sites and the preference for utilising poorer quality, ahead of higher quality, land.
56. However, the PPG states that a range of factors should be considered including whether the use of agricultural land is necessary, the temporary and reversible nature of the proposal, and the potential to mitigate landscape impacts through screening. This will involve a range of inputs, from grid connection to land ownership, landscape and visual effects and mitigation. The submitted details set out the reasons for the selection of the appeal site, including connecting to the national grid. LP Policy EM8 requires proposals to demonstrate such connections, and in this case, a connection to the national grid through the nearby Bramley substation has been secured. Given the constraints on the wider distribution network this is a matter which increases the compliance of the proposal with local policy.
57. Since 2015, Parliament has declared a climate emergency⁷ and the Climate Change Act 2008 (2050 Target Amendment) Order 2019 requires the achievement of net zero by 2050⁸. I was not directed to any legal or policy requirements which set out a sequential approach to considering alternative sites with developments such as the appeal proposal. Of particular relevance, LP Policy EM8 does not require the demonstration of any sequential approach

⁷ Core Document 104

⁸ Core Document 102

to site selection as confirmed by the Council. Accordingly, I do not consider that planning permission should be withheld on the basis of a lack of identified alternative sites being considered.

58. With regard to the use of agricultural land, Natural England's Agricultural Land Classification System (ALC) shows the site to be located within an area that contains Grade 2 land within Field 1 and the remainder as Grade 3. The submitted details include an Agricultural Land Quality Assessment. This shows that around 53% of the appeal site is Best and Most Valuable Agricultural Land (BMVAL). However, not all of this land would be covered by PV panels.
59. While the use of higher quality agricultural land is discouraged, the proposal is for a temporary period of forty years which could be secured by a condition attached to any grant of planning permission. The agricultural land would not be permanently or irreversibly lost, particularly as pasture grazing would occur between the solar panels. This would allow the land to recover from intensive use, and the soil condition and structure to improve. The use of the soils for grassland under solar panels should serve to improve soil health and biodiversity and the proposed LEMP, which could be secured by a condition attached to any grant of planning permission, includes measures to improve the biodiversity of the land under and around the panels.
60. Particular concerns were raised regarding compaction during construction and decommissioning. However, the submission of a Soils Management Plan, to be agreed in writing by the LPA, is intended to minimise such impacts. This could be secured by way of a condition, as suggested by the appellant, attached to any grant of planning permission. I note that Natural England as the statutory consultee on agricultural land, raised no comments in its consultation response in this regard. Against this background, I consider that the proposal would not be harmful in respect of BMVAL and would accord with LP Policy EM8 which requires consideration of the impacts of renewable energy developments on high grade agricultural land.
61. Turning to the matter of battery storage, the 20no. proposed battery containers would enable storage of around 40MWh, being slightly less than the amount of electricity the solar farm would generate in one hour of peak operation. This is in line with the British Energy Security Strategy⁹ which encourages "all forms of flexibility" in the energy system and supports solar co-located with storage to maximise efficiency. It also aligns with the strategy for achieving net zero carbon, increasing energy security and reducing energy bills. It is a means of load shifting whereby energy generated during times when demand is at its lowest could be released back to the grid at times of peak demand.
62. I have considered the effect of the proposal on landscape character and in terms of its visual impact, including the proposed battery storage facility, above. In terms of the principle, I consider that the battery storage aspect of the proposal will offer flexibility in operation and maximise energy resources in a balanced and efficient way and does not weigh against the development.
63. In flood risk and drainage terms, the Environment Agency Surface Water mapping shows the majority of the site as lying within an area at 'very low' risk of surface water flooding. There is a low risk of pluvial flooding to the eastern

⁹ Core Document 115

end of Field 2, and within Field 3, given the proximity to Silchester Brook and drainage channels. Solar arrays and all associated infrastructure would be situated outside of the areas of medium to high risk with a small number within the low-risk area. These panels would be positioned so as not to impede any flood water flows with negligible displacement of floodplain storage. This has been considered acceptable by the Environment Agency and the Lead Local Flood Authority.

64. The proposal would encourage infiltration and provide surface water runoff at existing greenfield rates to ensure drainage from the scheme is similar to the existing situation. In respect of flood risk and drainage, the Environment Agency and the Lead Local Flood Authority raised no objections, subject to conditions being attached to any grant of planning permission, and I consider the proposal accords with Policies EM7 and EM8 of the Local Plan and Policy RE1 of the Neighbourhood Plan, in this regard.
65. Dealing with the effect on living conditions, firstly in terms of outlook, I observed that only Brookside Grange has a contiguous boundary with the proposal (Field 1). The dwelling stands around 18.5m from the Field 1 boundary and approximately 250m from the boundary with Field 2, at a lower level. The panels would then be further offset from these boundaries with proposed mitigation planting between the boundaries and the panels.
66. The dwelling is orientated towards Field 2 with a bedroom window facing towards Field 1. Whilst there would be views towards the solar farm particularly in winter, and there would be an awareness of the solar array, in my judgement the intervening distance, difference in levels and proposed planting would prevent a harmful change in living conditions for the occupiers of this dwelling due to any loss of outlook.
67. Reference is made within the representations to outlook effects on the dwellings at St James Park, Clappers Farm Road, Bramley Road, Park Farm, Pound Farm, Pound House, Withy Place, The Annexe, Old Meadows, Lower Farm, and Minchens House. I viewed the proposal from several of these dwellings as part of my visit to the appeal site and surrounding area. It is likely that the proposal would be seen in medium and longer views from these dwellings, varying according to season, orientation, topography and intervening planting.
68. However, I observed that for these dwellings, distance, oblique views and intervening features such as fields and public highways, either individually or in some cases in combination, would mean that the proposal would be unlikely to harmfully change the outlook for their occupiers. In which case, in terms of outlook, the proposal would accord with Policy EM10 which seeks to protect residential amenity.
69. Turning to noise disturbance, the submitted Noise Impact Assessment¹⁰ was considered by the Council's Environmental Health Officers who raised no concerns subject to suitably worded conditions being attached to any grant of planning permission. The conditions would ensure that the solar farm generates noise no greater than the existing prevailing background level at the most sensitive period when the plant will be operated (evening, nights and weekends). From my assessment, I have no reason to disagree.

¹⁰ Core Document 32

70. With regard to highway safety, I note that the Council's Transport Officer and the County Council's Highways Officer raised no objections to the proposal subject to suitably worded conditions being attached to any grant of planning permission. The conditions would include requiring the submission and approval of an amended Construction Traffic Management Plan and against this background the Council considers that the proposal would accord with LP Policies CN9, EN8 and EM10 and Policy T2 of the Neighbourhood Plan. From my assessment, I have no reason to disagree.
71. I heard that the occupiers of Brookside Grange enjoy private rights of access over the access track to the northeast corner of Field 1 which is proposed for access to the proposal. Be that as it may, this would be a private matter for the relevant parties to address and is not determinative to my decision.
72. A number of previous planning and appeal decisions¹¹ were drawn to my attention which it was claimed raised matters that were similar to those before me. However, given the site-specific characteristics of this proposal, the policy/guidance extant at the time compared to the present, the nature of the developments proposed in those other instances and the harms and benefits arising, taking this proposal on its own merits, I do not consider them to be direct comparators.

Benefits

73. The Government has recognised a climate emergency and The Climate Change Act 2008, as amended¹² sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. The Clean Growth Strategy¹³ anticipates that the 2050, targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.
74. National Policy Statements (NPS) in reiterating the urgent need for renewable energy electricity projects to be brought forward for the delivery of major energy infrastructure, recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Draft updates to NPSs EN-1 and 3¹⁴ identify that solar farms, as part of the strategy for the low-cost decarbonisation of the energy sector, provide a clean, low cost and secure source of electricity.
75. The December 2020 Energy White Paper¹⁵ (WP) sets out that achieving net zero rests on a "decisive shift" away from fossil fuels to clean energy and describes solar as a "key building block" of the future energy generation mix. Moreover, The British Energy Security Strategy¹⁶ anticipates a five-fold increase of solar capacity in the UK from 14GW to 70GW by 2035.
76. In response, the Council has adopted a Climate Emergency Action Plan¹⁷ (2021), which builds on the 2010 Energy Opportunities Plan which recommended at least 166GWh of renewable electricity by 2020 in Basingstoke and Deane. By 2021 only around 56.2GWh of such generation had been

¹¹ 21/00349/FUL, APP/H1705/W/22/3301468, APP/V2635/W/14/3001281, APP/M1005/W/22/3299953

¹² Core Document 102

¹³ Core Document 103

¹⁴ Core Documents 108 and 110

¹⁵ Core Document 105

¹⁶ Core Document 115

¹⁷ Core Document 119

achieved. This proposal would generate 45MW sufficient to power 11,150 homes each year with clean energy (reducing carbon dioxide emissions by around 9,381 tonnes annually).

77. There are no physical constraints limiting early development of this site and a grid connection offer is in place. As such, the scheme could make an early and significant contribution to the objective of achieving the statutory Net target set for 2050 and the commitment to reducing emissions by 78%, compared with 1990 levels, by 2035. The LPA acknowledges that this is a substantial benefit that attracts significant weight¹⁸. Accordingly, I give substantial weight to the generation of renewable energy and contribution to a low carbon economy and significant weight to the provision of low cost and secure energy.
78. Of further benefit is the provision of a biodiversity net gain of 100% from the proposal. This benefit would endure beyond the operational life of the proposal and would be unlikely to be realised in the absence of the proposed development, given the significant resources required. This attracts significant weight in favour of the proposal.
79. In addition, the proposal would contribute to the local economy, through the creation of construction-related jobs and the ongoing contribution to the local and wider economy (including c.£150,000 p.a. in business rates and operational management of landscape and biodiversity), as well as the wider benefits of reducing reliance on imported fossil fuels. Together with environmental benefits to water, runoff, landscape character, and sequestration of carbon in soils achieved through planting and changes in land use across the appeal site, and the provision of a new section of permissive footpath (including around 300m as an off-road alternative for the Brenda Parker Way), these matters attract significant weight in favour of the proposal.

Balance

80. NPS for Energy¹⁹ (EN-1) advises that when 'having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.' It further states that a judgement is to be made as to 'whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project' having regard also to whether the project is temporary and/or capable of being reversed. LP Policy EM8 also includes a requirement to consider benefits against impacts of this type of development.
81. As such, both national and development plan policy recognise that large scale solar farms may result in some landscape and visual impact harm. However, these policies indicate that development can be approved where the harm is outweighed by the benefits. I note that the Council's planning and landscape officers who in recommending approval of the proposal at the application stage considered that the limited adverse impacts of the scheme would be mitigated by the proposed extensive planting and reversible nature of the proposal.
82. In my judgement, the combination of topography, existing hedgerow and trees and the enhanced planting set out in the LEMP, particularly as the planting matures, would mean that the adverse effect on landscape character and visual

¹⁸ Council's Closing Submission, paragraph 64, Inquiry Document 20

¹⁹ Core Document 107

impact would be limited and highly localised. Moreover, once decommissioned, there would be no residual adverse landscape effects with the enhanced landscape and biodiversity likely to endure. In which case, whilst there would be some localised moderate/slight harm in terms of landscape character and visual impact, in conflict with the relevant development plan policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the moderate/slight harm, in accordance with LP Policy EM8.

83. Turning to heritage, the proposal would result in less than substantial harm to the significance of several designated heritage assets. The harm would be very minor and would be reversed once the solar farm is decommissioned. Nevertheless, where a proposal results in less than substantial harm, NPPF paragraph 199 requires great weight to be given to the conservation of the designated heritage assets. In addition, NPPF paragraph 202 makes clear that such harm is to be weighed against the public benefits of the proposal. Public benefits in respect of NPPF paragraph 202 will provide benefits that will inure for the wider community and not just for private individuals or corporations. It was not suggested that the proposal is necessary in order to secure the optimum viable use of the designated heritage assets.
84. In my judgement, the public benefits of this proposal which would contribute towards achieving net zero as part of a decisive shift away from fossil fuels, assist with increasing solar capacity in the UK from 14GW to 70GW by 2035, assist with achieving the Council's Climate Emergency Action Plan (2021), reduce carbon dioxide emissions by around 9,381 tonnes annually and provide a biodiversity net gain of 100%, are very significant and outweigh the less than substantial harm to the affected designated heritage assets, giving great weight to the conservation of each of them. The Council confirmed that in its view there was no conflict with LP Policy EM11 which seeks to conserve the Borough's heritage assets, given the outweighing benefits²⁰ and from my assessment I have no reason to disagree.
85. Drawing the above together, I conclude the proposal would make a material and early contribution to the objective of achieving the decarbonisation of energy production and that to allow the proposed solar farm would not conflict with the objectives of relevant development and national planning policy when taken as a whole.

Conditions

86. Before and during the Inquiry the main parties discussed (without prejudice) potential conditions to be considered were planning permission to be granted. The wording of the conditions (including those with pre-commencement requirements) was agreed between appellant and the Council. I have amended the wording where necessary having regard to the tests set out in para 56 of the NPPF and to assist with clarity. The numbers in brackets relate to the condition in the attached annex. In addition to the standard time (1) and plans (2) conditions which are necessary to provide certainty, I shall attach conditions in respect of the positioning of containers on the site (8), implementation of the LEMP (9), management of the permissive footpath (11), hard landscaping details (12), tree protection (13), external lighting (15), carrying out development in accordance with the Flood Risk Strategy (16),

²⁰ Council's Opening Statement, paragraph 2, Inquiry Document 5

- surface water drainage (17), archaeology (18), a Construction Worker Travel Plan (19), traffic management measures (20), submission of an amended Construction Management Travel Plan (21), road condition survey (22), provision of wheel cleaning facilities (23), access details (24), noise levels (25), hours of operation (27), delivery times (28), submission of a Construction Environmental Management Plan (29) and submission of a Soils Management Plan(31).
87. The wording for these conditions was agreed with all parties and they are necessary in the interests of protecting landscape character (8, 9, 11, 12), safeguarding trees (13), protecting wildlife (15), avoiding adverse environmental impacts (16, 17), safeguarding the archaeological potential of the site (18), ensuring sustainable development (19), safeguarding highway safety (20, 21, 22, 23, 24) and safeguarding the living conditions of the occupiers of dwellings in the vicinity (25, 27, 29).
88. I shall also attach conditions in respect of the temporary nature of the development (3), the decommissioning of the development (4, 5, 6), materials and finishes (7), soft landscaping details (10), submission of a Wildlife Protection and Mitigation Plan (14), securing a post completion noise assessment (26) and the submission of a Battery Safety Management Plan. (30). These are necessary in the interests of certainty (3), securing the decommissioning of the development and the restoration of the site either at the end of the operational life or before should the use cease (4, 5, 6), protecting landscape character (7, 10, 30), protecting wildlife (14) and safeguarding the living conditions of the occupiers of dwellings in the vicinity (26).
89. However, the wording for these conditions was disputed by the parties. In the case of conditions 3 and 6, I shall refer to the *first export date of the development* rather than the *commencement of development* in line with the advice in the Draft NPS for Renewable Energy Infrastructure (EN-3)²¹. With regard to condition 4, I consider it unnecessary to refer to archaeology and soil restoration as these matters are the subject of separate conditions. Similarly, a reference to recycling and toxic materials is unnecessary both in condition 4 and condition 6 as this is covered by separate regulations²². As for Condition 5, it would be unreasonable to require a decommissioning method statement before the commencement of development as best practices and recycling methods are likely to considerably change during the lifetime of the solar farm. I also find it unnecessary to refer to the cessation period in condition 6 as this is covered in a separate condition.
90. Turning to condition 7, it is not necessary to refer to the position of materials and finishes as that is secured by the plans condition and in the case of condition 10, it is necessary for planting to be carried out in the first season post-completion of the development, rather than following commencement, as construction may impede planting. Furthermore, referring to a fence in condition 14 is unnecessary as the reference to *landscape feature* would cover this matter and in the case of condition 26, I consider it reasonable to ensure that where noise levels set out in other conditions are breached, it will be necessary to identify and install additional noise mitigation measures, within 3 months of an assessment being carried out. Finally, condition 30 in respect of

²¹ Core Document 110

²² Waste Electrical and Electronic Regulations

the Battery Storage facility, I considered requiring submission of details *prior to commencement* rather than *prior to the implementation* to be unreasonable as the developer may not implement the battery storage element at the same time as the solar farm.

Conclusion

91. For the reasons set out above, I conclude that the appeal should be allowed.

Richard McCoy

INSPECTOR

Annex A

Conditions Schedule

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Existing Site Location Plan - Drawing no BF1.0
 - Proposed Site Plan - Drawing no BF2.0 Revision 20 B
 - PV Elevations Pile – Drawing no BF3.0 Revision 01
 - Inverter/Transformer Stations - Drawing no 4.0 Revision 01
 - Internal Access Road Detail – Drawing no BF5.0 Revision 02
 - Fence and Gate Elevations – Drawing no BF6.0 Revision 02
 - Weather Station Detail – Drawing no BF7.0 Revision 01
 - Substation Elevations – Drawing no BF8.0 Revision 02
 - Control Room Elevations – Drawing no BF9.0 Revision 02
 - Auxiliary Transformer – Drawing no BF10.0 Revision 01
 - CCTV Elevations – Drawing no BF11.0 Revision 01
 - Battery Container Elevations 40ft – Drawing No BF12.0 Revision 01
 - PV Elevations Ballast – Drawing no BF13.0 Revision 02
 - Minchens Lane Access – Drawing no 2004-046_SK01 Revision A
 - Olivers Road Vehicle Crossing – Alternative Arrangement (1/2) – drawing no SK02 Revision B
 - Olivers Road Vehicle Crossing – Alternative Arrangement (2/2) – drawing no SK03 Revision B
 - Landscape Mitigation Plan – Drawing no 7520_014 Revision G
 - Landscape and Ecology Enhancement Plan – Drawing no 7520_012 Revision K
 - Planting Schedule (1 of 2) 7520_020 dated July 2022
 - Planting Schedule (2 of 2) 7520_021 dated July 2022
 - Landscape and Ecological Management Plan Version 2.3 August 2022
2. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
3. The development hereby permitted shall be for a temporary period only to expire 40 years and 6 months after the first export date of the development. Written confirmation of the first export date shall be provided to the local planning authority within one month after the event.
4. If the solar farm hereby permitted ceases to operate for a continuous period of 6 months, then a scheme for the decommissioning and removal of the solar farm and ancillary equipment together with the restoration of the site shall be submitted within 6 months of the end of the cessation period to the Local Planning Authority for written approval. The scheme shall make provision for:
 - the removal of the solar panels and associated above ground works approved under this permission;
 - the management and timing of any works;
 - a traffic management plan to address likely traffic impact issues during the decommissioning period;

- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats;
- details of site restoration; and
- an implementation timetable.

The decommissioning of the site shall be carried out in accordance with the approved scheme.

5. Within a period of 39 years and 6 months following the first export date, a scheme for the decommissioning of the solar farm and its ancillary equipment and restoration of the site, shall be submitted for the written approval of the local Planning Authority (except in the event that Condition 4 has been triggered and decommissioning has been completed). The scheme shall incorporate the criteria set out within Condition 4 as a minimum. The decommissioning of the site shall be carried out in accordance with the approved scheme.
6. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved decommissioning and restoration scheme within a period of 40 years and 6 months following the first export date.
7. Notwithstanding condition 1 and prior to the commencement of the development, details of the proposed materials and finish including colour of all foundations, solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the proposed development.
8. All containers on site shall be sited at ground level and no containers shall be stacked.
9. The development shall be carried out in accordance with the details contained within the Landscape and Ecological Management Plan prepared by Aardvark EM Limited dated December 2021 (document reference R009). The development shall be carried out in accordance with the approved details.
10. Notwithstanding the details contained within the Bramley Frith 7520_020 Planting Schedule 1 of 2 and the Bramley Frith 7520_021 Planting Schedule 2 of 2 (both dated July 2022), prior to the commencement of development, final soft landscaping details shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved planting schedules within the first planting and seeding season following the first export of electrical power from the site or in accordance with a timetable to be agreed. Any trees or plants which, within a period of 15 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11. Prior to the commencement of development, details shall be submitted to and agreed in writing by the Local Planning Authority to deliver and manage the permissive footpath through the Nature Area and Field 2. As a minimum, details shall include:

- all surfacing details;
- any wayfarer markers;
- implementation timetable; and
- details of the long-term responsibilities for management and maintenance to provide for the long term amenity of this path.

All hard landscape works shall be carried out in accordance with the approved details.

12. Prior to the commencement of development, hard landscaping details shall be submitted to the Local Planning Authority for approval in writing. As a minimum, details shall comprise details of:

- the seating and waste bins for the Nature Area;
- any wayfarer markers, site interpretation boards and any other site signage;
- the new bridge to the Nature Area for the off road section of Brenda Parker Way.

In addition, details shall include an implementation timetable and responsibilities for management and maintenance to provide for the long term amenity of the Nature Area. All hard landscape works shall be carried out in accordance with the approved details prior to the first export of electrical power from the site or in accordance with the timetable agreed with the Local Planning Authority.

13. Notwithstanding the details submitted, no development including site preparation, temporary access construction/widening, material storage or construction works shall commence until a final scheme for tree protection, prepared in accordance with BS5837 "Trees in Relation to Design, Demolition and Construction" (or any superseding legislation) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be informed by Arboricultural Impact Assessment (Revision A) prepared by Barton Hyett Associates Ltd dated 2021 (reference R015) and shall include the following as a minimum:

- a tree protection plan comprising a drawing at no less than 1:500 scale showing the position of protection zones, fencing and ground protection measures to be established for retained trees;
- a British Standard 5837 Tree Survey schedule with tree reference numbers corresponding with trees on the tree protection plan;
- the specification for protective fencing and a timetable to show when fencing will be erected and dismantled;

- details of mitigation proposals to reduce negative impacts on trees including specifications and method statements for any special engineering solutions required and the provisions to be made for isolating such precautionary areas from general construction activities;
- details of any levels changes within or adjacent to protection zones;
- a drawing to show visibility splays in relation to trees, outlining any works to trees demonstrating how visibility splays will be achieved
- details of the surface treatment to be applied within any tree protection zones, including a full specification and method statement;
- the routing of site cabling with provisions for reducing their impact on trees to an acceptable level;
- a specification and schedule of works for any vegetation management required, including pruning of trees and details of timing in relation to the construction programme;
- provision for briefing construction personnel on compliance with the plan, including incorporation of tree protection recommendations into a construction method statement;
- provision for signage of protection zones and precautionary areas;
- details of contractor access during the construction phase;
- a tree protection mitigation plan detailing emergency tree protection and remediation measures which shall be implemented in the event that the tree protection measures are contravened.
- provision for the appointment of an arboriculturist to supervise construction activity occurring on the site. The arboriculturist will be responsible for the implementation of temporary protective measures; shall oversee the installation of approved special engineering solutions designed for trees; and shall be responsible for organising a pre-commencement meeting with the Local Planning Authority Tree Officer (contact 01256 844 844) once the temporary tree and ground protection is in place and ready for inspection.

No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.

14. Notwithstanding the submitted information and prior to the commencement of development, a Wildlife Protection and Mitigation Plan shall be submitted to and approved in writing by the Local Planning Authority. The Wildlife Protection and Mitigation Plan shall be informed by Chapter 6 Mitigation and Enhancements of the Ecological Impact Assessment by BSG Ecology dated December 2021. No development or

other operations shall take place other than in complete accordance with the approved Wildlife Enhancement and Mitigation Plan. If a habitat or other landscape feature is removed or damaged in contravention of the approved plan, a scheme of remedial action, with a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority within 28 days of the incident. The scheme of remedial action must be approved by the Local Planning Authority before practical completion of the development and implemented in accordance with the approved timetable.

15. No external lighting (other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits) shall be erected/used on site. The details of any low level lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and the development shall be carried out in accordance with the approved details.
16. The development shall be carried out in accordance with the Bramley Frith Solar Farm Flood Risk and Drainage Strategy prepared by RMA Environmental dated November 2020 (Document Reference: R010). Any changes to the approved documentation must first be submitted to and approved in writing by Local Planning Authority in consultation with the Environment Agency and the Lead Local Flood Authority. Any revised details submitted for approval must include a technical summary highlighting any changes, updated detailed drainage drawings and detailed drainage calculations.
17. Prior to commencement of development, details for the long-term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
 - Maintenance schedules for each drainage feature type and ownership.
 - Details of protection measures.

The development shall be carried out and thereafter maintained in accordance with the approved details.

18. No development or other operations (including site preparation and any groundworks) shall commence on site until a Written Scheme of Investigation (completed by a named and professionally qualified archaeological contractor) for a programme of archaeological works has been submitted to and approved in writing by the Local Planning Authority. The Written Scheme of Investigation shall detail the methodology and timetable of site investigation including a preliminary archaeological trenched survey (within those areas to be affected by substantive elements of ground works such as access tracks, compounds and cabling trenches) and any subsequent archaeological mitigation (whether preservation or recording). This scheme of works shall recognise, characterise and record any archaeological potential which may exist as well as confirming the reporting process for the results.

A post-investigation assessment and final report must be completed in accordance with the programme set out in the approved Written Scheme of Investigation and shall include provision for analysis, publication, and dissemination of results. The final report must be submitted to and approved in writing by the Local Planning Authority.

19. The development shall be carried out in accordance with the Construction Worker Travel Plan (reference 2004-046/TN/07) dated April 2021.
20. No development or other operations (including site preparation and any groundworks) shall commence until full details of the permitted traffic management measures, the hours of operation and clauses to execute traffic management at the junction of Minchens Lane/The Street, including non-excavatory traffic controls have been submitted to and approved in writing by the Local Planning Authority, pursuant to an Agreement to be made under Section 278 of the Highways Act 1980 between the Developer and the Local Highway Authority.
21. Notwithstanding the submitted Construction Traffic Management Plan, prior to the commencement of development an amended Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The amended Construction Traffic Management Plan will cover the following aspects:
 - Site access;
 - Construction traffic routing including a prohibition of construction vehicles using Minchens Lane north of the main site access shown on drawing titled 'Minchens Lane Access (dwg no 2004-046_SK01 Revision A) and save for arrangements to access Field 4 Oliver's Lane Vehicle Crossing drawings (Dwg no SK02 Revision B and SK03 Revision B)
 - Site compound and internal routing including details of the access between Field 1 and Field 2; the temporary bridges, extent of works to routes and proposed durations of each element;
 - Construction vehicle dimensions, number and frequency, and
 - Proposed mitigation measures.
22. No development shall take place until the scope of a road condition survey of Minchens Lane from the site access up to and including its junction with The Street has been submitted to and agreed in writing by the Local Planning Authority. The survey shall be carried out in accordance with the approved scheme prior to any works commencing on site and the findings of the condition survey shall be monitored and reported to the Local Planning Authority at least every 6 months throughout the construction period of the development and any defects or damage attributable to construction activity to be rectified by the developer at their expense within 3 months of the defect being identified.
23. No development or other operations (including site preparation) shall take place until a scheme has been submitted to and approved in writing

by the Local Planning Authority detailing the method of cleaning wheels and chassis of all HGV's, plant and delivery vehicles leaving the site and the means of keeping the site access road and adjacent public highway clear of mud and debris during site preparation and construction and for the routine inspection of vehicles before departing the site to ensure cleanliness. The scheme shall be implemented in accordance with the approved details and shall be installed and operational before any development commences and shall be retained in working order throughout the duration of the construction process.

24. Prior to commencement of any other development, the means of vehicular access to the site must be constructed in accordance with the approved plans comprising:

- Minchens Lane Access – Drawing no 2004-046_SK01 Revision A
- Olivers Road Vehicle Crossing – Alternative Arrangement (1/2) – drawing no SK02 Revision B
- Olivers Road Vehicle Crossing – Alternative Arrangement (2/2) – drawing no SK03 Revision B

No structure, erection or planting exceeding 1.0m in height shall thereafter be placed within the visibility splays shown on the approved plans. There shall be no construction traffic accessing the site via the field access to the north east corner of Field 1 from Bramley Road.

25. The cumulative rating sound level of the operational plant and equipment hereby approved as part of this development shall have an operational noise level no greater than the existing background sound level during the operational hours of the scheme hereby approved at the closest noise-sensitive receptors to the site existing at the time of approval when assessed in accordance with the methodology and guidance set out within BS4142:2014+A1:2019 (or superseding legislation).

26. Within 3 months of the first export date, a post completion noise assessment shall be carried out and submitted for approval in writing to the Local Planning Authority to verify that the cumulative rated noise level from the plant is no greater than the prevailing background sound level (as set out in Condition 25) at the most sensitive period when the plant will be operated (e.g. evening, nights and weekends). A method statement shall be submitted to and approved by the Local Planning Authority prior to the survey being undertaken. The noise assessment shall be carried out by a suitably qualified acoustic consultant/ engineer and be undertaken in accordance with BS4142: 2014-"Methods for rating and assessing industrial and commercial sound". Where the above criteria has not been met it will be necessary to identify and install additional noise mitigation measures, within 3 months of the assessment.

27. No work relating to the construction of the development hereby approved, including preparation prior to operations, shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the

hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

28.No deliveries of construction materials or plant and machinery and no removal of any spoil from the site shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays

29.No development or other operations (including site preparation and any groundworks) shall commence on site until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison;
- Arrangements for liaison with the Council's Environmental Protection Team;
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 0730 Hours and 1800 Hours on Mondays to Fridays and 0800 and 1300 Hours on Saturdays and; at no time on Sundays and Bank or Public Holidays;
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours;
- Control measures for dust and other air-borne pollutants;
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

The development shall be carried out in accordance with the approved details.

30.Prior to the implementation of the Battery Storage System a detailed Battery Safety Management Plan (BSMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and operated only in accordance with the approved Battery Safety Management Plan.

31.No development or other operations (including site preparation and any groundworks) shall commence until a Soils Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan should set out the means to be used to protect soils

during construction, operation, maintenance and decommissioning of the solar farm and battery storage such that the objectives of the Landscape and Ecological Management Plan required by Condition 9 are not compromised and crop growing agricultural operations may resume following the operational life of the solar farm and battery storage.

End of conditions

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ben Du Feu of Counsel

Instructed By: The Council Solicitor

He called:

Karen Tipper BA (Hons),
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Nigel Wakefield BA
(Hons)

Managing Director, Node Urban Design Ltd

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FOR THE BRAMLEY SOLAR FARM RESIDENTS GROUP:

Richard Anstis

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Professor of Archaeology at the University of
Reading

Simon Bailey BSc(Eng),
CEng, MICE

Chartered Engineer (CEng)

Richard Anstis

Chartered Surveyor, Richard Anstis Consultants

INTERESTED PERSONS:

Simon Mahaffey	Local resident
Graham Wright	Silchester Parish Council
Antony Durrant	Chair, Bramley Parish Council and Ward Councillor
Chris Tomblin	Local resident
Marshall Hall	Local resident

INQUIRY DOCUMENTS

- 1 Notification Letters
- 2 Appendix 7 – Mr Wakefield Landscape Methodology
- 3 Silchester Trail – Guide to the Route
- 4 Opening Statement on behalf of the Appellant
- 5 Opening Statement on behalf of the Council
- 6 Opening Statement on behalf of the Rule 6 Party (BSFRG)
- 7 Mr Mahaffey – Speech to the Inquiry
- 8 Mr Wright – Silchester Parish Council – Speech to the Inquiry
- 9 Draft Conditions
- 10 Draft Conditions – table illustrating differences between the parties
- 11 Mr Mahaffey – Winter Photomontages comments.
- 12 Cllr Tomblin – Speech to the Inquiry
- 13 Appeal Decision Oakdown Farm PINS ref 3301468
- 14 Silchester Conservation Area Appraisal
- 15 Mr M Hall – Speech to the Inquiry
- 16 Commentary by Rule 6 on Construction Traffic Management Plan
- 17 Site Visit Itinerary
- 18 Appellant Response on Construction Management Plan.
- 19 Appellant draft condition 22
- 20 Council Closings
- 21 R6 Closings
- 22 Appellant Closings
- 23 Final Conditions Document

PLANS

- A Updated Figure 10 and 11 and Cross Sections of Mr Kratt evidence
- B Winter Photomontages
- C Appendix 10 and 11 Kratt – Big Version
- D New photomontage VPH – winter view Y15 v3 Middle Frame.
- E New photomontage VPH – Y15 Middle Frame (big version)



Appendix 5

Appeal Decision

Site visit made on 10 February 2014

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 April 2014

Appeal Ref: APP/C3105/A/13/2207532

Land at Rowles Farm, Bletchington, Oxfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by ROC Energy Ltd against the decision of Cherwell District Council.
 - The application Ref.13/01027/F, dated 3 July 2013, was refused by notice dated 7 October 2013.
 - The development proposed is the construction of a solar farm with onsite equipment rooms and plant, security fencing, landscaping, and associated works.
-

Preliminary Matter

1. The accompanied site visit took in the site itself and the access to it. Afterwards, I took in the surroundings on a wider basis, unaccompanied, including the view of the site from the bridge over the A34 to the south-east of Weston-on-the-Green.

Decision

2. The appeal is allowed and planning permission is granted for a solar farm with onsite equipment rooms and plant, security fencing, landscaping, and associated works on Land at Rowles Farm, Bletchington, Oxfordshire, in accordance with the terms of the application, Ref.13/01027/F, dated 3 July 2013, subject to the conditions set out in Annex A to this decision.

Main Issue

3. This is whether the proposal would be an inappropriate form of development in the Green Belt and, if so, whether there are any considerations sufficient to clearly outweigh the harm by reason of inappropriateness, and any other harm, thereby providing justification on the basis of very special circumstances.

Reasons

Green Belt

4. Paragraphs 89 and 90 of the Framework¹ set out the forms of development deemed not inappropriate in the Green Belt. LP² Policy GB1 takes a broadly similar tack. The proposal does not fall into any of the categories of development set out. Moreover, paragraph 91 of the Framework says that

¹ The National Planning Policy Framework

² The Cherwell Local Plan of November 1996

when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development.

5. On that basis, the proposal would be an inappropriate form of development in the Green Belt. Paragraph 87 of the Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 clarifies that: 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. LP Policy GB1 is similar in approach.
6. Paragraph 79 of the Framework tells us that openness is an essential characteristic of the Green Belt. Openness is generally defined as the absence of built form. This does not depend on visibility, a matter I turn to below in considering landscape impacts. As a man-made imposition on the landscape, the proposal would obviously reduce openness and this would add to the harm to the Green Belt by reason of inappropriateness.

Any Other Harm

7. One of the core planning principles of the Framework is that the intrinsic character and beauty of the countryside should be recognised. Recent Government guidance³ set out that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. However, it continued, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. This guidance also stressed that local topography is an important factor in assessing whether a large scale solar-farms could have a damaging impact on the landscape. The recent PPG⁴ which replaces that guidance says much the same thing. More generally, LP Policy C7 says that development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.
8. The Council raises no particular issue in this regard but the imposition of the solar array and its ancillary infrastructure on what are currently open fields would obviously result in an adverse impact on the character and appearance of the landscape. This would be readily apparent to users of the public footpaths that cross the site and pass close to it. However, the Council says that these footpaths are little used because they are cut off by the nearby A34 dual carriageway and I have no good reason to disagree with that. These close-up views would not be experienced very often, therefore.
9. Given the flat nature of the prevailing topography, the proposal would not be particularly visible in wider views of the site. My unaccompanied visit to Viewpoint 9⁵, the bridge over the A34 that carries the Oxfordshire Way referred to above, demonstrated as much. Moreover, any such impact could be reduced further by supplementing the existing hedgerows; something that can be secured by condition. On top of all that, the proposal is intended to be temporary and it would be reversible.
10. Taking all those points together, the degree of harm the proposal would cause in landscape terms would be very limited. While there would be a failure to

³ Planning Practice Guidance for Renewable and Low Carbon Energy of July 2013

⁴ Planning Practice Guidance

⁵ As represented in the LVIA prepared on behalf of the Appellant

accord with LP Policy C7, the proposal has been planned sensitively and would, therefore, accord with the approach espoused in the PPG.

11. Reference has also been made to the historic nature of the surrounding landscape but the proposal would respect the existing field pattern and would cause no permanent damage. Similarly, because there would be no inter-visibility between the proposal and the designated heritage assets concerned, there would be no impact on the settings, or the significance, of the SAM to the east of the site, or the listed building at Barndon Farm to the south.

The Balancing Exercise

12. The proposal would cause harm to the Green Belt by reason of inappropriateness and because of the reduction in openness it would involve. On top of that, there would be a limited degree of harm to the landscape. The proposal is promulgated on a temporary basis and so the harm in Green Belt and landscape terms would be both temporary and reversible. Nevertheless, paragraph 88 of the Framework tells us that when considering any planning application, local planning authorities⁶ should ensure that substantial weight is given to any harm to the Green Belt.
13. Against all that, the proposal would have a total capacity of around 10 MW, meeting the needs of around 2,500 homes, and offsetting nearly 5,300 tonnes of Carbon Dioxide emissions, annually⁷. Reflective of wider Government policy, designed to address the potential impacts of climate change, and to ensure energy security, one of the core planning principles of the Framework is to encourage the use of renewable resources, for example by the development of renewable energy. Paragraph 97 of the Framework says that to help increase the use and supply of renewable and low carbon energy, local planning authorities⁸ should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.
14. On top of that, while paragraph 91 of the Framework accepts that very special circumstances will need to be demonstrated if renewable energy projects are to proceed in the Green Belt, it continues: such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
15. It is clear therefore that notwithstanding the decision of the Secretary of State on a recent appeal concerning a large solar farm in Suffolk⁹, and the letter of 16 October 2013 by the Minister of State at the Department of Energy and Climate Change¹⁰, renewable energy projects are not prohibited outright in the Green Belt. It is, as ever, a matter of balancing any benefits they would bring forward, against any harm they would cause.
16. In carrying out that balancing exercise, I attach substantial weight to the harm that would be caused in Green Belt terms, and moderate weight to the limited landscape harm that would be caused.
17. Against that, the proposal would bring forward benefits of a significant scale in terms of the production of renewable energy and, as well as that, assist the

⁶ And I take that to include the Secretary of State and/or those acting on his or her behalf

⁷ Figures taken from the Appellant's Appeal Statement

⁸ Again, I take that to include the Secretary of State and/or those acting on his or her behalf

⁹ APP/T3535/A/13/2193543

¹⁰ The Rt Hon Gregory Barker MP

ongoing viability and stability of a rural business. The latter draws strong support from paragraph 28 of the Framework.

18. Like the preceding guidance, the PPG makes it clear that the need for renewable energy does not automatically override environmental protections. Nevertheless, in my judgement, the considerable benefits of the proposal outlined above clearly outweigh the harm by reason of inappropriateness, and the other harm identified. Very special circumstances have been shown and the impacts of the proposal are (or can be made) acceptable, therefore. As such, the proposal complies with the Framework, and LP Policy GB1.

Conditions

19. I have considered the suggested conditions in the light of advice in the Framework, the PPG, and Appendix A to Circular 11/95¹¹. Aside from the standard condition to govern commencement, another is required to set out the approved plans. As the proposal is promulgated on a temporary basis, a condition, along the lines suggested by the Council, is necessary to secure removal once the proposal is no longer required for electricity generation.
20. There is no external lighting shown on the approved plans but, for the avoidance of doubt, a condition is necessary to require details of any proposed to be submitted to, and approved by, the local planning authority. A series of conditions are required to address issues around biodiversity. Conditions are also required to ensure that construction takes place in accordance with the submitted Construction Traffic Management Plan and to secure full details of any parking and manoeuvring areas.
21. Finally, conditions are required to secure a landscaping scheme, details of future management and maintenance, and, given the potential for remains, to address archaeology.

Final Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

¹¹ Circular 11/95: *The Use of Conditions in Planning Permissions*

Annex A: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1015177-013-01: Site Location Plan; ROC-1001/1004v1: Rowles Red Line Drawing; ROC-1001/1001v1.5: Rowles PV Layout; ROC-1001-1003v1.1: Rowles Elevations; ROC-1001-1003.02v.1: Rowles DNO Compound Elevation; ROC-1001-1003.01v1: Rowles Fence Elevations; ROC-1001-1003.03v1: Rowles LV Kiosk Compound Elevation; and ROC-1001-1005v1: Rowles PV Elevation.
- 3) The solar farm, associated equipment, fencing and other infrastructure shall be removed from the site in their entirety within 6 months of the date when the solar farm is no longer required for electricity generation.
- 4) No development shall take place until details of any external lighting required have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) Should the development not be commenced within one year of the submitted Badger Survey Report prepared by Enims, dated July 2013, then no development shall take place until an updated Badger Survey Report has been submitted to and approved in writing by the local planning authority. In that event, development shall be carried out in accordance with the revised details.
- 6) Notwithstanding condition no.2, no development shall take place until details of how the fencing around the site will allow continued access across the site for badgers have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 7) All works shall be carried out during daylight hours and best practice with regard to mammals shall be followed for the duration of works with any trenches covered at night and known foraging routes left unobstructed.
- 8) All site clearance and preparation works including the removal of vegetation shall be timed so as to avoid the bird nesting and breeding season and the active reptile and great crested newt season from 1 February to 1 October inclusive. Removal of the hedgerow at the southern end of the central hedge shall only take place between November and April inclusive.
- 9) No mature tree shall be removed without first having been surveyed by a suitably qualified person to determine whether bats are utilising it. Survey results, together with any necessary method statements and proposals for mitigation shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No works shall be carried out, structures erected, or materials stored, within 8m of the watercourses to the south and east of the site boundary.

- 11) The development shall be implemented in accordance with the submitted Construction Traffic Management Plan dated July 2013.
- 12) No development shall take place until details of any parking and manoeuvring areas have been submitted to and approved in writing by the local planning authority. Any parking and manoeuvring areas shall be provided in accordance with the approved details and retained for their intended purpose thereafter.
- 13) No development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include (a) details of the proposed tree and shrub planting including details of their species (native preferred), number, sizes and positions, together with any grass seeded and/or turfed areas; (b) details of existing trees and hedgerows to be retained, and measures for their protection in the course of the works, as well as those to be removed, including existing and proposed soil levels at the base of each tree or hedgerow and the minimum distance between their bases and the nearest excavation; and (c) a detailed timetable. Development shall be carried out in accordance with the approved details.
- 14) Any trees or plants forming part of the landscaping scheme which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 15) No development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 16) No development shall take place until a first stage written scheme of archaeological investigation, relating to the site, carried out by a suitably qualified individual or organisation, has been submitted to and approved in writing by the local planning authority.
- 17) No development shall take place until a programme of archaeological investigation, investigation and recording has been completed in accordance with the approved first stage written scheme of archaeological investigation.



Appendix 6



Ein cyf/Our ref DNS/3252305

Ed Perrin
Head of Development
Renewable Connections Development Limited
3rd Floor
141 – 145 Curtain Road
London
e.perrin@renewableconnections.co.uk

16 January 2023

Dear Mr Perrin,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 62D
THE DEVELOPMENT OF NATIONAL SIGNIFICANCE (TECHNOLOGY) REGULATIONS
2016
THE CONSTRUCTION, OPERATIONS, MAINTENANCE AND DECOMMISSIONING OF A
RENEWABLE ENERGY SCHEME. THE MAIN ELEMENT OF THE DEVELOPMENT WILL
BE THE INSTALLATION OF A GROUND MOUNTED SOLAR PARK WITH MAXIMUM
EXPORT CAPACITY OF 32MW**

1. Consideration has been given to the report of the Inspector who held hearings to examine the planning application.
2. In accordance with section 62D of the Town and Country Planning Act 1990 and Regulation 3 of The Development of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, the application was made to the Welsh Ministers for determination.
3. A copy of the Inspector's report ("IR") is enclosed. All references to paragraph numbers, unless otherwise stated, relate to the IR.
4. The proposed development was subject to a negative Screening Direction under the terms of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations on 12 November 2020. The proposal as screened comprised a 45MW ground mounted solar park including containerised batteries. However, the proposal as submitted on the 25 January 2022 comprised a 37MW ground mounted solar park without storage batteries with consequent modification of the application boundaries. The Inspector has considered this to be a minor variation which would not affect the Screening Direction and I am in agreement.
5. The Inspector noticed that pre-application consultation has been affected by the pandemic restrictions in place at the time. However, the relevant statutory

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

requirements were met. It is not apparent to me from the review of the consultations conducted by the Applicant and Planning and Environment Decisions Wales (“PEDW”) that they are lacking in any way which would have prejudiced the examination.

6. The Inspector held a hearing on 10 August 2022 which was divided into three sessions concerning:
 - i. Effects on Landscape, Character and Appearance;
 - ii. Other Matters, and
 - iii. Planning Conditions
7. An unaccompanied site visit was conducted on 12 August 2022.
8. An additional hearing was originally proposed by the Inspector in relation to the effects of the proposal on Best and Most Versatile Agricultural Land (“BMVAL”). Following an initial objection to the proposed development by the Welsh Government’s Soil & Agricultural Land Use Planning Unit (“SPALPU”), the scheme was varied, with a reduction in the area affected by solar panels and maximum generated output from 37MW to 32MW, among other things. Consequently, SPALPU withdrew the objection and the Inspector decided that the issue of BMVAL could be addressed via written representations.
9. The applicant provided additional information to support the request for variation of the scheme, which was accepted by the Inspector and subject to a formal request for further information and additional consultations. The Inspector considered the variation of the scheme did not constitute a substantial change in the nature of the development [IR 13] and I am in agreement with the Inspector’s conclusions. The proposed development has been considered in its amended form.

Main Considerations

10. I agree the main considerations are those listed at IR 187:
 - The effect on the landscape character and visual amenity of the area;
 - The effect on BMVAL
 - The effect on heritage assets
 - The effect on ecology, particularly the special features on designated sites and protected species;
 - The effect on highway safety;
 - Flood risk and drainage
 - The impact on residential amenity, and
 - The benefit of the proposal.

Landscape and Visual Amenity

Landscape character

11. The application is accompanied by a Landscape and Visual Appraisal (“LVA”) which is informed by a Zone of Theoretical Visibility (“ZTV”) and 15 representative viewpoints, together with several photomontages. The LVA found that, during the operational period, the development would initially have a moderate adverse landscape effect on the characteristics of the application site [IR 41] which will reduce over time as a result of mitigation planting. [IR 196].

12. According to the documentation submitted by the Applicant, the proposal will have a direct impact on two Landscape Character Areas (“LCA”) and would result in a localised direct moderate adverse landscape effect within a 2km radius from the site, which will reduce in the medium to long term to a moderate/minor adverse effect [IR 42 & IR 196].
13. The proposed development will also have a minor localised adverse effect on the eastern part of the Brecon Beacons National Park (“BBNP”) and Blaenavon Industrial Landscape World Heritage Site (“BILWHS”). However, the Special Qualities of the two designed landscapes will not be compromised [IR 43 & IR 201].
14. The Inspector concluded that in the medium to long term (between years 5 to 40) the proposed development would result in, at most, a moderate adverse effect on the landscape character within 2km of the site, which will reduce over time due to the mitigation planting becoming more established [IR 203]. I see no reason to disagree with the Inspector’s conclusions.

Cumulative Effects on Landscape Character

15. The LVA anticipated minor adverse cumulative landscape effects on LCA 53 and LCA 39 [IR 47]. The nearest identified development which could have a cumulative effect with the proposal on landscape character is the solar farm at Manor Farm. The Inspector noted that Manor Solar Farm is outside the ZTV and concluded that any cumulative adverse landscape effects would be minor [IR 205]. I concur with the Inspector’s conclusions.

Visual impacts

16. The LVA found that the lower elevations of the development would be partly contained by the existing hedgerows and trees within the boundaries of the site and surrounding farmland, along with screening by built elements and local topographical variations. The higher elevations of the development would be visible in longer distance views largely to the south, southeast and southwest, albeit the effects would be minor adverse during the operational years [IR 45].
17. The LVA assessed that the application proposal would have the most influence on visual receptors in publicly accessible locations within 1km of the application site, with operational major/moderate adverse visual effects from viewpoints 1 and 2, as specified in the LVA, along the public rights of way within the application site [IR 46 & IR 208].
18. Mitigation measures are proposed to reduce potential landscape and visual effects. The LVA considers that as the mitigation planting becomes established it would help contain elements of the proposed development at lower elevations [IR 48].
19. Overall, it is contended by the applicant and its LVA that the effects on landscape character and visual impact would not constitute unacceptable adverse impacts on the surrounding landscape, including on the settings of National Parks and AONBs [IR 52].
20. Monmouthshire County Council (“MCC”) and other representors considered the proposal will have an acceptable adverse impact on landscape and will constitute a significant visual intrusion. The local resident group prepared a Landscape Character and Visual Impact Assessment (“LCVIA”) [REP 059] which considered the

scheme before its variation and found it would have a substantial adverse visual impact and a major adverse effect on landscape character [IR 192].

21. The Inspector noted that, while the Applicant's LVA and an objectors' LCVIA reach different conclusions about the degree of landscape change and its effects, such reports inherently involve a professional subjective judgement [IR 193]. The Inspector has carefully considered the content of both assessments and reached his own conclusions based on the written submissions, oral evidence given at the hearing session and observations made during his site visit.

Cumulative visual effects

22. The only identified development which could have a cumulative visual effect with the proposed development is Manor Solar Farm located at Manor Farm near the village of Llanvapley, about 4.5km away from the application site and a single micro-wind turbine (17.7m to the tip) at Main Farm House [IR 226].
23. The Inspector concluded that, given the distances between those existing developments and the proposed development and intervening landforms and vegetation, it is unlikely that they would be experienced in any cumulative visual interactions. Therefore, the Inspector considered that the cumulative visual change would be low and the effects, at most, minor adverse [IR 226].

Overall Conclusions on Landscape Character and Visual Effects

24. I have reviewed the Inspector's assessment of the effects of the proposal on the landscape and visual impact, and I do not find reasons to disagree with his findings. I agree the proposed development would have localised adverse effects on landscape character and visual appearance, reducing over time as proposed planting becomes established [IR 194 -227]. I agree the degree of harm would not amount to the 'unacceptable' adverse impacts or 'significant visual intrusion' referred to LDP policies SD1 - Renewable Energy, LC1 - New Built Development in the Open Countryside and LC5 – Protection and Enhancement of Landscape Character [IR 228].
25. I also agree with the Inspector that, in relation to this specific matter, the proposal will not be contrary to Policies 17 and 18 of Future Wales ("FW"), the national development plan for Wales, as it would not amount to unacceptable visual or other adverse impacts on the environment or the surrounding landscape, including the setting of the BBNP.

BMVAL

26. According to the applicant's submission, about 32.1ha of the site comprises BMVAL. The Welsh Government's Soil & Agricultural Land Use Planning Unit ("SPALPU"), questioned the practicality of farming some of the BMVAL in fields 1, 4, 5 and 6 to its full potential and, therefore, considered that about c.25ha of the total BMVAL was subject to the protection offered by Planning Policy Wales ("PPW") paragraphs 3.58 and 3.59 [IR 235].
27. SPALPU's initial objection required the removal from the proposal of fields 8,9,10 and 11, which contained the main area of contiguous BMVAL. In response, the applicant varied the proposed development and removed solar arrays from fields 8 and 11, which reduced the total amount of BMVAL affected by the proposal to approximately 16.8ha. [IR 237]

28. The Inspector consulted SPALPU following the scheme variation and the submission of additional information by the applicant. In response to the additional consultation, SPALPU withdrew its objection. In its consultation response letter [2022-07-15 REPS2 014 DCC], SPALPU explained the primary reasons for withdrawing the objection were the specific characteristics of the application, including the volume of BMVAL adjacent to the length of the connection assessment area and other nationally recognised designations such as BBNP.
29. Paragraphs 3.58 and 3.59 of PPW apply to all BMVAL irrespective of the area or amount of BMVAL included within the application site. In this case, approximately 32ha of BMVLA within the application site and all this BMVAL is subject to the protection afforded by national policy expressed in paragraphs 3.58 and 3.59 of PPW.
30. PPW is clear, BMVAL should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value which outweighs the agricultural considerations.
31. The Inspector contended that if suitable working practices were adopted and properly followed, it should be possible for significant damage to soils and BMVAL to be avoided [IR 266]. This argument follows the conclusions of the applicant's Response to Inspector's Request for Further Information: BMVAL (DOC 30).
32. By contrast, SPALPU's concerns are detailed in REP2 014 DCC, which challenged various aspects of the applicant's BMVAL report. For example, the DCC Report rejected the view that damage to soils caused by poor installation practices can always be simply rectified by standard agricultural practices, especially if deep soil compaction has occurred. It also challenged the notion that solar farm construction and decommissioning activities would be equivalent to, or less impactful than, agricultural uses, which can themselves cause soil damage [IR 264].
33. I am not convinced that the construction and decommissioning details and practices necessary to minimise the risk of significant damage to soils, and possible permanent loss of BMVAL, could be delivered and secured by means of suitable conditions [IR 271]. There is no evidence that mitigation measures, even if followed, would be able to completely mitigate the impact of the proposed development on BMVAL.
34. The Inspector's consideration of overriding need is set out in IR 279- 286. The Inspector noted the Welsh Government's commitment to decarbonisation and tackling the climate emergency and highlights the contribution the proposal would make to these objectives by generating a significant amount of energy from a renewable source. I agree with the Inspector that there is a need to increase the generation of renewable energy in Wales. However, this in itself does not comprise "overriding need" for the purpose of paragraph 3.59 of PPW. I consider "overriding need" in this context requires the need for the proposed development to be balanced against the need to protect BMVAL.
35. I note SPALPU questioned the practicality of farming all the identified BMVAL to its full BMV potential.
36. In this context, for this particular development proposal, I consider the scheme's capacity to generate a significant amount of renewable energy outweighs the need to protect the BMVAL within the application site boundary. In coming to this view I have taken into account the comments of SPALPU that fields 1, 4, 5 and 6 could not be

practically farmed to their full potential thus reducing the amount of BMVAL which would be affected by the proposal. I also note the removal of solar arrays from fields 8 and 11, which further reduces the amount of BMVAL directly affected. I am also mindful that SPALPU has withdrawn its objection to the proposal.

37. Therefore, having considered the need for renewable energy, the need to protect BMVAL in the context of the application proposal, and SPALPU's assessment of the BMVAL, I have established, in the specific circumstances relevant to this case, the need for the development overrides the need to protect the BMVAL for the purposes of paragraph 3.59 of PPW.
38. Having determined that there is an overriding need for the development proposal, paragraph 3.59 requires the decision maker to consider the site selection process, whether either previously developed land or land in lower agricultural grades is available, or available lower grade land has an environmental value which outweighs the agricultural considerations.
39. The Inspector considered the site selection process [IR 242- 255] noting the applicant's search approach. I have no reason to disagree with the Inspector that the site has been chosen in line with the site search criteria and that it has been demonstrated, for the search area considered by the applicant, that neither previously developed land nor land in lower agricultural grades is available.
40. FW Policy 18 requires acceptable provisions to be made for the effective restoration of sites which have been developed to facilitate renewable energy projects. Whilst I am not convinced, based on the lack of evidence in front of me, that the full potential of the BMVAL will be preserved, the Inspector was satisfied with the decommissioning and soil protection measures secured by the recommended planning conditions [IR 287]. In this context, on this particular matter and for this specific site, I have no reason to disagree that the proposal broadly accords with Policy 18 of FW.

Heritage

41. There are no designated or non-designated archaeological or heritage assets within the application site itself, with the nearest heritage asset being 'Great House' (Grade II* listed), located about 100m to the east of the site boundary. [IR 290]
42. A total of 27 Listed Buildings were identified within the 2km study zone and the ZTV of the proposed development, including six Grade II* and 21 Grade II. The applicant submitted a Heritage Impact Assessment ("HIA") to support the application. Moderate to low indirect effects are anticipated in relation to the Grade II* listed 'Great House' and, overall, range between low to negligible indirect effects for all other listed buildings [IR 291].
43. The Inspector agreed with the HIA there would be a moderate to low indirect adverse effect on the setting of the Great House [IR 294].
44. The BILWHS lies partially within the 5km study area and the calculated ZTV supporting the LVA. Similarly, the Historic Landscape Area associated with this asset also lies partially within the study area and ZTV. Indirect effects anticipated upon these designated areas were anticipated to be low [IR 295].

45. Eight Scheduled Monuments were identified within the 5km study zone which were within the ZTV of the proposed development. Low indirect effects to low/negligible indirect effects are anticipated to these assets [IR 296].
46. Cadw had no objections to the proposal and, along with the Inspector, concurred with the conclusions of the HIA that there would not be a significant impact on any of the designated heritage assets in the area and has no objections to the proposal [IR 297].
47. With regard to archaeological remains, in its most recent consultation response [2022-07-04 – REPS2 003] Glamorgan-Gwent Archaeological Trust (“GGAT”) noted that archaeological investigation and assessment undertaken to inform the application included a geophysical survey carried out by AOC Archaeology (November 2021), a HIA (January 2022) and that most recently a field evaluation was carried out on the development site by Headland Archaeology (April 2022). GGAT considered it unlikely that further archaeological work would encounter significant archaeological remains. GGAT did not consider there to be a need for further archaeological work in relation to the development and the Inspector agreed with this assessment [IR 300].
48. The Inspector concluded the proposal would not cause unacceptable harm the significance of historic assets and, therefore, accords with FW policy 18 and LDP policies S13, LC1 and S10 and I concur with the Inspector’s assessment [IR 301].

Ecology

49. The applicant’s ecological report identified that the site has hydrological connectivity with the River Usk Special Area of Conservation (“SAC”) and the River Usk (Lower Usk) Site of Special Scientific Interest (“SSSI”), with potential ecological connectivity restricted to otter. There is potential ecological connectivity with the Usk Bat Sites SAC in relation to the lesser horseshoe bat [IR 304].
50. Natural Resources Wales (“NRW”) expressed various initial concerns about the application, including concerns regarding Great Crested Newts (“GCN”), Dormice, Bats and Otter and the River Usk SAC in relation to pollution and its otter feature and the Usk Bat Sites SAC with regard to the lesser horseshoe bat [IR 305].
51. A GCN Survey Report submitted with the application and since updated (May 2022), indicated that GCN are likely to be absent from the application site. However, partly because access could not be obtained to survey some pounds within 250m of the site boundary, the application was progressed on precautionary basis assuming the presence of GCN in several ponds. [IR 306]
52. Although the Ecological Impact Assessment (“EclA”) submitted to support the application reported that no records or signs of dormice were noted during the desk study and species scoping survey, NRW advised that mitigation measures should be secured via conditions requiring a Dormouse Conservation Plan, a revised Construction Environmental Management Plan (“CEMP”) and a Lighting Plan to ensure that the proposed development would not be detrimental to dormice. [IR 307]
53. The Inspector noted that NRW agrees with the applicant’s EclA that there is unlikely to be a significant effect on the Lesser Horseshoe bat feature of the Usk Bat Sites SAC, taking account of the Bat Conservation Plan and the application of the Lighting Plan condition [IR 308].

54. NRW acknowledged that no evidence of otters was recorded onsite during the field survey but that otters may occasionally use the drain/ditch along the northern boundary of the site, which would not be beyond the range of otters comprising the otter notified feature of the River Usk SAC. Although NRW considered that the proposed development would be unlikely to have a significant effect on the otter feature of the River Usk SAC, it advised that appropriate mitigation measures should be implemented during the construction and operational phases to ensure that otters could continue to move safely along the ditch and not be otherwise affected by the works by, for example, becoming trapped in excavations or adversely affected by artificial light [IR 309].
55. NRW agreed with the conclusion of the Shadow Habitat Regulations Assessment ("SHRA") that the proposed development would be unlikely to have an adverse effect on the integrity of the Usk Bat Sites SAC or the River Usk SAC, subject to a set of mitigation measures listed at IR 311. The Inspector carried out an Appropriate Assessment ("AA") (Annex B of the IR) and found that the proposal, subject to mitigation measures secured by conditions, will not affect the integrity of the Usk Bat Sites SAC or the River Usk SAC. I reviewed the AA and I concur with the Inspector conclusions.
56. The applicant proposed biodiversity enhancements including the creation and maintenance of a diverse species rich grassland with a varied sward structure, native tree planting, new hedgerow, bird, mammal and invertebrate houses/boxes. The Inspector noted that MCC's Local Impact Report ("LIR") considered that the proposal would have a positive impact on ecology, subject to a condition requiring a CEMP [IR 317]. I agree with the Inspector and consider the scheme accords with Policy 9 of FW and the section 6 duty in the Environment (Wales) Act 2016.
57. Overall, the Inspector concluded, based on the proposed design and mitigation measures secured by condition, there would be no significant harmful effects on ecological features thus the proposed development will comply with the requirements of criteria 3, 4 and 5 of FW Policy 18, along with relevant parts of FW Policy 9 and PPW [IR 318]. I am in agreement with the Inspector's conclusions, however, I have made some amendments to the planning conditions.

Highway Safety

58. The application was accompanied by a Construction Traffic Management Plan ("CTMP") which advise that most of the traffic effects would be during the anticipated 6-month construction phase, with a total of 671 Heavy Goods Vehicle ("HGV") deliveries to the application site. During the peak construction period there would be an approximate maximum of 15 daily HGV deliveries. [IR 319]
59. The Inspector found that the development would inevitably result in additional traffic movements and may cause some disruption or inconvenience during the construction phase and potentially at decommissioning, but he is satisfied that any adverse effects would be limited and could be sufficiently mitigated through the implementation of the CTMP [IR 325] and I have no reason to disagree.
60. The Inspector concluded that the proposed development would meet the requirement of FW Policy 18 that there should be no unacceptable impacts on the transport network through the transportation of components or source fuels during construction and/or ongoing operation. The scheme also comply with policy MV1 of the LDP. I am in agreement with the Inspector's conclusions.

Residential Amenity

61. The local area is predominantly agricultural with scattered individual dwellings and farmsteads. The application was accompanied by a Residential Visual Amenity Assessment (“RVAA”), informed by the LVA and ZTV, which considered potential effects on residential visual amenity. [IR 327]
62. Given the low-lying nature and scale of the proposed solar arrays (c. 2.8m in height) and the proposed location upon lower elevations of fields surrounded by existing and proposed hedgerows, the RVAA concluded that significant effects would be unlikely on residential properties beyond 250m of the site boundary. [IR 329]
63. There are 4 residential properties within 250m of the site. The RVAA concluded that there would be a moderate adverse to minor adverse effect. The proposed development would be visible to varying degrees from each of those residential receptors, although it would not be to a degree significant enough to warrant further assessment. Consequently, the RVAA found that the visual effects would not be overbearing or visually dominant for any of the surrounding properties. [IR 330]
64. The Inspector noted that MCC’s LIR also agreed with the conclusions of the RVAA [IR 331]. The Inspector found no reason to disagree with the assessment in the RVAA.
65. In term of noise, reflected light, air quality and electromagnetic disturbance, based on the evidence submitted during examination, the Inspector concluded that there would be no significant adverse impacts on individual dwellings or nearby communities or result in unacceptable adverse impacts by way of shadow flicker, noise, reflected light or electromagnetic disturbance. Consequently, the proposal would comply with criteria 2 and 7 of FW Policy 18 and LDP policy EP1 [IR 333]. I concur with the Inspector’s findings.

Flood Risk

66. The application was accompanied by a Flood Consequence Assessment and Drainage Strategy (“FCADS”) (May 2022). It advised that, according to the Development Advice Map, the application site is wholly situated within Flood Zone A, except for a small area within Field 4, which is Flood Zone B. This area has been intentionally left clear of development and therefore the proposed development is wholly within Flood Zone A. [IR 334]
67. The Inspector concluded that there is no compelling evidence to suggest the proposal would increase flood risk away from the application site during the construction, operation and decommissioning phases [IR 339] and I see no reason to disagree with the Inspector’s findings.

Benefits of the Proposal

68. The applicant presented a series of benefits resulting from the proposed development which are discussed by the Inspector in his report [IR 340]. The applicant also referred to a one-off payment of £74,000 towards a Community Benefit Fund upon commissioning of the solar farm. However, there was no legally binding mechanism before the Inspector to secure that contribution, and the Inspector did not give weight to it [IR 341] and I agree with his approach.

69. In addition, the Inspector found that while WG supports the principle of securing financial contributions for host communities through voluntary arrangements, PPW makes clear that such arrangements must not impact on the decision-making process and should not be treated as a material consideration, unless it meets the tests set out in Circular 13/97: Planning Obligations i.e. that it is necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development; and, reasonable in all other respects. The Inspector did not find this to be applicable in the present circumstances [IR 342] and I am in agreement.

Other Matters

70. The Inspector has considered a series of other matters in his report. These are discussed below.
71. The Inspector did not find that the proposed development will have a significant adverse effect on tourism [IR 345].
72. While interested parties raise the issue of impact on property values, the Inspector has rejected this issue [IR 346].
73. Concern has been expressed about possible effects of glint and glare on aircraft pilots, particularly those participating in low-flying military training in the area. However, the Applicant's Glint and Glare Assessment indicated there would be no effect on the runways at Abergavenny Airfield, there are no identified defence facilities within the vicinity of the site, and that the scheme would not result in any unacceptable impacts on the Mid Wales Low Flying Tactical Training Area (TTA 7T). In addition, the Ministry of Defence/Defence Infrastructure Organisation ("MoD/DIO") has confirmed that it has no safeguarding concerns in relation to the proposal [IR 347].
74. Interested parties suggested that the proposed development could set a precedent that would justify further solar developments in the area. However, the Inspector has given this concern limited weight [IR 348] as each application must be determined on its own merits.
75. A number of representations suggested that proposal should have been found to require an Environmental Impact Assessment ("EIA") under the Town and Country Planning (EIA) (Wales) Regulations 2017. The Inspector has not seen substantive reason to question the finding of the EIA screening process [IR 349].
76. Concerns about the long-term financial stability of the developer and ability to subsequently decommission the development have been raised. Having reviewed the information submitted by the Applicant, the Inspector was satisfied that decommissioning obligations can be satisfactorily dealt with by condition [IR 350].

Planning Conditions and Obligations

77. The Inspector provided a set of conditions at Appendix A of the Inspector Report. I reviewed the proposed conditions in light of the requirements set out in Circular 016/2014: *The Use of the Planning Conditions in Development Management* ("The Circular") and I have the following considerations.
78. I looked at the relationship between conditions 5 and 6. Condition 6 required a post-construction survey of the local road between the site access and its junction with the

B4598 to be carried out and submitted to the Local Planning Authority (“LPA”) for approval in writing.

79. I believe that it will be difficult for the LPA to demonstrate that any deterioration of the highway has been directly caused by construction traffic. However, condition 5 allows the LPA to secure a programme of measures to “ensure the highway remains free from damage” which appear more enforceable and make condition 6 unnecessary. I requested the Inspector’s opinion on this point and it was agreed to dispense with condition 6 while condition 5 should be amended to make explicit reference to potential remedial/mitigation works.
80. Therefore, for clarity and enforceability, I have amended condition 5 and removed condition 6. A new set of conditions is provided at Annex 1 attached to this decision letter.
81. Additionally, for clarity, I have amended condition 15 to include a specific requirement to provide a written report confirming the results of monitoring.
82. NRW advised in its further consultation response dated 13 July 2022 [2022-07-14 REPS2 007] that its previous advice (given in its consultation response dated 31 March 2022) is not altered regarding pre-construction surveys, which indicated that pre construction surveys in relation to protected species would be required. The Inspector noted NRW’s position evolved in its post-hearing response to the applicant dated 25 August 2022 [IR 355].
83. The applicant’s response to that in its email of the same date (‘2022-08-25 – from APP Post Hearing Request for information covering email’) suggested to make the contents of the originally required conditions NRW1 and NRW2 (i.e. GCN and Dormouse Conservation Plans) contingent upon the outcome of preconstruction surveys [IR 357].
84. The Inspector wrote that NRW re-iterates that the project has been progressed assuming the presence of GCN in those ponds for which survey access was denied. Consequently, it still considered that a detailed GCN Conservation plan, building upon the mitigation and enhancement principles set out in the GCN Survey Report [DOC 14] and EDS [DOC 10]. Similarly, NRW pointed out that the site is in the geographical range of dormice, there are dormouse records in the wider area, the site offers a suitable habitat and the applicant had not carried out further specific surveys. Therefore, in the circumstances and based on the available information a standalone dormouse conservation plan condition remains a necessary and reasonable requirement [IR 358].
85. I note that the examination of the proposed development has been conducted based on the evidence submitted to the Inspector, which include DOC 14 and DOC 10. GCN and Dormouse has been assumed present by the parties involved in the examination, including the relevant Statutory Nature Conservation Body, and the level of mitigation measures agreed upon reflects this. Therefore, I agree with the Inspector at IR 358. Thus, I am satisfied that pre-commencement surveys are not required in this instance and I agree with NRW that a condition is not necessary. I amended the list of conditions accordingly.

Planning Balance and Overall Conclusion

86. The Inspector noted that FW indicates that all regions, including the South East region where the application site is located, have a vital role to play in decarbonisation and the realisation of renewable energy, including solar energy generation across Wales [IR 363].
87. The Inspector found that there would be some negative visual impacts in closer range views and moderate harm in some medium range views, which would lessen over time. However, the Inspector concluded the proposed development would not result in unacceptable adverse effects on landscape character or the appearance of the area [IR 364]. Similarly, the Inspector found that there would not be unacceptable adverse visual impacts on nearby communities and individual dwellings. The Inspector therefore afforded minor weight to these limited harms [IR 364].
88. The development would cause a moderate to low degree of harm to the setting of the Great House, a Grade II* listed building. Nevertheless, the Inspector did not consider that the harm would be significant in the context of the time limited nature and reversibility of the development [IR 365].
89. Additionally, the Inspector has not found that there would be significant harm in terms of ecology, highways, flood risk, residential amenity or other matters raised by interested parties. Therefore, the Inspector considered these matters to be neutral in the planning balance [IR 367].
90. The main benefit of the scheme would be that it would generate renewable energy of approximately 32GWh of electricity per annum, which would be enough to power some 8,093 homes and potentially offset around 14,080 tonnes of carbon emissions each year. That would be a significant contribution towards Wales's target of 70% of electricity consumption to be from renewable energy by 2030. I give that benefit considerable weight given the clear support in FW Policies 17 and 18 for renewable energy schemes. [IR 368]
91. The Inspector accepted that there would be some loss of ability to farm approximately 16.8ha of BMVAL under panel to its full potential over the lifetime of the development. I do not concur with the Inspector's consideration that, providing construction and decommissioning are properly carried out, the risk of significant damage to soils and potential degradation of BMVAL would be relatively limited [IR 372]. However, I have reached my own conclusion that, in this particular case and circumstances, the need for the development overrides the need to protect the BMVAL present on site and the relevant BMVAL policy requirements in PPW are satisfied. This is supported by the withdrawal of the original objection by SPALPU.
92. On balance, the Inspector concluded that the benefits of the proposed development, particularly in the production of energy from a renewable source, outweigh the identified adverse effects [IR 374].
93. The Inspector found that the proposal complies with the development plan and relevant national planning policy when considered as a whole, including FW Policies 9, 17 and 18.
94. The Inspector's recommendation is to grant planning permission, subject to conditions [IR 376]

Conclusion and Decision

95. Subject to my comments above I agree with the Inspector's appraisal of the main considerations, the conclusions of the IR and the reasoning behind them, and I accept the recommendation. Therefore, I hereby grant planning permission for DNS/3252305, subject to the conditions in the Annex to this decision letter.

Well-being of Future Generations (Wales) Act 2015 ("WFG Act")

96. The Welsh Ministers must, in accordance with the WFG Act, carry out sustainable development. In reaching my decision on the application, I have taken into account the ways of working set out at section 5(2) of the WFG Act and 'SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the WFG Act'. My assessment against each of the ways of working is set out below.

Looking to the long-term

97. The decision takes account of the long-term objective and commitment of Wales's target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.

Taking an integrated approach

98. I have considered the impacts from this decision on the Welsh Government's well-being objectives, which incorporate the well-being goals set out in section 4 of the WFG Act. Where an objective is not set out, the effect of this decision is neutral.

Impact on well-being objectives

- Build an economy based on the principles of fair work, sustainability and the industries and services of the future – positive effect
- Build a stronger, greener economy as we make maximum progress towards decarbonisation – positive effect
- Embed our response to the climate and nature emergency in everything we do – positive effect.

Involving people/Collaborating with others

99. Within the framework of a statutory decision-making process, which is governed by prescribed procedures, the application was subject to publicity and consultation, providing the opportunity for public and stakeholder engagement. Representations received through these procedures have been considered and taken into account in making a determination on this application.

Prevention

100. The decision takes account of the need to increase renewable energy production and combat the climate emergency, as well as increasing energy security.

101. I consider my decision accords with the sustainable development principle set out in the WFG Act and, therefore, is a reasonable step towards meeting the Welsh Government's well-being objectives.

102. A copy of this letter has been sent to Monmouthshire County Council and to those persons and organisations appearing at the Hearings.

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Annex – DNS 3252305 Planning Conditions

1. The development hereby permitted shall begin no later than five years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following submitted plans and documents unless indicated as otherwise by any other condition pursuant to this permission:–
 - Drawing no. NEO00668/0711/C, Site Location Map Figure 1, dated 24/01/2022;
 - Drawing no. NEO00667/0101/B, Site Location Map Figure 2, dated 22/06/2021;
 - Drawing no. NEO00667/0061/B, Field Numbers Figure 3, dated 12/11/2021;
 - Drawing no. NEO00668_0741_F Figure 4, Revision F, Site Proposals, dated 12/05/2022;
 - Drawing no: NEO00668_0561_E Figure 5, Revision E, Development Proposal, dated 12/05/2022;
 - Drawing no. NEO00668_0571_E Figure 6, Revision E, Proposal (Overall), dated 12/05/2022;
 - Drawing no. NEO00668_0581_D Figure 6.1, Revision D, Development Proposal (Sheet 2), dated 24/01/2022;
 - Drawing no. NEO00668_0591_D Figure 6.2, Revision D, Development Proposal (Sheet 3), dated 24/01/2022;
 - Drawing no. NEO00668_0601_D Figure 6.3, Revision D, Development Proposal (Sheet 4), dated 24/01/2022;
 - Drawing no. NEO00668_0611_D Figure 6.4, Revision D, Development Proposal (Sheet 5), dated 24/01/2022;
 - Drawing no. NEO00668_0621_D Figure 6.5, Revision D, Development Proposal (Sheet 6), dated 24/01/2022;
 - Drawing no. NEO00668_0631_D Figure 6.6, Revision D, Development Proposal (Sheet 7), dated 24/01/2022;
 - Drawing no. NEO00668_0641_D Figure 6.7, Revision D, Development Proposal (Sheet 8), dated 24/01/2022;
 - Drawing no. NEO00668_0651_E Figure 6.8, Revision E, Development Proposal (Sheet 9), dated 12/05/2022;
 - Drawing no. NEO00668_0661_E Figure 6.9, Revision E, Development Proposal (Sheet 10), dated 12/05/2022;
 - Drawing no. NEO00668_0671_E Figure 6.10, Revision E, Development Proposal (Sheet 11), dated 12/05/2022;
 - Drawing no. NEO00668_0681_E Figure 6.11, Revision E, Development Proposal (Sheet 12), dated 12/05/2022;
 - Drawing no. NEO00668_0691_E Figure 6.12, Revision E, Development Proposal (Sheet 13), dated 12/05/2022;
 - Drawing no. NEO00668_0701_E Figure 6.13, Revision E, Development Proposal (Sheet 14), dated 12/05/2022;
 - Drawing no. NEO00668_1041_D Figure 6.14, Revision D, Development Proposal (Sheet 15), dated 24/01/22;
 - Drawing no. NEO00668_0501_A Figure 7, Revision A, Access Track Detail, dated 21/04/2021;
 - Drawing no. NEO00668_0511_A Figure 8, Revision A, Construction Compound Detail, dated 21/04/2021;
 - Drawing no. NEO00668_0521_A Figure 9, Revision A, PV Module & Rack Detail, dated 21/04/2021;

- Drawing no. NEO00668_105I_A Figure 10, Revision A, Deer Fencing Detail, dated 29/04/2021;
- Drawing no. NEO00668_054I_A Figure 11, Revision A, CCTV Detail, dated 24/01/2022;
- Drawing no. NEO00668_055I_A Figure 12, Revision A, Transformer Station Detail, dated 22/04/2021;
- Drawing no. NEO00668_099I_B Figure 13, Revision A, 132kV Compound Layout & Section, dated 25/01/2022;
- Drawing no. NEO00668_101I_C Figure 13.1, Revision C, Section AA & BB, dated 04/12/2021;
- Drawing no. NEO00668_102I_D Figure 13.2, Revision D, Section CC & DD, dated 12/05/2022;
- Drawing no. NEO00668_103I_D Figure 13.3, Revision D, Section EE & FF, dated 12/05/2022;
- Drawing no. NEO00668_109I_C Figure 16, Revision C, Culvert Design, dated 12/05/2022;
- Drawing no. NEO00668_00110I_B Figure 17, Revision B, Typical Track and Fence Sections at Hedge Crossings, dated 24/1/22;
- Flood Consequences Assessment and Drainage Strategy - DOC 12 (May 2022);
- Green Infrastructure and Landscape Strategy – DOC 15 (January 2022);
- Landscape and Visual Assessment – DOC 18 (May 2022);
- Arboricultural Impact Assessment – DOC 07 (January 2022);
- Ecological Impact Assessment – DOC 11 (May 2022) (incorporating Appendix E – Bat Conservation Plan);
- Great Crested Newt Survey Report – DOC 14 (May 2022);
- Tree Constraints Report - DOC 27 (January 2022).

Reason: To ensure that the development is carried out in accordance with the approved plans, drawings and documents submitted with the application.

3. The development hereby approved shall cease operating 40 years after the date on which electricity is first exported to the National Grid (excluding any testing or commissioning). Written confirmation of the first export date to the National Grid shall be sent to the local planning authority within 28 days of the export date.

Reason: To establish the duration of the permission and ensure that the effects on the character and appearance of the area exist only for the lifetime of the development, in accordance with Policy 18 of Future Wales (2021) and policies LC5, DES1, and SD1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

4. No later than 12 months before the end of the 40-year operating period (or within 6 months of the permanent cessation of electricity production) a Decommissioning Environmental Management Plan (“DEMP”) shall be submitted for the written approval of the local planning authority. The DEMP shall include details of the following:
 - i. Surveys and assessments to identify the existing ecology and habitat status at the time of decommissioning;
 - ii. Method Statement detailing the process and extent of removal of surface elements of the photovoltaic solar farm and associated development and any foundations, anchor systems, trackways and subsurface cabling and associated works;

- iii. Proposals for effective recycling and disposal of decommissioned elements; iv. Traffic management plan to address likely traffic impacts arising from decommissioning operations;
- v. Measures to ensure environmental protection at the site to cover all decommissioning operations;
- vi. Measures to ensure ecological protection at the site to cover all decommissioning operations informed by the surveys and assessments under i) above;
- vii. Implementation timescales and schedules for all elements of the DEMP; viii. Reporting and monitoring responsibilities and delivery mechanisms for all elements of the DEMP; and,
- viii. Site restoration measures following all decommissioning operations.

The DEMP, as approved, shall be carried out in accordance with the approved details.

Reason: To ensure that, at the end of the lifespan of the development, the infrastructure is appropriately removed, the environmental effects of the decommissioning process are controlled and the site is effectively restored, in accordance with Policy 18 of Future Wales (2021).

- 5. Prior to the commencement of development, a road condition survey shall be carried out of the local road between the site access and its junction with the B4598 and submitted to and approved in writing by the local planning authority. The condition survey shall detail a programme of measures, including potential remedial works within specified timescales, to be employed to ensure the highway remains free from damage as a result of the construction of the development. The survey should be carried out by an independent highway maintenance consultant and extents agreed in advance with the local planning authority. The development shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy 18 of Future Wales (2021) and Policy MV1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

- 6. The development shall be constructed in accordance with the Construction Traffic Management Plan (May 2022).

Reason: In the interests of highway safety and residential amenity and in accordance with Policy 18 of Future Wales (2021) and Policies MV1 and EP1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

- 7. No construction work or deliveries associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours: 0700 to 1900 on Monday to Friday and 0800 to 1600 on Saturdays unless otherwise first agreed in writing by the local planning authority.

Any piling associated with the development shall be limited to Monday to Friday between 0900 and 1700.

Reason: In the interests of highway safety and residential amenity, and in accordance with Policy 18 of Future Wales (2021) and Policies EP1 and MV1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

- 8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended or any Order revoking and re-enacting that Order with or without modification), no fencing or means of enclosure other than those hereby approved, shall be erected within and along the boundaries of the site.

Reason: To safeguard the character and appearance, ecology and biodiversity, and historical interests of the area in accordance with Policy 18 of Future Wales (2021) and Policies LC5, NE1 and DES1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

9. Any proposed fence/hedge lines enclosing public rights of way shall be a minimum of 3m apart. No barriers, structures or any other obstructions shall be placed across the legal alignment of the public right of way, and any damage to its surface as a result of works or private vehicular use shall be made good.

Reason: In the interests of local amenity and in compliance with Policy MV3 of the Monmouthshire County Council Adopted Local Development Plan (2014).

10. No development shall commence until a final and detailed Great Crested Newt ("GCN") Conservation Plan shall be submitted to and approved in writing by the local planning authority. The GCN Conservation Plan shall build upon the mitigation and enhancement principles set out in the GCN Survey Report dated 23/5/2022 (particularly Appendix D) and the Ecological Design Strategy, dated May 2022. The GCN Conservation Plan shall be carried out in accordance with the approved details, with a written report of the effectiveness of the plan provided to the local planning authority every 5 years and any arising revisions of the plan to be agreed in writing with the local planning authority prior to implementation. Additionally, a written report confirming the results of GCN population and habitat monitoring shall be provided to the local planning authority by 30 December in each year that monitoring is due.

Reason: To ensure that an approved GCN Conservation Plan is implemented, which protects GCN and their habitat affected by the development, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

11. No development or phase of development, including site clearance, shall commence until a site wide Dormouse Conservation Plan has been submitted to and approved in writing by the local planning authority. The Dormouse Conservation Plan shall:
 - Build upon the principles outlined in the Ecological Impact Assessment and the Ecological Design Strategy;
 - Cover the lifetime of the development;
 - Include a plan showing habitat to be lost, retained and created which should identify the extent and location at an appropriate scale;
 - Provide details of protective measures to be taken to minimise the impacts of the works on dormice, including that buffers to hedgerows shall be measured 5m from the outer edge of the hedge;
 - Provide details of timing, phasing and duration of construction activities and conservation measures;
 - Include a timetable for implementation demonstrating that works are aligned with any proposed phasing of the development;
 - Provide details of proposals to enhance retained habitats for dormice including planting mixes and specifications (e.g. for gapping up any hedgerows);
 - Provide details of initial aftercare and long-term management and maintenance;
 - Set out actions to be taken in the event previously unidentified species or habitat features are found;
 - Include an Ecological Compliance Audit, including key performance indicators;
 - State persons responsible for implementing the works;
 - Provide details of measures to prevent or reduce incidental capture or killing;

- Propose a scheme for monitoring the condition of retained and any new habitat, to inform habitat management, and dormouse population monitoring.

The Dormouse Conservation Plan shall be carried out in accordance with the approved details, with a written report of the effectiveness of the plan provided to the local planning authority every 5 years and any arising revisions of the plan to be agreed in writing with the local planning authority prior to implementation.

Reason: To ensure that an approved Dormouse Conservation Plan is implemented, which protects dormice and their habitat affected by the development, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

12. Prior to its installation, full details of lighting in the form of a Lighting Plan shall be submitted to and agreed in writing by the local planning authority. The Lighting Plan shall include:
- Details of lighting to be used during construction and/or operation;
 - Details of the siting and type of external lighting to be used;
 - Drawings setting out light spillage in key sensitive areas (e.g. hedgerows, woodlands, ditch along the northern boundary of the site etc.); and
 - An assessment of proposed lighting against conservation requirements for nocturnal protected species.

The lighting shall be installed and retained as approved during construction and operation of the proposed development.

Reason: To safeguard foraging, commuting, resting and breeding habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and Policies EP3 and NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

13. No development or phase of development, including site clearance, shall commence until a final version of a site wide Construction Environmental Management Plan ("CEMP") has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
- Construction methods: details of materials, how waste generated will be managed;
 - General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain;
 - Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures, protected species toolbox talks, copies of protected species licences required for the works;
 - Biosecurity Risk Assessment and arising precautions needing to be undertaken;
 - Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works and measures to control light spill;

- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details, including Ecological Clerk of Works, Site Manager, Natural Resources Wales contacts for emergency situations;
- Ecological Clerk of Works to ensure construction compliance with approved plans and environmental regulations;
- Resource Management: details of fuel and chemical storage and containment, waste generation and its management, water consumption, and wastewater and energy use; and
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: To ensure necessary management measures are agreed prior to commencement of development or phase of development and implemented for the protection of protected species and protected sites during construction, in accordance with Policy 18 of Future Wales (2021) Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

14. No development or phase of development, including site clearance, shall commence until a Landscape and Ecology Management Plan (“LEMP”) (which combines the Ecological Design Strategy, May 2022; the Green Infrastructure and Landscape Strategy, January 2022; the Shadow Habitats Regulations Assessment, May 2022; and includes Great Crested Newt and Dormouse Conservation Plans) has been submitted to and approved in writing by the local planning authority. The LEMP shall include:

- The proposals and commitments in all protected species conservation plans including provision for written reports confirming the results of monitoring and identify protected species licences required for the development work;
- Provision for the periodic monitoring of the condition of habitats on site, with the results of monitoring used to inform habitat management going forward;
- Measurable attributes and targets, to be used by site monitoring to define when habitats on site will be considered in favourable condition;
- A timetable of works to include specified years;
- A commitment to replace bat boxes promptly and within a specified timeframe once found to be missing or damaged;
- A commitment to fence livestock off from new and existing hedgerows through the use of appropriate, robust, stock fencing;
- A commitment that vegetation removal at any time of year should be supervised by the Ecological Clerk of Works; and,
- Confirmation of who is responsible for overseeing the implementation of the LEMP, and who will be undertaking the relevant management and monitoring works.

All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out in accordance with the timetable agreed with the local planning authority.

Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and

number as originally approved, unless the local planning authority gives its written consent to any variation.

Evidence of compliance with the LEMP in the form of georeferenced photographs must be provided to the local planning authority no later than twelve months from the completion of the construction works. Thereafter, a written report of the effectiveness of the LEMP shall be provided to the local planning authority every 5 years and any arising revisions of the LEMP shall be agreed in writing with the local planning authority prior to implementation.

Reason: To ensure necessary landscape and environmental management measures are agreed prior to commencement and implemented and to ensure the site's landscape and environmental features, including protected species, are adequately managed long term, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

15. Prior to the commencement of development, a Soil Management Plan ("SMP") shall be submitted to the local planning authority for approval. The SMP should include the following:
- A Soil Resources Report containing soil survey maps at a scale appropriate for site management, including:
 - extent and depth of topsoil units;
 - the distribution of different soil types;
 - the distribution of Agricultural Land Classification grades; and
 - any features of interest identified in the related archaeological and ecological surveys, with clear cross references to the requirements of the relevant plans.
 - A map of proposed areas and thickness of each soil type and soil layer to be stripped and stored separately, as informed by the Soil Resources Report, and all areas where soils will be left in-situ and the ground protected from tracking over;
 - A map showing temporary access routes and details of how access will be managed across the site to minimize soil compaction;
 - A map showing the location of soil stockpiles labelled with their content, anticipated size, height and volume; including expected timeframe for the material to be in stockpile;
 - Details of how stockpiles will be protected and managed;
 - A map showing where each soil type and soil layer will be reused;
 - Details of appropriate equipment and methods for stripping, stockpiling, re-spreading soil and ameliorating soil compaction in accordance with good practice techniques to minimise the risk of soil compaction;
 - Details of how construction activities will be managed across the site to minimise impact on soils;
 - Identification of roles and responsibilities in relation to the implementation of the SMP and the supervision of all associated activities by a suitably qualified and experienced soil scientist who will have the necessary training, qualifications and experience, having achieved the soil professional competence standards 1 (Foundation skills in field soil investigation, description and interpretation) and 6 (Soil science in soil handling and restoration) as set out by the British Society of Soil Science;
 - A monitoring schedule for all activities within the SMP and criteria against which compliance will be assessed.

All soil handling and trafficking will be undertaken in accordance with the SMP unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the protection of soils as a resource and in compliance with Policy 9 of Future Wales (2021).

16. Within 3 months of completion of all soil handling works in any given year a Soil Monitoring and Aftercare Plan (“SMAP”) shall be submitted for the written approval of the local planning authority. The SMAP shall include:
- A detailed annual programme of soil and site monitoring over the full lifetime of the development, including monitoring of in situ soils;
 - Details of the physical characteristics of the land to be restored to what they were when the land was last used for agriculture, including drainage where relevant, as far as it is practical to do so ;
 - A five-year period of aftercare, specifying the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps; and,
 - Measures to be taken should the monitoring identify aspects of the site that require rectification or remediation in order to conform with the local planning authority’s agreed standards.

Reason: To ensure the protection of soils as a resource and in compliance with Policy 9 of Future Wales (2021).

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out development must ensure the notice is:

- a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- b) legible and easily visible to the public without having to enter the site; and
- c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.



Penderfyniadau
Cynllunio ac
Amgylchedd **Cymru**
Planning &
Environment
Decisions **Wales**

Adroddiad

gan J P Tudor BA (Hons), Cyfreithiwr
(ddim yn ymarfer)

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 27/10/2022

Report

by J P Tudor BA (Hons), Solicitor
(non-practising)

an Inspector appointed by the Welsh
Ministers

Date: 27/10/2022

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 62D
THE DEVELOPMENTS OF NATIONAL SIGNIFICANCE (WALES) REGULATIONS 2016**

APPLICATION BY: GREAT HOUSE ENERGY CENTRE LIMITED

**FOR: THE CONSTRUCTION, OPERATION, MAINTENANCE AND DECOMMISSIONING
OF A RENEWABLE ENERGY SCHEME. THE MAIN ELEMENT OF THE DEVELOPMENT
WILL BE THE INSTALLATION OF A GROUND MOUNTED SOLAR PARK WITH A
MAXIMUM EXPORT CAPACITY OF 32MW (MEGAWATTS)**

**AT: LAND AT GREAT HOUSE FARM, PENPERGWM, APPROXIMATELY 3.9KM
SOUTHEAST OF ABERGAVENNY, MONMOUTHSHIRE NP7 9UY**

(COORDINATES: E332954; N211435)

REFERENCE: DNS/3252305

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List of Main Abbreviations used in this Report:

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
BBNP	Brecon Beacons National Park
BBNPA	Brecon Beacons National Park Authority
BILWHS	Blaenavon Industrial Landscape World Heritage Site
BMVAL	Best and Most Versatile Agricultural Land
CPRW	Campaign for the Protection of Rural Wales
DCWW	Dwr Cymru/Welsh Water
DNS	Development of National Significance
EclA	Ecological Impact Assessment
FW	Future Wales: The National Plan 2040
GCN	Great Crested Newt
GFCC	Gobion Fawr Community Council
GGAT	Glamorgan-Gwent Archaeological Trust
GVA	Gross Value Added
LCA	Landscape Character Area(s)
LDP	Local Development Plan
LIR	Local Impact Report
MCC	Monmouthshire County Council
NRW	Natural Resources Wales
ORPA	Other Route(s) with Public Access
PROW	Public Right(s) of Way
PPW	Planning Policy Wales
SAC	Special Area of Conservation
SMP	Soil Management Plan
SPA	Special Protection Area
SSSI	Site(s) of Special Scientific Interest
SPG	Supplementary Planning Guidance
TAN	Technical Advice Note
WG	Welsh Government
WGDC	Welsh Government Department for Climate Change
ZTV	Zone of Theoretical Visibility

Ref: DNS/3252305

Site address: Land at Great House Farm, Penpergwm, located approximately 3.9km southeast of Abergavenny, Monmouthshire NP7 9UY (Coordinates: E332954; N211435)

- The application, dated 25 January 2022, was made under section 62D of the Town and Country Planning Act 1990 (as amended).
- The application is made by Great House Energy Centre Limited.
- The application was confirmed as valid on 17 February 2022.
- Hearing sessions were held on 10 August 2022.
- An unaccompanied site visit took place on 12 August 2022.
- The development proposed is the construction, operation, maintenance and decommissioning of a ground mounted solar park with a maximum export capacity of 32MW (megawatts).
- The development would be for a temporary period with an operational lifespan of 40 years.

Secondary Consent Applications:

- No secondary consent applications are being made.

Summary of Recommendation: That planning permission be granted.

Procedural and Preliminary Matters

1. In accordance with Article 5 of The Developments of National Significance (Procedure) (Wales) Order 2016 ('the Order'), the applicant originally notified the Planning Inspectorate Wales (PINS Wales) on behalf of the Welsh Ministers of the proposed development on 18 December 2020, with a notice of acceptance issued by PINS Wales on 26 January 2021.
2. Prior to that and following the applicant's request, pursuant to regulation 31(1) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (the Regulations), PINS Wales, as authorised by Welsh Ministers, provided a Screening Direction on 12 November 2020 confirming that the proposed development is not 'EIA Development'. Therefore, an Environmental Statement (ES) was not required.
3. The original proposal was revised after the notification from a 45MW ground mounted scheme with containerised batteries to a 37MW scheme without battery storage along with alterations to the development boundary. However, the changes were relatively minor and not considered to affect the Screening Direction. Although the scheme has undergone revisions since originally conceived, relevant parties have had the opportunity to comment at appropriate stages. Therefore, I do not consider that any party has been prejudiced.
4. On 1 October 2021 the functions of PINS Wales were transferred to Planning and Environment Decisions Wales (PEDW), a division of the Welsh Government (WG). The application was submitted to PEDW on 25 January 2022 and was supported by a range of documentation including a Consultation Report which summarises the pre-application publicity and consultation conducted from 30 June to 25 August 2021.
5. The pre-application consultation was affected by Covid-19 restrictions in place at the time. However, the applicant advises that a number of virtual meetings and consultations

events were arranged, while the relevant statutory requirements were also met. Moreover, any interested parties have had the opportunity to make representations in response to the post-acceptance consultation conducted by PEDW referred to below.

6. A Notice of Acceptance of the application was issued under Article 15(2) of the Order by PEDW on 17 February 2022. The required consultation and publicity measures were then undertaken by PEDW ending on 31 March 2022.
7. Monmouthshire County Council (MCC) submitted its Local Impact Report (LIR) on 7 April 2022. Based on all submission documents, including the consultation responses and the LIR, I determined that certain matters would be examined via written representations, and others would require further oral evidence to be provided at public hearings. Hearings concerning: (i) Effects on Landscape/Character and Appearance and (ii) Other Matters and Planning Conditions were held over two sessions, which both took place on 10 August 2022. An unaccompanied site visit was conducted on 12 August 2022 which was a clear, sunny day with good visibility.
8. A Hearing session was originally proposed in relation to effects on Best and Most Versatile Agricultural Land (BMVAL), in part because Welsh Government's Department for Climate Change (WGDC) had conditionally objected to the proposed development because of alleged 'loss' of BMVAL. However, following the variation to the scheme, as detailed below, WGDC withdrew its objection and advised that it considered that the revised proposal, along with the additional information provided, meant that the proposed development was policy compliant with paragraphs 3.58 and 3.59 of Planning Policy Wales (PPW) [2022-07-15 REPS2 014 DCC]. On that basis, it stated that it would not be attending the proposed hearing.
9. Subsequently, I decided that the issue of BMVAL could be addressed via written representations, as detailed written submissions had been received from relevant parties, and that a hearing was no longer necessary. Nonetheless, I have carefully considered the effect on BMVAL in my assessment of the proposal.
10. The applicant had also notified PEDW of its intention to vary the proposed development, which was accepted with full details to be received by 23 May 2022. At the same time, I requested 'Further Information' from the applicant and other parties, in relation to the original application submissions and representations received during the consultation period. Consequently, the determination period was suspended for 12 weeks, ending on 18 July 2022, to allow time: for the applicant to provide full details of the variation; for relevant parties to respond to the further information request; and, subsequently, for a consultation on the submitted variation and the further information received.
11. According to the detailed variation submission, the scheme had been amended in response to comments made during the consultation. The revisions involved the removal of solar panels from Fields 8 and 11 to reduce direct impact upon Best and Most Versatile Agricultural Land (BMVAL) and increase the set back of the panels from Public Rights of Way (PROW) and sensitive ecological receptors. The revised layout indicated that those two fields would be retained for agricultural use. The proposed variation would also reduce generating capacity from a maximum of 37MW to 32MW.
12. The applicant also referred within the notice of variation to providing additional information with regard to the maintenance of soil sustainability during the construction, operation and decommissioning phases of the development and providing further clarification regarding the site selection process and in respect of archaeological trial trenching. Although I consider this to be tantamount to the submission of additional information regarding the development rather than representing a change to the development itself, a number of these matters were, in any event, raised in the formal Request for Further Information referred to above.

13. The proposed variation does not constitute a substantial change in the nature of the development. I have, therefore, considered the proposal in its amended form.
14. Since the application was made, WG's 'Dear CPO' letter from the Minister for Climate Change dated 1 March 2022 has been issued, intended to clarify planning policy regarding Best and Most Versatile Agricultural Land (BMVAL) and Solar PV arrays. Given its relevance to the proposal, the applicant was invited to comment upon it when replying to the Request for Further Information.
15. At Hearing Session 3, which included discussion of proposed planning conditions, it was agreed that the applicant would liaise further with Natural Resources Wales (NRW) (who did not attend the hearing) and MCC to agree a final set of suggested planning conditions to be submitted after the hearing. A revised set of conditions was subsequently submitted by the applicant, although NRW did not agree with all of the suggested changes. I deal with this in the 'conditions' section of my appraisal below.
16. After the Hearings, a decision was issued by Welsh Ministers, dated 14 September 2022, refusing planning permission for a solar development on Land at Gwernigron Farm, The Roe, St Asaph, Denbighshire (DNS/3247619), also referred to as 'Elwy Solar Energy Farm'. Given similarities with this proposal at Land at Great House Farm, the applicant and MCC were given the opportunity to comment upon that decision. The applicant has provided comments [2022-10-05 – Applicant's Response to the Elwy Solar Energy Farm Decision] which I have considered in reaching my recommendation. MCC did not comment.
17. The document references used in this Report are taken from applicant's Application Index, Issue 03, Hearing Submission, July 2022 [APP 03]. Other references are those taken from PEDW's Planning Casework web site.

Site and Surroundings

18. The application site is located about 0.5km north of Penpergwm and circa 3.9km south-east of Abergavenny. It comprises 14 agricultural fields covering some 70.17 hectares (ha) in total. The site forms part of a wider holding of about 100ha at Great House Farm. The land within the site is undulating, ranging between 61m-140m Above Ordnance Datum (AOD). The fields are typically of medium scale and bound by a mixture of grassy field margins, semi-mature hedgerows and intermittent trees. The main habitat present is improved grasslands. There is existing electricity infrastructure in the area with two lines of pylons, including a line running roughly north-south across the site. The site is within Flood Zone A, as defined in Technical Advice Note (TAN 15): Development and Flood Risk (2004), which is described as at little or no risk of fluvial or tidal/coastal flooding.
19. The local area is predominantly agricultural in nature, featuring scattered residential properties and farmsteads with the small villages of Penpergwm and The Bryn located 0.5km and 0.9km to the south, respectively. Two PROW and an 'Other Route with Public Access' (ORPA), pass through the site, while another PROW runs just beyond the northern site boundary. Pockets of mixed woodland lie to the south and east.
20. A Grade II* listed building, the Great House, is situated about a 100m to the east of the site boundary, with other listed buildings, an Historic Landscape Area, an Historic Park and Garden and Scheduled Monuments within the wider surrounding area. The Usk River, which is south of the application site, largely divides the rolling lowland to the north and west and the uplands to the west and southwest which lie within the Brecon Beacons National Park (BBNP) and the Blaenavon Industrial Landscape World Heritage Site (BILWHS). The hills of the uplands are predominantly open moorland on higher ground with pasture and woodland on lower slopes.

21. The application site is not within or adjacent to any statutory designated environmental sites. However, there are six Special Areas of Conservation (SAC) within 15km, with the closest to the site being the River Usk SAC located about 1.3km to the west-southwest. There are also eight Sites of Special Scientific Interest (SSSI) within 5km of the application site and three Site of Importance for Nature Conservation (SINC) within 2km of the boundary, the closet being Tyler's Wood SINC located 0.33km to the south.

Proposed Development

22. The proposal is for the construction, operation and subsequent decommissioning of a ground mounted solar park with a maximum design capacity of 32MW. Its operational lifespan would be 40 years, following which it would be decommissioned, with all plant and machinery removed.
23. As set out in the applicant's Planning Statement, the development can be split into four key components:
- Ground Mounted Solar PV Arrays
 - Substation Compound
 - Green Infrastructure and Biodiversity Management Areas
 - Temporary Construction Compound during Construction and Decommissioning
24. The proposed layout and arrangement of the solar arrays are shown and can be understood by referring to the following drawings: Site Proposals, Drawing No. NEO00668_0741_F Figure 4, Revision F; Development Proposal, Drawing No. NEO00668_0561_E Figure 5, Revision E; and, Field Numbers, Drawing No. NEO00667/0061/B Figure 3.
25. Although the site comprises 14 agricultural fields of some 70.17ha, the solar arrays and associated infrastructure themselves would occupy about 31.83ha of the total development area. Fields 1, 3, 4, 7, 9 and 10 would be wholly occupied by solar arrays, while fields 2, 5 and 6 would be partially covered in solar arrays, while the remaining fields would be without solar arrays. Consequently, approximately 33.04ha of the site has the potential to remain in sole agricultural use while 5.3ha would be used for landscape and biodiversity mitigation and enhancement measures.
26. The ground mounted solar PV (photovoltaic) panels, with a maximum height of 3m and typically at an angle of c.25 degrees, would be fixed on metal frames and face south. There would be associated inverter and transformer units, green infrastructure, landscaping, biodiversity measures, new access tracks, underground cabling in trenches typically 0.5-1.1m in depth, 2m high deer fencing and CCTV cameras on 3m high poles, along with access gates and ancillary grid infrastructure and associated works. The solar arrays would be grouped into three separate parcels of land.
27. The construction of the solar farm would be expected to take up to 6 months and to be carried out in a single phase. During this period, there would be a combination of HGVs for the component deliveries and cars/vans for construction staff. HGV movements are expected to be most intense throughout the early stages of construction, tailing off towards the final weeks. The haulage route is likely to be via the A40, B4598 and a local access road before entering the site via an improved farm access situated on the southern boundary.
28. The solar farm would connect to the local electricity grid via an existing overhead pylon located immediately next to the proposed substation compound. A line of pylons runs roughly north to south across the site.

29. Following the 40-year generation period, the development would then enter a decommissioning stage, with an appropriate decommissioning strategy submitted to the Local Planning Authority (LPA) for approval prior to that, as secured by condition.

Planning Policy

30. On its publication in February 2021, Future Wales: The National Plan 2040 (FW) became part of the development plan. It acknowledges the impacts of a climate emergency and an ecological emergency and identifies key priorities, risks and opportunities to achieve the sustainable management of natural resources, including addressing the climate emergency and reversing biodiversity decline. The policies of relevance are:
- Policy 17, which expresses the Welsh Government's strong support for the principle of developing renewable and low carbon energy from all technologies and at all scales to meet Wales' future energy needs. It requires that, in determining planning applications, decision-makers give significant weight to the need to meet Wales' international commitments and the national target to generate 70% of consumed electricity by renewable means by 2030. However, it also makes clear that proposals should ensure there are no significant unacceptable detrimental impacts on the surrounding natural environment and local communities and that the development delivers positive social, environmental, cultural and economic benefits.
 - Policy 18, which provides detailed criteria for the assessment of proposals for renewable and low carbon energy development. The policy allows for the assessment of the impact of proposals on matters such as: the surrounding landscape, particularly in relation to the setting of National Parks and Areas of Outstanding Natural Beauty; the amenity of nearby communities and individual dwellings; internationally and / or nationally designated sites of ecological importance; statutorily protected built heritage assets; the transport network; noise and reflected light levels; effective decommissioning of the development at the end of its lifetime; and the cumulative effects of existing and consented renewable energy schemes.
 - FW also recognises the urgent need to reverse biodiversity decline and provide an opportunity to promote green growth and innovation to create sustainable jobs, sustain a more resource efficient economy and maintain healthy, active, sustainable and connected communities. Specifically, it identifies BMVAL as a national natural resource under Policy 9.
31. PPW (February 2021) has been updated to align with the requirements of FW. It describes the benefits of renewable and low carbon developments, as part of the overall commitment to tackle the climate emergency and increase energy security. In this context, it explains that the planning system should integrate development with the provision of additional electricity grid network infrastructure, optimise energy storage and maximise renewable and low carbon energy generation. Paragraphs 5.7.4, 5.7.7, 5.7.14, 5.7.15 and 5.9.17 are of most relevance.
32. Additionally, the Environment (Wales) Act 2016 includes a requirement on Welsh Ministers to reduce emissions in Wales by at least 80% by 2050 whereas the Well-being of Future Generations (Wales) Act 2015 (WFGA) is concerned with improving the economic, social, environment and cultural well-being of Wales.
33. At a national level, WG's planning policies and guidance of relevance are also set out in the following:
- TAN 5: Nature Conservation and Planning (2009)
 - TAN 6: Planning for Sustainable Rural Communities (2010), paragraph 6.2.2.

- TAN 15: Development and Flood Risk (2004)
- TAN 24: The Historic Environment (2017)
- Practice Guidance: Planning Implications of Renewable and Low Carbon Energy (2011)
- Natural Resources Policy (2017)
- WG Minister for Climate Change: Letter to Chief Planning Officers - 'Best and Most Versatile Agricultural Land and Solar PV Arrays' (1 March 2022)

34. Alongside FW, the development plan comprises the Monmouthshire County Council Adopted Local Development Plan 2011-2021 (LDP), which was adopted in February 2014. The most directly relevant policies are:

Strategic Policies

- S10 - Rural Enterprise
- S12 - Efficient Resource Use and Flood Risk
- S13 - Landscape, Green Infrastructure and the Natural Environment
- S16 - Transport
- S17 - Place Making and Design

Development Management Policies

- LC1 - New Built Development in the Open Countryside
- LC2 - Blaenavon Industrial Landscape World Heritage Site
- LC3 - Brecon Beacons National Park
- LC5 - Protection and Enhancement of Landscape Character
- GI1 - Green Infrastructure
- NE1 - Nature Conservation and Development
- EP1 - Amenity and Environmental Protection
- MV1 - Proposed Developments and Highway Considerations
- MV3 - Public Rights of Way
- DES1 - General Design Considerations
- RE3 - Agricultural Diversification
- SD1 - Renewable Energy
- SD3 - Flood Risk
- SD4 - Sustainable Drainage

35. The following Supplementary Planning Guidance (SPG) is also relevant:

- Monmouthshire Renewable Energy and Energy Efficiency: Supplementary Planning Guidance (March 2016)
- Green Infrastructure: Supplementary Planning Guidance (April 2015)

The Applicant's Case

36. The case for the applicant is largely set out in its Planning Statement (PS) (January 22) [DOC 04], as updated by the Cover Letter to Variation & Regulation 15 Submission (May 22) [DOC 28], the Applicant's Response to Regulation 15(2) Request for Further Information (May 22) [DOC 29], Response to Inspector's Request for Further Information: Best and Most Versatile Agricultural Land (May 22) (DOC 30), Collaborative Benefits Report (May 22) [DOC 32] and Applicant's Response to Representations (May 22) [DOC 33] which summarise and refer to other reports and assessments. Although the development was not considered to be EIA Development, the application was accompanied by a number of assessments which consider environmental impacts. The summary below represents an overview of the applicant's case. Further detail may be found in the relevant reports and, where material/relevant, in the 'Appraisal / Main Issues' section of this report.

Principle of Development and Planning Policy

37. The applicant cites FW Policies 17 and 18 as providing the Framework for determining renewable energy DNS schemes in Wales. They demonstrate WG's strong support, in principle, for renewable energy projects to meet Wales' international commitments and its target of generating 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency. The applicant emphasises that Policy 17 indicates that decision-makers must give '*significant weight*' to the urgent need to meet that target, while recognising that all proposals should demonstrate that they would not have an unacceptable adverse impact on the environment.
38. According to the applicant, the proposed 32MW solar farm would generate approximately 32GWh of electricity per annum, enough to power approximately 8,093 homes and offset around 14,080 tonnes of carbon emissions each year. The revised scheme would also provide a biodiversity net gain of 11.28% (habitat units) and 19.30% (hedgerow units).
39. The PS and associated submissions explain how, in the applicant's view, the proposal complies with Policy 17 and satisfies the assessment criteria contained within Policy 18. On that basis, the applicant considers that the proposal is supported by national policy and would contribute toward achieving decarbonisation and climate-resilience, one of the key national priorities for Wales. The applicant also considers that it would comply with paragraph 1.2 of PPW, which identifies PPW's primary objective as being to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the WFGA. The applicant further maintains that, in reducing reliance on energy generated from fossil fuels, the proposal would actively facilitate the transition to a low carbon economy, thereby contributing towards the WFGA goals of building a globally responsible, prosperous and resilient Wales.
40. In the applicant's view the up-to-date national policies set out in FW and PPW are more directly relevant and carry greater weight in assessing this DNS application than the 2014 LDP. Nonetheless, the applicant considers that the LDP policies also broadly support the principle of renewable energy development. The most relevant LDP policies have been set out above and the applicant explains, within its PS, why it considers the proposal complies with those policies and the LDP, when considered as a whole.

Landscape Character and Visual Impact

41. The application is supported by a Landscape and Visual Appraisal (LVA) (May 2022) [DOC 18]. It finds that the introduction of the proposed development would locally alter the existing agricultural landscape of the application site during the project's 40-year lifespan to a landscape comprising a solar farm with associated infrastructure, mixed

agricultural land use and new hedgerow and tree planting, after which the temporary solar arrays would be removed and the agricultural land reinstated. During the operational period, the development would initially have a moderate adverse landscape effect on the characteristics of the application site. However, mitigation planting would help screen the lower elevations of the proposed development and, from the medium term (5 years onwards), the landscape effect would reduce to moderate/minor adverse as the hedgerow and trees mature.

42. According to the LVA, the solar farm located over the 70.17ha sited would directly affect Landscape Character Areas (LCA) 39: Raglan Hinterland and LCA 53: Northern Hills that there would be only c.31.83ha of the landscape under the solar arrays or associated development. It finds that the development would result in a localised direct moderate adverse landscape effect within c.2km of the site, that would reduce in the medium to long term to a moderate/minor adverse effect and a minor adverse effect across the wider extents of these landscapes. The LANDMAP aspect areas assessed would experience minimal and temporary changes which would result in a minor adverse to no change/minor beneficial landscape effect.
43. In terms of designated landscapes, the introduction of the proposed development would indirectly affect a small eastern part of the Brecon Beacons National Park (BBNP) and the Blaenavon Industrial Landscape World Heritage Site (BILWHS). During operation, effects on a localised to moderate geographical area of the eastern parts of these designated landscapes would range from minor adverse to no change. It is unlikely that the Special Qualities of the BBNP and the Outstanding Value of the BILWHS would be compromised. The applicant advises that Brecon Beacons National Park Authority (BBNPA) takes a similar view and consider that the proposed development would not compromise the setting or qualities of the National Park [2022-05-18 EXINFOLPA].
44. The applicant submits that throughout the iterative design process, the intent has been to propose a solar array layout that would respond to the nature of the landform and the context of the area. This has resulted in the solar arrays being grouped into three parcels so that the entirety of the development would not be experienced by any visual receptors. The solar arrays are proposed on lower slopes and within the existing field pattern so that they are more visually contained and fit more congruously within the local environment.
45. The LVA finds that the lower elevations of the solar farm and associated structures would be partly contained by the existing mix of hedgerows and trees within the boundaries of the site and surrounding farmland, along with screening by built elements and local topographical variations. The higher elevations of the development would be visible in longer distance views largely to the south, southeast and southwest albeit the effects would be minor adverse during the operational years.
46. The LVA assesses that the application proposal would have the most influence on visual receptors in publicly accessible locations within 1km of the application site, with operational major/moderate adverse visual effects from Viewpoints 1 and 2 along the PROW within the application site. Moderate adverse visual effects are identified from the recreational routes and residential receptors represented by Viewpoints 3, 5, and 6 within 2km. Beyond a distance of c.2km, where the proposed development would be evident in views, visual effects would largely reduce to minor adverse and include effects experienced from The Blorenge (Viewpoints 14 and 15). With reference to the scheme, as varied, the updated LVA advises that the removal of solar panels from two fields (8 and 11) has further reduced landscape and visual impacts and would result in lesser impacts on the PROW.
47. Cumulative effects would be largely limited to localised interactions with the baseline of existing pylon lines and the presence of Manor Farm Solar Park which is c.4.5km to the

north, some within LCA 53: Northern Hills which result in minor adverse cumulative landscape effects on LCA 39: Raglan Hinterland and LCA 53: Northern Hills. Minor adverse to no change cumulative visual effects are anticipated for the majority of visual receptors considered in the appraisal.

48. Mitigation measures are proposed to reduce potential landscape and visual effects. The existing trees and hedgerows around the site would be retained, as far as is practicable. Trees would be introduced along sections of the north-western and southern western boundaries. Hedgerows and infill planting would also be introduced along open sections of the boundaries to help screen inward views and provide additional biodiversity opportunities. The LVA considers that as the mitigation planting becomes established it would help contain elements of the proposed development at lower elevations.
49. Furthermore, at the end of lifespan of the development, the predicted effects would be reversible, following decommissioning and restoration.
50. In support of its case, the applicant cites an Appeal Decision dating from 2014, which relates to a solar farm at Manor Farm, Llanvapley, Monmouthshire (the Manor Farm Appeal) [APP/E6840/A/14/2212987 ref: 2022-05-27 APP EXINFO Appeal_Decision – 373862.pdf]. In that case, the appeal site was also located within LCA53, and the development was allowed on appeal. The applicant advises that the Inspector concluded that the proposed solar development would not have an unacceptable adverse effect on the character of the wider landscape or the visual amenity of the area. By retaining the existing field boundary hedges, it would incorporate the traditional landscape patterns, and screening by topographical features, hedges and trees meant that it would be sympathetically sited within the landscape, such that it would maintain the character and quality of the landscape and would be satisfactorily assimilated into it.
51. With regard to concerns raised by MCC about effects on the landscape, the applicant submits, in its Hearing Statement [2022-07-27 HEARSTAT APP Hearing 2] that it would not be possible to site a large-scale solar installation in the UK countryside without some adverse changes to landscape character. Further that this was acknowledged in an Appeal Decision, dated 18 February 2022, allowing a solar farm on Land north of Halloughton, Southwell, Nottinghamshire (APP/B3030/W/21/3279533) [2022-07-27 – HEARSTAT APP Appendix 2] where the Inspector stated that ‘*Given their nature and scale, it is inevitable that large scale solar farms may result in landscape harm*’ (paragraph 11).
52. Overall, it is contended by the applicant and its LVA that the effects on landscape character and visual impact would not constitute unacceptable adverse impacts on the surrounding landscape, including on the settings of National Parks and AONBs, and that it would, therefore, comply with FW Policies 17 and 18, relevant parts of PPW and LDP policies SD1, GI1 and LC5.

Best and Most Versatile Agricultural Land (BMVAL)

53. According to the applicant’s Agricultural Use and Land Quality Survey (AULQS) [DOC 06], subsequently validated by WGDCC, about 32.1ha comprises BMVAL, in this case a mix of Agricultural Land Classification grades 2 and 3a.
54. The main points of the applicant’s case regarding the use of BMVAL for the development include:
 - Solar Panels have, via the variation to the scheme, been removed from two fields (8 and 11) which form part of a contiguous area of BMVAL, in response to an objection from WGDCC. That objection expressed concerns about the use of BMVAL, a valuable and finite resource, and in relation to potential adverse impacts on soil

quality, particularly during the construction and decommissioning stages of the development.

- The applicant maintains that, given that WGDCC considered c25ha of BMVAL was at issue, as other areas were not practically farmable, the variation to the scheme reduced the amount of BMVAL under panel to approximately 16.8ha. In the applicant's view, reducing the overall area considered by WGDCC to be subject to the protection offered by PPW paragraphs 3.58 and 3.59 to 16.8ha, takes it below the threshold of development of BMVAL for alternative uses which is considered to be nationally significant. [The applicant is referring to the 20ha threshold referred to in part (p) of Schedule 5 to the Developments of National Significance (Procedure) (Wales) Order 2016 and Annex B to Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010), which triggers a duty to consult the Welsh Ministers on a proposal].
- With reference to WGDCC's request in its consultation response for fields 8, 9, 10 and 11 to be removed from the development boundary, in order for it remove its conditional objection, the applicant advises that this would have reduced the scheme to from 32MW to 22MW, with the loss of potential power for about 2,500 homes. Given the fixed costs of connecting to the 132kV network in this part of southeast Wales, the applicant maintains that removing arrays from a further 2 fields would have made the scheme unviable.
- Full weight has been given to protecting BMVAL from development throughout the process, from site selection to proposals for site development and its design. The current proposal reflects multiple iterations, as explained in the updated Alternative Site Search Report (ASSR) (May 2022) [DOC 05].
- The ASSR demonstrates that:
 - The only line where a solar energy project could feasibly connect in this region is the 132kV line which runs north to south between Abergavenny and Pontypool North. A proportion this line is located within the National Park. Future Wales effectively places an embargo on DNS energy schemes within the National Park.
 - There are no appropriate alternative sites that are sequentially preferable to accommodate the development proposal. The only line where a solar energy project could feasibly connect to the grid in this region is the 132 kV line which runs north to south between Abergavenny and Pontypool North. A proportion of this line is located within Brecon Beacons National Park. FW effectively places an embargo on DNS energy schemes within the National Parks.
 - There are no appropriate brownfield sites available within Monmouthshire or Torfaen that can accommodate the proposal and none have been put forward by any consultees or third parties.
 - There are no non-agricultural sites (in their entirety) available that can accommodate the proposal and none have been put forward by any consultees and third parties.
 - The applicant considers that there are no sites comprising lower grade agricultural land (grade 4 or 3b) in their entirety, suitable to accommodate the scheme within the defined search area.
 - 14 potential alternative sites were identified but none represented an improvement when compared to the Application Site, given similar or better agricultural land quality and higher quality environmental habitats that would be potentially harmed by the proposals.

- An assessment of environmental, heritage and physical constraints within the search area to review alternatives for a 32 MW solar farm proposal has found this site to be most suitable. It is noted that the requirements of national policy in respect of BMVAL do not, in themselves, prevent the development of such land.
- The site design has been carefully developed to minimise any potential impacts on BMVAL and these would be further mitigated through best practice soil management plans and ongoing monitoring during construction, operational and decommissioning.
- The development would provide sufficient green energy for 8,093 homes, a significant contribution towards Wales' target of 70% of electricity consumption to be from renewable energy by 2030. This significance is heightened at a local level whereby no new large-scale ground mounted solar schemes have been consented within Monmouthshire in over 5 years. Accordingly, this project represents a very important contribution to decarbonising and tackling the climate emergency at the local level.
- While the presence of BMVAL is acknowledged, the farm is currently predominantly used for livestock grazing with only small areas of the farm dedicated to roots for feeding the livestock. The solar farm would not lead to a reduction in stocking densities in the farm and therefore food production would not be impacted. The grass beneath the panels has been specifically identified to maximise sheep grazing within the site and the solar farm revenue would provide a much-needed shot in the arm through diversification, supported by national policy and the National Farmers Union for Wales
- The development is fully reversible, the underlying land quality would not be affected and the land could continue to be used for grazing for the life of the solar farm. The applicant confirms that the land would be used for sheep grazing should the solar farm be constructed and it would therefore continue in agricultural use.
- A further report commissioned by the applicant at the variation stage, entitled Response to Inspector's request for Further Information: Best and Most Versatile Agricultural Land (May 2022) [DOC 30], submits that, provided construction and subsequent decommissioning were carried out properly as controlled by appropriate conditions, the finite BMVAL resource would be protected and preserved.
- In terms of the utilisation of natural resources, production of energy from solar panels is far more efficient than other forms of energy production from cropping the land. Ground mounted solar schemes represent a prudent and efficient use of agricultural land in comparison to the energy output from biofuels.
- The applicant again refers to the Manor Farm appeal decision (cited above), which allowed the construction of a 10MW solar farm at Manor Farm, Llanvapley, Monmouthshire. According to the applicant, the decision notes how the majority of the land at Manor Solar Farm falls within the definition of best and most versatile land [paragraph 30], with the Inspector finding that the *'temporary nature and reversibility of the scheme would conserve the land quality resource for the future'*. [Paragraph 37]. It then goes on to conclude that, insofar as there is conflict between the development and BMVAL, it warrants little weight in the balance of arguments in comparison with other developments more harmful to the land.
- Attention is also drawn by the applicant to the recently completed A487 Caernarfon and Bontnewydd Bypass scheme in North Wales. The applicant advises that the Examination Report identified that the new road would result in the loss of c.33 ha of BMVAL and an additional 48.7ha would be temporarily lost due to construction. The Inspector notes how mitigation measures put in place by the applicant (WG) would ensure that agriculture land that would be temporarily lost due to construction would

not be compromised in the long term. The Applicant asserts that the principle of the WGDCC's objection over the construction impacts of solar cannot be sustained. The construction impacts of a solar farm are significantly less in comparison to the construction of a new road. The applicant therefore submits that WGDCC's criticism of the solar park construction and restoration process are clearly without merit, as WG has previously accepted that heavy engineering projects would not compromise the BMVAL resource in the long term [paragraph 2.30 Applicant's Response to Regulation 15(2) Request for Further Information (May 2022) DOC 29].

- The applicant notes that, following the variation to the proposed development, WGDCC withdrew its objection and confirmed that "*the Application is policy compliant with PPW 3.58 and 3.59.*" [2022-07-15 REPS2 014 DCC]. WGDCC's withdrawal letter included an appended report (the report) from its soil expert. Quoting the report, the applicant advises that it agrees that any development can lead to damage to soils '*where there are already poor practices in place and the rights skills and experience are not available to identify both the issues and the required remedial actions*'. However, the applicant maintains that a planning condition securing a soil management plan, as per a suggested condition within the report, would enable the risk of soil damage from the proposed development to be properly managed [2022-07-27 – HEARSTAT APP Hearing 3].

Residential Visual Amenity

55. The applicant refers to criterion 2 of FW Policy 18 which indicates that there should be no unacceptable adverse visual impacts on nearby communities and individual dwellings. As already established the local area is largely agricultural in nature with scattered individual dwellings and farmsteads. The LVA assesses that the proposal would have the most effect on visual amenity within about 1km of the site. The applicant advises that the design, which responds to the nature of the landform and context of the area, has resulted in the solar arrays being grouped into three parcels so that the entirety of the development is not experienced by any visual receptors. The applicant advises that, owing to the low-lying nature and scale of the proposed solar arrays (c. 2.8m in height) and their proposed location upon lower elevations of fields with mature hedgerows, some reaching 4-6m in height, beyond 250m views would not be significant or overwhelming or visually intrusive from residential properties.
56. An accompanying Residential Visual Amenity Assessment (RVAA) considers the potential impacts on private residences within close proximity of the site. Although within 250m of the site, two residential properties Fedw-Isaf and Little Tresaison Cottage were scoped out of the RVAA as intervening trees, vegetation or landform would result in there being either no or very limited views of the development.
57. The RVAA goes on to assess effects on the four remaining properties within 250m of the site, Great House Farm and Ty Carew, whose owners are financially involved in the development proposal, along with Great House (a Grade II* listed property) and a cluster of properties at Upper Court Farm. The RVAA found that the visual effects were moderate/minor adverse in relation to Great House Farm and Ty Carew, moderate adverse, in relation to Great House, and minor adverse in relation to the Upper Court Farm cluster. However, the RVAA concluded that the visual effects were not significant enough to meet the 'Residential Visual Amenity Threshold'. In other words, those properties would not be impacted to such an extent that the scheme would be considered overbearing, dominant or overwhelming and result in unacceptable effects on living conditions. There is no individual 'right to a view' in planning law and beyond 250m, views are not considered to be significant or overwhelming, overbearing or overly intrusive from residential properties.

58. Consequently, the applicant's RVAA considered that the proposed development would not conflict with criterion 2 of FW Policy 18 which requires there to be no unacceptable adverse impacts on individual dwellings or nearby communities.

Ecology

59. The application was supported by several environmental reports including an Ecological Impact Assessment (EclA) [DOC 11]; an Ecological Design Strategy (EDS) [DOC 10]; a Shadow Habitats Regulations Assessment (SHRA) [DOC 25]; and a Net Gain Assessment (NGA) [DOC 19], all of which were updated in May 2022 to reflect the variation to the scheme. The EclA and SHRA refer to six internationally designated sites, all Special Areas of Conservation (SAC), within 15km of the application site. The closest is the River Usk SAC, located 0.86km to the south-southwest. There are also eight Sites of Special Scientific Interest (SSSI) within 5km of the site. In relation to these sites, the documentation indicates, that the application site has hydrological connectivity (via field drains that join the Ffrwd Brook which, in turn, enters the River Usk) with the River Usk SAC and the River Usk (Lower Usk) SSSI, with potential ecological connectivity restricted to otter, as a drain on the northern boundary of the application site is assessed as offering suitable habitat for otter. Although it is further away, there would also be potential ecological connectivity with the River Usk (Upper Usk) SSSI, again because of the movement of otter.
60. Potential ecological connectivity with the Usk Bat Sites SAC is also found, as it is possible that lesser horseshoe bats associated with the SAC could forage within the application site. However, the EclA advises that lesser horseshoe bats have a 'core sustenance zone' of 2km and that, as there would be no development within 2km of known lesser horseshoe bat roosts and there are not routes recorded in accessible buildings within 250m of the application site, it is not therefore considered an important foraging ground for the species.
61. Consequently, allied with the implementation of recommended measures, the EclA has determined that there would be no significant adverse effects on any designated nature conservation sites as a result of the development.
62. The EclA advises that there are no non-statutory sites present within or adjacent to the application site. There are three Sites of Importance for Nature Conservation (SINC) within 2km of the boundary. However, the applicant advises that no hydrological connectivity exists, as all three are located upstream of or away from the site drains, Ffrwd Brook and the River Usk. None of the SINCs are designated for mobile protected species. As a result, the applicant's EclA considered that there are no pathways for potential impacts on these sites from the proposed development.
63. A total of 14 habitat types were noted within the ecological study area during the Extended Phase 1 Habitat Survey undertaken in 2020. During the survey visits, these habitats were assessed for their potential to support protected and notable species. Overall, the site was considered to be of relatively low ecological interest in habitat terms.
64. The EclA advises that construction of the proposed development would occur primarily over improved grassland and that from the survey findings and impact assessment conducted, it is considered that the proposed development would be likely to have no significant adverse effects on local wildlife. However, precautionary and mitigation measures have been outlined to reduce any potential for effects upon local ecology.
65. In response to concerns expressed by NRW regarding Great Crested Newts (GCN), the proposal was varied to provide a 50m buffer between all development works and Pond 4.

An updated GCN Conservation Plan was also submitted [Appendix D to GCN Survey Report (May 2022) DOC 14].

66. Similarly, the SHRA concludes that the proposed development would not adversely affect the integrity of the Usk Bat Sites SAC or the River Usk SAC, having regard to conservation objectives of these two international sites. It advises that this finding can be taken together with the conclusions of the EclA, regarding other international designated sites. In this context, the results of the SHRA indicate that the proposed development alone would lead to no significant effects upon any international site, having regard to their qualifying interests and conservation objectives. It also finds that the proposed development would not adversely affect designated sites alone or in combination with other developments.
67. The applicant advises that the EDS encompasses enhancement and compensatory measures to ensure the proposed solar farm would lead to a net gain for local wildlife and ecosystem services, as detailed in the Net Gain Assessment (May 2022) [DOC 19].
68. NRW has since confirmed that it is satisfied that its previous concerns can be overcome by attaching its suggested conditions to any planning permission granted [REPS2 007]. The applicant has accepted the conditions relating to ecology suggested by NRW and MCC, albeit with suggested amendments subsequently broadly agreed.
69. Therefore, the applicant considers that the short-term disturbance resulting from the application proposal would not be significant if the recommended mitigation is undertaken. With the implementation of pre-commencement surveys and the proposed mitigation measures, the applicant holds that there would be no significant negative effects upon protected or notable species during the construction phase or the operational phase of the proposed development.
70. An Aboricultural Impact Assessment (AIA) [DOC 07] indicates that the proposed development would not require the removal of any individual trees. Some hedgerow would be removed to improve visibility at the existing access and to accommodate the installation of access tracks and associated infrastructure. However, the AIA considers that the level of loss would be relatively insignificant when compared with the amount of hedgerow to be planted as part of the proposed development.
71. The submitted EDS and Green Infrastructure and Landscape Strategy [DOC 15] proposes a number of habitat creation and enhancement measures centred around new hedgerows, species-rich grassland, tree and scrub planting, log piles and bird, mammal and invertebrate houses/boxes. With the implementation of these, the applicant maintains that potential of the site to support local wildlife would increase substantially from the baseline and the application proposal would lead to a significant positive effect on a number of protected or priority species during the operational phase.
72. Overall therefore, the applicant contends that the proposal duly accords with the requirements of criteria 3 and 4 of FW Policy 18, which require, respectively, that there are no adverse effects on the integrity of Internationally designated sites and the features for which they have been designated and that there are no unacceptable adverse impacts on national statutory designated sites for nature conservation (and the features for which they have been designated), protected habitats and species. Furthermore, that the biodiversity net gain which would be secured by the scheme represents a significant public benefit in favour of the proposal, thereby complying with criterion 5 of FW Policy 18.

Heritage

73. The application is supported by a Heritage Impact Assessment (HIA) [DOC 17] which considers the potential direct and indirect effects of the proposed development upon

cultural heritage assets and archaeological remains. There are no designated or non-designated archaeological or heritage assets within the application site itself, with the nearest heritage asset being 'Great House' (Grade II* listed), located about 100m to the east of the site boundary.

74. There are 27 Listed Buildings identified within the 2km study zone and the Zone of Theoretical Visibility (ZTV) of the proposed development, including six Grade II* and 21 Grade II. In relation to those assets, indirect effects have been assessed as moderate to low on the Grade II* listed 'Great House' and, overall, range between low and negligible for all other listed buildings. Consequently, the HIA considers that no specific mitigation is required for the reduction of any visual impacts, but that vegetative planting proposed as part of the green infrastructure plans would help ensure that any visual impacts upon the listed buildings and other heritage assets would be minimal throughout the operational phase of the development.
75. The HIA considers that due to the number of recorded archaeological sites in the surrounding area from the Neolithic period onwards, the application site has a moderate potential for remains from the prehistoric, Romano-British, medieval and post-medieval periods. However, it concludes that residual direct effects upon hitherto-unknown archaeology as a result of the proposed development are anticipated to be low on the assumption that appropriate mitigation measures are implemented, specifically the archaeological programme of works outlining a plan of post-determination test trenching, the usage of 'no-dig' methods in any areas identified to be of archaeological significance or sensitivity, and the implementation of a construction stage watching brief.
76. The Blaenavon Industrial Landscape World Heritage Site was identified to lie partially within the 5km study area and the calculated ZTV supporting the LVA. Similarly, the Historic Landscape Area associated with this asset also lies partially within the study area and ZTV. Indirect effects anticipated upon these designated areas were anticipated to be low.
77. There are eight Scheduled Monuments identified within the 5km study zone that are within the ZTV of the proposed development. Of these assets, low indirect effects are anticipated for St Bridget's Churchyard Cross, while low to negligible indirect effects are anticipated for the Coed y Bwnydd Camp and negligible indirect effects anticipated for the remainder.
78. The HIA identified one Historic Park and Garden within the 2km study zone and within the ZTV of the proposed development. This is Pant y Goitre House for which low indirect effects are anticipated.
79. Cumulative indirect effects upon the wider heritage assets overall are anticipated to be aligned with the 'minor adverse or lower' visual effects assessed within the LVA. As such, no significant cumulative visual impacts are expected to occur on any of the surrounding heritage assets.
80. Therefore, the applicant submits that the proposed development complies with relevant legislation, including Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to preserving listed buildings and their settings, and national policy as expressed in PPW and FW and the cultural heritage aspects of LDP policies S13, LC1 and S10.

Noise/Reflected Light/Air Quality and Electromagnetic disturbance

81. In relation to noise, the applicant has submitted a Noise Impact Assessment (NIA) [DOC 20], updated in May 2022. An assessment of the acoustic impact of the proposed development was undertaken in accordance with BS 4142: 2014+A1:2019. with the results indicating that a 'low' impact during night-time periods would be anticipated and

that, therefore, no further mitigation is required. In addition, it concludes that the levels at each receptor would be below the Night Noise Guideline value of 40dB set out in the World Health Organisation (WHO) Night-time Guidelines. This is the level recommended for the primary prevention of subclinical adverse health effects related to night noise in the population. The applicant submits that there would, therefore, be no unacceptable impacts by way of noise.

82. In terms of reflected light, the application is supported by a Glint and Glare Assessment (GGA) [DOC 16] which concludes that:

- Solar reflections are possible at 48 of 73 residential receptors within the 1km study area. The initial impacts are 'High' at 22 receptors, 'Medium' at 5 receptors, 'Low' at 7, including one residential area, and 'None' at seven receptors. Upon reviewing the actual visibility of the receptors, glint and glare impacts reduce to 'None' at all receptors (including one residential area) due to natural screening of the site created by existing vegetation and / or landform. Therefore, overall impacts on residential receptors would be none.
- No impact on train drivers or railway infrastructure is predicted.
- There would be no impact on the runways at Abergavenny Airfield. Therefore, overall aviation impacts would be 'none'.

In summary, the GGA finds that there would be no unacceptable impacts by way of reflected light.

83. The applicant also advises that there are no identified defence facilities or operations within the vicinity of the site, and the scheme will not result in any unacceptable impacts on the Mid Wales Low Flying Tactical Training Area (TTA 7T).

84. With regard to air quality, the applicant advises the application site is not located near any Air Quality Management Area (AQMA), as per the Wales Airborne Pollution Map. It is anticipated that the development would introduce some additional road traffic and dust from construction during the limited construction period. However, given their scale and nature, the construction impacts would generate only a small magnitude of dust and (Particulate Matter (where particles are less than 10 micrometres in diameter). Planned measures during construction are also intended to control, prevent and minimise dirt on the access route and dust and other emissions during the construction works. Overall therefore, the applicant maintains that there would be no unacceptable adverse impacts on air quality.

85. Similarly, the applicant advises that the development would accord with relevant Electric and Magnetic Fields exposure guidelines and recommendations, as detailed within paragraph 6.37 of the PS.

86. Therefore, the applicant considers that the development would accord with the relevant requirements of criteria 7 of FW Policy 18.

Transport

87. The application is accompanied by a Construction Traffic Management Plan (CTMP) (May 2022) [DOC 09]. It confirms that the haulage route for deliveries to the site is likely to be via the A40 and B4598 before travel for about 0.7km along a local access road to the site.

88. According to the CTMP, increased volumes of traffic would be generated by the proposed development during the anticipated six-month construction period. However, the overall volumes would be relatively low with a total of 671 Heavy Goods Vehicle (HGV) deliveries to the application site. During the peak construction period there would

be an approximate maximum of 15 daily HGV deliveries. Pre- and post-construction condition surveys of the local road from the access point to its junction with the B4598, would be conducted with the applicant liable to repair any damage to the road that is directly attributable to the construction process.

89. The applicant advises that during the operational phase, the activities on site would amount to servicing and maintenance of plant and equipment and vegetation management. Traffic impacts from the operational phase of the site would consist of only between 10-15 LGVs per year.
90. On that basis, the applicant holds that the proposed development would meet the requirement of criterion 9 of FW Policy 18, that there should be no unacceptable impacts on the transport network through the transportation of components or source fuels during construction and/or ongoing operation.

Flood Risk and Drainage

91. The application is supported by a Flood Consequence Assessment and Drainage Strategy (FCADS) (May 2022) [DOC 12]. It advises that, according to the TAN15 Development Advice Map, the application site is wholly situated within Flood Zone A, except for a small area within Field 4, which is Flood Zone B. However, this area has been avoided of development and the proposed development is wholly within Flood Zone A. Therefore, in accordance with TAN15, the application site is situated in an area that is at little or no risk of fluvial or tidal/coastal flooding. Consequently, a justification test is not required for this proposal. However, a Drainage Strategy is provided to demonstrate that the proposal would not increase flooding elsewhere.
92. In addition to fluvial and coastal flood risk, NRW also provides surface water flood maps. This indicates that the small watercourse to the north of Field 1, 3 and 4, as well as the watercourse which dissects Fields 10 and 11 have some minor flood risk issues, however they are contained within the watercourse's banks.
93. Where the NRW map demonstrates areas of surface water risk, the topographical survey, as well as aerial maps, were studied to determine if there will indeed be surface water flooding within the application site. The watercourses where the surface water issues are located did not appear to have any evidence of out of bank flooding during the site visit. The topographical survey also shows they are well defined and have a gradient which would clearly move water through the watercourses and away from the development. There is no electrical infrastructure within 8m of these two watercourses with potential surface water flood risks, only tracks and fencing.
94. It has been demonstrated that the application proposal's impact on surface water runoff is minimal due to the small amount of impermeable infrastructure (0.44% of the overall application site area) proposed for the application site.
95. For the solar arrays, it is proposed to construct eight soakaway channels/filter drains as well as swales and detention basins within the site. The location of the channels have been chosen to intercept flows before they enter the existing drainage system surrounding the site. Some of these channel's feed into small detention basins which would act as attenuation devices. These would be sized separately during the detailed design stage.
96. The soakaways would provide some storage capacity, however, would mostly be used to convey surface water to the attenuation devices and discharge points. There is one larger soakaway area proposed within Field 3 and various swales which would provide attenuation.

97. Due to the large area of the Grid Substation, and the dispersed nature of the impermeable development of the other components of the proposal, drainage schemes for these have been designed separately. It is proposed that surface run-off will be collected and conveyed by the provision of filter drains to a detention basin. The discharge point would be into the existing site field drainage to the northwest of the detention basin.
98. Additional drainage measures to be implemented on-site include the following:
- Solar Panels: current grass cover would be retained or reinstated adjacent to and under panels in order to maximise bio-retention;
 - Access Tracks: access tracks are to be unpaved and constructed from local stone. Temporary swales or similar would be utilised to collect runoff from access tracks with discharge to ground through percolation areas. Where swales are utilised, frequent checks of dams formed from gravels and other excavated material should be undertaken; and,
 - Transformer Stations: the scale of these types of structures is unlikely to warrant a formalised drainage system. Runoff from this infrastructure and any associated hard standing should be directed to a percolation area for discharge to ground. Should surface water accumulate around any of these locations then a simple soakaway can be constructed to allow water soak into the underlying subsoils.
99. The applicant submits that the FCADS demonstrates that the application proposal would not increase flood risk away from the application site during the construction, operation and decommissioning phases. It is, therefore, considered to be acceptable in planning policy terms and in compliance with LDP policies S12, SD3 and SD4.

Benefits of the Project

100. The projected benefits that would be associated with the proposed development are detailed in the applicant's Collaborative Benefits Report (May 2022) [DOC 32]. In summary they are:
- Energy generation output capacity of circa 32GWh per annum, which would generate the equivalent to the domestic electricity requirements of 8,093 homes based on annual average household consumption.
 - Potentially offset around 14,080 tonnes of carbon emissions each year, the equivalent of taking approximately 10,537 cars off the road each year.
 - Opportunity for local Council or communities to invest in the project.
 - Community Benefit Fund of £74,000 as a one-off payment upon commissioning of the solar farm.
 - Local economic impact of up to 175 jobs created or safeguarded during the installation phase and a further 2 maintenance jobs during the 40-year operational phase, generating up to £5 million in GVA.
 - Contribution to local services and infrastructure through the payment of around £110,000 in business rates per annum.
 - It is estimated that during the 6-month construction phase, the 80 construction employees could spend almost £570,000 at local businesses supporting the 770 accommodation, food & drink and retail businesses that operate within Monmouthshire.

- Extensive management of grassland, woodland, ponds and sympathetic management of hedgerows and field margins that would provide benefits to an abundance of wildlife, as well as Phase 1 Habitats and protected and key species.
- Overall net gain of 19.30% for hedgerow habitats on the site.
- Overall biodiversity net gain of 11.28% for habitats, with the main gains coming from the conversion of agricultural grassland to higher value habitats such as wildflower meadows, wild bird seed mixes and grassland.

Conclusions

101. The applicant submits that the selected site is appropriate in that it can accommodate the proposed 32MW solar scheme without significantly affecting the special landscape character of the surrounding area or nearby public amenity spaces. Moreover, the applicant holds that the proposal is considered to be acceptable within the open countryside as it represents a diversification of use of a proportion of land within a single wider agricultural holding. The applicant points to the strong support offered in FW and PPW to renewable energy schemes, as energy generation is of national significant and there is a recognised need to optimise renewable energy generation to meet identified targets, including for Wales to generate 70% of its electricity consumption from renewable energy by 2030 (PPW paragraph 5.7.14).
102. The use does not represent 'permanent' development; instead, the land would be restored back into the same quality of Best and Most Versatile Agricultural Land at the end of the lifespan of the development, whilst the existing agricultural use of grazing livestock could continue. The temporary and reversible nature of the development, together with the measures that are to be taken to enhance and encourage the ecological diversity of the site, would ensure that in the long term the site could not only be restored to its current land quality, but would also see improvements in biodiversity.
103. The scheme has been amended in response to comments made following acceptance of the application and has involved the removal of panels to facilitate reduced direct impact upon BMVAL and to increase the set back of the panels from PROW and sensitive ecological receptors.
104. Overall, the applicant submits that the proposals are entirely suitable to the site and its surroundings and consistent with national and local planning policy and all relevant material planning considerations.

Local Impact Report (LIR)

MCC's LIR was prepared and received prior to the subsequent submission of the Variation and Further Information supplied by the applicant. Some of the applicant's reports referred to within it have since been updated.

105. The LIR includes a description of the site and context, its planning history, relevant national and local policies and guidance, and an analysis of the likely impact of the development in relation to: visual and landscape impact; agricultural land classification; highways; ecology; historic environment; residential amenity; social, environmental and economic effects; water and drainage; and PROW. It also suggests planning conditions, in the event that permission should be granted, and planning obligations, if considered necessary. The main points are summarised below.

Visual and Landscape Impact

106. The proposal sits within a sensitive landscape identified by LANDMAP as of high and outstanding value across the visual and sensory, historic, cultural and geological aspects. It also straddles two Landscape Character Areas (LCA 53 Northern Hills and

LCA 18 Ragland Hinterland). The landscape comprises an undulating complex of hills interspersed with broad shallow valleys and drained by wooded streams and tributaries. The area is representative of the Monmouthshire landscape in its character, has a high scenic quality and strong sense of place arising from its traditional rolling patchwork of fields, hedgerow, trees and small copses with treelines typically bordering the numerous streams. Overall, the landscape has an unspoilt character and maintains its integrity with settlements limited to small linear hamlets and scattered farmsteads and houses interconnected by a network of narrow winding roads.

107. The applicant's LVA [DOC 18] analysis has been thorough. MCC notes the LVA's findings that the development would have a moderate adverse landscape effect on the characteristics of the application site but that, as tree planting becomes established, for lower elevations of the site the landscape effect would reduce to moderate / minor adverse. It also refers to the LVA findings with regard to visual effects, concluding that these would be likely to be major / moderate in localised views from PROW within the application site, but that in views from beyond 1km they would reduce to minor adverse. The applicant's Green Infrastructure and Landscape Strategy [DOC 15], landscape planting plan and proposed aftercare are broadly acceptable.
108. Nevertheless, given the sensitivity of the landscape, as described above, the nature and scale of the proposal, over a site of some 70ha with about 31ha to be occupied by solar panels and associated development, would result in a significant visual intrusion and an adverse change in the character of the landscape both during construction and operation. The LIR also contends that the development, sited on rising land, would be highly visible in multiple directions both locally and in more distant views and that it would create an urbanising presence within a rural and unspoilt landscape that would last for a generation. Moreover, proposed visual impact mitigation would not be highly effective in the short to medium term in reducing the moderate adverse impacts.
109. However, the LIR accepts that *'the moderate negative impact upon landscape character'* would need to be balanced against the permanence of the development, its potential reversibility and the policy support for provision for renewable energy.

Agricultural Land Classification/BMVAL

110. The LIR refers to the applicant's ASSR which sets the search sequence and site selection process that has been undertaken. The ASSR assessed 14 alternative sites and reached a number of conclusions including that: there are no appropriate brownfield sites available to accommodate the proposal within Monmouthshire and Torfaen; there are no non-agricultural sites available (in their entirety) that could accommodate the proposal; and, there are no sites comprising lower grade agricultural land (grade 4 and 3b) in their entirety, suitable to accommodate the scheme within the defined search area. It also notes the ASSR's advice that although the proposed site is classified as 46% best and most versatile agricultural land (grade 2 and 3a), there is no delineation between, or boundaries separating, this higher quality land from the grade 3b and 4 land. The ASSR, therefore, concludes that the fields applicable to this application are managed on the basis they are not best and most versatile land. The LIR refers to supporting information noting that the land's existing agricultural function would be maintained through sheep grazing.
111. Paragraphs 3.58 and 3.59 of PPW and the Minister for Climate Change's recent letter of clarification, stressing the considerable that should be given to protecting BMVAL from development are noted. The findings of the ASSR should be considered along with the issue of a solar PV array proposal involving BMVAL and balanced against the weight to be given to the scheme's contribution to renewable energy targets. The LIR also notes

that national policy and guidance advises that both issues should be given significant weight in the determination process.

112. The LIR concludes on this issue that, notwithstanding the above, having regard to the suggested reversibility and limited timescale for the development, the proposal would not result in the permanent loss of this land and, as such, the proposal would have a neutral impact on BMVAL.

Highways

113. The Highway Authority considers that the access and the Construction Traffic Management Plan (CTMP) [DOC 09] provided with the application is acceptable. The major issue is how the developer would mitigate the impact on the immediate local transport network during the construction and decommissioning stages.
114. Subject to an acceptable decommissioning plan and compliance with the CTMP, the LIR considers that the proposal would have a neutral impact upon local and wider road network in terms of highway safety and associated matters.

Ecology

115. The LIR includes detailed summaries of the environmental reports, strategies and survey information submitted by the applicant and comments on their content, approach and proposed mitigation measures. In summary, the LIR advises, as follows:
- It is agreed that the proposals would result in a net gain of priority hedgerow habitat, and the overall connectivity of the site would be enhanced as a result. Furthermore, the proposed species for planting and management schedule are deemed appropriate.
 - No lowland mixed deciduous woodland habitat would be lost as a result of the proposal. The woodland located along the northern boundary of the site would be reinforced with native tree planting. No ponds would be lost as a result of the current application. As shown on the 'Site Proposals – Figure 4' drawing, an existing on-site waterbody would be enhanced by providing hibernacula and invertebrate habitats. As a result of the proposals, further priority habitats would be created at the application site, including a traditional orchard and lowland meadows.
 - It is agreed that the current proposal would provide net benefit for biodiversity, particularly due to the low quality of the existing grassland currently present across much of the site.
 - With regard to protected species, including Crested Newts (GCN), Bats, Otter and Hazel Dormice, it details the applicant's survey findings and proposed mitigation and enhancement measures.
 - In order to avoid any breach of the Wildlife & Countryside Act 1981 (as amended), the Outline Construction Environmental Management Plan (OCEMP) should be updated to include provision for pre-works inspections for ground nesting bird species by an experienced ornithologist. Where skylark (or other ground-nesting birds) are observed to be nesting, a suitable buffer between the nest and any construction works should be implemented.
 - In relation to the Usk Bat Sites SAC and, specifically lesser horseshoe bats, it refers to the applicant's SHRA's conclusion that the proposed development would '*lead to no significant effects on the SAC, both alone or in combination with other developments.*' The LIR has some reservations about this conclusion, due to the lack of activity survey data from the spring and summer months. However, it notes that, nevertheless, there are no known lesser horseshoe roosts within 2km of the site, and therefore the site is not within the core sustenance zone for lesser horseshoe bats. It also agrees that any

impact would be as a result of the loss of 144.1m of hedgerow, but that this would not have a significant effect on the SAC, as connectivity across the application site would remain intact through networks of retained hedgerow and woodland edge habitat. Furthermore, due to the proposed mitigation and enhancement measures, the site would offer greater value foraging and commuting habitats for a range of bat species, including lesser horseshoe bats.

- In relation to the River Usk SAC and River Usk (Lower Usk) SSSI, it considers that over the longer term, it is accepted that the lower stocking rate and cessation of agricultural activity at the application site would likely have a positive effect on water quality. Ecological connectivity was considered to be restricted to otter only, due to the absence of suitable substrate habitat for the other key features of the SAC. Otter are a notable feature of both the River Usk SAC and River Usk (Lower Usk) SSSI. The only suitable habitat identified for otter is the drain along the northern boundary. No natal holts were recorded but this does not preclude use for foraging or commuting purposes. It notes that measures to mitigate for impacts on otter and water quality during the construction period, measures have been included as part of the OCEMP but that, in line with the recent CJEU ruling (*People Over Wind and Sweetman v Coillte Teoranta (C-323/17)*), these hazards should be assessed via an Appropriate Assessment.
- With regard to the three SINC located within 2km of the application site, it is agreed that there is no pathway for potential impacts from the proposed development.

116. The LIR concludes on this issue that, subject to a condition requiring a Construction Environmental Management Plan (CEMP) and an Appropriate Assessment (AA), it is considered that the proposed development would have a positive impact on ecology.

Historic Environment

117. There are no designated or non-designated archaeology and heritage assets present within the application site, with the Grade II* listed Great House, located c. 100m to the east of the site boundary, being the nearest such asset. It considers that residual direct effects upon known assets would, therefore, be limited. It also refers to the applicant's HIA assessment that indirect effects upon the surrounding heritage assets would be moderate to low on the Grade II* listed Great House, and would, overall, range between low and negligible for all other heritage assets within the calculated ZTV of the proposed development. It finds no reason to disagree with that conclusion.
118. Therefore, the LIR considers that no specific mitigation is required for the reduction of any visual impacts, but that vegetative planting proposed as part of the green infrastructure plans will help ensure that visual impacts upon the listed building and other heritage assets will be kept minimal throughout the operational phase of the development. Given the scale of the proposal it is considered it will likely have some impact on the setting of historic assets but advises that comments should also be sought from Cadw on these matters.
119. The LIR notes, amongst other things, that the HIA advises that the site visit identified the presence of a hollow way (green way) along the southern extents of Fields 5, 6, 7 and 14 as well as a lynchet feature between Fields 1 and 2 and a former footpath through Field 8. The HIA notes that whilst these features have been almost entirely avoided within the development design, where construction elements such as access tracks or cable trenches cross them, it is recommended that these features be subject to archaeological monitoring (watching brief) in order to mitigate possible impacts.
120. Further advice in the HIA referred to is that residual direct effects upon hitherto-unknown archaeology as a result of the proposed development are anticipated to be

low, on the assumption that appropriate mitigation measures are implemented. They include an archaeological programme of works outlining a plan of test trenching, the usage of 'no-dig' methods in any areas identified to be of archaeological significance or sensitivity, and the implementation of a construction stage watching brief, suggested as a condition on any consent.

121. It also states that advice from the Glamorgan-Gwent Archaeological Trust (GGAT), which advise MCC on planning applications, should inform any decision relating to archaeological matters.
122. The LIR concludes that based on the information submitted and providing it is demonstrated that the proposed development would not result in irreversible damage, appropriate mitigation measures are proposed and a suitable reinstatement plan provided, it is likely the development would have a neutral impact on heritage assets.

Residential Amenity

123. The LIR advises that MCC agrees with the conclusions of the applicant's RVAA that, owing to the low-lying nature and scale of the proposed solar arrays (c. 2.8m in height) and the proposed location upon lower elevations of fields surrounded by mature hedgerows, some reaching 4 – 6m in height, potential significant effects would be limited to those properties within 250m of the site boundary. The development would have moderate adverse to minor adverse effects upon four residential properties. The solar arrays and associated plant and fences would be visible to varying degrees from each residential receptor but not to a significant degree.
124. In terms of noise, a total of 24 dwelling and 20 PROW Noise Sensitive Receptors (NSRs) were included in the Noise Impact Assessment [DOC 20] submitted with the application within a study area of 500m around the application site. Solar farm noise emissions are relatively low when compared to other industrial developments and noise from them will be negligible beyond 500m.
125. The assessment of the acoustic impact of the proposed development was undertaken in accordance with BS 4142: 2014+A1:2019. The results showed that a low impact at all dwelling NSRs during night-time periods is anticipated and therefore no mitigation is required. In addition, a low impact on PROW NSRs during the day-time periods is anticipated and therefore no mitigation is required. In addition to this, the levels at each receptor are below the Night Noise Guideline value of 40dB set out in the WHO Night-time Guidelines. This is the level recommended for the primary prevention of subclinical adverse health effects related to night noise in the population. As such, no adverse impact from noise is anticipated as a result of the development.
126. Effects of glint and glare and their impact on local receptors has been analysed in detail in the Glint and Glare Assessment (GGA) [DOC 16] and there are predicted to be no adverse effects on residential and aviation receptors. Road receptors are also expected to have low and therefore acceptable impacts.
127. The LIR concludes that subject to conditions requiring a CTMP, limitations on construction hours and a requirement to maintain the hedges at 4-6 metres, it is considered that the proposed development would be likely to have a neutral impact upon living conditions of occupiers of neighbouring residential properties during the operational phase of the development, albeit there could be a negative impact during construction.

Social, Environmental and Economic Effects

128. According to the LIR, while job creation at the local level may be negligible, there is the potential for positive social and economic effects at the local level (as detailed within the

submissions) which would accord with the objectives of the LDP, including the aim of delivering sustainable development albeit that much of the benefit of the proposal would be at the macro scale in addressing the effects of pollution and climate change. In this regard the proposals are considered to have a positive impact.

Water & Drainage

129. The site does not lie within a flood risk area. MCC observes that, given its size and extent, the proposed development would require approval from the relevant Sustainable Drainage Approval Body (SAB) and understands that the developer has already engaged with the SAB.
130. The LIR considers that the development would have a neutral impact in this regard.

Public Rights of Way

131. The LIR refers to public footpaths which run within the application site. Concerns are expressed about the enclosed nature of any sections of footpath that would be fenced-in, which may detract from user enjoyment and affect any future surface maintenance requirements, given that enclosed paths are more likely to become overgrown. It recommends, for example, that any fence/hedge lines enclosing paths be a minimum of 3m apart.
132. However, overall, the LIR considers that these details can be sought by way of condition attached to any consent granted and that the development would have a neutral impact in this regard.

Planning Conditions

133. In addition to the standard conditions relating to time limits and approved plans, the LIR includes several suggested planning conditions which MCC considers should be attached to any consent granted. These include conditions relating to a decommissioning plan, pre- and post-construction condition surveys of the haulage and cabling route, a CTMP, construction hours, boundary treatments, a CEMP, lighting, hard and soft landscaping and green infrastructure.

Consultation Responses

134. Responses were received from statutory consultees and interested parties at consultation and other stages of the application. Following the submission of a Variation to the scheme and the supply of Further Information, relevant consultees and interested parties were re-consulted. The main points in relation to the scheme, as varied, are summarised below. Generally, these focus on the final position of the consultees and interested parties on the current proposal.

Monmouthshire County Council (MCC) [2022-07-15 REPS2 012]

135. MCC advises that its further comments on the scheme, as varied, are confined to the landscape and visual impacts, with the position on other aspects as detailed in the LIR. The main relevant points are summarised below.
136. It notes that the revised scheme involves the removal of solar panels from fields 8 and 11 to reduce direct impact on BMVAL and to increase the set back from PROW and ecological receptors. MCC's comments essentially re-iterate but expand upon many of the points made in the LIR with regard to effects on landscape character and the visual appearance of the areas.
137. With regard to the changes, MCC indicates that from a wider landscape character perspective, related to LCA 39 and LCA 53, the amendments to layout would lessen visual impact on character value from certain viewpoints. It advises that although the

reduction in scale, with the removal of solar panels from fields 8 and 11 is welcomed, it remains the case that the change of character from an agricultural and pastoral rural landscape to that of a solar farm with its structural elements and uniform colour blocks would have an adverse visual impact on the unspoilt integrity of the existing landscape.

138. MCC refers to westward views from a lane immediately south of Mount Pleasant which it submits provide an east to west 'length' view of fields 1-4 within the context of Ffrwd Brook corridor. It suggests that, as viewed from this location and nearby residential properties, the impact of development and change in character would be more noticeable. In particular, it suggests that Field 2 is more visually apparent within the landscape from this vantage point and VP 5 (referred to in the LVA), as it rises from 110m AOD to 130m AOD.
139. It also refers to another viewpoint, which is not included in the LVA, further to the north at Ffawydden Cottage on elevated ground rising to approximately 160m AOD. From here MCC indicates that fields 2, 3 and 4 are more visible in what it describes as a panoramic view of the unspoilt Usk Valley.
140. MCC considers that despite the changes to the scheme, it would still result in a significant change in localised views from between 0.5km and 1.5km away. It submits that the scale of the proposed development would create a '*less than acceptable adverse change*' in the character of the natural landscape of Monmouthshire during both construction and operation. With regard to proposed visual mitigation, in terms of planting and landscaping, it holds that this would not be very effective in the short to medium term in reducing the adverse impacts to an acceptable level. Moreover, it indicates that it considers that, at this location, the proposed development would introduce an incompatible use at a scale the would be unsympathetic to the underlying unspoilt landscape character.

Welsh Government: Department for Climate Change (WGDC) [REP109 & 2022-07-15 REPS2 014]

141. WGDC initially, in its letter dated 31 March 2022, conditionally objected to the proposed development. It validated the applicant's Agricultural Land Classification report [DOC 6], which identified approximately 32.1ha of land within the site fell into the BMVAL category. However, WGDC questioned the practicability of farming some of that land and, therefore, considered that c.25ha was relevant and subject to the protection offered by paragraphs 3.58 and 3.59 of PPW.
142. It considered that the proposal had failed to give considerable weight to protecting BMVAL because of its special importance, expressed concerns regarding the applicant's ASSR and noted that the return of the developed land to agriculture as BMVAL is seldom practicable.
143. Consequently, it lodged a conditional objection which it indicated would be withdrawn if the contiguous area of BMVAL in Fields 8, 9, 10 and 11, as identified in section 3.2 of the PS [DOC 4], were removed from the 'red-line' boundary of the application. It indicated that if that area of BMVAL were removed, the application would not then be considered by WGDC as a matter of national agricultural interest, and it would be for the PEDW Inspector to take a view as to compliance with BMVAL policy for the area of BMVAL within Field 3.
144. Following the Variation to the scheme WGDC advises, in a letter from its solicitors dated 15 July 2022, that, although it has some specific comments about aspects of the applicant's submissions, '*On balance, taking into account the additional information provided, the DCC has decided to withdraw its formal objection to the Application. This is primarily due to the specific characteristics of the Application, including the volume of*

BMVAL adjacent to the length of the connection assessment area and other nationally recognised designations such as the National Park. The DCC is therefore satisfied that, on the specific facts of the Application as amended by the additional information provided in May 2022, that [sic] the Application is policy compliant with PPW 3.58 & 3.59. [paragraph 28 which essentially re-iterates paragraph 4].

145. Notwithstanding the above, referring to applicant's submissions, WGDCC notes that:

- *'...it is stated that 16.8ha is below the threshold for BMVAL to be considered nationally significant. This is not agreed. The 20ha threshold provided for in TAN6 (Annex B2) does not change how protective policies should be applied. This is a consultation threshold providing statutory arrangements for Welsh Ministers to be consulted. The loss within the redline boundary is 25ha of BMVAL. 16.8ha appears to refer to the area of BMVAL under panel. This Application remains nationally significant in terms of BMVAL loss. However Welsh Government planning policy is clear that, although BMVAL should be conserved as a finite resource for the future, in specific, exceptional, circumstances BMVAL loss can be policy compliant with PPW.'*
- With regard to the applicant's comments regarding TAN 6, WGDCC considers that, in respect of reversibility, paragraph 6.6.2 states that once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as BMVAL is seldom practicable. Accordingly, there is a real risk of permanent loss due to the significant construction and decommissioning works associated with this development. It is not possible to recreate BMVAL which is damaged. BMV land is therefore a finite resource, and it is important that this is fully recognised. Hence PPW sets out that BMVAL *'should be conserved as a finite resource for the future'*.
- Regarding the applicant's submission that the solar farm development is temporary, it is the WGDCC's position that this is a generational loss and with a high risk of permanence. It is artificial to assert that the loss for 40 years is not a material loss of the best farmland in Wales, at a time when there is likely to be further pressure on the need for high quality farmland (as set out in the recent Blackberry Lane DNS/3245065 decision by the Welsh Ministers).

146. WGDCC raises various queries about the applicant's updated ASSR (May 2022) [DOC 05] and other questions. It also addresses the applicant's comments on the Minister for Climate Change's letter to Chief Planning Officers dated 1 March 2022.

147. A report from a soils and environmental scientist is appended to WGDCC's letter withdrawing its objection. That report considers the applicant's submissions, including its Outline Soil Management Plan [DOC 23] and its Response to Inspector's request for Further Information: Best and Most Versatile Agricultural Land, (May 2022) [DOC 30]. It expresses various concerns, including doubts about whether proposed construction practises to protect soils would be adhered to as *'construction activities are driven by programmes that are rarely able to account for stand down periods to avoid works during wet ground conditions, and there can be significant pressure to continue activities.'*

National Grid (NG) [REP001]

148. It advises that no National Grid assets are affected in this area.

Health and Safety Executive (HSE) [REP002]

149. It states that the proposed development does not fall within the consultation distances of any Major Hazard Installation or Major Accident Hazard Pipeline.

Glamorgan-Gwent Archaeological Trust Ltd (GGAT) [REP004 & 2022-06-04 REPS2 003]

150. It notes that the archaeological investigation and assessment undertaken to inform the application has included geophysical survey carried out by AOC Archaeology (November 2021), a HIA (January 2022), and most recently that a field evaluation was conducted on the development site by Headland Archaeology (April 2022). GGAT advises that the evaluation was carried out in accordance with current professional standards and noted the presence of *'a complex of linear ditches, located in the north-east corner of the proposed development site. These features are indicative of agricultural land-use [...] The most notably findings was [sic] a discrete pit, located to the west of the proposed development site. This pit contained pottery dating to the medieval period [...] likely the feature is the result of transient use of the land during that period.'*
151. GGAT considers it unlikely that further archaeological work would encounter significant archaeological remains. It understands that the current revisions to the application reduce the area of impact of the development and are primarily related to the Ecological Design Strategy and the Green Infrastructure and Landscape Strategy. GGAT does not consider the revisions are likely to have any negative archaeological impact or that there is a need for further archaeological work in relation to the development.

South Wales Fire and Rescue Service (SWFR) [REP019]

152. SWFR advises that a comprehensive fire strategy should be provided which indicates the package of fire safety measures that are proposed and ensure that the risk of a fire occurring is minimised. This should also ensure that any persons using any buildings on the site, can easily escape from those buildings in the event of fire. The developer should also consider the need for the provision of adequate water supplies on the site for firefighting purposes and access for emergency firefighting appliances.

Dwr Cymru/Welsh Water (DCWW) [REP023]

153. DCWW has no objection to the proposed development.

Campaign for the Protection of Rural Wales (Monmouthshire Branch) (CPRW) (REP024)

154. CPRW expresses concerns about:
- a) The impact of the proposed development on the landscape and visual amenity of the surrounding area.
 - b) The likely impact on historic heritage.
 - c) The probable impact on BMVAL within the site.
155. With regard to landscape and visual amenity, it considers that the applicant's assessment that the proposal would result in a localised moderately adverse landscape effect within about 2km of the site understates the adverse effects to a considerable degree. CPRW submits that a major part of the development is situated on rising land which is particularly open to views from the south-west and north-east. As a result, it would be impossible to mitigate any adverse impact by way of screening. It refers to a significant impact on views of the northern part of the site on the ridge from somewhat higher ground to the north-east where it would appear prominent in the middle distance, dominating views against a backdrop of the Brecon Beacons National Park (BBNP). CPRW advises that there are many public vantage points in this area from both the public highway and PROW, with the country lanes and footpaths used daily by walkers, horse riders, dog walkers and cyclists.
156. CPRW describes the area as a highly valued and much enjoyed landscape serving as a major attraction to residents, visitors and tourists alike in this part of Monmouthshire. It

considers that proposed solar farm, comprising densely packed arrays of solar panels up to 2.8m high and its associated buildings, infrastructure, access roads and fencing would have a significant impact on the landscape character and visual amenity of the area both in the short and middle distance. Therefore, it would not accord with relevant policies in FW and PPW.

157. In relation to historic heritage, CPRW considers that indirect effects upon the setting of the nearby grade II* listed The Great House have been understated in the applicant's PS (para 6.28). It refers to descriptions of this 18th century manor house in two publications which indicate that the setting forms an integral part of the buildings historic value. CRPW consider that the setting would be severely compromised by the nearby arrays of solar panels serving as a backdrop on higher ground to the west and north-west.
158. With regard to agricultural land, CRPW refers to the recent Ministerial Decision relating to Blackberry Lane in Pembrokeshire (Ref: DNS/3245065, dated 27 October 2021) and relevant parts of PPW, which recognise the importance of BMVAL as a finite resource which should be conserved for the future. CPRW also questions aspects of the applicant's site selection process, referring to the cumulative impact of such forms of development on BMVAL in the area.
159. Further, it suggests that construction of a development of the scale proposed is likely to result in a substantial amount of ground disturbance across the site which would be likely to damage the structure of the soil and result in loss of BMV agricultural land, especially given the guidance in TAN 6 that restoring land to BMV quality is seldom practicable.
160. Given the above, CPRW maintains that planning permission should be refused.
161. CPRW subsequently appeared at the hearing session on Landscape / Character and Appearance and submitted a hearing statement [2022-07-26 - HEARSTAT CPRW].

Cadw [REP066 & 2022-07-14 REPS2 005]

162. Cadw advises that it concurs with the conclusions of the applicant's HIA [DOC] 17 that there would not be a significant impact on any of the designated heritage assets in the area. Therefore, it has no objections to the proposal.

Welsh Government: Department for Economy and Infrastructure [REP067]

163. It advises that WG as highway authority for the A40 trunk road does not issue a direction in respect of this application.

Ministry of Defence (Defence Infrastructure Organisation) (MoD/DIO) [2022-08-01]

164. DIO advised that its Safeguarding Team represents the Ministry of Defence (MOD) as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System. It confirmed it had no safeguarding concerns in relation to the proposal.

Gobion Fawr Community Council (GFCC) [REP068 & 2022-07-14 REPS2 008]

165. Due to council boundary changes during the course of the application, the name of the relevant community changed from Llanover Community Council to Gobion Fawr Community Council.
166. GFCC notes that the variation to the proposal removed solar panels from two fields. However, it does not accept that this would make any significant difference to the likely

visual detriment to the landscape, particularly when viewed from higher ground over a mile or more from the application site, including from the lane where the residential properties of Rose Cottage, Ty-Mote, Cefynydd and Ffawyddden Cottage are situated. GFCC advise that this road is regularly used by cyclists, walkers (local and visiting) and horse riders who enjoy a panoramic view of the Usk Valley below and a landscape of rolling hills typical of this part of Monmouthshire.

Natural Resources Wales (NRW)

[REP110, 2022-07-14 REPS2 007, and 2022-08-25 APP Confirmation from NRW re conditions, 2022-08-25 APP email from NRW to APP re conditions]

167. NRW expressed concerns about the application in its letter, dated 31 March 2022, in response to the consultation on the application. However, in its subsequent letter dated 13 July 2020, in response to the consultation on the Variation and Further information, it advises that while it continued to have concerns it was satisfied that they could be overcome by attaching its suggested conditions to any planning permission granted.
168. It notes the submission of new and revised information with the varied scheme, along with the revised layout (removing panels from fields 8 and 11) and changes to the submitted Ecological Design Strategy (May 2022) [DOC 10].
169. With regard to Great Crested Newt (GCN), NRW noted, in its initial response, that the application has been progressed on a precautionary basis, assuming the presence of GCN for those ponds for which survey access permission was not granted, including pond 4. NRW has subsequently welcomed that the proposed design of the development has been amended to now provide a 50m buffer between development works and pond 4, as it had previously requested. It also welcomes the revised GCN Conservation Plan (as set out in Appendix D to the revised GCN Survey Report (May 2022)) [DOC 14]. However, it advises that the GCN Conservation Plan requires further amendment, which could be achieved by means of a suitable condition requiring an updated plan be submitted for approval prior to development commencing.
170. In relation to Dormice, NRW notes that no records were returned from the desk study but considers that the site offers good arboreal connectivity, a variety of food and nesting resources for the species and notes that it is located within the known range for dormice in Wales. It welcomes that there would be a 5m buffer between the development and hedgerows along with a conservative approach to any lighting. It considers that the proposed development is unlikely to be detrimental to dormice, subject to the submission of a Dormouse Conservation Plan and a Lighting Plan for approval, both of which could be secured by its suggested conditions.
171. With regard to Bats, NRW welcomed that, following its pre-application advice, further bat surveys were undertaken in the late summer and autumn of 2021. It notes that while the surveys did not find evidence of Greater Horseshoe bats, they did identify that Lesser Horseshoe bats were using the site. NRW welcomes that no trees with potential roost features would be affected by the proposed development and that field boundaries, such as hedgerows, would be largely retained, as these provide valuable habitat for Lesser Horseshoe bats from the nearby Usk Bat Sites SAC. It also welcomes the conservative approach to lighting and notes that a Bat Conservation Plan is included at Appendix E to the EclA [DOC 11]. It agrees with the applicant's EclA that there is unlikely to be a significant effect on the Lesser Horseshoe bat featured of the Usk Bat Sites SAC, subject to the application of the Lighting Plan condition already referred to.
172. In relation to Otters, while NRW notes that no evidence of otters was recorded onsite during the field survey and it is unlikely that the site would support natal use by otters, it also noted that otters may occasionally use the drain along the northern boundary of the

site. Furthermore, this drain/ditch would not be beyond the range of otters comprising the otter notified feature of the River Usk SAC. Although NRW considers that the proposed development would be unlikely to have a significant effect on the otter feature of the River Usk SAC, it advises that appropriate mitigation measures should be implemented during the construction and operational phases to ensure that otters could continue to move safely along the ditch and not be otherwise affected by the works by, for example, becoming trapped in excavations or adversely affected by artificial light.

173. NRW also states that pre-construction surveys relating to GCN, bats, dormice and otters, are usually recommended as a matter of good practice to assess any changes in the ecological circumstances immediately prior to development works commencing. Such surveys are particularly necessary if a period of time has lapsed since the pre-application surveys were undertaken such that they have become out of date (although it has since suggested that these may not be necessary).
174. Returning to the River Usk SAC, NRW advises that, noting the contents of paragraphs 8.32-8.37 of the EclA and the adopted design principles referred to in section 2.5 of the EDS (now 3.5 of the latest version) and subject to appropriate conditions, it is satisfied that there should be no effect on the River Usk SAC otter feature.
175. NRW notes the amendments made to the updated OCEMP (May 2022) [DOC 21] and considers that the pollution best practice measures listed appear to be adequate to prevent contaminants entering nearby watercourses.
176. NRW agrees with the conclusion of the SHRA that the proposed development would be unlikely to have an adverse effect on the integrity of the Usk Bat Sites SAC or the River Usk SAC, subject to:
 - A lighting plan.
 - Pre-construction checks for otter resting places in the ditch along the northern boundary of the application site.
 - Excavations will be covered securely during construction.
 - 7m buffer between development works and the Ffrwd Brook.
 - 2m buffer to all field drains.
 - Standard best practice pollution prevention measures will be implemented.
177. With regard to HRA, the application site is hydrologically linked to the River Usk SAC via the Ffrwd Brook tributary.
178. In relation to pollution prevention, NRW advises that an appropriately worded CEMP condition (it has supplied a draft condition) could be a way to mitigate potential adverse effects from construction. It suggests that an appropriate assessment would need to be undertaken with the condition cited as means to avoid any identified adverse impacts.
179. In relation to Otter as a qualifying feature of the River Usk SAC, NRW notes the mitigation measures for otters within the application. It advises that an appropriate assessment would need to be undertaken, with these measures conditioned and cited as a means to avoid identified adverse impacts on otters. Therefore, according to NRW, conditions relating to a lighting plan for otter and pre-construction checks for signs of otter resting places in the ditch along the northern boundary could be used to show that there would be no adverse impacts on otters of the SAC, when carrying out the appropriate assessment.
180. With regard to the Usk Bat Sites SAC, NRW advises that there is unlikely to be a significant effect on the Lesser Horseshoe bat feature of the SAC, subject to the application of its suggested lighting plan condition.

181. With regard to effects on landscape, concerns were expressed by NRW in its pre-application response about potential impacts on the Brecon Beacons National Park. Consequently, NRW suggested further mitigation in the form of planting. It now notes that plans have been updated to take account of its previous advice with regard to additional planting and large-growing species. It therefore considers that the proposed landscaping would be acceptable in relation to impacts on the BBNP.

Other representations/interested parties

182. A local community action group, HUSTLE, objects to the proposal on a range of grounds [REP059 HUSTLE objections] including, in summary, in relation to:

- Use of BMVAL and associated concerns about future food security;
- Effects on the character, appearance and scenic value of the rural landscape, as detailed in HUSTLE's submitted Landscape Character & Visual Impact Assessment (LCVIA) [REP059];
- Flood risk; and
- Lack of Community Benefit.

183. HUSTLE was subsequently invited to and attended both Hearing sessions.

184. In addition, there were over 150 other representations from local residents, members of the public and visitors to the area, with the majority objecting to the proposed development on a number of grounds. Letters the local MP and Senedd Member were also received. In summary, concerns include:

- the effect on the unspoilt rural character and appearance of the area, especially given the scale of the development, the gradients of the site and views from nearby elevated public vantage points and residential properties;
- the use and potential loss of BMVAL, a finite resource, suitable for growing arable crops with an associated negative impact on food security, the importance of which has been mostly recently illustrated by the effects of the crisis in Ukraine;
- the use of prime agricultural land in the open countryside when brownfield sites would be more appropriate for such developments;
- negative effects on wildlife and biodiversity;
- disruption on local roads with potential highway safety issues;
- the efficiency of solar power in Wales because of the nature of the climate and its carbon footprint, when compared with other forms of renewable energy technologies;
- whether it would be possible for the land to be returned to agriculture, with its soil quality unaffected, after a period of 40 years and taking account of the effects of construction and decommissioning;
- effects on heritage assets, including the grade II* listed 'Great House';
- negative effects on tourism and PROW;
- increased surface water flooding in the area and potential pollution;
- a reduction in property values in the area;
- effects on aircraft pilots engaged in low-flying military training exercises over the area;
- whether it would set a precedent, if approved, for further solar developments in the area;

- effects on views from nearby dwellings;
- the lack of local benefits;
- the long-term financial stability of the developer and ability to decommission the development; and
- the allegedly inadequate nature of the pre-application consultation exercise carried out by the applicant.

185. Supporters of the proposal:

- refer to the clear need for renewable energy projects, brought into stark relief by the war in Ukraine and the nation's reliance on Russian fossil fuels;
- cite the contribution it would make towards WG renewable energy targets;
- point out that the land could continue in agricultural use with sheep able to graze underneath and around the solar panels;
- see no reason why the land could not be effectively returned to full agricultural use at the end of the 40-year duration of the development;
- maintain that biodiversity on the land would be improved;
- contend that water run-off from the panels would not significantly increase existing surface water run-off from the land;
- refer to a proposed Community Benefit Fund contribution of £74,000;
- Draw attention to the limited visual impact of a nearby solar farm at Manor Farm, Llanvapley; and
- stress the importance of helping the farming industry to diversify and remain financially viable during challenging times.

Matters Not in Dispute Between the Main Parties

186. Although no completed statements of common ground have been submitted, there appears to be broad agreement between the main parties in respect of the principle of development; transport and highway safety; ecology; heritage assets; residential amenity including with regard to noise, disturbance and glint and glare; flood risk and drainage; PROW; and, social, environmental and economic effects.

Appraisal

187. The main considerations are:

- The effect on the landscape character and visual amenity of the area;
- Whether the development would result in a loss of BMVAL;
- The effect on heritage assets;
- The effect on ecology, particularly the special features of the designated SACs, SSSIs and SINCs and protected species;
- The effect on highway safety;
- Whether the development is acceptable in terms of flood risk and drainage;
- The impact on residential amenity; and
- The benefits of the proposal.

Landscape Character and Visual Amenity

188. Together, FW Policies 17 and 18 strongly support the principle of development renewable and low carbon energy from all technologies and at all scales to meet Wales' future energy needs. While they do not preclude large-scale solar developments in the countryside (outside of National Parks and Areas of Outstanding Natural Beauty), they do specify that, among other things, such proposals should demonstrate that they would not have unacceptable adverse impacts on the environment, surrounding landscapes or, visually, upon nearby communities and individual dwellings. That is consistent with PPW which advises that all the landscapes of Wales are valued for their intrinsic contribution to a sense of place and that their distinctive character and special qualities should be protected [paragraph 6.3.3].
189. As already indicated, the application was accompanied by an LVA, which was undertaken in consultation with MCC, BBNP and NRW. It is informed by a ZTV and some 15 representative viewpoints, together with several photomontages to help to visualise the proposed development in the landscape.
190. While GFCC and some local residents refer to an absence of consultation regarding viewpoints, the applicant submitted at the hearing that the viewpoints used to assess and illustrate the LVA were selected in consultation with MCC, were included in the pre-application consultation documents and that no other viewpoints were suggested by GFCC or other consultees at the time. Be that as it may, additional viewpoints (as referred to below) have since been suggested by MCC, GFCC and others, many of which I viewed during my site visit.
191. The LVA assesses landscape and visual effects during the construction, operational and decommissioning phases over the 40-year lifespan of the development. Given that the construction and decommissioning phases are likely to be relatively short, I consider that it is reasonable to focus here mainly on the effects during the operational period.
192. I note that MCC considers that the proposal would have unacceptable adverse effects on landscape and from a significant visual intrusion. Those views are endorsed by GFCC, CPRW (Monmouthshire Branch), a local residents' group (HUSTLE) and in numerous representations from local residents and visitors to the area, although others take a different view. Hustle submitted a Landscape Character and Visual Impact Assessment (LCVIA) [REP059], which considered the scheme before its variation and found that it would have a substantial adverse visual impact and a major adverse effect on landscape character.
193. While the applicant's LVA and an objector's LCVIA reach different conclusions about the degree of landscape change and its effects, the Guidelines for Landscape and Visual Impact Assessment (3rd editions, April 2013), acknowledge that such reports inherently involve a professional subjective judgement, albeit generally framed within a stated but self-developed objective methodology. Therefore, differences of opinion between landscape professionals in relation to the same project are not necessarily surprising. Although, I acknowledge and have carefully considered the content of both assessments, I have reached my own conclusions based on the written submissions, oral evidence given at the Hearing session and observations made during my site visit.

Landscape Character

194. The application site comprises 14 agricultural fields delineated by hedgerows and individual trees over an undulating landscape, ranging from about 61m to 140m AOD, with the higher areas found in the western part. A line of electricity pylons crosses the site from roughly north to south. The site is set within a wider, predominantly settled, rolling rural valley landscape of fields with some pockets of mixed woodland. The A40

and the River Usk are located about a kilometre to the south with hills and upland areas of predominantly open moorland to the west and southwest, including the Bloreng at 552m AOD within the Brecon Beacons National Park (BBNP).

195. The site is not located within a statutorily protected landscape designation of national importance, such as a National Park or an Area of Outstanding Natural Beauty. However, it does lie within National Landscape Character Area (NLCA) 31 Central Monmouthshire and two local Landscape Character Areas (LCAs), with the western part within LCA 53: Northern Hills Upper Tamar and Ottery Valleys and the eastern part within LCA 39: Raglan Hinterland. MCC has assessed the scheme through the lens of the Monmouthshire Landscape Study (2001), which identifies key qualities of the LCAs, as supplemented by LANDMAP information. LCA 53 comprises a domesticated open farmland of undulating hills and valleys that is representative of the Monmouthshire landscape and is characterised by its unspoilt nature comprising settlements limited to small linear hamlets and scattered farmsteads and houses connected by a network of narrow winding roads. Similarly, key qualities of LCA 39 are stated as including its gently rolling, domesticated, mixed arable and pastoral lowland, which is generally unspoilt with little new development. The applicant's LVA considers judging their susceptibility and value, the overall sensitivity of these LCAs to be high. MCC takes a largely similar view of that baseline, as does the LCVIA submitted by HUSTLE.
196. Having established the landscape baseline, the applicant's LVA considers that, during the operational period, the proposed development would initially have a moderate adverse landscape effect on the characteristics of the application site. As proposed mitigation planting would help to screen the lower elevations of the proposed development, the LVA finds that from the medium term (5 years onwards) the landscape effect would reduce to moderate/minor adverse as the hedgerow and trees mature.
197. The LVA acknowledges that the proposed development would directly affect LCA 53 and LCA 39, as it comprises a solar farm on the 70.17ha site but with only c.31.83ha under solar arrays and associated infrastructure (fenced areas and tracks between). It considers that the magnitude of change would be medium locally and that this would result in a localised direct moderate adverse landscape effect within c. 2km of the site, reducing in the medium to long term to moderate/minor adverse with a minor adverse effect across the wider extent of these landscapes.
198. In contrast, MCC considers that, notwithstanding the reduction the scheme with solar arrays no longer proposed for fields 8 and 11, the change of character from an agricultural and pastoral rural landscape to a solar farm would have an adverse effect on the landscape's unspoilt quality. That view is supported by GFCC, CPRW and HUSTLE's LCVIA, which considers that the proposed development would have a major adverse effect upon the landscape character. While the generally the generally unspoilt nature of the rural landscape is acknowledged, there are two lines of pylons in the area, including one crossing the site, while the A40 road lies less than 1km to the south of the site.
199. The applicant has drawn my attention the nearby Manor Farm Solar Farm (also located in LCA53) which was approved on appeal in October 2014 (APP/E6840/A/14/2212987) [2022-05-27 APP EXINFO APPEAL_DECISION], In particular, the applicant notes that the Inspector concluded that the proposed development would not have an unacceptable adverse effect on the character of the wider landscape or the visual amenity of the area and that by retaining existing field boundary hedges, it would incorporate traditional landscape patterns, while screening by topographical features, hedges and trees meant that it would be sympathetically sited within the landscape and satisfactorily assimilated into it (paragraph 28). At the hearing it was suggested that the

topography of solar farm at Manor Farm differed from the application site. However, the applicant maintained that the AOD levels were not dissimilar.

200. Similarly, in this application, although the internal character of the agricultural fields under solar arrays within the application site would change, as acknowledged in the LVA, the field pattern and landform would remain largely unaltered, with existing field hedgerow boundaries mostly retained and enhanced by additional mitigation planting. While, again as accepted in the LVA, such planting would do less to screen areas at higher elevations, the solar arrays are mainly proposed on the lower slopes of the site, within the existing field pattern, and are grouped in three distinct and discrete areas of the site which would mitigate effects on the landscape.
201. With regard to designated landscapes, BBNP and Blaenavon Industrial World Heritage Site (BILWHS) are located over c.3km to the north and west. While the proposed development would indirectly affect a small eastern part of the BBNP and the Blaenavon Industrial World Heritage Site (BILWHS), the LVA assesses the effects as minor adverse to no change effect during operations. I note that NRW considers the scheme to be acceptable in terms of potential landscape effects on the BBNP, while BBNPA agrees that it is unlikely that the special qualities of the BBNP and the outstanding value of the BILWHS would be compromised. I see no persuasive reason to disagree with those assessments.
202. Mitigation measures are also proposed to reduce potential effects on the landscape, which include retention of existing trees and hedgerows, as far as is practicable, and new trees along sections of the north-western and south-western boundaries, with hedgerows and infill planting along other boundaries to help screen inward views and provide additional biodiversity opportunities. Once established over time these measures, which could be secured by condition, should reinforce existing field boundaries and reduce landscape harm. Moreover, much of the site would continue in agricultural use.
203. Given the above factors, I conclude that in the medium to long term (between year 5-40) the proposed development would result in, at most, a moderate adverse effect on landscape character experienced locally within c.2km of the site, which should reduce over time, as mitigation planting becomes more established. There would be lesser effects across the wider extents of the LCAs. That is broadly in accord with the findings of the applicant's LVA. Similarly, the LANDMAP aspect areas would be subject to minor adverse effects at worst. I am also conscious that, although the proposed development would have a significant 40-year lifespan, ultimately it would be temporary and reversible.

Cumulative Effects on Landscape Character

204. In terms of cumulative landscape effects, MCC refers to the effect of the scheme when considered in combination with the existing pylons that cross the site. However, cumulative impacts are normally understood as effects of a proposed development when considered in combination with other existing or consented similar development in the area. Indeed, LDP Policy SD1 – Renewable Energy and FW Policy 18 endorses that approach indicated that cumulative impacts will be an important consideration '*where there are other renewable energy schemes currently operating in the area.*'
205. The 24ha solar farm at Manor Farm to the north-east is about 4.5km away from the proposed development while there is also a small wind turbine (17.7m to tip) at Main Farm House, c.3.5km northwest of the site. The applicant's LVA advises that there would be sufficient distance between the two solar developments to prevent them becoming a key characteristic of the landscape. Moreover, the proposed development would not be seen in combined, sequential or successive views from within LCA 53, as

a result of the distance, and screening from intervening landforms and vegetation. That is supported by the fact that Manor Solar Farm is outside the ZTV, illustrated in Figure 7 of the LVA. The applicant advised in its hearing statement that it is not aware of any subsequent submitted applications for solar farm or wind turbine developments in the immediate area. Overall, therefore, I conclude that any cumulative adverse landscape effects would be minor.

Visual Effects

206. As the ZTV (Appendix A, Figure 7 of the LVA) was based on 'bare earth' topography, it illustrates a 'worst-case' scenario. That is because it does not take account of potential screening resulting from the undulating nature of the landscape and vegetation in the surrounding area. The ZTV indicates theoretical visibility is largely focused within 2km, with ZTV coverage indicated beyond 2km from lower and elevated areas to the east, south and west.
207. The 15 public viewpoints within the LVA, informed by the ZTV, include views from PROW and roads and country lanes at short, medium and long distances from the site. There would be views from some of the nearest residential properties and passing views from recreational routes and minor roads. Longer distance elevated views from the southwest and west within the BBNP and the BILWHS views would, according to the LVA, be largely limited to a small part of the overall development, due to the undulations in the landform and intervening vegetation, although there would be some views of its higher elevations from longer distances to the south, southeast and southwest.
208. The LVA identifies the magnitude of change to be high with major/moderate adverse visual effects during the operational period at Viewpoint 1 (a PROW within the site, not far south of The Great House) and at Viewpoint 2, (a minor road/PROW on the south-eastern boundary of the site). The LCVIA submitted by HUSTLE, refers to major adverse visual effects on nearby public rights of way. While I note those assessments, I am also conscious that users of the PROW and other public routes in the area, including minor roads, are generally likely to be passing through or near the site as part of a longer journey. Therefore, such views would be transient and unlikely to deter users, including tourists.
209. Medium change and moderate adverse visual effects during the operational period are identified from recreational routes and residential receptors represented by Viewpoint 3 (to the northwest), and Viewpoints 5 and 6 (to the north, north-east) within 2km of the site. Beyond a distance of c.2km, where the proposed development is evident in views, the LVA considers that visual effects largely reduce to minor adverse, which includes effects experienced from The Blourenge some 5.8km to the west (Viewpoints 14 and 15).
210. In its submissions on the varied scheme and at the Hearing, MCC accepted that the development's three relatively discrete areas of solar arrays would not be seen together from most vantage points. However, and notwithstanding the removal of two fields of solar arrays in the varied scheme, MCC remained concerned about the scale of the development and adverse visual effects associated with the change from an unspoilt rural landscape to a semi-industrial solar development.
211. While I note the concerns of MCC and others about the change in the appearance of the parts of the site from agricultural fields to a solar farm, including in views from public vantage points and from some residential properties in the locality, the national policy position, as expressed in FW Policies 17 and 18, does not preclude renewable energy projects from the countryside (outside of National Parks and AONB) per se. Rather the tests are, amongst others, that proposals should demonstrate that they would not have an unacceptable adverse impact on the environment or the surrounding landscape and

have no 'unacceptable' adverse visual impacts on nearby communities or individual dwellings, while cumulative impacts of existing and consented renewable energy schemes should also be considered.

212. As I observed during my site visit, many of the country lanes in the undulating rural landscape surrounding the site, have high, dense hedges on either side. Therefore, while these roads are said to be used by walkers and cyclists, views toward the proposed development would be largely intermittent, glimpsed and passing, even taking account of loss of leaves during the winter months. Views would often be confined to openings in the hedgerow, such as over farm gates at field entrances. I note that the applicant's LVA and hearing statement advises that views from many residential properties would be limited by garden boundary treatments.
213. In its LIR, MCC expressed concern that given the proposed areas of fencing, PROW within the site could become enclosed which may detract from user enjoyment. It suggested a condition to ensure that any fence or hedge lines enclosing public paths within the site be a minimum of 3m apart, which has been accepted with minor modification by the applicant.
214. I note that the LIR considers that, subject to above condition, the development would have neutral effect on PROW. While there would be some significant visual impacts, especially at close range from the ORPA and PROW crossing the site and those nearby, given the views would be passing, I consider that, overall, the effects would not be unacceptable. Therefore, I do not consider that the proposal would significantly breach LDP policy MV1, which seeks to protect the visual amenity of PROW.
215. MCC expressed concern that rising parts of the site would be visible from higher elevations within 1-1.5km of the site. MCC has latterly referred to visibility from additional vantage points to the east, including from the lane south of Mouth Pleasant Farm, and to the north at Ffawydden Cottage. CPRW, GFCC and HUSTLE and local residents have also referred to views from those or similar vantage points.
216. In particular, MCC maintains that from the lane south of Mount Pleasant Farm, there are east to west length views of fields 1-4, which form the northernmost of the three areas of solar arrays within the site. It considers Field 2, elevating from 110m AOD to 130m AOD as prominent in the landscape from that vantage point and from Viewpoint 5 (within the LVA), as well as from the lane near Ffawydden Cottage further to the north, where fields 3 and 4 are also visible. While I appreciate those concerns, the proposed layout responds to the prevailing landform with solar arrays predominantly sited on lower slopes of fields. With regard to Field 2, the solar arrays would be restricted to its lower slopes and occupy approximately half of the field, which would limit the visual effects.
217. I viewed the site from the lane south of Mount Pleasant Farm, LVA Viewpoint 5, and from near Ffawydden Cottage, along with a range of vantage points referred to in the LVA and by MCC and other parties.
218. The road leading towards Mount Pleasant Farm and scattered houses to the east of the site is hedged on either side, with views toward the site largely limited to over farm gates or other breaks in the hedge. I note that HUSTLE's LCVIA considers that, from a viewpoint further along the same road near Trewarren to the north-east of the site, the proposed development would result in a moderate degree of deterioration in views and an intermediate adverse effect. Based on my site visit, I agree that there would be a moderate adverse visual effect on the intermittent views obtainable and nearby residential properties.
219. With regard to LVA Viewpoint 5, about 0.7km to the north of the site, the proposed development would introduce a renewable energy feature within the middle distance.

However, the view would be partly foreshortened by landform, while the solar arrays would be partially screened by vegetation and be backdropped by rising land within the site without solar panels. In relation to Field 4, the dense tree cover, even allowing for leaf fall during the winter months, would offer only filtered and limited views. The LVA acknowledges that proposed mitigation measures, including reinstating hedgerow and additional planting, would do little to screen those limited parts of the development that remain visible on the upper slopes. Nevertheless, given that context, I do not consider that the proposed would appear particularly prominent during the operational phase.

220. I note that Viewpoint 7 within the LCVIA submitted by HUSTLE is from roughly the same location as Viewpoint 5 in the LVA. The LCVIA considers that the magnitude of change would be high and have a major adverse visual effect. However, the analysis and explanation in the LCVIA is less extensive and detailed than that contained in the applicant's LVA, as detailed above. Based on my own observations onsite, I broadly concur with the conclusions of the applicant's LVA with regard to that viewpoint. It indicates that, during the operational period, there would be a medium scale of change experienced locally and a moderate adverse visual effect, albeit there would be greater negative effects during the temporary construction and decommissioning phases.
221. With regard to near Ffawydden Cottage, further north and at a higher elevation than Viewpoint 5, there would be slightly greater visibility of some of the lower fields and slopes of the development, which would have solar arrays, but the views would be relatively distant. Moreover, looking south towards the site, a number of the fields across the ridge, would either not contain any solar arrays or have them sited on the lower elevations of the fields, reducing their prominence in views of the wider landscape. Indeed, the existing pylons crossing the site roughly north to south would, in my opinion, be likely to appear more prominent.
222. Another parcel of land containing solar arrays is on the southern slopes of the western part of the site. The land slopes down from north to south and the layout restricts the solar arrays to lower slopes, which MCC accepts would be partially obscured by existing tree cover and be less intervisible with identified receptor locations. There would be some views from PROW and an ORPA that runs through the site, albeit parts of the ORPA form a sunken lane lined by trees which limits outward views. The LVA considers from Viewpoint 1, a PROW near the Great House, that the proposed development would, given its proximity, have a major/moderate adverse visual effect during its operational years. Similarly, from viewpoint 2 along a minor road and public footpath to the south-east (which leads towards the site) to the south-east, there would be a major/moderate adverse visual effect during the operational lifetime of the development.
223. With regard to Viewpoints 1 and 2, given the proximity of view and position of the arrays, they will remain visible. However, mitigation measures including additional hedgerow and infill planning will strengthen field boundaries reinforcing the existing field system character and helping to screen some views lower elevations. While adverse visual effects would remain, they would be reversible at the end of proposed lifespan of the development.
224. Therefore, there would be moderate adverse visual effects during the operational phase from some vantage points within about 1km of the site boundary, with major/moderate adverse effects in some close-range views. Beyond c. 2km effects would largely reduce to minor adverse.
225. Overall, I conclude that there would be a localised moderate adverse visual effect.

Cumulative Visual Effects

226. In relation to cumulative visual effects, as referred to above, there is an existing solar farm, at Manor Farm near the village of Llanvapley, about 4.5km away from the application site and a single micro-wind turbine (17.7m to the tip) at Main Farm House. Given the distances between those existing developments and the proposed development and intervening landforms and vegetation, it is unlikely that they would be experienced in any cumulative visual interactions. Even if one considered interaction with the existing pylon lines on and beyond the site, the cumulative visual change would be low and the effects, at most, minor adverse.
227. MCC expressed concern at the hearing about the effect that allowing the development could have on similar future developments in the area. However, while the applicant advises that some screening opinions have been issued and scoping requests submitted for solar and other renewable energy schemes, they appear to be a good distance from the application site. In any event, all such applications would be judged on their own merits and any cumulative impacts considered when any such future applications were determined. Therefore, that concern has little relevance to the consideration of the current proposal.

Overall Conclusions on Landscape Character and Visual Effects

228. For the reasons given above, I conclude that the proposed development would have localised adverse effects on landscape character and visual appearance, reducing over time as proposed planting becomes established. However, in terms of LDP policies SD1 - Renewable Energy, LC1 - New Built Development in the Open Countryside and LC5 – Protection and Enhancement of Landscape Character, the degree of harm would not amount to the ‘unacceptable’ adverse impacts or ‘significant visual intrusion’ referred to in those policies.
229. Moreover, it is FW, the national development plan for Wales, which sets out WG’s principal policies for the determination of renewable energy schemes of 10MW and more under the Developments of National Significance procedure. While there would be some negative landscape and visual effects, in terms of FW Policies 17 and 18, the proposed development would not amount to unacceptable visual or other adverse impacts on the environment or the surrounding landscape, including with regard to the setting of the BBNP. Therefore, the proposal would comply with those aspects of the most directly relevant national policies.

Best and Most Versatile Agricultural Land (BMVAL)

230. PPW paragraph 3.58 explains that agricultural land of grades 1, 2 and 3a is the best and most versatile, and should be conserved as a finite resource for the future. Paragraph 3.59 advises that when considering the search sequence considerable weight should be given to protecting such land from development. Furthermore, that land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.
231. TAN 6 contains further guidance relevant to BMVAL, suggesting that once agricultural land is developed, even for ‘soft’ uses such as golf courses, its return to agriculture as BMVAL is seldom practicable.
232. In a letter to Chief Planning Officers, dated 1 March 2022, the Minister for Climate Change confirmed that, in accordance with WG policy, including PPW, where BMVAL is

identified within a proposed solar PV array development, considerable weight should be given to protecting such land from development, because of its special importance, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. Furthermore, that WGDC will object to the loss of BMVAL in solar PV array applications that come before it unless other significant material considerations outweigh the need to protect such land in accordance with WG Government policy and guidance.

233. PPW does not prohibit development on BMVAL. Rather, it indicates that considerable weight should be given to protecting it from development, because of its special importance and that it should only be developed if there is an overriding need for the development and previously developed or lower grade land is unavailable.
234. While I have noted that there appear to be some discrepancies in figures relating to the amounts of land involved between various documents, the discrepancies are relatively minor and, therefore, do not affect my findings.
235. According to the applicant's Agricultural Use and Land Quality Survey (DOC 06) (AULQS), about 32.1ha of the site comprises BMVAL, mostly Grade 3a with a smaller area of Grade 2. WGDC's Soil & Agricultural Land Use Planning Unit, questioned the practicality of farming some of the BMVAL land in fields 1, 4, 5 and 6 to its full potential and, therefore, considered that about c.25ha of the total BMVAL was subject to the protection offered by PPW paragraphs 3.58 and 3.59.
236. WGDC initially lodged a conditional objection to be withdrawn if 4 fields (8, 9, 10 and 11), which contained the main area of contiguous BMVAL, were removed from the proposed development. It advised that it would leave consideration of policy compliance for the smaller area of BMVAL within Field 3 for the PEDW Inspector.
237. The applicant calculates that, excluding BMVAL in fields 1, 4, 5 and 6 (as discounted by WGDC), the variation to the scheme, which removes solar arrays from fields 8 and 11 containing a c.6.9ha of BMVAL, would reduce the total amount of BMVAL affected (within fields 3, 9, and 10) to approximately 16.8ha.
238. Following the variation, WGDC advised, in a letter withdrawing its objection that: *'...based on the additional information provided, the DCC has decided to withdraw its formal objection to the Application. This is primarily due to the specific characteristics of the Application, including the volume of BMVAL adjacent to the length of the connection assessment area and other nationally recognised designations such as the National Park. The DCC is therefore satisfied that, on the specific facts of the Application as amended by the additional information provided in May 2022, that [sic] the Application is policy compliant with PPW 3.58 & 3.59.'* [2022-07-15 REPS2 014 DCC].
239. The WGDC letter withdrawing its objection was accompanied by a report (the DCC Report) from an agricultural soil expert. The letter and report question various aspects of applicant's submissions including elements of the applicant's soil expert's report ['Response to Inspector's Request for Further Information: Best and Most Versatile Agricultural Land' (DOC 30) (the BMVAL Report)].
240. While I note WGDC's various continuing concerns, including in relation to the alleged 'loss' of 'any' BMVAL, the essential fact remains that WGDC, in its capacity as the relevant specialist consultee, has withdrawn its objection and expressly stated that, in its view, the proposal is policy compliant with PPW paragraphs 3.58 and 3.59 which seek to protect BMVAL. Moreover, given it had indicated that it did not intend to attend the proposed hearing, its additional submissions could not be tested.

241. I also note MCC's LIR indicates a 'neutral effect' in respect to BMVAL, although other interested parties have continued to object to the proposed use of BMVAL within the site.

Site Selection, Study Area and consideration of Alternative Sites

242. PPW advises, at paragraph 5.9.21, that prior to an application being submitted, developers for renewable and low carbon energy developments should, wherever possible, consider how to avoid, or otherwise minimise, adverse impacts through careful consideration of location, scale, design and other measures. However, PPW does not provide detailed guidance on how a search area for such developments should be defined or how potential sites should be selected.

243. The application was accompanied by an ASSR [DOC 05], which was updated in May 2022, in response to comments made during the consultation period, the regulation 15(2) request for further information and to reflect the changes in the variation to the proposed development. The applicant submits that it has given weight to the protection of BMVAL through all stages of the process, from site selection to the various iterations of the proposal to the current varied scheme, as detailed in the ASSR.

244. The updated ASSR reviews various renewable energy site search methodologies, toolkits and guidance, published by WG, MCC and others, noting that they refer to environmental and technical constraints, including the importance of the availability of a suitable electricity grid connection, which can be a major limiting fact for DNS-scale renewable energy projects.

245. Given that context, it is reasonable that the applicant treated the availability of a viable grid connection with capacity as the starting point for the search area for potential sites as, in its absence, such a scheme could not be progressed. Through a regional study of grid connection capabilities in south-east Wales, the applicant advises that the only line where a solar energy project could feasibly be connected in this region was the 132kV line which runs north to south between Abergavenny and Pontypool North, which importantly runs outside of the BBNP where large-scale wind and solar developments are precluded by FW Policy 17. I note that, in its initial consultation response, dated 31 March 2022, WGDCC accepted the arguments made by the applicant for the selection of that 132kV power line [REP109].

246. The applicant advises that, as a general rule, the further the point of connection is from a development site, the less feasible providing the connection becomes. That appears logical given the costs associated with cables and their installation, the likely need for greater third-party landowner involvement, and the added environmental management and mitigation measures that may be required. The applicant submits that for a project of the capacity proposed the connection costs to a 132kV powerline would be prohibitive beyond 1km from the point of connection. Therefore, sites were considered within a 1km area.

247. WGDCC initially questioned the appropriateness of the 1km search area, referring to other DNS solar applications (DNS/3245065 and DNS/3247619) where 3km and 5km distances from the grid connection were set. However, in the updated ASSR, the applicant explains that those projects involved a 33kV connection which, due to the lower cost of both the cables and connection infrastructure, enables alternative sites from a wider area to be considered. That submission has not been disputed.

248. The ASSR advises that MCC does not keep a register of brownfield land opportunities, but that relevant development plan data and the Estates Gazette web site were reviewed but no suitable brownfield sites were available within the study area that could accommodate the development. Some representations from third parties have since

suggested otherwise but the applicant advises that no alternative sites were put forward during the statutory pre-consultation period and that, in any case, there are no such brownfield sites or sites on non-agricultural land of sufficient size i.e., over 40 hectares available.

249. Moreover, FW Policies 17 and 18 accept the principle of renewable and low carbon energy projects on greenfield sites, subject to certain criteria being met, in order to meet Wales' ambitious target of generating 70% of its electricity consumption from renewable energy by 2030. That target is re-iterated in PPW paragraph 5.7.14.
250. Informed by a WG toolkit, the ASSR assessed alternative greenfield sites within the identified 1km search area. It advises that the minimum possible area required for a viable solar farm connecting to a 132 kV powerline would be at least 40ha. The ASSR identified and assessed a total of 15 potential sites, including the application site, considering various constraints, including environmental, heritage and agricultural land classification and utilising a scoring matrix. The application site at Great House Farm was assessed as the most suitable site. The applicant maintains that the results utilising an updated methodology confirms and reinforces the findings of the original ASSR (Jan 2022), that the application is the most appropriate site within the identified search area.
251. WGDCC questions the criteria and rationale applied at tables 5.16 to 5.32 of the updated ASSR and identifies some apparent anomalies in the scoring between different sites and refers to differential scoring of constraints. However, on balance, I do not consider those to be sufficient to undermine the basic methodology or significantly affect the overall scoring. In any case, WGDCC has confirmed that it considers the proposal complies with PPW paragraph 3.59, which include reference to the 'search sequence'.
252. I have already referred to the absence of a set methodology or detailed guidance within PPW on how potential sites should be selected. In addition, I note that in the report on the Blackberry Lane application (Ref: DNS/3245065) the Inspector considered, with regard to site selection, that *'the approach to be taken is one for individual developers to determine based on the requirements of national planning policy and consideration of the relevant practical, social, economic and environmental issues.'*
253. It is also relevant, as submitted in the ASSR, that the area of the application site avoids other BMVAL outside but adjacent to the site and within the wider Great House Farm holding, as is apparent from comparing Map 2 [Appendix KCC2 to the applicant's BMVAL report] with the Site Proposals and Development Proposal plans [Figures 4 and 6], Furthermore, the scheme as varied has removed solar panels from two further fields (8 and 11), amounting to c.6.9ha of BMVAL, in response to the original concerns expressed by WGDCC and other interested parties.
254. While welcoming the removal of fields 8 and 11 from under panel, WGDCC continues, in the same letter of 15 July 2022 in which it withdrew its objection, to suggest that fields 9 and 10 should also be removed. According to the applicant, removing solar panels from fields 9 and 10 would reduce the capacity of the scheme by a further 10MW and make the project unviable. I consider that reducing the scheme further is not warranted.
255. Overall, therefore, and notwithstanding matters raised by WGDCC and other interested parties, I am satisfied that the approach taken by the application to the definition of the search area and the site selection process has been reasonable and sufficient. I am equally satisfied that, in doing so, the applicant has demonstrated that considerable weight had been afforded to protecting BMVAL from development because of its special importance, in both the search sequence and site selection.

Impact on BMVAL

256. I am cognisant that considerable weight should be given to protecting BMVAL as a valuable and finite natural resource and of the contribution that it can make to food production and security, as referred to in FW (pp 27 & 79) and PPW. I also note the relative scarcity of BMVAL in Wales as a whole, where it amounts to some 19.11% of agricultural land, according to the applicant's calculations. WGDCC advises that over 48% of Monmouthshire is considered as predictive BMVAL, making the area a nationally important resource for agriculture. In that context, the applicant submits that the 25ha considered to be at issue by WGDCC in this application would constitute only 0.07% of the BMVAL resource in Monmouthshire [paragraph 5.7, DOC 30].
257. While the overall site extends to approximately 70.17ha of agricultural land, it is understood that approximately 33ha would be retained for continued sole agricultural use, including fields 8, 11, 12, 13 and 14. No solar panels are proposed in these fields, with development limited to additional mitigation planting along field boundaries; internal access tracks; underground cable trench; and, the provision of a temporary construction compound.
258. The development would involve some 11,704 pile-driven poles (93.63m²), 1,736 deer fence posts and 25 CCTV posts (totalling 68m²), cable trenches (4,800m²), a 132kV substation (1,625m²), 9 x MV transformers (totalling 99m²), trackways (11,600m²), and a temporary construction compound (4,000m²). According to the applicant, that would amount to a total area of ground disturbed of approximately 2.23ha, which would be a relatively limited area given the size of the site and the area of BMVAL within it.
259. The application was accompanied by an Outline Soil Management Plan (OSMP) [DOC 23], an Outline Construction Environmental Management Plan (OCEMP) [DOC 21] and an Outline Decommissioning Plan (ODP) [DOC 22], which include a range of suggested measures to avoid significant harm to the soil resource during the construction, operational and decommissioning stages.
260. The OSMP sets out its aim as preserving the soil resources at the site. It identifies key threats at construction sites as trafficking of vehicles and plant and incorrect soil handling, which can damage to soil structure through compaction and smearing. It explains that this can compromise the ability of the soil to perform its functions, such as providing adequate amounts of water, air and nutrients to plant roots, while potentially increasing soil wetness. Therefore, it suggests various measures including: establishing and maintaining grass sward over the solar panel area before trafficking over by construction plant; avoiding handling of soils during periods of prolonged, heavy rainfall; no mixing of topsoil with subsoil, or of soil with other materials; and recommends that work should only take place when the topsoil is below (drier than) the plastic limit (the moisture content at which soil begins to behave as plastic material and the soil is deemed too wet to handle without causing damage to the soil structure).
261. The OCEMP advises that a network of access tracks would be installed at the beginning of the construction period, using low compaction plant, to allow access to all areas of the site on a firm surface. Ground protection matting would be used to provide additional access in the construction compound and in other areas where higher volumes of traffic are likely to converge. Other measures include the distribution of equipment to satellite points throughout the site using dual tyre tractors and/or wide track vehicles designed to limit soil compaction. Construction would primarily consist of relative low intensity activities with limited impact on the compaction of soils. Trenching is proposed to be undertaken segregating topsoil and subsoil to minimise soil damage, with excavated soils stored on geotextile fabric pending restoration of the trench. The ODP details potential methods for post removal, at the end of the lifespan of the

development, that would minimise impact on the surrounding soil. It recommends that a final decommissioning and aftercare strategy should be submitted to the relevant planning authority at the appropriate time.

262. In my view, that suite of documents demonstrates that the applicant has recognised and given considerable weight to possible effects on soils and BMVAL.
263. Although WGDCC has withdrawn its objection, it continues to express concerns about effects on BMVAL because of its 'generational loss' over 40 years and, in its view, the very real risk of 'permanent loss' due to potential damage during the construction and decommissioning phases of the development. Those concerns are shared by interested parties objecting to the proposal.
264. WGDCC's concerns are detailed in the DCC Report, which challenges various aspects of the applicant's BMVAL report. For example, the DCC Report rejects the view that damage to soils caused by poor installation practices can always be simply rectified by standard agricultural practices, especially if deep soil compaction has occurred. It also challenges the notion that solar farm construction and decommissioning activities would be equivalent to, or less impactful than, agricultural uses, which can, the report argues, themselves cause soil damage.
265. The DCC Report expresses particular concern that competing pressures on construction sites and the need to meet timetables may lead to work continuing even during wet conditions when soils could be damaged. It also suggests that while the area of immediate ground disturbance may be limited, the construction process is likely to involve a much greater proportion of the sited being trafficked, increasing the area that could be potentially subject to compaction of soils from vehicles and machinery running over it. I acknowledge that there would be potential for damage given the scale of the project and the activities involved during construction, if appropriate construction practices were not followed.
266. However, although I recognise that the likely pressures associated with solar farm construction may differ from standard agricultural operations, the concerns expressed in the DCC Report appear largely rooted in doubts about whether working practices, to protect the integrity of the soil and BMVAL, would be followed because of competing construction phase priorities. While I appreciate those concerns, the logical concomitant of that argument is that if suitable working practices were adopted and properly followed, it should be possible for significant damage to soils and BMVAL to be avoided.
267. I also note that the DCC Report includes a suggested condition requiring a Soil Management Plan (SMP) to be submitted to the local planning authority for approval prior to the commencement of development. A second suggested condition relates to the provision of a Site Monitoring and Aftercare Plan.
268. Quoting the DCC Report, the applicant agrees that development can lead to damage to soils '*where there are already poor practices in place and the right skills and experience are not available to identify both the issues and the required remedial actions*'. However, the applicant submits that the risk could be effectively managed by an SMP condition similar to that suggested in the DCC Report.
269. Although I note the continuing doubts expressed by WGDCC and its soil expert, I see no clear or compelling reason that would lead me to conclude that the type of specialist contractor required for the construction of a solar farm could not carry out construction in an appropriate and professional fashion, guided and controlled by an approved SMP and Site Monitoring and Aftercare Strategy. With regard to decommissioning, a condition has been suggested requiring a Decommissioning Environmental Management Plan, to be submitted for approval no later than 12 months before decommissioning. That would leave the precise requirements of the scheme to be

determined at the appropriate time, allowing it to take account of any technological advancements.

270. MCC has agreed, in principle, to such conditions and, as indicated above, considered in its LIR that, due to the suggested reversibility and limited timescale of the development, the proposal would not result in the permanent loss of this land and, as such, would have a neutral impact on BMVAL.
271. Taking all of these factors into account, I am satisfied that the construction and decommissioning details and practices necessary to minimise the risk of significant damage to soils, and possible permanent loss of BMVAL, could be delivered and secured by means of suitable conditions.
272. There is no suggestion that significant harm to soils would be caused during the operational phase of the solar farm. During that phase activity should largely be limited to grassland management using agricultural machinery and periodic cleaning of the solar panels using a tractor with a washing facility.
273. While the applicant maintains that the intention is that the farm business would continue with sheep grazing the land around the panels, its BMVAL Report accepts that the flexibility for different farming uses would inevitably be affected. That would include the cultivation of food crops during the lifetime of the development over the parts of the site with solar panels. Therefore, I accept that there would be some loss of ability to use the 16.8ha of BMVAL under panel to its full potential over the lifetime of the development, which needs to be weighed in the balance.
274. I am mindful of the guidance contained in paragraph 6.22 of TAN 6, which advises that that once agricultural land is developed, even for soft uses such as golf courses, its return to BMVAL is seldom practicable. I also note that the applicant points out that the guidance, published in 2010, was provided at a time which pre-dates the emergence of large-scale solar schemes in the countryside.
275. Overall, because the proposal would be temporary and conditions would ensure that it should not degrade the quality of the land over its lifetime, I am satisfied that it would not result in significant permanent or irreversible loss of BMVAL. Consequently, in this particular case and based on the detailed evidence before me, I do not consider that the generalised guidance contained in paragraph 6.2.2 of TAN 6, which is not specific to solar farm developments, would be offended.
276. Although having withdrawn its objection, WGDCC continues to draw my attention to the Minister's Decision and Inspector's Report relating to Blackberry Lane (DNS/3245065). That concerned a proposed solar farm on a 34.25ha site with 27.75ha comprising BMVAL. In that case, the Inspector was not persuaded, on the evidence presented, that following decommissioning the land could be restored to BMVAL quality and that it would not be lost for future arable food production. Consequently, the Inspector considered that there would be policy conflict with FW Policy 18, PPW and TAN 6. The Minister agreed with the Inspector's appraisal and refused planning permission.
277. While I recognise the importance of consistency in public decision making and note that there are similarities between the Blackberry Lane proposal and this application, there are also significant differences. In particular, this application is for a 32MW scheme, some 10MW more than the 22MW Blackberry Lane proposal. That 10MW difference would equate to powering approximately 2,500 homes, with this 32MW proposal potentially powering some 8,093 homes while offsetting around 14,080 tonnes of carbon emissions each year. That would form a significant contribution towards Wales' target of 70% of electricity consumption to be from renewable energy by 2030, a relatively short time away. Moreover, the amount of BMVAL potentially directly affected by the proposed development in this application, at approximately 16.8ha within a c.70ha site,

is significantly less than the amount and percentage (relative to site area) involved in the Blackberry Lane proposal. The revised layout of the proposed development demonstrates that BMVAL has been avoided, as far as possible, taking into account the nature of the site, levels of predicated BMVAL in the surrounding area and the unavailability of land in lower agricultural grades.

278. My attention has also been drawn by the applicant to the recently completed A487 Caernarfon and Bontnewydd Bypass scheme in North Wales. The applicant advises that the Examination Report identifies how the new road would result in the loss of c.33ha of BMVAL and that an additional 48.7ha would be temporarily lost due to construction. The Inspector notes how mitigation measures put in place by the applicant (WG) would ensure that agriculture land that would be temporarily lost due to construction would not be compromised in the long term. The applicant maintains that the construction impacts of a solar farm are significantly less in comparison to the construction of a new road. However, I have limited details of that case or when it was decided. In any event, all applications should be considered on their individual merits and site-specific characteristics, which is the approach I have taken.

Overriding Need

279. PPW paragraph 3.59 indicates that BMVAL should only be developed if there is an 'overriding need' for the development and that previously developed land or lower grade agricultural land is unavailable. Site selection and the lack of availability of suitable or sufficient previously developed land or lower grade agricultural land has been considered above. Turning to the phrase 'overriding need', its meaning is not defined or explained in planning policy or guidance. National development plan policy in the form of FW Policy 17 indicates that in determining planning applications for renewable and low carbon energy development, decision-makers must give 'significant weight' to the need to meet Wales' international commitments and target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.
280. Similarly, PPW indicates, at paragraph 5.7.7, that the benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, are of 'paramount' importance and that the continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. It also advises that the planning system should maximise renewable and low carbon energy generation.
281. In that policy context, I consider that the significant contribution that the proposed development would make to renewable energy is capable of constituting an overriding need, relative to the amount of BMVAL involved at c.16.8ha.
282. I note that a map associated with FW Policy 9 – Resilient Ecological Networks and Green Infrastructure, identifies BMVAL as a national natural resource and that the policy supporting text refers to the sustainable management of natural resources. WGDCC also cites WG's Natural Resources Policy (2017) which indicates that: *'To build resilience into our ecosystems we need to: ... better manage our soil and safeguard our best and most versatile agricultural land to improve soil quality, productive capacity and its resilience to degradation.'* However, I have already found that the temporary and reversible nature of the development and the reduced amount of BMVAL directly affected by the scheme would accord with the national policy to conserve BMVAL for the future. Indeed, ultimately, given the particular circumstances, WGDCC agreed that the proposal is compliant with relevant national policy.
283. As indicated above, a decision was issued by Welsh Ministers, dated 14 September 2022, refusing planning permission for a solar development on Land at Gwernigrion

Farm, The Roe, St Asaph, Denbighshire (DNS/3247619), (the Gwernigrion proposal). In that case, the Welsh Ministers' Decision considered that 'overriding need' for development on BMVAL had not been demonstrated and expressed concern about the loss of a nationally significant amount of BMVAL to facilitate the proposal.

284. I have carefully considered the content of that decision and the applicant's comments upon it [2022-10-05 – Applicant's response to the Elwy Solar Energy Farm Decision]. The applicant submits that there are a number of differences between Gwernigrion decision and the application before me. They include, in summary:

- The Gwernigrion proposal involved 43.1ha of BMVAL with the Inspector considering 20.8ha to be affected, which is in excess of the 20ha threshold for which development is considered to be nationally significant triggering the duty to consult the Welsh Ministers. In this application, the amount of BMVAL affected is c.16.8ha.
- WGDCC has withdrawn its objection to this proposal and confirmed that it considers it complies with paragraphs 3.58 and 3.59 of PPW.
- The existing agricultural use would continue at a reasonable level throughout the lifetime of the proposed development.
- The BMVAL resource could be sufficiently protected through the construction and decommissioning stages, when soils are most at risk of damage, by the provision of appropriate conditions.
- The local Monmouthshire context greatly restricts development land available, which does not include BMVAL, due to the location of adjacent higher value BMVAL and neighbouring designations with environmental value, such as the National Park.

285. I agree that those factors sufficiently distinguish the Gwernigrion proposal and resulting decision from the application here.

286. Therefore, on balance and in the particular circumstances of this case, I consider that the important contribution that the proposed development would make towards meeting renewable energy targets, including those which are legally binding, is sufficient to constitute an overriding need for the development.

Conclusion on BMVAL

287. Overall, therefore, I conclude that the proposed development would not result in a significant adverse effect on BMVAL, subject to appropriate measures secured by condition to protect soils during construction, operation and decommissioning. I am also satisfied that the design of the proposal minimises the use of BMVAL, as far as possible, taking into account viability and other factors, while it has been sufficiently demonstrated that suitable lower grade agricultural land or previously development land is unavailable. The use of some 16.8ha of BMVAL to its full potential for food production, such as the growing of arable crops, would be compromised during the 40-year lifetime of the solar farm, but mitigation measures secured by condition, should ensure that, in accord with PPW, it is conserved as a finite source for the future. I also note WGDCC's view that the proposed development complies with paragraphs 3.58 and 3.59 of PPW and I see no reason to disagree. The proposal complies with and is supported by FW Policies 17 and 18, which are the national development plan policies most directly applicable to this renewable energy proposal of national significance.

Heritage

288. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

289. Paragraph 1.25 of TAN 24 advises that the setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated embracing present and past relationships to the surrounding landscape.
290. The HIA supporting the application assessed potential direct and indirect effects of the proposed development upon cultural heritage and archaeological remains. There are no designated or non-designated archaeological or heritage assets within the application site itself, with the nearest heritage asset being 'Great House' (Grade II* listed), located about 100m to the east of the site boundary.
291. A total of 27 Listed Buildings were identified within the 2km study zone and the ZTV of the proposed development, including six Grade II* and 21 Grade II. Moderate to low indirect effects are anticipated in relation to the Grade II* listed 'Great House' and, overall, range between low to negligible indirect effects for all other listed buildings.
292. Some interested parties have expressed particular concern that the setting of the Grade II* listed Great House would be adversely affected by the development. However, the HIA includes a detailed analysis of the factors which contribute to its significance with its primary heritage value derived from its architectural merit dating from two main periods from c.1600 to the mid-18th century, albeit with some later additions. The proposed development would not interfere with those architectural elements or the reasonably sized curtilage of the building.
293. The Great House has a relationship with surrounding fields which form part of its setting, particularly those which, historically, featured ornamental woodland, gardens and orchards which appear to have been part of the estate on 19th OS mapping (provided in the HIA). However, as noted in the HIA, since that time large modern buildings to the south have already compromised that original setting to an extent. Moreover, no solar panels or standing structures are proposed in the fields to the west, closest to the listed building. While there would be views towards the Great House, given its siting on an east-facing slope, they would mostly be partially screened by surrounding trees with only the upper levels visible.
294. Therefore, although there would be some indirect visual impacts, they would not alter the architectural merit of the house, which is the primary source of its significance. Nor would they result in substantial harm to its setting, particularly taking account of the ultimately temporary and reversible nature of the scheme. Nevertheless, I agree with the HIA that there would be moderate to low indirect adverse effect on the setting of the Great House. I will deal with that aspect in my planning balance and conclusion.
295. The Blaenavon Industrial Landscape World Heritage Site lies partially within the 5km study area and the calculated ZTV supporting the LVA. Similarly, the Historic Landscape Area associated with this asset also lies partially within the study area and ZTV. Indirect effects anticipated upon these designated areas were anticipated to be low.
296. Eight Scheduled Monuments were identified within the 5km study zone that were within the ZTV of the proposed development. Of these assets, low indirect effects are anticipated for St Bridget's Churchyard Cross, while low to negligible indirect effects are anticipated for the Coed y Bwnydd Camp and negligible indirect effects anticipated for the remainder. Similarly, the HIA identified one Historic Park and Garden, Pant y Goitre House, within the study zone that was within the ZTV of the proposed development where low indirect effects were anticipated.

297. I also note that Cadw concurs with the conclusion of the HIA that there would not be a significant impact on any of the designated heritage assets in the area and has no objections to the proposal [REP066 & 2022-07-14 REPS2 005].
298. The HIA considered that due to the number of recorded archaeological sites in the surrounding area from the Neolithic period onwards, the application site has a moderate potential for remains from the prehistoric, Romano-British, medieval and post-medieval periods. However, it concludes that residual direct effects upon hitherto-unknown archaeology as a result of the proposed development are anticipated to be low on the assumption that appropriate mitigation measures are implemented.
299. With regard to archaeological remains, in its most recent consultation response [2022-07-04 – REPS2 003] GGAT notes that archaeological investigation and assessment undertaken to inform the application included a geophysical survey carried out by AOC Archaeology (November 2021), a Heritage Impact Assessment (January 2022) and that most recently a field evaluation was carried out on the development site by Headland Archaeology (April 2022).
300. In light of that, GGAT considers it unlikely that further archaeological work would encounter significant archaeological remains. It does not consider there to be a need for further archaeological work in relation to the development. I see no reason to disagree with the professional assessment of GGAT which advises MCC on such matters.
301. I have had special regard to the desirability of preserving listed buildings and their settings, including any features of special architectural or historic interest. There would be moderate to low indirect effects on the setting of Great House, which I will address in the overall planning balance. In terms of criterion 6 of FW Policy 18 and relevant parts of PPW and the cultural heritage aspects of LDP policies S13, LC1 and S10, I conclude that the proposed development would not cause unacceptable harm to listed buildings or other designated heritage assets or archaeological remains.

Ecology

302. PPW advises that the planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms would be in place to both protect against loss and to secure enhancement. That includes a requirement that proposals must consider the need to support biodiversity, protect statutorily and non-statutorily designed sites and ensure that protected and priority species are safeguarded, while securing enhancement of, and improvements to, ecosystem by improving diversity, condition, extent and connectivity of ecological networks [subsection 6.4].
303. Policy 9 of FW, similarly, emphasises the importance of enhancing biodiversity and ensuring the resilience of ecosystems and the provision of green infrastructure. That approach reflects the ‘Section 6 Duty’ set out within the Environment Wales Act 2016 to ensure that development does not cause any significant loss of habitats or populations of species locally or nationally and provides a net benefit for biodiversity.
304. The applicant’s ecological reports identify that the site has hydrological connectivity with the River Usk SAC and the River Usk (Lower Usk) SSSI, with potential ecological connectivity restricted to otter. There is potential ecological connectivity with the Usk Bat Sites SAC in relation to the lesser horseshoe bat.
305. As set out in paragraphs 167-181 above, NRW expressed various initial concerns about the application, including with regard to GCN, Dormice, Bats and Otter and the River Usk SAC in relation to pollution and its otter feature and the Usk Bat Sites SAC with regard to the lesser horseshoe bat.

306. A GCN Survey Report [DOC 14] submitted with the application and since updated (May 2022). Surveys completed in May and June 2020 indicated that GCN are likely to be absent from the application site. However, partly because access could not be obtained to survey some ponds within 250m of the site boundary, the application was progressed on precautionary basis assuming the presence of GCN in several ponds. A 50m buffer to development works would be applied to those ponds. Subsequently, in response to further comment from NRW, the variation to the scheme extended the 50m buffer to an additional pond. A revised GCN Conservation Plan (Appendix D to the GCN Survey Report) was also welcomed by NRW. However, it advised that further amendment to the GCN Conservation Plan, including provision for the periodic review of its effectiveness, was required but it was satisfied that this could be achieved by condition.
307. In relation to Dormice, the EclA reports that no records or signs of dormice were noted during the desk study and species scoping survey but that the boundary hedgerows and woodland offer good resources for dormice. NRW advises that it appears the proposed development would be unlikely to be detrimental to dormice subject to various measures to be secured via conditions requiring a Dormouse Conservation Plan, a revised Construction Environmental Management Plan and a Lighting Plan.
308. With regard to Bats, I note that NRW agrees with the applicant's EclA that there is unlikely to be a significant effect on the Lesser Horseshoe bat featured of the Usk Bat Sites SAC, taking account of the Bat Conservation Plan and the application of the Lighting Plan condition.
309. In relation to Otters, NRW acknowledges that no evidence of otters was recorded onsite during the field survey but that otters may occasionally use the drain/ditch along the northern boundary of the site, which would not be beyond the range of otters comprising the otter notified feature of the River Usk SAC. Although NRW considers that the proposed development would be unlikely to have a significant effect on the otter feature of the River Usk SAC, it advised that appropriate mitigation measures should be implemented during the construction and operational phases to ensure that otters could continue to move safely along the ditch and not be otherwise affected by the works by, for example, becoming trapped in excavations or adversely affected by artificial light.
310. With regard to the River Usk SAC, NRW advises that, noting the contents of paragraphs 8.32-8.37 of the EclA and the adopted design principles referred to in section 2.5 of the EDS (now 3.5 of the latest version) and subject to appropriate conditions, it is satisfied that there should be no effect on the River Usk SAC otter feature.
311. NRW agrees with the conclusion of the SHRA that the proposed development would be unlikely to have an adverse effect on the integrity of the Usk Bat Sites SAC or the River Usk SAC, subject to:
- A lighting plan.
 - Pre-construction checks for otter resting places in the ditch along the northern boundary of the application site.
 - Excavations would be covered securely during construction.
 - 7m buffer between development works and the Ffrwd Brook.
 - 2m buffer to all field drains.
 - Standard best practice pollution prevention measures being implemented.
312. NRW notes the amendments made to the updated OCEMP (May 2022) [DOC 21] and considers that the pollution best practice measures listed appear to be adequate to prevent contaminants entering nearby watercourses. It has suggested a condition that would require a Construction Environmental Management Plan (CEMP) to be submitted for approval prior to construction commencing.

313. For reasons set out in Annex B, Appropriate Assessment, I have found that the scheme would not affect the integrity of the sites the Usk Bat Sites SAC or the River Usk SAC.
314. Originally, NRW also recommended that pre-construction surveys relating to GCN, bats, dormice and otters, are usually recommended as a matter of good of practice to assess any changes in the ecological circumstances immediately prior to development works commencing (although it has since suggested that these may not be necessary).
315. With regard to effects on landscape, concerns were expressed by NRW in its pre-application response about potential impacts on the Brecon Beacons National Park. Consequently, NRW suggested further mitigation in the form of planting with the plans updated to take account of its previous advice with regard to additional planting and large-growing species. Consequently, it considers that the proposed landscaping is acceptable in relation to impacts on the BBNP.
316. Whilst NRW advised in its letter of 13 July 2020 that it continued to have some concerns, it was satisfied that they could be overcome by attaching its suggested conditions to any planning permission granted. I see no reason to disagree with the professional advice of NRW as the relevant specialist consultee.
317. Biodiversity enhancements proposed include creating and maintaining a diverse species rich grassland with a varied sward structure, native tree planting, new hedgerow, bird, mammal and invertebrate houses/boxes, as detailed in the NGA, EDS and Green Infrastructure and Landscape Strategy (Jan 2022) [DOC 15}. I note that the MCC's LIR also considers that, subject to a condition requiring a CEMP, the proposal would have a positive impact on ecology.
318. Overall, I conclude that, based on the proposed design and mitigation measures, as outlined above and secured by condition, there would be no significant harmful effects on ecological features. The application would also provide biodiversity enhancement measures to provide a net benefit for biodiversity. Therefore, it would comply with the requirements of criteria 3, 4 and 5 of FW Policy 18, along with relevant parts of FW Policy 9 and PPW. It would also be consistent with the objectives of TAN 5 to protected nature conservation interests and germane policies within the LDP including policy NE1 which seeks to protect and enhance biodiversity.

Highway Safety

319. As set out in above, the application was accompanied by a CTMP, which has since been updated to reflect the variation to the scheme. It advises that most of the traffic effects would be during the anticipated 6-month construction phase, with a total of 671 Heavy Goods Vehicle (HGV) deliveries to the application site. During the peak construction period there would be an approximate maximum of 15 daily HGV deliveries.
320. The CTMP advises that delivery vehicles would travel along the A40 which is located to the west and south of the application site and exit onto the B4598. They would travel along this road, for approximately 4km before turning left at Penpergwm onto the local access road which serves the proposed development. The access point is approximately 0.7km along this local access road.
321. It is noted in the CTMP that the junction between the B4598 and site entrance has an advisory 'Unsuitable for HGVs' sign which is in relation to HGVs travelling on the local road from this junction. However, the CTMP advises that although this road is narrow, the section of road up to the site access point is suitable for HGV use, it is only beyond this point that the road becomes unsuitable. Traffic management measures would be in place for the 800m stretch of road between the junction with the B4598 and the site access point. Proposed measures include a delivery booking scheme to stagger

deliveries over the course of the working day and scheduling to avoid morning and evening peak hours.

322. Pre and post-construction condition surveys of the local road from the access point to its junction with the B4598, would be conducted with the applicant liable to repair any damage to the road that was directly attributable to construction process.
323. The applicant advises that during the operational phase, the activities on site would amount to servicing and maintenance of plant and equipment and vegetation management. Traffic impacts from the operational phase of the site would consist of only between 10-15 LGVs per year.
324. I note that MCC's LIR advises that the highway authority considers the proposed access and CTMP to be acceptable. Subject to compliance with the CTMP and an acceptable decommissioning plan, which could be secured by condition, the LIR considers that the proposed development would have neutral impact upon highway safety and the road network.
325. While the development would inevitably result in additional traffic movements and may cause some disruption or inconvenience during the construction phase and potentially at decommissioning, although that is some way off, I am satisfied that any adverse effects would be limited and could be sufficiently mitigated through the implementation of the CTMP, which could be conditioned.
326. Therefore, I conclude that the proposed development would meet the requirement of criterion 9 of FW Policy 18 that there should be no unacceptable impacts on the transport network through the transportation of components or source fuels during construction and/or ongoing operation. It would also comply with policy MV1 of the LDP, which deals with highway considerations.

Residential Amenity

327. The local area is predominantly agricultural with scattered individual dwellings and farmsteads. The LVA assesses that the proposal would have the most influence on visual amenity within about 1km of the site. As noted above, the application was also accompanied by an RVAA, informed by the LVA and ZTV, which considered potential effects on residential visual amenity.
328. The introduction to the RVAA explains that its purpose is to assess whether a development is likely to result in changes to private views and private visual amenity to such an extent that the development would be considered overbearing, dominant, oppressive or overwhelming and result in unacceptable consequences to living conditions. That is a relatively high bar and must be distinguished from lesser changes in private views which are not generally protected in planning law unless they cross that threshold.
329. As noted in the RVAA, given the low-lying nature and scale of the proposed solar arrays (c. 2.8m in height) and the proposed location upon lower elevations of fields surrounded by existing and proposed hedgerows, some reaching 4 – 6m in height, potential significant effects would be unlikely on residential properties beyond 250m of the site boundary. The layout of the solar arrays in three separate parcels of land would also mitigate visual effects as the proposed development would be unlikely to be experienced in its entirety in most views. That is in accordance with my own observations from various vantage points, including some near residential properties, in the surrounding area.
330. In relation to 4 residential properties within 250m of the site, the RVAA concludes that there would be a moderate adverse to minor adverse effect. Although the proposed

development would be visible to varying degrees from each of those residential receptors, it would not be to a degree significant enough to warrant further assessment. Consequently, it finds that the visual effects would not be overbearing or visually dominant for any of the surrounding properties.

331. I note that the MCC's LIR also agrees with the conclusions of the RVAA. Therefore, while I have considered submissions from interested parties objecting to the development, based on the evidence before me, I see no reason to disagree with the detailed assessment contained within the RVAA.
332. In term of noise, reflected light, air quality and electromagnetic disturbance, I have considered the applicant's submission including its NIA, GGA along with MCC's LIR assessment, as detailed in paragraphs 81-86 and 123-127 above. They indicate that there should be no significant adverse impacts in those respects for the reasons give. Again, based on that evidence and having considered all other submissions I take a similar view.
333. Overall, therefore, I conclude that the proposed development would not result in unacceptable adverse impacts on individual dwellings or nearby communities or result in unacceptable adverse impacts by way of shadow flicker, noise, reflected light or electromagnetic disturbance. Consequently, the proposal would comply with criteria 2 and 7 of FW Policy 18 and LDP policy EP1.

Flood Risk

334. The application was accompanied, as detailed in paragraphs 91-99 above, by a Flood Consequence Assessment and Drainage Strategy (FCADS) (May 2022) [DOC 12]. It advises that, according to the Development Advice Map, the application site is wholly situated within Flood Zone A, except for a small area within Field 4, which is Flood Zone B. This area has been intentionally left clear of development and therefore the proposed development is wholly within Flood Zone A. In accordance with TAN 15, the site is then situated in an area that is at little to no risk of fluvial or tidal/coastal flooding.
335. In addition to fluvial and coastal flood risk, Natural Resources Wales maps indicate that the small watercourse to the north of Field 1, 3 and 4, as well as the watercourse which dissects Fields 10 and 11 have some minor flood risk issues, although these look to be contained within the watercourse's banks. An 8m buffer of no development is designed into the proposed development which would eliminate any surface water flooding risk from these watercourses.
336. It has been demonstrated that the proposed development's impact on surface water runoff is minimal due to the small amount of impermeable infrastructure (0.44% of the overall Application Site Area) proposed. However, drainage in the form of SuDS has been proposed so the operational site discharges surface water at the greenfield run off rate (QBar). As advised in the LIR given the size and extent of the site it would require approval from the Sustainable Drainage Approval Body (SAB) prior to constructions, which is governed by legislation separate from the planning regime. The drainage strategy is proposed to include eight soakaway channels/filter drains as well as swales and detention basins within the application site, with further measures detailed in the FCADS. The appellant submits that the FCADS demonstrates that the proposed development would not increase flood risk awa from the site during the construction, operation an decommission phases.
337. Representations have been made by interested parties, including a local community action group (HUSTLE) expressing concerns about surface water runoff on local roads or on nearby watercourses. As indicated about any final surface water drainage scheme would need to be approved by the relevant SAB, in this case MCC. Therefore, the

applicant submits there should be no significant concern that the drainage system would not be appropriate. While there may be some soil compaction due to construction activity it is proposed that the site be harrowed and reseeded in order to mitigate those effects.

338. While some representations have suggested that the proposed access road floods regularly during heavy rainfall, the applicant advises that the landowner identified the likely causes to be that the culvert and road drain were both blocked with sediment, debris and small branches, which has since been remedied as evidenced in photographs supplied within the Applicant's Response to Representations (May 2022) [DOC 33].
339. Therefore, I conclude that there is no compelling evidence to suggest the proposed would increase flood risk away from the application site during the construction, operation and decommissioning phases. It follows that it would comply with LDP policies S12, SD3 and SD4.

Benefits of the Proposal

340. The applicant submits that there would be significant benefits result from the proposed development, including that it would generate approximately 32GWh of electricity per annum, enough to power approximately 8,093 homes and potentially offset around 14,080 tonnes of carbon emissions each year. There would be economic benefits in terms of employment of up to 175 jobs created or safeguarded during the installation phase and a further 2 maintenance jobs during the 40-year operation phase, generating up to £5 million in Gross Value Added (GVA). An estimated contribution to local services and infrastructure through the payment of around £110,000 in business rates per annum is also estimated. It is also estimated that during the 6-month construction phase, the 80 construction employees could spend almost £570,000 at local businesses supporting the 770 accommodation, food & drink and retail businesses that operate within Monmouthshire. There would also be a net gain in biodiversity.
341. Although the applicant refers to a one-off payment of £74,000 towards a Community Benefit Fund upon commissioning of the solar farm, there is no legally binding mechanism before me to secure that, so I cannot give it weight.
342. Notwithstanding the above, some parties have suggested that the proposal would not provide local or community benefits. However, while WG supports the principle of securing financial contributions for host communities through voluntary arrangements, PPW makes clear that such arrangements must not impact on the decision-making process and should not be treated as a material consideration, unless it meets the tests set out in Circular 13/97: Planning Obligations i.e. that it is necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development; and, reasonable in all other respects [PPW paragraph 5.9.28]. That would not be the case here.

Other Considerations

343. In addition to the matters dealt with above, I have considered a range of other matters raised by various interested parties objecting to the scheme, including those summarised in paragraphs 182-184 above.
344. The efficiency of solar power in Wales because of the nature of the climate and its carbon footprint has been questioned compared with other renewable technologies. However, FW Policy 17 makes clear that WG strongly supports developing renewable and low carbon energy from all technologies to meet future energy needs and makes specific reference to solar energy.

345. It is suggested that the development would have a negative effect on tourism. However, given my findings that effects on the character and appearance of the area would be moderate and views from PROW would be transitory, I do not consider that there would be significant effects on tourism.
346. While the issue of an impact on property values has also been raised, it is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property. In any case, there is limited evidence to suggest that the proposal would have a significant effect. I note that the applicant refers to research suggesting that the presence of solar and wind farms had little substantive effect on tourism [DOC 33: Applicant's Response to Representations - paragraph 10.15].
347. Concern has been expressed about possible effects of glint and glare on aircraft pilots, particularly those participating in low-flying military training in the area. However, the applicant's Glint and Glare Assessment indicates that {DOC 16} indicates that there would be no effect on the runways at Abergavenny Airfield, there are no identified defence facilities within the vicinity of the site, and that the scheme would not result in any unacceptable impacts on the Mid Wales Low Flying Tactical Training Area (TTA 7T). In addition, MoD/DIO has confirmed that it has no safeguarding concerns in relation to the proposal.
348. It has been suggested that, if approved, the proposed development could set a precedent that would justify further solar developments in the area. However, each application must be determined on its own merits. Moreover, any cumulative effects would form part of the assessment and determination of any future proposals. Therefore, I give that concern limited weight.
349. A number of representations suggested that proposal should have been found to be 'EIA Development' under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (the Regulations). However, as indicated in paragraph 2 above, the Planning Inspectorate (Wales) (which was the predecessor to PEDW), as authorised by Welsh Ministers, provided a Screening Direction on 12 November 2020 confirming that the proposed development was not 'EIA Development' and that, therefore, an Environmental Statement (ES) was not required. That is a separate independent process, which has already been carried out and I see no substantive reason to question. In any event, relevant reports on environmental effects have been provided by the applicant and considered, with all parties given the opportunity to comment.
350. Concerns about the long-term financial stability of the developer and ability to subsequently decommission the development have been raised. Planning permissions run with land rather than being personal to the applicant. Nevertheless, the applicant has provided information about the company structure, expertise and financial backers, while section 7 of its Outline Decommissioning Strategy [DOC 22] summarises the decommissioning strategy, which advises that the project is funded by a large global energy developer. Moreover, the applicant submits that the nature of the solar assets that would be on site would be likely to prove attractive to a range of other investors in the event that financial difficulties were encountered, which appears a reasonable contention. Consequently, I am satisfied that decommissioning obligations can be satisfactorily dealt with by condition.

Planning Conditions and Obligations

351. In the event that the Welsh Ministers decide to approve the application, I consider the conditions at Appendix A satisfy the tests set out in Circular 016/2014: *The Use of Planning Conditions in Development Management* ("the Circular").

352. For the most part, the conditions would ensure that the development avoids or, where that is not possible, mitigates as far as is reasonable, the potentially harmful effects of the scheme. The reasons for imposing each of the recommended conditions are, in most cases, discussed in the corresponding sections of this report and summarised in Appendix A.
353. At various stages during the examination process, I urged the applicant to liaise with relevant parties, including MCC, NRW and WGDCC, to seek a position of common ground on issues and conditions prior to any hearings. The applicant submitted a list of suggested conditions with its hearing statement for the Hearing Session 3, said to have been agreed with NRW and MCC. NRW was not present at the hearing session as it had been agreed, at its request, that its suggested conditions detailed in its consultation response letter dated 13 July 2022 [2022-07-14 REPS2 007] would be dealt with by written representations.
354. I raised several concerns at the hearing about the content and wording of the suggested conditions. I also requested that the applicant sought confirmation from NRW that a suggested condition concerning pre-construction surveys in relation to protected species (NRW4) would be compliant with paragraph 6.2.2 of TAN 5 and paragraph 4.27 of WG Circular 016/2014: The Use of Planning Conditions in Development Management (the Circular), and that it was satisfied that sufficient survey work had previously been undertaken with regard to the presence or otherwise of protected species.
355. NRW subsequently confirmed that it was satisfied that the pre-determination survey work already carried out by the applicant was sufficient, subject to pre-commencement conditions requiring the submission of GCN and dormice conservation plans [2022-08-25 APP Confirmation from NRW re conditions & 2022-08-25 APP email from NRW to APP re conditions].
356. The applicant provided an updated list of suggested conditions following the hearing session. It contained various revisions to the list previously proposed and agreed with NRW and MCC. However, while MCC has indicated that the current and previous suggested conditions are acceptable to it, NRW disagrees with elements of the applicant's revised set of conditions 2022-08-25 – from APP Post Hearing Request for covering email].
357. There main disagreements between the applicant and NRW are:
- In the applicant's view NRW's requested pre-commencement conditions (NRW1 and NRW2) which require the submission of GCN and dormice conservation plans for approval should be combined with and made subject to the findings of pre-commencement surveys required by condition NRW4.
 - NRW previously considered condition NRW4, requiring pre-commencement surveys, to be necessary as a matter of good practice to assess any changes in the ecological circumstances immediately prior to the development commencing. However, following the hearing NRW revised its view, indicating that it is usually suggested where there is a long delay between the original surveys and the commencement of development, which it considered was not the case here. Nonetheless, the applicant continues to consider that pre-commencement surveys remain necessary, particularly as it includes bats and otter in addition to GCN and dormice, albeit it wishes to make the content of conditions NRW1 and NRW2 contingent upon it.
358. In relation to the first bullet point, NRW re-iterates that the project has been progressed assuming the presence of GCN in those ponds for which survey access was denied. Consequently, it still considers that a detailed GCN Conservation plan, building upon the mitigation and enhancement principles set out in the GCN Survey Report [DOC 14]

and EDS [DOC 10]. Similarly, in relation to dormice, NRW points out that the site is in the geographical range of dormice, there are dormouse records in the wider area, the site offers a suitable habitat and the applicant had not carried out further specific surveys. Therefore, again it considers that, in the circumstances, and based on the available information a standalone dormouse conservation plan condition remains a necessary and reasonable requirement.

359. While the applicant refers to advice within TAN 5 that *'developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of them being present'*, I note that it also advises that the level of likelihood that should trigger a requirement for developers to undertake surveys should be low where there is a possibility that European protected species might be present.
360. Having considered the above arguments, I am, on balance, persuaded that NRW's suggested conditions (conditions 11-16 below) should remain. They are largely as originally proposed and agreed by NRW and the applicant prior to the Hearings and include the retention of the pre-construction survey condition.
361. NRW detailed in its consultation response dated 13 July 2022, referred to above, a list of plans and documents that it considered should be included within condition 2. As was discussed at Hearing Session 3, the draft version of that suggested condition did not include all of the documents referred to by NRW and no explanation for their omission by the applicant was provided. However, the post-hearing list of revised conditions also omitted many of those documents, again without specific explanation. I have considered the list of plans and documents that NRW provided. However, in some cases, such as in the case the Green Infrastructure and Landscape Strategy (January 2022) the documents are referred to in other conditions (see condition 15). Therefore, they do not need to be included in both conditions. In other cases, the reports or assessments referred to do not include specific mitigation measures to be implemented. Therefore again, it would not be necessary to list them in condition 2. Consequently, I have reached my own judgement on the plans and document that need to be listed under the condition.
362. MCC suggested that a planning obligation should be in place to secure offsite recreations and improvements in green infrastructure and PROW. However, as the applicant submits, biodiversity and green infrastructure enhancements form part of the proposed development and secure a biodiversity net gain, which appears to be accepted in relevant sections of the LIR and is secured by, for example, condition 15 relating to a LEMP (Landscape and Ecology Management Plan). LDP policy GI1 refers to a need for such contributions where on-site provision of green infrastructure is not possible, which is not the case here.

Planning Balance and Overall Conclusion

363. Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. FW is the national development plan for Wales and is the highest tier of development plan, and along with the local development plan, is given primacy in the plan-led system in Wales. It is strongly influenced by PPW, the land use planning policy document for Wales. FW indicates that all regions, including the South East region where the application site is located, have a vital role to play in decarbonisation and the realisation of renewable energy, including solar energy generation across Wales [FW p. 171].
364. Although there would be some negative visual impacts in closer range views and moderate harm in some medium range views, which would lessen over time, I have not found that the proposed development would result in unacceptable adverse effects on landscape character or the appearance of the area. Similarly, there would not be

unacceptable adverse visual impacts on nearby communities and individual dwellings. I therefore afford these limited harms minor weight.

365. The development would cause a moderate to low degree of harm to the setting of the Great House, a Grade II* listed building. Nevertheless, I do not consider that the harm would be significant in the context of the time limited nature and reversibility of the development. I therefore give this matter limited weight.
366. Where harms have been identified they are not significant enough to be considered 'unacceptable', either individually or cumulatively, in terms of the criteria detailed in FW Policy 18 which deals with developments of national significance.
367. Neither have I found that there would be significant harm in respect of: ecology (subject to conditions and a HRA); highways; flood risk; residential amenity; or other matters raised by interested parties. I therefore consider these matters to be neutral in the planning balance.
368. The main benefit of the scheme would be that it would generate renewable energy of approximately 32GWh of electricity per annum, which would be enough to power some 8,093 homes and potentially offset around 14,080 tonnes of carbon emissions each year. That would be a significant contribution towards Wales' target of 70% of electricity consumption to be from renewable energy by 2030. I give that benefit considerable weight given the clear support in FW Policies 17 and 18 for renewable energy schemes.
369. The applicant submits that the importance of the proposal is heightened at a local level, as no new large-scale ground mounted solar schemes have been consented within Monmouthshire in over 5 years. Economic, employment and ecological enhancement benefits would result from the project, as summarised in paragraph 340 above and detailed in the applicant's Economic Benefits Report (January 2022) [DOC 26] and Collaborative Benefits Report (May 2022) [DOC 32]. I give those benefits moderate weight.
370. While PPW gives considerable weight to protecting BMVAL, it also recognises the benefits of renewable and low carbon energy in tackling the climate emergency and increasing energy security as of 'paramount' importance [paragraph 5.7.7].
371. It is clear from the national policy framework, which needs to be read as a whole, that there are potential tensions between the need to protect BMVAL as a finite resource for the future and the urgent need to combat the climate emergency by increasing the generation of renewable energy. While it has been suggested that solar developments have some flexibility in their location, the application has detailed the planning policy, practical and financial constraints that affect site selection and viability.
372. I accept that there would be some loss of ability to farm the c.16.8ha of BMVAL under panel to its full potential over the lifetime of the development, which needs to be weighed in the balance. However, based on the evidence before me I consider that, providing construction and decommissioning are properly carried out, which could be secured by condition, the risk of significant damage to soils and potential degradation of BMVAL would be relatively limited. While the proposed development would have a 40-year lifespan, that remains a temporary period after which the solar panels and associated infrastructure could be removed.
373. None of my findings in relation to 'other considerations' lead me to alter my conclusions. All relevant submissions, representations, appeal decisions, Inspector Reports and Ministerial decisions referred to by the parties have been considered in reaching my recommendation.
374. On balance, I conclude that the benefits of the proposed development, particularly in the production of energy from a renewable source, outweigh the identified adverse effects,

most significantly in relation to BMVAL and its unavailability for food production during the lifetime of the scheme. Given the above, I find that the proposal complies with the development plan and relevant national planning policy when considered as a whole, including FW Policies 9, 17 and 18. There are no material planning considerations of sufficient weight to indicate that the application should be determined other than in accordance with the development plan. The scheme would also be consistent with the goals of the WFGA and supported by the Environment (Wales) Act 2016.

Recommendation

375. The requirement of the WBFG Act to make decisions “in accordance with the sustainable development principle” equates to behaving in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. The WBFG Act also sets out a number of well-being goals and states that in undertaking sustainable development public bodies should consider the five ways of working as set out in the Act. In coming to my recommendation, I have had regard to the extent to which the proposal contributes to the well-being goals.
376. For the reasons given above I recommend that planning permission be granted, subject to the conditions set out in Appendix A.

JP Tudor

Inspector

APPENDIX A: SCHEDULE OF RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall begin no later than five years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following submitted plans and documents unless indicated as otherwise by any other condition pursuant to this permission:–

- Drawing no. NEO00668/0711/C, Site Location Map Figure 1, dated 24/01/2022;
- Drawing no. NEO00667/0101/B, Site Location Map Figure 2, dated 22/06/2021;
- Drawing no. NEO00667/0061/B, Field Numbers Figure 3, dated 12/11/2021;
- Drawing no. NEO00668_0741_F Figure 4, Revision F, Site Proposals, dated 12/05/2022;
- Drawing no: NEO00668_0561_E Figure 5, Revision E, Development Proposal, dated 12/05/2022;
- Drawing no. NEO00668_0571_E Figure 6, Revision E, Proposal (Overall), dated 12/05/2022;
- Drawing no. NEO00668_0581_D Figure 6.1, Revision D, Development Proposal (Sheet 2), dated 24/01/2022;
- Drawing no. NEO00668_0591_D Figure 6.2, Revision D, Development Proposal (Sheet 3), dated 24/01/2022;
- Drawing no. NEO00668_0601_D Figure 6.3, Revision D, Development Proposal (Sheet 4), dated 24/01/2022;
- Drawing no. NEO00668_0611_D Figure 6.4, Revision D, Development Proposal (Sheet 5), dated 24/01/2022;
- Drawing no. NEO00668_0621_D Figure 6.5, Revision D, Development Proposal (Sheet 6), dated 24/01/2022;
- Drawing no. NEO00668_0631_D Figure 6.6, Revision D, Development Proposal (Sheet 7), dated 24/01/2022;
- Drawing no. NEO00668_0641_D Figure 6.7, Revision D, Development Proposal (Sheet 8), dated 24/01/2022;
- Drawing no. NEO00668_0651_E Figure 6.8, Revision E, Development Proposal (Sheet 9), dated 12/05/2022;
- Drawing no. NEO00668_0661_E Figure 6.9, Revision E, Development Proposal (Sheet 10), dated 12/05/2022;
- Drawing no. NEO00668_0671_E Figure 6.10, Revision E, Development Proposal (Sheet 11), dated 12/05/2022;
- Drawing no. NEO00668_0681_E Figure 6.11, Revision E, Development Proposal (Sheet 12), dated 12/05/2022;
- Drawing no. NEO00668_0691_E Figure 6.12, Revision E, Development Proposal (Sheet 13), dated 12/05/2022;
- Drawing no. NEO00668_0701_E Figure 6.13, Revision E, Development Proposal (Sheet 14), dated 12/05/2022;

- Drawing no. NEO00668_104I_D Figure 6.14, Revision D, Development Proposal (Sheet 15), dated 24/01/22;
- Drawing no. NEO00668_050I_A Figure 7, Revision A, Access Track Detail, dated 21/04/2021;
- Drawing no. NEO00668_051I_A Figure 8, Revision A, Construction Compound Detail, dated 21/04/2021;
- Drawing no. NEO00668_052I_A Figure 9, Revision A, PV Module & Rack Detail, dated 21/04/2021;
- Drawing no. NEO00668_105I_A Figure 10, Revision A, Deer Fencing Detail, dated 29/04/2021;
- Drawing no. NEO00668_054I_A Figure 11, Revision A, CCTV Detail, dated 24/01/2022;
- Drawing no. NEO00668_055I_A Figure 12, Revision A, Transformer Station Detail, dated 22/04/2021;
- Drawing no. NEO00668_099I_B Figure 13, Revision A, 132kV Compound Layout & Section, dated 25/01/2022;
- Drawing no. NEO00668_101I_C Figure 13.1, Revision C, Section AA & BB, dated 04/12/2021;
- Drawing no. NEO00668_102I_D Figure 13.2, Revision D, Section CC & DD, dated 12/05/2022;
- Drawing no. NEO00668_103I_D Figure 13.3, Revision D, Section EE & FF, dated 12/05/2022;
- Drawing no. NEO00668_109I_C Figure 16, Revision C, Culvert Design, dated 12/05/2022;
- Drawing no. NEO00668_00110I_B Figure 17, Revision B, Typical Track and Fence Sections at Hedge Crossings, dated 24/1/22;
- Flood Consequences Assessment and Drainage Strategy - DOC 12 (May 2022);
- Green Infrastructure and Landscape Strategy – DOC 15 (January 2022);
- Landscape and Visual Assessment – DOC 18 (May 2022);
- Arboricultural Impact Assessment – DOC 07 (January 2022);
- Ecological Impact Assessment – DOC 11 (May 2022) (incorporating Appendix E – Bat Conservation Plan);
- Great Crested Newt Survey Report – DOC 14 (May 2022);
- Tree Constraints Report - DOC 27 (January 2022).

Reason: To ensure that the development is carried out in accordance with the approved plans, drawings and documents submitted with the application.

3. The development hereby approved shall cease operating 40 years after the date on which electricity is first exported to the National Grid (excluding any testing or commissioning). Written confirmation of the first export date to the National Grid shall be sent to the local planning authority within 28 days of the export date.

Reason: To establish the duration of the permission and ensure that the effects on the character and appearance of the area exist only for the lifetime of the development, in

accordance with Policy 18 of Future Wales (2021) and policies LC5, DES1, and SD1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

4. No later than 12 months before the end of the 40-year operating period (or within 6 months of the permanent cessation of electricity production) a Decommissioning Environmental Management Plan (DEMP) shall be submitted for the written approval of the local planning authority. The DEMP shall include details of the following:
 - i. Surveys and assessments to identify the existing ecology and habitat status at the time of decommissioning;
 - ii. Method Statement detailing the process and extent of removal of surface elements of the photovoltaic solar farm and associated development and any foundations, anchor systems, trackways and subsurface cabling and associated works;
 - iii. Proposals for effective recycling and disposal of decommissioned elements;
 - iv. Traffic management plan to address likely traffic impacts arising from decommissioning operations;
 - v. Measures to ensure environmental protection at the site to cover all decommissioning operations;
 - vi. Measures to ensure ecological protection at the site to cover all decommissioning operations informed by the surveys and assessments under i) above;
 - vii. Implementation timescales and schedules for all elements of the DEMP;
 - viii. Reporting and monitoring responsibilities and delivery mechanisms for all elements of the DEMP; and,
 - ix. Site restoration measures following all decommissioning operations.

The DEMP, as approved, shall be carried out in accordance with the approved details.

Reason: To ensure that, at the end of the lifespan of the development, the infrastructure is appropriately removed, the environmental effects of the decommissioning process are controlled and the site is effectively restored, in accordance with Policy 18 of Future Wales (2021).

5. Prior to the commencement of development, a road condition survey shall be carried out of the local road between the site access and its junction with the B4598 and submitted to and approved in writing by the local planning authority. The condition survey shall detail a programme of measures to be employed to ensure the highway remains free from damage as a result of the construction of the development. The survey should be carried out by an independent highway maintenance consultant and extents agreed in advance with the local planning authority.

Reason: In the interests of highway safety in accordance with Policy 18 of Future Wales (2021) and Policy MV1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

6. Within 3 months of completion of the construction phase of the development, a post-construction condition survey of the local road between the site access and its junction with the B4598, shall be carried out and submitted to the local planning authority for approval in writing. The local planning authority may require, at the developer's expense, any remedial works identified within this condition survey and considered necessary as a direct result of the development works to be carried out within 6 months of the approval of the remedial works.

Reason: In the interests of highway safety in accordance with Policy 18 of Future Wales (2021) and Policy MV1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

7. The development shall be constructed in accordance with the Construction Traffic Management Plan (May 2022).

Reason: In the interests of highway safety and residential amenity and in accordance with Policy 18 of Future Wales (2021) and Policies MV1 and EP1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

8. No construction work or deliveries associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours: 0700 to 1900 on Monday to Friday and 0800 to 1600 on Saturdays unless otherwise first agreed in writing by the local planning authority.

Any piling associated with the development shall be limited to Monday to Friday between 0900 and 1700.

Reason: In the interests of highway safety and residential amenity, and in accordance with Policy 18 of Future Wales (2021) and Policies EP1 and MV1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended or any Order revoking and re-enacting that Order with or without modification), no fencing or means of enclosure other than those hereby approved, shall be erected within and along the boundaries of the site.

Reason: To safeguard the character and appearance, ecology and biodiversity, and historical interests of the area in accordance with Policy 18 of Future Wales (2021) and Policies LC5, NE1 and DES1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

10. Any proposed fence/hedge lines enclosing public rights of way shall be a minimum of 3m apart. No barriers, structures or any other obstructions shall be placed across the legal alignment of the public right of way, and any damage to its surface as a result of works or private vehicular use shall be made good.

Reason: In the interests of local amenity and in compliance with Policy MV3 of the Monmouthshire County Council Adopted Local Development Plan (2014).

11. No development shall commence until a final and detailed Great Crested Newt (GCN) Conservation Plan has been submitted to and approved in writing by the local planning authority. The GCN Conservation Plan shall build upon the mitigation and enhancement principles set out in the GCN Survey Report dated 23/5/2022 (particularly Appendix D) and the Ecological Design Strategy, dated May 2022. The GCN Conservation Plan shall be carried out in accordance with the approved details, with a written report of the effectiveness of the plan provided to the local planning authority every 5 years and any arising revisions of the plan to be agreed in writing with the local planning authority prior to implementation. Additionally, a written report confirming the results of GCN population and habitat monitoring shall be provided to the local planning authority by 30 December in each year that monitoring is due.

Reason: To ensure that an approved Great Crested Newt (GCN) Conservation Plan is implemented, which protects GCN and their habitat affected by the development, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

12. No development or phase of development, including site clearance, shall commence until a site wide Dormouse Conservation Plan has been submitted to and approved in writing by the local planning authority. The Dormouse Conservation Plan shall:
- Build upon the principles outlined in the Ecological Impact Assessment and the Ecological Design Strategy;
 - Cover the lifetime of the development;
 - Include a plan showing habitat to be lost, retained and created which should identify the extent and location at an appropriate scale;
 - Provide details of protective measures to be taken to minimise the impacts of the works on dormice, including that buffers to hedgerows shall be measured 5m from the outer edge of the hedge;
 - Provide details of timing, phasing and duration of construction activities and conservation measures;
 - Include a timetable for implementation demonstrating that works are aligned with any proposed phasing of the development;
 - Provide details of proposals to enhance retained habitats for dormice including planting mixes and specifications (e.g. for gapping up any hedgerows);
 - Provide details of initial aftercare and long-term management and maintenance;
 - Set out actions to be taken in the event previously unidentified species or habitat features are found;
 - Include an Ecological Compliance Audit, including key performance indicators;
 - State persons responsible for implementing the works;
 - Provide details of measures to prevent or reduce incidental capture or killing;
 - Propose a scheme for monitoring the condition of retained and any new habitat, to inform habitat management, and dormouse population monitoring.

The Dormouse Conservation Plan shall be carried out in accordance with the approved details, with a written report of the effectiveness of the plan provided to the local planning authority every 5 years and any arising revisions of the plan to be agreed in writing with the local planning authority prior to implementation.

Reason: To ensure that an approved Dormouse Conservation Plan is implemented, which protects dormice and their habitat affected by the development, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

13. Prior to its installation, full details of lighting in the form of a Lighting Plan shall be submitted to and agreed in writing by the local planning authority. The Lighting Plan shall include:
- Details of lighting to be used during construction and/or operation;
 - Details of the siting and type of external lighting to be used;
 - Drawings setting out light spillage in key sensitive areas (e.g. hedgerows, woodlands, ditch along the northern boundary of the site etc.); and
 - An assessment of proposed lighting against conservation requirements for nocturnal protected species.

The lighting shall be installed and retained as approved during construction and operation of the proposed development.

Reason: To safeguard foraging, commuting, resting and breeding habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and Policies EP3 and NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

14. No development or phase of development, including site clearance, shall commence until a final version of a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
- Construction methods: details of materials, how waste generated will be managed;
 - General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain;
 - Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures, protected species toolbox talks, copies of protected species licences required for the works;
 - Biosecurity Risk Assessment and arising precautions needing to be undertaken;
 - Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works and measures to control light spill;
 - Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details, including Ecological Clerk of Works, Site Manager, Natural Resources Wales contacts for emergency situations;
 - Ecological Clerk of Works to ensure construction compliance with approved plans and environmental regulations;
 - Resource Management: details of fuel and chemical storage and containment, waste generation and its management, water consumption, and wastewater and energy use; and
 - Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: To ensure necessary management measures are agreed prior to commencement of development or phase of development and implemented for the protection of protected species and protected sites during construction, in accordance with Policy 18 of Future Wales (2021) Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

15. No development or phase of development, including site clearance, shall commence until a Landscape and Ecology Management Plan (LEMP) (which combines the Ecological Design Strategy, May 2022; the Green Infrastructure and Landscape Strategy, January 2022; the Shadow Habitats Regulations Assessment, May 2022; and, includes the GCN and Dormouse conservation plans referred to in conditions 11 and 12) has been submitted to and approved in writing by the local planning authority. The LEMP shall include:
- Include the proposals and commitments in all protected species conservation plans and Identify protected species licences required for the development work;

- Provision for the periodic monitoring of the condition of habitats on site, with the results of monitoring used to inform habitat management going forward;
- Measurable attributes and targets, to be used by site monitoring to define when habitats on site will be considered in favourable condition;
- A timetable of works to include specified years;
- A commitment to replace bat boxes promptly and within a specified timeframe once found to be missing or damaged;
- A commitment to fence livestock off from new and existing hedgerows through the use of appropriate, robust, stock fencing;
- A commitment that vegetation removal at any time of year should be supervised by the Ecological Clerk of Works; and,
- Confirmation of who is responsible for overseeing the implementation of the LEMP, and who will be undertaking the relevant management and monitoring works.

All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out in accordance with the timetable agreed with the local planning authority.

Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the local planning authority gives its written consent to any variation.

Evidence of compliance with the LEMP in the form of georeferenced photographs must be provided to the local planning authority no later than twelve months from the completion of the construction works. Thereafter, a written report of the effectiveness of the LEMP shall be provided to the local planning authority every 5 years and any arising revisions of the LEMP shall be agreed in writing with the local planning authority prior to implementation.

Reason: To ensure necessary landscape and environmental management measures are agreed prior to commencement and implemented and to ensure the site's landscape and environmental features are adequately managed long term, in accordance with Policies 9, 17 and 18 of Future Wales (2021) and Policy NE1 of the Monmouthshire County Council Adopted Local Development Plan (2014).

16. No development or phase of development, including site clearance, with the potential to impact on bats, dormice, otters and great crested newts, shall commence until pre-construction surveys are undertaken for the development or phase of development, to update pre-application survey information as appropriate. If the survey confirms the presence of any of these species, the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the local planning authority. The measures shall be carried out in accordance with the approved details.

Reason: To ensure the potential presence of European Protected Species is confirmed prior to construction and where necessary remedial measures are implemented for their protection.

17. Prior to the commencement of development, a Soil Management Plan (SMP) shall be submitted to the local planning authority for approval. The SMP should include the following:

- A Soil Resources Report containing soil survey maps at a scale appropriate for site management, including:
 - extent and depth of topsoil units;
 - the distribution of different soil types;
 - the distribution of Agricultural Land Classification grades; and
 - any features of interest identified in the related archaeological and ecological surveys, with clear cross references to the requirements of the relevant plans.
- A map of proposed areas and thickness of each soil type and soil layer to be stripped and stored separately, as informed by the Soil Resources Report, and all areas where soils will be left in-situ and the ground protected from tracking over;
- A map showing temporary access routes and details of how access will be managed across the site to minimize soil compaction;
- A map showing the location of soil stockpiles labelled with their content, anticipated size, height and volume; including expected timeframe for the material to be in stockpile;
- Details of how stockpiles will be protected and managed;
- A map showing where each soil type and soil layer will be reused;
- Details of appropriate equipment and methods for stripping, stockpiling, re-spreading soil and ameliorating soil compaction in accordance with good practice techniques to minimise the risk of soil compaction;
- Details of how construction activities will be managed across the site to minimise impact on soils;
- Identification of roles and responsibilities in relation to the implementation of the SMP and the supervision of all associated activities by a suitably qualified and experienced soil scientist who will have the necessary training, qualifications and experience, having achieved the soil professional competence standards 1 (Foundation skills in field soil investigation, description and interpretation) and 6 (Soil science in soil handling and restoration) as set out by the British Society of Soil Science;
- A monitoring schedule for all activities within the SMP and criteria against which compliance will be assessed.

All soil handling and trafficking will be undertaken in accordance with the SMP unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the protection of soils as a resource and in compliance with Policy 9 of Future Wales (2021).

18. Within 3 months of completion of all soil handling works in any given year a Soil Monitoring and Aftercare Plan (SMAP) shall be submitted for the written approval of the local planning authority. The SMAP shall include:
- A detailed annual programme of soil and site monitoring over the full lifetime of the development, including monitoring of in situ soils;
 - Details of the physical characteristics of the land to be restored to what they were when the land was last used for agriculture, including drainage where relevant, as far as it is practical to do so ;
 - A five-year period of aftercare, specifying the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps; and,

Ref: DNS/3252305

- Measures to be taken should the monitoring identify aspects of the site that require rectification or remediation in order to conform with the local planning authority's agreed standards.

Reason: To ensure the protection of soils as a resource and in compliance with Policy 9 of Future Wales (2021).

APPENDIX B: HABITATS REGULATIONS ASSESSMENT

1. In accordance with Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017, as amended, (the Habitats Regulations), as the competent authority it falls on Welsh Ministers to decide whether an Appropriate Assessment (AA) is necessary and, if so, to undertake it. However, in order to assist in that process, I have set out my assessment below, informed by the applicant's updated Shadow Habitats Regulations Assessment (May 2022) (SHRA) [DOC 25] Ecological Impact Assessment (May 2022) [DOC 11], Ecological Design Strategy (May 2022) [DOC 10], Outline Construction Environmental Management Plan (May 2022) [DOC21], and consultation responses from Natural Resources Wales (NRW) [REP110 & 2022-07-14 REPS2 007].
2. If the proposal is not directly connected with or necessary to site management, as is the case here, the decision-taker must determine if the proposal is likely to have a significant effect on a European site, which consist of Special Areas of Conservation (SACs) or Special Protection Areas (SPAs), alone or in combination with other plans and projects. An AA is required where there is a probability or a risk that the plan or project would have significant effects in terms of the conservation objectives for which the site was classified.
3. The application site is not located within or directly adjacent to any international designated site. However, there are six such sites within 15km of the application site all of which are Special Areas of Conservation (SACs). Based on the applicant's SHRA, which has been accepted by NRW, four of the SACs have no connectivity with the application site and have, therefore, been screened out. I see no reason to disagree with that approach.
4. The SHRA considers that the applications site has hydrological connectivity with the River Usk SAC, about 0.86km to the south-southwest via field drains that join the Ffrwd Brook, which in turn enters the River Usk. It also has potential ecological connectivity in relation to otter, a notified feature of the SAC. In addition, the application site is considered to have potential ecological connectivity with the Usk Bat Sites SAC, which is about 7.61km to the west, as it is possible that lesser horseshoe bats associated with the SAC could forage within the application site.
5. It is necessary to assess whether the likely construction, operation and decommissioning impacts of the development would potentially affect these European sites.
6. As established in *People Over Wind & Peter Sweetman v Coillte Teoranta C-323/17*, it is not acceptable for a competent authority to take mitigation measures into account when assessing whether there would be a likely significant effect on an international site. These measures can only be considered at the 'appropriate assessment' stage.
7. With regard to the River Usk SAC, the hydrological connectivity creates the potential for pollution during the construction phase of the development which could affect water quality and qualifying species. There is potential ecological connectivity in relation to otter, a notified feature of the SAC, because of possible occasional use by otters of the drain along the northern boundary of the site.
8. In respect of the Usk Bat Sites SAC, there is ecological connectivity as it is possible that lesser horseshoe bats associated with the SAC could forage within the application site. As acknowledged in the SHRA lesser horseshoe bats are sensitive to lighting and will avoid well-lit features and there is potential for lighting used during construction to disturb bats.
9. Therefore, adopting the precautionary principle and notice the advice of NRW, I consider that a risk of significant effects on the conservation objectives of both the River Usk SAC and the Usk Bat Sites SAC exists and that an appropriate assessment is, therefore, necessary in relation to both SACs.

Appropriate Assessment

10. As set out in the Ecology section above and in the applicant's SHRA, OCEMP, EclA and EDS the applicant intends to use a number of design and mitigation measures to avoid harm to the SACs.
11. I note that with regard to the River Usk SAC, NRW suggests that an appropriately worded CEMP condition could mitigate potential impacts from construction and avoid the identified adverse impacts. Similarly, NRW advises that the proposed mitigation measures for otters set out within the application and above documents could be conditioned and cited as a means to avoid adverse impact on the otter feature of the SAC. With regard to the Usk Bat Sites SAC, NRW indicates that adverse effects on its lesser horseshoe bat feature, could be avoided via an appropriate lighting plan condition, which it also considers if relevant to otter.
12. In its letter dated 13 July 2022 [2022-07-14 REPS2 007], NRW advises agrees with the conclusion of the SHRA, that the propped development is unlikely to have an adverse effect on the integrity of both the River Usk SAC and the Usk Bat Sites SAC subject to the following mitigation being implemented.
 - A lighting plan
 - Pre-construction checks for otter resting places in the ditch along the northern boundary of the application site
 - Excavations will be covered securely during construction (at the end of each working day to prevent accidental trapping of otter and other species).
 - 7m buffer between development works and the Ffrwd Brook
 - 2m buffer to all field drains
 - Standard best practice pollution prevention measures will be implemented.
13. I see no reason to disagree with the professional advice of NRW, the relevant specialist consultee, in this regard. I note that MCC's LIR takes a similar view.
14. The use of planning conditions, as set out in Appendix A (relevant conditions include nos. 13-16) to secure the design features and appropriate mitigation, such as an approved CEMP, would ensure that adverse effects on these SACs would be sufficiently reduced to maintain their integrity and thereby their favourable conservation status.
15. The SHRA considers possible cumulative impacts and advises that there are no other consented or pending solar farm applications or any proposed development of a similar nature or scale within 5km. It identifies the operational solar farm at Manor Farm and a wind turbine (15m tower height) at Main Farm House both within 5km of the proposed development. However, it advises that there is no evidence to suggest that there would be a cumulative adverse effect in combination with the proposed development on the River Usk SAC or the Usk Bat Sites SAC. I see no reason to disagree.
16. On that basis and having taken account of all available evidence, I conclude that it is beyond reasonable scientific doubt that the proposed development and associated construction activities, either alone or in combination with other projects would not have an adverse effect on the integrity of these European Sites, namely the River Usk SAC and the Usk Bat Sites SAC. That is predicated on the basis of securing those elements of identified design, mitigation and avoidance measures that I have found to be reasonable and necessary.

APPENDIX C: APPEARANCES

FOR THE APPLICANT:

Elizabeth Dunn	Partner, Burges Salmon
Ed Perrin	Head of Development, Renewable Connections
Joel Gandhi	Development Manager, Renewable Connections
Gareth Roberts	Planning Agent, Pegasus
Kay Hawkins	Director (Landscape) HBA Environment
Tony Kernon	Director, Kernon Countryside

FOR THE LOCAL PLANNING AUTHORITY:

Kate Bingham	Senior Development Manager, MCC
Andrew Jones	Planning Applications Manager, MCC
Andrew Nevill	Landscape/GI Manager, MCC
Susan Hall	Principal Planning Policy Officer, MCC
Rachel Lewis	Planning Policy Manager, MCC

INTERESTED PERSONS:

David Shears	Campaign for the Protection of Rural Wales
James Fraczyk	Barrister (for HUSTLE)
Don Grant	HUSTLE
Hugh Candler	Gobion Fawr Community Council
Cllr Graham Thomas	Councillor for Llanfair Kildeggin

APPENDIX D: DOCUMENTS

Documents submitted with the application (including updates on variation of the proposal)

Document Ref:	Issue	Date	Title
DOC 01	SUBMISSION	Jan-22	DESIGN AND ACCESS STATEMENT
DOC 02	SUBMISSION	Jan-22	CONSULTATION REPORT
DOC 03	SUBMISSION	Jan-22	CONSULTATION REPORT APPENDICES
DOC 04	SUBMISSION	Jan-22	PLANNING STATEMENT
DOC 05	SUBMISSION	Jan-22	ALTERNATIVES SITE SEARCH REPORT
DOC 05	VARIATION	May 22	ALTERNATIVES SITE SEARCH REPORT
DOC 06	SUBMISSION	Jan-22	AGRICULTURAL USE AND LAND QUALITY
DOC 07	SUBMISSION	Jan-22	ARBORICULTURAL IMPACT ASSESSMENT
DOC 08	SUBMISSION	Jan-22	BAT REPORT
DOC 09	SUBMISSION	Jan-22	CONSTRUCTION TRAFFIC MANAGEMENT PLAN
DOC 09	VARIATION	May-22	CONSTRUCTION TRAFFIC MANAGEMENT PLAN
DOC 10	SUBMISSION	Jan-22	ECOLOGICAL DESIGN STRATEGY
DOC 10	VARIATION	May 22	ECOLOGICAL DESIGN STRATEGY
DOC 11	SUBMISSION	Jan-22	ECOLOGICAL IMPACT ASSESSMENT
DOC 11	VARIATION	May 22	ECOLOGICAL IMPACT ASSESSMENT
DOC 12	SUBMISSION	Jan-22	FLOOD CONSEQUENCE ASSESSMENT AND DRAINAGE STRATEGY
DOC 12	VARIATION	May 22	FLOOD CONSEQUENCE ASSESSMENT AND DRAINAGE STRATEGY
DOC 13	SUBMISSION	Jan-22	ARCHAEOLOGICAL GEOPHYSICAL SURVEY
DOC 14	SUBMISSION	Jan-22	GREAT CRESTED NEWT SURVEY REPORT
DOC 14	VARIATION	May-22	GREAT CRESTED NEWT SURVEY REPORT
DOC 15	SUBMISSION	Jan-22	GREEN INFRASTRUCTURE AND LANDSCAPE STRATEGY
DOC 16	SUBMISSION	Jan-22	GLINT AND GLARE ASSESSMENT
DOC 17	SUBMISSION	Jan-22	HERITAGE IMPACT ASSESSMENT
DOC 18	SUBMISSION	Jan-22	LANDSCAPE AND VISUAL ASSESSMENT
DOC 18	VARIATION	May-22	LANDSCAPE AND VISUAL ASSESSMENT
DOC 19	SUBMISSION	Jan-22	NET GAIN ASSESSMENT
DOC 19	VARIATION	May-22	NET GAIN ASSESSMENT

DOC 20	SUBMISSION	Jan-22	NOISE IMPACT ASSESSMENT
DOC 20	VARIATION	May-22	NOISE IMPACT ASSESSMENT
DOC 21	SUBMISSION	Jan-22	OUTLINE CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN
DOC 21	VARIATION	May-22	OUTLINE CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN
DOC 22	SUBMISSION	Jan-22	OUTLINE DECOMMISSIONING PLAN
DOC 23	SUBMISSION	Jan-22	OUTLINE SOIL MANAGEMENT PLAN
DOC 24	SUBMISSION	Jan-22	RESIDENTIAL VISUAL AMENITY ASSESSMENT
DOC 25	SUBMISSION	Jan-22	SHADOW HABITATS REGULATIONS ASSESSMENT
DOC 25	VARIATION	May-22	SHADOW HABITATS REGULATIONS ASSESSMENT
DOC 26	SUBMISSION	Jan-22	ECONOMIC BENEFITS REPORT
DOC 27	SUBMISSION	Jan-22	TREE CONSTRAINTS REPORT

Documents submitted by applicant in response to request for further information and with variation submission

Document Ref:	Issue	Date	Title
DOC 28	VARIATION	May-22	COVER LETTER TO VARIATION & REGULATION 15 SUBMISSION
DOC 29	VARIATION	May-22	APPLICANT'S RESPONSE TO REGULATION 15(2) REQUEST FOR FURTHER INFORMATION
DOC 30	VARIATION	May-22	RESPONSE TO INSPECTOR'S REQUEST FOR FURTHER INFORMATION: BEST AND MOST VERSATILE AGRICULTURAL LAND
DOC 31	VARIATION	May-22	TRIAL TRENCHING REPORT
DOC 32	VARIATION	May-22	COLLABORATIVE BENEFITS REPORT
DOC 33	VARIATION	May-22	APPLICANT'S RESPONSE TO REPRESENTATIONS
DOC 34	VARIATION	May-22	MANOR FARM APPEAL DECISION

Documents submitted by applicant for Hearing Sessions

Document Ref:	Issue	Date	Title
DOC 35	HEARING	July-22	APPLICANT'S COVERING LETTER
DOC 36 APPLICANT'S	HEARING	July-22	APPLICANT'S HEARING STATEMENT 2
DOC 37	HEARING	July-22	APPLICANT'S HEARING STATEMENT 3

DOC 38	HEARING	July-22	APPLICANT'S SUGGESTED ITINERARY FOR INSPECTOR'S SITE VISIT
DOC 39	HEARING	July-22	APPEAL DECISION BY INSPECTOR BAIRD (18 FEBRUARY 2022) APPEAL REF: APP/B3030/W/21/3279533

Documents submitted by applicant after the Hearing Sessions

Document Ref:	Issue	Date	Title
2022-08-25 - Post Hearing Request for Information	POST HEARING	Aug -22	Post Hearing Request for Information (with attachments)
2022-10-05 – Applicant's response to the Elwy Solar Energy Farm Decision	POST HEARING	Oct-22	Applicant's response to the Elwy Solar Energy Farm Decision

Documents submitted by interested parties after initial application consultation and publicity period:

Document:
2022-06-20- REPS2 001 - Health and Safety Executive
2022-06-30 - REPS2 002 - Brecon Beacons NPA
2022-07-04 - REPS2 003 - Glamorgan Gwent Archaeological Trust
2022-07-07 REPS2 004 - David Vaughan
2022-07-06 - REPS 006 - Andrew Sutton pt. 1-4
2022-07-14 REPS2 007- Natural Resources Wales
2022-07-14 REPS2 008 - Gobion Fawr Community Council
2022-07-14 REPS2 010 - A Watson
2022-07-14 REPS2 011 - John Abraham and Gill Parsons
2022-07-15 REPS2 012 - Monmouthshire County Council
2022-07-15 REPS2 013 - Catherine Williams
2022-07-15 REPS2 014 - DCC

Documents submitted by interested parties for Hearing Sessions

Document:
2022-07-20 - HEARSTAT HUSTLE 1
2022-07-25 - HEARSTAT HUSTLE 2
2022-07-25 - HEARSTAT HUSTLE 3
2022-07-26 - HEARSTAT CPRW



Appendix 7



Appeal Decisions

Inquiry held on 15 November 2022 & 10, 11, 12, 16, 17, 18 October 2023

Site visits made on 13 & 17 October 2023

by Louise Crosby MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2023

Appeal A Ref: APP/X1355/W/22/3299829

Land at Sheraton Hall Farm, Sheraton, Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lightsource SPV 206 Limited against the decision of Durham County Council.
 - The application Ref DM/20/03722/FPA, dated 15 December 2020, was refused by notice dated 10 December 2021.
 - The development proposed is installation and operation of a solar farm together with all associated works, equipment and necessary infrastructure.
-

Appeal B Ref: APP/X1355/W/22/3299836

Land near Sheraton Hall Farm, Sheraton, Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lightsource Development Services against the decision of Durham County Council.
 - The application Ref DM/21/02333/FPA, dated 29 June 2021, was refused by notice dated 10 December 2021.
 - The development proposed is construction of underground electricity cables and associated infrastructure to connect to the proposed Sheraton Hall Solar Farm (DM/20/03722/FPA) to the primary substation.
-

Appeal C Ref: APP/H0724/W/22/3299842

Land near Sheraton Hall Farm, Sheraton, Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lightsource Development Services against the decision of Hartlepool Borough Council.
 - The application Ref H/2021/0312, dated 29 June 2021, was refused by notice dated 4 March 2022.
 - The development proposed is construction of underground electricity cables and associated infrastructure to connect Sheraton Hall Solar Farm to the primary proposed substation – Durham County Council ref: DM/20/03722/FPA.
-

Appeal D Ref: APP/H0724/W/22/3299848

Land near Hart Moor Farm, Hart, Hartlepool, TS27 3BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lightsource Development Services against the decision of Hartlepool Borough Council.
 - The application Ref H/2021/0311, dated 29 June 2021, was refused by notice dated 4 March 2022.
 - The development proposed is construction of underground electricity cables, substation and associated infrastructure to connect to Hart Moor Substation.
-

Appeal E Ref: APP/H0724/W/22/3299857

Land near Hulam Farm, Castle Eden, Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lightsource Development Services against the decision of Hartlepool Borough Council.
 - The application Ref H/2021/0313, dated 29 June 2021, was refused by notice dated 4 March 2022.
 - The development proposed is construction of underground electricity cables, substation and associated infrastructure to connect Hulam Solar Farm to the existing substation near Hart – Durham County Council ref: DM/19/03959/FPA.
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the installation and operation of a solar farm together with all associated works, equipment and necessary infrastructure on land at Sheraton Hall Farm, Sheraton, Durham, in accordance with the terms of the application, Ref DM/20/03722/FPA, dated 15 December 2020, subject to the conditions in the schedule attached to this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for the construction of underground electricity cables and associated infrastructure to connect to the proposed Sheraton Hall Solar Farm (DM/20/03722/FPA) to the primary substation on land near Sheraton Hall Farm, Sheraton, Durham, in accordance with the terms of the application, Ref DM/21/02333/FPA, dated 29 June 2021, subject to the conditions in the schedule attached to this decision.

Appeal C

3. The appeal is allowed and planning permission is granted for the construction of underground electricity cables and associated infrastructure to connect Sheraton Hall Solar Farm to the primary proposed substation – Durham County Council ref: DM/20/03722/FPA on land near Sheraton Hall Farm, Sheraton, Durham, in accordance with the terms of the application, Ref, H/2021/0312 dated 29 June 2021, subject to the conditions in the schedule attached to this decision.
-

Appeal D

4. The appeal is allowed and planning permission is granted for the construction of underground electricity cables, substation and associated infrastructure to connect to Hart Moor Substation on land near Hart Moor Farm, Hart, Hartlepool, TS27 3BQ, in accordance with the terms of the application, Ref, H/2021/0311 dated 29 June 2021, subject to the conditions in the schedule attached to this decision.

Appeal E

5. The appeal is allowed and planning permission is granted for the construction of underground electricity cables, substation and associated infrastructure to connect Hulam Solar Farm to the existing substation near Hart – Durham County Council ref: DM/19/03959/FPA on land near Hulam Farm, Castle Eden, Durham, in accordance with the terms of the application, Ref, H/2021/0313 dated 29 June 2021, subject to the conditions in the schedule attached to this decision.

Applications for costs

6. A written application for costs was made by the appellant following the adjournment of the inquiry in November 2022. This is the subject of a separate Costs Decision.

Preliminary Matters

7. Prior to the opening of the inquiry, I wrote to all the main parties raising the following questions and sought legal submissions on them:
 - i) Whether any of the five appeals could be considered to be an extension to the consented Solar Farm at Hulam (reference DM/19/03959/FPA) by reason of being functionally linked;
 - ii) Whether development consent would be required in accordance with the Planning Act 2008 for the resultant generation capacity; and
 - iii) Whether there are implications related to these issues for any grant of planning permission for the above appeals and the inquiry next week.
8. All the parties submitted legal submissions as requested. Durham County Council and Hartlepool Borough Council took the view that, notwithstanding the fact that they validated and determined the planning applications the appeals did not fall to be determined under the Town and Country Planning Act (TCPA). Instead, they argued, a Development Consent Order should be sought by the appellant for this development under the Planning Act 2008 as an extension to the solar farm at Hulam, which already has planning permission. The appellant took the contrary view.
9. I opened the inquiry, as planned, on 15 November 2022. After some discussion with the main parties around the various legal submissions, I took the decision in the afternoon of the first day to grant an adjournment for a limited time. This was to allow the Councils to issue a challenge within a short time frame.

10. The case was heard in May this year and the judgement issued in June. The judge found that the project does not require development consent (under the Planning Act 2008) and even if it did that would not deprive the LPAs of jurisdiction to grant planning permission, nor deprive the SoS jurisdiction to entertain the appeals. The inquiry was resumed on 10 October 2023 and my formal decisions are set out above, with the reasons for them, below.
11. To allow for the completion of the Section 39 Agreement and the re-drafting of several planning conditions, the inquiry was adjourned and closed in writing on 17 November 2023.
12. One of the Council's reasons for refusal in relation to appeal A was in relation to the loss of best and most versatile (BMV) agricultural land. However, the Council did not seek to defend this reason for refusal at the inquiry. I shall consider this issue later in my decision.
13. I shall deal with the appeals in the following order, appeal A, which is for the solar arrays, then appeal D for the substation and then I will deal with the underground cabling, appeals B, C & E.

Main Issues

14. In relation to appeal A, C, D & E:
 - the effect of the proposal on the character and appearance of the surrounding area.

In relation to appeal B:

- whether the proposal is necessary in relation to appeal A.

Reasons

The sites, the surrounding area and the proposals

Appeal A

15. It is common ground that appeal A relates to approximately 77 hectares of agricultural land to the south of the hamlet of Sheraton and west of the A19 dual carriageway and that the site lies within the administrative area of Durham County Council. It comprises two groups of land parcels, one to the north of the B1280 and one to the south.
16. The northern parcels of land lie within an irregular triangle of land defined by the A19 to the east, the B1280 to the south and an unnamed minor road to the north which links these two roads. This rural lane serves a number of properties to the immediate west of the A19 and provides access to Sheraton Hall Farm (within the same ownership as the application site).
17. To the south of the B1280, two separate parts of the site are located adjacent to Roper's Wood, a plantation woodland, with Hurworth Burn Road also providing some physical separation between the individual fields. Coal Lane defines the southernmost boundary of this part of the site.

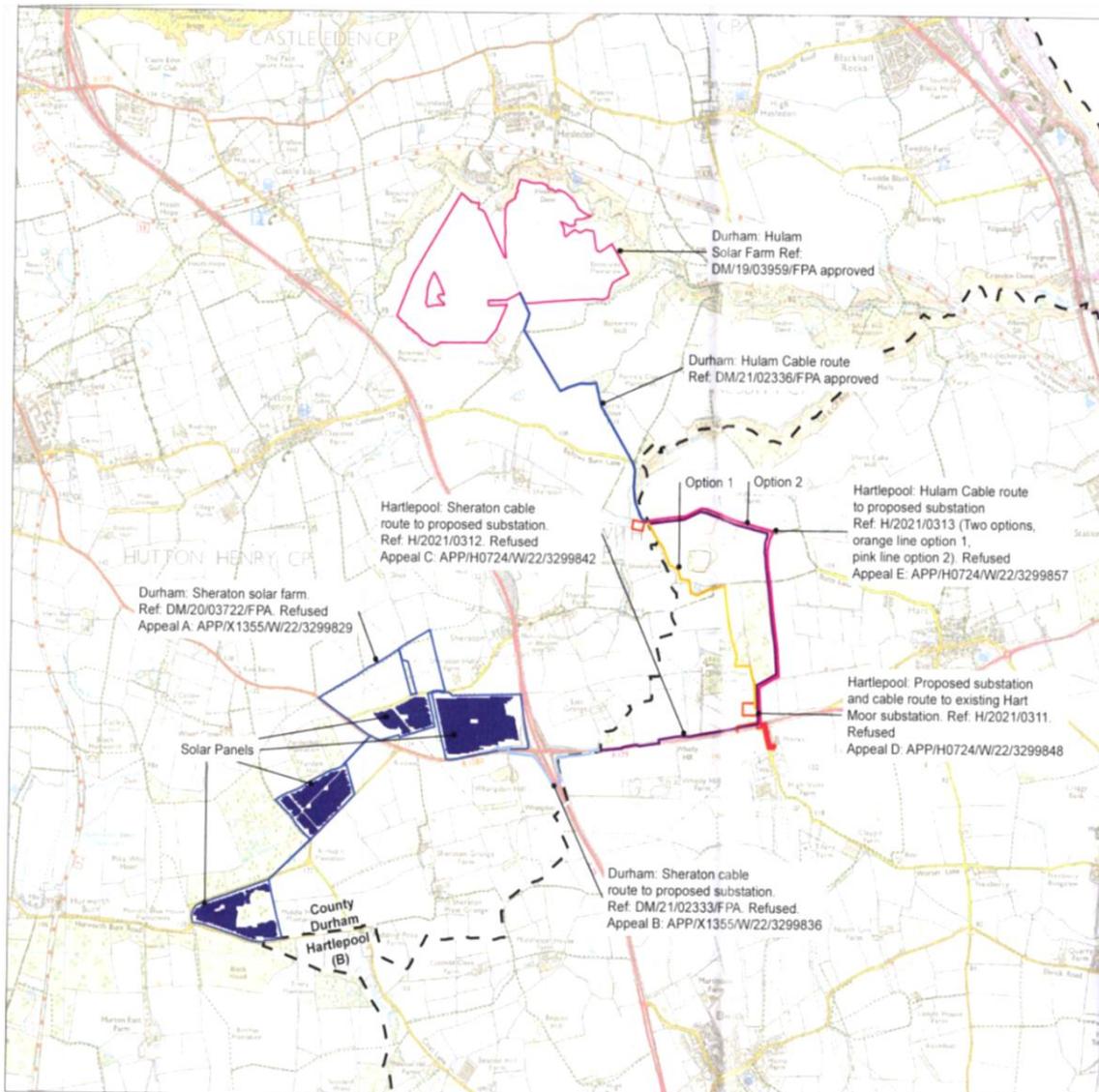
18. The site and the surrounding area form part of a rolling open landscape within this part of Durham and west of the well-defined urban edge of Hartlepool, approximately 4 km east of the site. A series of existing field boundaries, hedgerows and vegetation are present around and across the proposed appeal site. Hedgerows are typically around 1.5m high across the appeal site although some are already much closer to 3m.
19. Approximately 15 hectares of the southwestern part of the site is within a designated Area of Higher Landscape Value (AHLV) although not all of this area would contain built form (such as the woodland), representing approximately 30 percent of the total site area. The AHLV is a designated landscape as defined by Paragraph 174 of the Framework. There are no public rights of way within the site, although there are a number in the vicinity.
20. Planning permission is sought for the construction of a 49.9 MW solar farm for a temporary period of 40 years. The proposed layout was subsequently amended during the determination of the planning application with a significant reduction in the site area, through the exclusion of the northernmost field and the scheme being offset from the B1280 in the field to the south of the lane.
21. The proposed development would consist primarily of solar photovoltaic panels (fitted on a metal framework with pile driven foundations) aligned in rows, or arrays, within each of the site's fields. Other infrastructure would include seven switchgear substations spaced around the adjoining internal access roads, and 14 inverters and 14 transformers adjoining the switchgear substations.
22. Within the northern part of the site there would be a compound area including a Distribution Network Operator (DNO) substation, a customer substation, an auxiliary transformer, storage building, monitoring and communications building with associated weather station and communications equipment and a composting toilet. The solar panels would be a maximum height of 3 metres above ground level, with their lower edge 1.4 metres off the ground.

Appeal D

23. The proposed development comprises the erection of a substation on land near Hart Moor Farm, approximately 70m north of the A179, and an underground cable connection between the proposed substation and the existing Hart Moor Substation. The proposed substation would be housed in a building located close to the northern boundary of the A179, a busy main road linking the A19 to Hartlepool. To the south of the appeal site, on the opposite side of the A179, is Hart Moor Substation a national grid substation which this proposed substation would be connected to. The proposed substation and underground 66kV cable connections would lie within the open countryside, approximately 3 km west of the urban edge of Hartlepool town. The site lies within the administrative area of Hartlepool Borough Council.

24. The proposed co-located substation would have a floor area of approximately 17m x 5.5m and a height of 6.3m. It would serve both the proposed Sheraton Solar Farm and the Hulam Solar Farm to the north, which already has planning permission, along with a substation. Other renewable energy development has recently been granted in the vicinity of the proposed substation on the southern side of the A179.
25. To the west of the appeal site on the northern side of the A179, set back slightly from the A179, planning permission has been approved for a synchronous condenser and so this general area close to 2 major, busy roads, the A19 dual carriageway and the A179 contains a significant amount of energy related infrastructure and has planning permission for more.
26. The proposed co-located substations would connect Sheraton Solar Farm to the Northern Power Grid (NPg) distribution network. Without part of the proposed substation, Sheraton would not have a 66kV connection point to the NPg Hart Moor Substation, therefore part of the substation is required to enable transmission of energy generation from the Sheraton Solar Farm to the network. It was determined in agreement with the DNO that the optimal technical solution for connecting the Hulam site would also be through a co-located substation here, close to the NPg Hart Moor Substation.
27. The proposed development is linked to the approved Hulam Solar Farm within Durham Council as well as the proposed Sheraton Solar Farm within Durham Council (appeal A).

Appeals B, C & E
28. These appeals relate to underground cabling associated with the 2 solar farms (Hulam and Sheraton). Two options (Option 1 and Option 2) were originally proposed for the cable route within Hartlepool Borough Council, however during the course of the inquiry it was agreed that only planning permission was being sought now for option 1.
29. The plan on the following page shows the relationship of the different appeals as well as the location of the Hulam Solar Farm.



Policy context

30. It is worth recording that the main parties agree that the most important policies in the development plans are up to date, and the so-called 'tilted balance' is not engaged.

Durham County Council (appeals A & B)

31. The development plan comprises the adopted County Durham Plan 2020 (CDP). It is agreed that the most important policies for dealing with these appeals are Policy 33 dealing with renewables and Policy 39 dealing with landscape.
32. Policy 33 offers support to renewable and low carbon energy development in appropriate locations. Policy 39 seeks to protect the landscape from unacceptable harm and expects development proposals to incorporate appropriate mitigation measures. In terms of AHLV's the policy seeks to ensure development is only permitted where it conserves and where appropriate enhances the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm. It

also requires development proposals to have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.

Hartlepool Borough Council (appeals C, D & E)

33. The development plan in this area comprises the adopted Hartlepool Local Plan 2018 (HLP) and the Rural Neighbourhood Plan 2018 (RNP). It is agreed that the most important policies in relation to these appeals are Policies RUR1 and QP4 in the HLP and Policies NE2, GEN1 and GEN2 in the RNP.
34. Policy RUR1 is a criteria-based policy that seeks to strictly control development in rural areas. It does support the rural economy where it is considered necessary for the efficient or the continued viable operation of agriculture, horticulture, forestry, equine uses, and/or other appropriate land-based businesses. This includes the diversification of activities on existing farm units which do not prejudice continued agricultural use and are of a scale and nature that is suitable to a rural location.
35. The relevant criteria are, it requires development in rural areas to be in accordance with the Hartlepool Rural Neighbourhood Plan and any other neighbourhood plan; where possible be located in or near to the villages, not have a significant detrimental impact on neighbouring users or surrounding area by way of amenity, noise, access, light pollution or visual intrusion; through good design, enhance the quality, character and distinctiveness of the immediate area, villages and landscapes, taking into account relevant design guides and statements; be in keeping with other buildings in terms of siting, size, materials and colour; not have a detrimental impact on the landscape character or heritage assets; and avoid areas of best and most versatile agricultural land, those areas classed as grades 1, 2 and 3a in the Agricultural Land Classification.
36. Policy QP4 is a criteria-based policy whose overall aim is to ensure all developments are designed to a high quality and positively enhance their location and setting.
37. Policy NE2 provides support for renewable energy and low carbon schemes subject to consideration of among other things, the surrounding landscape and subject to appropriate mitigation measures to address any effects identified.
38. Policy GEN1, among other things, seeks to control development in the countryside but is supportive of essential public infrastructure.
39. Policy GEN2 sets out general design principles.

Character and appearance

Appeal A

40. Given their nature and scale, it is inevitable that large scale solar farms may result in landscape harm. In this context, national and development plan policy adopts a positive approach indicating that development will be approved where the harm would be outweighed by the benefits of a scheme.

41. The Framework at paragraph 174, indicates that the intrinsic character and beauty of the countryside should be recognised. That said, the Framework does not seek to protect, for its own sake, all countryside from development; rather it concentrates on the protection of valued landscapes.
42. The appeal site comprises agricultural fields and is entirely rural in appearance, as is much of the surrounding area. The area contains sporadic dwellings and farmsteads. The main urbanizing effect is the busy A19 dual carriageway, immediately to the east of field 2.
43. A useful starting point in dealing with the effect of the proposal on the character and appearance of the area is to consider the way in which it is described in character appraisals. The site is within National Character Area (NCA15): Durham Magnesium Limestone Plateau, but the appeal site displays very few characteristics described in NCA15.
44. The County Durham Landscape Character Assessment 2008 (CDLCA) is a local level assessment which it is agreed is most relevant to this case. It is broken down into County Landscape Areas, below that Broad Character Areas and then below that Local Landscape Types. Most of the site sits within the Sheraton Broad Character Area. The relevant characteristics in this case are the gently undulating landscape, a predominantly arable landscape with old pre-enclosure hedgerow networks, locally heavily fragmented and a few hedgerow trees, the busy A19 in prominent cuttings and embankments, and the occasional small broadleaved woodlands on prominent hill-tops and large ancient woodlands in incised denes.
45. Most of the appeal site is located within the Plateau farmland: Open arable local landscape type, which is described as, open, flat or rolling arable farmland on the heavy clays and brown earth of the limestone plateau with field boundaries consisting of low hawthorn hedges with few hedgerow trees. It says that field sizes are large and field patterns are often heavily disrupted by field amalgamations.
46. The south-western part of the site falls within the Tees Lowland broad landscape character type which contains a number of key characteristics found on the appeal site. This is then broken down into three broad character areas. The south-western part of the site lies within the Embleton Broad Character area, and this is most relevant here as it is described as "Gently rolling or flat wooded farmland. A patchwork of improved pasture and arable fields bounded by a fragmented network of old hedges, clipped low in places; tall and overgrown in others. There are few hedgerow trees. Broadleaved woodlands lie in incised steep sided denes of the branching Amerston Beck, and mixed plantations are scattered across the area. The Hurworth Burn Reservoir lies on the River Skerne in the north. Isolated farms are connected by narrow winding lanes and farm tracks. The area is crossed by the Castle Eden walkway on a disused railway line".
47. The broad character area is broken down further into local landscape types. The most relevant type is the Plain farmland: wooded pasture and local landscape type, this is described as, "wooded gentle rolling or gently undulating farmland of improved and semi-improved pasture on the heavy clay soils of the Tees plain. Fields are often large and bounded by low, clipped, often gappy thorn hedges or wire fences with scattered, locally

abundant hedgerow oak, ash and sycamore. Field patterns are sub-regular, occasionally preserving the curving alignment of medieval strip fields. Older pastures may preserve relics of medieval rigg and furrow and deserted or shrunken medieval villages. Small field ponds are common”.

48. I saw when I visited the site that the landscape is characterised by gently rolling or gently undulating farmland. The boundary hedges varied in height and density with some containing trees. Some fields have been amalgamated to make larger fields to suit modern farming practices. I also saw pockets of woodland scattered across the landscape. My experience of this landscape reflected that set out in the most relevant landscape assessment.
49. The woodland and topography help to contain local views and along with extensive rows of hedgerow provide a sense of landscape enclosure. Nevertheless, there are areas where the views are more far reaching across the landscape. This was clear to see during my site visit when I viewed the appeal site from various roads, public footpaths and residential dwellings.
50. I saw that some hedgerows were much taller than others. The Council say that the traditional height is 1.5m, with farmers regularly cutting them low. It is alleged by the Council and local residents that the hedgerows close to the fields proposed to contain the solar arrays have been allowed to grow closer to the 3m height proposed as part of this scheme. Whilst the tradition might have been to keep hedgerows cut back, the CDLCA is critical of this practice as it says this reduces their landscape and wildlife value, among other things. It is likely therefore that taller hedges, like those proposed as part of the mitigation scheme in this case could become more commonplace in this and other areas in the future. This in turn could lead to a more enclosed landscape, regardless of the proposal.
51. The site is criss-crossed with a network of country lanes and public footpaths, many of which I walked during my site visit. These would remain and be largely unaffected by the proposal.
52. I shall deal first with the land parcels to the north of the B1280. Field 2 contains the largest concentration of solar arrays and is the least sensitive to change. It is bounded by the B1280 to the south and the A19 dual carriageway to the east and is bisected by 2 existing electricity pylons. The A19 here is particularly dominant as it contains the slip road to the A19 north when travelling from the B1280 or the A179 road from Hartlepool.
53. The B1280 road rises to the intersection over the A19 close to these fields. To the north of the site the unnamed lane which passes in front of Sheraton Hall Farm also comes close to this field. Boundary landscaping and an existing tree belt would be enhanced with further planting and hedgerows would be allowed to grow to a height of 3m. Overall, this field has the capacity to absorb the solar arrays with minimal harm due to its topography, existing and proposed screening, and the presence of the A19 and large pylons.
54. Turning now to field 1 which is a much smaller area to the west of field 2 but separated by an existing mature tree belt. The solar arrays would be set well back from the B1280. They would abut the lane leading to Sheraton Hall

Farm, but be well screened from users of the lane by existing and proposed boundary landscaping in the form of hedgerows and trees. New landscaping along the B1280 would screen out the distant views of them. The solar arrays would be visible from some places, but they would be glimpsed views seen in the context of the Sheraton Hall Farm complex which contains large modern farm buildings as well as a farmhouse. In addition, field 1 is part of a larger field that contains 5 electricity pylons.

55. Field 4, slightly further south-west, would contain another area of solar arrays. These would be within part of a field system to the north of Hurworth Burn Road. To the east of these is a sizeable area of mature woodland which would screen views from the west. To the north of the site there are some more smaller areas of woodland which would filter and soften the views from this direction. The views from here would also be reduced because of the topography and folds in the landscape. This stretch of Hurworth Burn Road is bounded by dense hedgerows of a height that would provide good screening. This mitigating effect would reduce to some degree in winter when there would be some filtered views through the hedgerow.
56. A public footpath runs along the boundary of the site, adjacent to Roper's Wood, but I saw when I visited the site the entrance to it has been fly tipped and the footpath is overgrown and impassable. That is not to say however, it would not be brought back into use over the next 40 years. If it were, the solar panels would be along a short stretch of the footpath and at the other side of it would be woodland, so users would not be walking with solar panels on both sides which would be far more harmful.
57. Turning to the most southwestern parcel, field 3, which it is agreed is within the AHLV and therefore the most sensitive area to change of the appeal site. This part of the site is farthest away from the A19 corridor and has a more rural character. The roughly triangular shaped field has an area of mature woodland within it and the solar arrays would be wrapped around 3 sides of it. The areas to the north and south of the woodland are of limited size and therefore the number of arrays in these areas would be limited.
58. The area to the west of the woodland would be most visible in the landscape due to the land rising slightly here, the gappy nature of the hedgerows in places and the fact that the road wraps around it.
59. The solar arrays would be visible from the roads bounding the site. Visibility would be greater in the early years of the development whilst the gapping up of hedges and the growth of existing hedgerows to 3m takes place.
60. Any harm would reduce as the new hedgerows mature and the existing hedgerows grow taller and denser. This would take around 5 to 10 years for the full effect of the mitigation to be felt and it is likely there would be some residual effects during the winter months. However, this is a very small part of this landscape and the AHLV.
61. To summarise, in the early part of the life of the development there would be some locations where the magnitude of change in the landscape would be high. This would be notable from some roads particularly where the hedges are currently well below 3m high and/or contain considerable gaps in them. Elsewhere the essential character would be changed, but at a more

moderate level because of the retained and strengthened landscape features which would also be a positive legacy of the proposal even after its decommissioning. Also, the existing field patterns would be retained and the topography unaltered.

62. Overall, I find that the area of the site within the AHLV is of high sensitivity as a result of its high value and medium susceptibility to change would result in a major/moderate adverse landscape effect. In the area around the other fields a medium magnitude of change combined with a medium sensitivity would result in a moderate adverse effect upon the landscape character of the site on completion. This would result in some moderate harm to the character of the landscape here. The effect in all areas would diminish over time as the landscaping takes effect. It is agreed that this would be around 5 years from the completion of development and that by year 10 the mitigation effects would be greater, even in the winter months as the hedgerows increase in density.
63. Turning to the visual impact, it is clear that the most noticeable parts of the development would be on the edges of the site. Only one of the fields where there would be solar arrays is abutted by a public footpath and this is currently unusable. Therefore, it would be mainly cyclists and horse riders who would have a high sensitivity to the adverse impacts when viewed from the roads.
64. Some would view them more favourably given their purpose is to deliver green energy. However, the proposal would introduce regular and regimented rows of solar panels along with their associated infrastructure such as inverters, fences and compounds. These are not typical features in a rural landscape and their visual impact would not be completely mitigated. In my judgement it would be of moderate adverse impact reducing over time to a moderate minor impact.
65. Other people likely to see the proposal are those travelling along the roads adjacent to the fields in vehicles. To some degree their sensitivity would be less as they would be likely to be travelling at greater speed and therefore see them for shorter periods and have more glimpsed views. As such the visual impact of the development would be less likely to be perceived as unfavourable. The impact for these people would be likely to be minor.
66. In longer distance views from the extensive network of public footpaths, it would be possible to see some areas of solar panels in the distance. However, these views would mostly be visually fragmented by trees and hedgerows, particularly during the summer months. Views from public footpaths would be limited due to the location of the development in relation to them and the naturally undulating landscape.
67. In terms of all receptors the harm would reduce over time as the landscaping matures and this is likely to take around 5 years, with more effects felt up to 10 years post construction as the landscaping becomes denser as well as taller. The mitigation would reduce in the winter months and again the reduction would be greater in the early years due to the landscaping being sparser.

68. The farms and dwellings to the east of fields 3 and 4 would see more of the solar panels because of their elevated position. They would however be viewed over some distance and the area of woodland in field 3 would effectively screen a large amount of the solar panels in that field and the existing and proposed boundary landscaping would effectively mitigate field 4.
69. In particular Sheraton Hall Farm lies close to the north-eastern parts of the site. Direct views into the site would be limited in part by field boundary hedgerows. During construction and at Year 1, the proposed solar panels would be clearly noticeable on the skyline to the south, however, sloping land on the adjacent field would remain as agriculture and most of the panels would be obscured by the topography.
70. The proposed panels would be seen in the context of the nearby powerlines with associated large-scale pylons. By year 5, a new tree-lined boundary hedgerow would have matured, screening most views towards the proposals to the south, and new tree and hedgerow planting, as well as infill hedgerow planting, would have matured along the boundary to the northernmost fields. However, views towards the solar development would remain to the north, due to the development being located on rising land.
71. Sheraton Grange Farm is situated on locally elevated land with views likely from northward facing windows looking towards north-eastern parts of the site and in particular from the private garden area belonging to the farmhouse. The western parts of the site adjacent to Hurworth Burn Road are also visible from the garden area. During construction and at Year 1, prior to mitigation planting being visually effective, views towards the proposed development would be greater albeit broken up by surrounding woodland tree belts. Once the proposed planting has matured, then the impact would be greatly reduced although there would be more visibility in winter.
72. From the properties at Sheraton West Grange, a range of barn conversions, the field adjacent to Hurworth Burn Road is visible as it rises from the road, as well as glimpses of the south westernmost field over intervening field boundary hedgerows. These properties at Sheraton West Grange are approximately 800m from the central parcel and 1km from the southwestern parcel. Whilst some solar panels would be visible from some windows in these dwellings and from the garden to the front, the views would be over some distance and over time mitigated by the proposed landscaping.
73. From Ivy Cottage and Hawthorn Cottage which are located at the junction between the B1280, and Hurworth Burn Road there may be some limited views in the early years of the development, but these would reduce over time as the proposed mitigation planting matures.
74. There are numerous other properties in the wider area, that may be able to obtain glimpsed views, but I consider that overall, the proposal would not have an adverse impact on the visual amenity of local residents.
75. The fact that the submitted study which is not contested by the Council concludes that there would be no adverse impact from glint or glare adds

weight to this finding. There would therefore be a minor visual impact from these longer distance views.

76. Overall, I find that any harm to the character and appearance of the surrounding area would be limited and localised. The proposal would accord with CDP Policy 33. In terms of Policy 39 the proposal would not conserve the special qualities of the landscape in the AHLV. I shall consider later in my decision whether this harm is clearly outweighed by the benefits of the proposal and this whether the proposal accord with this policy.

Appeal D

77. A useful starting point in dealing with the effect of the proposal on the character of the area is to consider the way in which it is described in character appraisals. At a national level the site and its surroundings are within NCA 15, the details of which are set out above in relation to appeal A.
78. More relevantly, the Hartlepool Landscape Assessment 2000 (HLA) identifies the site as falling within the Undulating Farmland Landscape Type, which the assessment assigns a high amenity value with a medium to low visual quality and a medium to low landscape quality.
79. The Strategic Gap Assessment 2017 (SGA) seeks to refine the character types identified within the HLA. The SGA locates the site within the Undulating Semi-Rural Farmland Landscape Character Area. This is described as the most common and widespread area within the vicinity of the strategic gap, but it does not locate the appeal site within a Strategic Gap.
80. The landscape value is assessed as high, stating that the landscape positively contributes to the setting of nearby settlements, includes several local landscape designations and is widely accessible via public footpaths. The area within which the site is located does include multiple public footpaths, and areas illustrated as designated in the Hartlepool Local Plan Policies Map such as Local Wildlife Sites and Natural and Semi- Natural Green Space. I agree with the appellant that the 'high value' assigned by the 2017 assessment is unjustified in this case since in the area around the site, there is an absence of any distinctive features other than areas of woodland which are commonplace. The landscape here does not exhibit any distinctive features or strong aesthetic qualities or distinctive views.
81. Indeed, the site is subject to local visual detractors associated with the existing Hart Moor Substation, the overhead electricity pylons and transmission lines, and the visual and audible presence of traffic on the A19 and A179. Whilst there are views of the sea from this site there are many more places where it can be viewed from. As such, I find that the appeal site is located within an area that would more closely align with the definition given for a landscape of moderate value.
82. The SGA categorises the landscape character sensitivity for the landscape character areas as 'medium-high' noting that the characteristics of the Undulating Semi-Rural Farmland Landscape Character Area are generally in a good condition, but that the area includes some detracting elements, including overhead cables, timber utility poles, pylons and roads. From my

visit to the site, it is clear that the area around the appeal site contains a number of these detracting elements and therefore I consider the sensitivity of the landscape character is medium, rather than high. Under the description of medium sensitivity, Table C of the SGA provides the following definition, "A landscape capable of accepting limited change. Proposed change could be accommodated with some adverse effects on landscape".

83. Landscape Visual Sensitivity for the area is also assessed as "medium-high" with the SGA noting that "Views across the landscape are available from Public Rights of Way and are widely of farmland, trees and hedgerows. The footpaths are not considered to attract high visitor numbers and are not set amongst a landscape of national significance or particular rarity. Some views are longer distance, but occasionally comprise visibility of the Hartlepool settlement and industrialised areas beyond. The character area also has some intervisibility between adjacent character areas."
84. Whilst existing views are available across parts of the area from public footpaths, whose users are classified as high sensitivity visual receptors the public footpaths close to the site are not considered to attract high numbers of visitors.
85. On the basis of the evidence before me I find that the Undulating Semi-Rural Farmland Landscape Character Area in the vicinity of the site is of medium value and susceptibility, which results in a medium sensitivity. The landscape in the location of the cable route is already influenced by the A179, pylons crossing nearby land and the substation south of the A179. Once operational the cable would be buried underground and not visible, resulting in no change to the local landscape character. The proposed substation would give rise to a moderate magnitude of change during the operational phase, resulting in a moderate adverse level of effect on the site itself, with the character beyond the site remaining unchanged during the operational phase.
86. In terms of the effects of the proposed substation on the landscape character of the site, it is influenced by numerous large pylons and associated powerlines in the locality and is not covered by any national or local landscape designations. The value of the site is therefore assessed as medium and the susceptibility of the landscape character to the proposals is considered to be medium, resulting in a medium sensitivity. Once operational the proposed substation would give rise to a moderate magnitude of change, whereas the cable would result in no change to the character of the site.
87. Turning now to the effect on general visual amenity, for the residents of Hart Moor Farm and associated dwellings these properties already overlook a large-scale pylon and have views towards the substations located to the south of the A179, as well as being able to see wind turbines on the skyline. Once the new tree-lined hedgerows along site boundaries have matured the views from the properties towards the proposed substation would be filtered.
88. For the residents of the properties of Nine Acres those on the western side of the culs de sac have views towards the proposal which would be filtered in part by garden vegetation and by intervening field boundary hedgerows. From the upper floor windows of the properties there would be greater views

of the substation compound, but this would be seen in conjunction with intervening vegetation, and in the context of existing large scale pylons dominating the skyline.

89. Once the proposed mitigation has matured, including infilling gaps in existing hedgerows and the allowance for the hedgerow to mature above 3m in height, the visual effects would reduce, particularly during the winter months. Views from dwellings on the western edge of Hart Village and Burns Close would be across a greater distance, thereby reducing the impact further.
90. Vehicles travelling along a short section of the A179, would get oblique views of the substation, which would sit lower than and be set back from the road. Although most views towards the proposed development would be obscured by the field boundary hedgerow adjacent to the A179, some glimpsed transient views would be possible towards the proposed substation, in particular to the southeast of the site.
91. However, the proposed substation would be seen in the context of the existing electricity pylons. The footpath leading from Nine Acres, across to the community woodland would provide views of the substation when walking it in a westerly direction. Whilst this is a relatively short footpath the substation would be clearly seen, although over time as the landscaping matures the views would become more filtered.
92. As with many views in this area the substation would be seen in the context of large electricity pylons. For people on the public footpath between Hart and Middlethorpe Farm, there would be no views towards the proposed development along most of this public footpath due to intervening field boundary vegetation or intervening landform.
93. However, limited oblique glimpsed views towards the proposed development would be possible over a limited stretch of the route, where the path is at its highest. Any view of the proposed development would be seen in the context of numerous pylons, masts, wind turbines on the skyline, in the context of development in Hart and, in the context of the infrastructure south of the A179.
94. As set out above this appeal relates to a substation and cabling. The substation would be located in a dip in the landscape thereby reducing its visual impact somewhat. The character and appearance of the area of the countryside here is very different to that at the other side of the A19. There is more built development in the form of housing with the village of Hart to the west and slightly further away the large town of Hartlepool. Linked to the proximity of the Hart Moor Substation, the area close to the site contains several large electricity pylons.
95. The A179 is a very busy, fast road carrying traffic between Hartlepool and the A19. All of this contributes to the area having a far less rural character and appearance. Whilst I accept the area to the south of the A179 contains much more industrial type development and has planning permission for more, it is closely linked to the area around the appeal site. Moreover, other large-scale development close to the appeal site on the north side of the A179, has planning permission in the form of a synchronous condenser.

96. Whilst the building housing the substations would need to be larger because it would also contain the substation for the Hulam solar farm, it would negate the need for another separate, albeit smaller substation to the north of the appeal site. Nevertheless I find that it is not 'essential' public infrastructure as required by RNP Policy GEN1. The building would be large and impossible to completely screen using landscaping, because of its scale and mass. However, the harm would be reduced by its location on lower ground, the presence of some mature landscaping which would be enhanced and the other large-scale infrastructure and busy main road.
97. The proposal would conflict with HLP Policy RUR1 and QP4. It would accord with RNP Policy NE2, but conflict with policies GEN1 and GEN2.

Appeals B, C and E

98. These appeals all relate to cabling and whilst there would be some short-term limited harm to the character and appearance of the countryside whilst the trenches are dug and the cabling laid, the cabling would quite quickly be buried under ground with very limited evidence of it above ground. As such I find that the cabling once laid and covered over would not harm the character and appearance of the area and accord with the relevant LP policies. Moreover if I find that appeal A is acceptable then the cabling would be necessary.

Other Matters

Renewable Energy

99. The Government recognises that climate change is happening through increased greenhouse gas emissions. One of the ways in which they are seeking to reduce reliance on energy production from fossil fuels is to significantly boost the amount of energy that is generated through renewable energy, including solar energy. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero by 2050.
100. A material consideration in the determination of planning proposals is, National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs EN-1 and EN-3 do not specifically refer to solar generated power, but they do reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and EN-3 identify, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farms which they see as providing a clean, low cost and secure source of electricity. However given they are at a draft stage I have afforded them only limited weight.
101. Durham County Council declared a climate emergency in 2019 and made a pledge to make County Durham carbon neutral by 2050. Durham County Council's Climate Emergency Action Response Plan outlines the measures the Council will take to meet this pledge. This includes actions and priorities to tackle both the Council's and County Durham's contribution to climate change.
102. The December 2020 Energy White Paper: Powering our Net Zero Future (WP) reiterates that setting a net zero target is not enough, it must be

achieved through, amongst other things, a change in how energy is produced. The WP sets out that solar is one of the key building blocks of the future generation mix. In October 2021, the Government published the Net Zero Strategy: Build Back Greener where under key policies it explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation such as solar.

103. Sheraton Solar Farm would have a generation capacity of up to 49.9 MW and would generate enough electricity to power the equivalent of 16,330 houses. This would result in approximately 20,558 fewer tonnes of carbon dioxide emissions from energy generation in the UK each year. The Council's acknowledge that this a substantial benefit of the proposals that attracts significant weight.
104. There are no physical constraints limiting early development of this site and a grid connection offer is in place. Therefore, the scheme could make an early and significant contribution to the objective of achieving the statutory Net Zero target set for 2050 and the commitment to reducing emissions in the shorter term also. Taking all of this into account, this benefit attracts significant weight.

Ecology and Biodiversity

105. The proposals are supported by a Biodiversity Management Plan which sets out the measures to provide enhanced biodiversity. The proposed development would provide an overall Biodiversity Net Gain (BNG) of 22.23% in area derived units and 25.56% in linear derived units.
106. I also note that neither the Council nor Natural England have raised any objections to the proposal, subject to relevant planning conditions and a Section 39 agreement (Wildlife and Countryside Act). The appellant has entered into a Section 39 agreement with Durham County Council which requires the submission of a Biodiversity Scheme and Management Plan to the Council for its approval.
107. In this regard I find that the BNG and the s39 agreement is a benefit of the scheme that attracts significant weight.
108. Hurworth Burn lies to the west of appeal site A. There are concerns that birds flying between the Burn and the coast to the east would mistake the solar arrays for bodies of water and fly into them, causing the birds harm. I have very limited evidence before me that this is more than a perceived risk.

Loss of agricultural land and land quality

109. This was a reason for refusal in relation to appeal A, but as set out above the Council have not sought to defend it. The framework at paragraph 174 advises that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of BMV agricultural land. It is common ground between the main parties that the appeal site is not BMV agricultural land.

110. Whilst the proposal would result in the loss of arable land for food production, this would be for a temporary period, albeit a long one. It could still be used for sheep to graze and therefore it would not be completely redundant as farming land.
111. Taking all of this into account I find that the proposal is acceptable in this regard and would accord with the relevant policies in the CDP.

Ground water pollution

112. Local residents have raised concerns about possible contamination of ground water as a result of chemicals leaching out of the solar panels. The appellant's technical note advises that they would carry out adequate appropriate desktop and site-based Pre-Engineering Studies to provide the information necessary to ensure compliance with respect to contamination and ground water risk. The appellant advised at the inquiry that the panels are sealed units which prevents leakage of potentially harmful chemicals from them.

Glint and glare

113. The appellant has submitted a glint and glare assessment which concludes that the impact would not be significant, and this was not disputed by the Council. Highways England have requested a planning condition in respect of this matter if the appeal is allowed to ensure that the solar arrays would not have an adverse impact on highway safety on the A19 trunk road. This would provide further reassurance on this matter.

Access and highway safety

114. It is agreed between the main parties that the proposal would not result in harm to access or highway safety subject to relevant planning conditions. Having visited the sites and the surrounding area on a number of occasions I share this view. Whilst it is inevitable there would be some disruption during the construction phase due to construction vehicles this would be short lived and is not a reason to not allow the proposal. Moreover, placing the cables in private land rather than in the public highway would substantially reduce the disruption.

Historic heritage

115. A Settings Impact Assessment was submitted alongside the planning applications. The Councils have raised no objections in this regard, including in respect of the effect of the proposals on Sheraton Medieval Settlement. In terms of archaeology the Council agree that this could be dealt with through a planning condition should the appeal be allowed. This would ensure that any below ground remains are fully investigated and protected where appropriate. I concur with these assessments.

Residential amenity

116. The construction of the development would all cause disruption and noise nuisance for local residents and those using the local road network to some degree. The appellants say that construction would take around a year and so whilst this is not a short period of time if you are a local resident living

with the inconvenience this harm would be limited. Working hours could be controlled by a planning condition if I were to allow the appeal. This would prevent work being undertaken in anti-social hours.

Planning Balance

117. A material consideration is the time limited nature of the proposals. I acknowledge that 40 years is a long time and that the proposed 40-year life of the solar farm is significantly more than a generation. Thus, in coming to my conclusion I have these factors/concerns uppermost in my mind.
118. Both national and development plan policy recognise that large scale solar farms may result in some landscape and visual impact harm. However, both adopt a positive approach indicating that development can be approved where the harm is outweighed by the benefits. This is a planning judgement. Here, through a combination of topography, existing screening and landscape mitigation, the adverse effect on landscape character and visual impact would be limited and highly localised, even around the AHLV. Moreover, as the existing and proposed planting matures, adverse effects, would be progressively mitigated and once decommissioned there would be no residual adverse landscape effects.
119. Rather the scheme would leave an enhanced landscape consistent with the objectives of development plan policy. In these circumstances, whilst there would be some localised harm to landscape character and some visual harm in conflict with some of the relevant development plan policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the limited harm. As such the proposal would accord with CDP policy 39.

Conditions

120. Many of the conditions I have imposed are the same across all of the appeals and the reasons for imposing them are also the same. Where conditions are unique to certain appeals I will deal with these separately.
121. In addition to the standard time condition and a condition to ensure the development is carried out in accordance with the approved plans, I have imposed a number of conditions related to the fact that planning permission is granted for a temporary period of 40 years from the date of first export of electricity and to ensure that this is enforceable. Accordingly, conditions relating to decommissioning and restoration works are also necessary.
122. I have imposed a condition to limit the export capacity of the solar farm to 49.9 MW because this is the threshold for the case to be considered under the TCPA as set out above. Several conditions are necessary to protect the living conditions of local residents and users of the public highways.
123. Conditions are necessary to ensure the proposal is carried out in accordance with the submitted flood risk assessment to ensure the proposals do not increase flood risk.

124. Landscaping is an important part of the mitigation of appeals A and D and therefore I have imposed conditions to control the design, implementation and maintenance of this.
125. In respect of appeal A, a condition is necessary to control the final appearance of the solar panels and other associated infrastructure. In relation to appeal D I have imposed a condition to control finished floor levels given the uneven land levels where the substation will be constructed and one to control the external materials of the substation building.

Conclusions

- 126.** Overall, I conclude the proposed solar farm would make a material and early contribution to the objective of achieving the decarbonisation of energy production and that to allow the proposed solar farm would not conflict with the objectives of relevant development and national planning policy when read as a whole.
127. For the reasons given above I allow the appeals.

Louise Crosby

INSPECTOR

ANNEX A – SCHEDULE OF CONDITIONS:

Appeal A

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall cease on or before the expiry of a 40-year period from the date of first export of electricity.
4. The Local Planning Authority shall be given at least seven days prior written notification of the date of first export of electricity.
5. The development hereby approved shall not be carried out except in complete accordance with the following approved plans reference:

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Panel Elevation 3 Landscape 20/20 - PNL_3L_ 20/20

Sheraton Hall Farm Layout - SRT_01

UK EPD Auxiliary Transformer 00 - UK_EPD_AUX

UK EPD CCTV Camera 00 - UK_EPD_CAM

UK EPD Customer Substation 00 - UK_EPD_CSS

UK EPD DNO Substation 00 - UK_EPD_DNO

UK EPD Fence 00 - UK_EPD_FNC

UK EPD Gate 00 - UK_EPD_GNC

UK EPD Inverter 00 - UK_EPD_INV

UK EPD Monitoring House/Communication Building 00 -UK_EPD_MH/CB

UK EPD GRP Cabinet - DNO Meter 00 - UK_EPD_MTR

UK EPD Road Cross Section - UK_EPD_RCS

UK EPD Storage 40 Container - 00 UK_EPD_S40

UK EPD Switchgear 00 - UK_EPD_SWG

UK EPD Transformer 00 - UK_EPD_TLT

UK EPD Toilet 00 - UK_EPD_TFM

Site Location Plan - SRT_SLP_00

6. The export capacity of the development shall not exceed 49.9 MW (AC).
7. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014;
 - Details of methods and means of noise reduction;
 - Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
 - Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact;
 - Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
 - Designation, layout and design of construction access and egress points;
 - Details for the provision of directional signage (on and off site);
 - Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
 - Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
 - Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
 - Routing agreements for construction traffic;
 - Details of the erection and maintenance of security hoarding;
 - Details of construction and decommissioning working hours;
 - Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
 - Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

8. Construction operations shall only take place within the following hours:

07.30 to 19.00 Monday to Friday

07.30 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

9. The development shall be carried out in accordance with the submitted flood risk assessment (L491-DOC03 FRA: December 2020). The mitigation measures detailed within the flood risk assessment shall be fully implemented prior to development being brought into use. These measures shall be retained and maintained thereafter throughout the lifetime of the development.
10. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and treated or untreated waste is not transferred onto the public highway.
11. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to the Local Planning Authority for approval in writing in consultation with Highways England.
12. Prior to the commencement of development, a mitigation plan to avoid 'Glint and Glare' shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved mitigation plan.
13. Notwithstanding the detail in the approved plans set out in condition No.5, prior to the commencement of development of any above-ground structure, precise details of that structure shall be submitted to and approved in writing by the Local Planning Authority. The submission shall include the colours and finishes. The development shall be carried out in accordance with agreed details.
14. Prior to the commencement of development, a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' shall be submitted to the Local Planning Authority for approval in writing. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.
15. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

16. The landscaping proposals detailed in Condition 5 shall be carried out prior to the end of the first available planting season following the date of first export of electricity. The established landscaping shall be managed and maintained in accordance with the Section 39 (Wildlife and Countryside Act) Agreement associated with this development.
17. A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 40 years from the date of first export of electricity. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.
18. In the event the site does not export electricity to the grid for a continuous period of 12 months after the date of first export, a scheme of early decommissioning works ("the Early Decommissioning Scheme") and ecological assessment report detailing site requirements in respect of retaining ecological features ("the Early Ecological Assessment Report") shall be submitted no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.

Appeal B

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall cease on or before the expiry of a 40 year period from the date of first export of electricity.
4. The Local Planning Authority shall be given at least seven days prior written notification of the date of first export of electricity.
5. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Block Plan Site – P20-2110_08
Location Plan – P20-2110_05
Initial Design Layout – UK_SRT-CR_LP1-IDL
6. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014;

- Details of methods and means of noise reduction;
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact;
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
- Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic;
- Details of the erection and maintenance of security hoarding;
- Details of construction and decommissioning working hours;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

7. Construction operations shall only take place within the following hours:

07.30 to 19.00 Monday to Friday

07.30 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

8. The development shall be carried out in accordance with the submitted flood risk assessment (L491-DOC03 FRA: December 2020). The mitigation measures detailed with the flood risk assessment shall be fully implemented prior to development being brought into use. These measures shall be retained and maintained thereafter throughout the lifetime of the development.

9. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and treated or untreated waste is not transferred onto the public highway.
10. All HGV movements accessing the site from Bellows Burn Lane from the south are to utilize the A19/B1281 interchange and return on the A19 South for further exit onto Bellows Burn Lane. All HGV movements leaving Hulam Farm at the A19/Bellows Burn Lane junction are required to turn left and head south to further turn on to the A19/A171-B1280 interchange in order to head north and eliminate the need to use gaps in the central reservation.
11. Prior to the commencement of development, a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' shall be submitted to the Local Planning Authority for approval in writing. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.
12. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.
13. A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 40 years from the date of first export. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.
14. In the event the site does not export electricity to the grid for a continuous period of 12 months after the date of first export, a scheme of early decommissioning works ("the Early Decommissioning Scheme") and ecological assessment report detailing site requirements in respect of retaining ecological features ("the Early Ecological Assessment Report") shall be submitted no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.

Appeal C

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall cease on or before the expiry of a 40

year period from the date of first export of electricity.

4. The Local Planning Authority shall be given at least seven days prior written notification of the date of first export of electricity.
5. The development hereby approved shall be carried out in accordance with the plans and details:

Drawing UK_SRT-CR_LP1-IDL_02 'UK_Sheraton Hall Cable Route_LP1-IDL_02 - Initial Design Layout_02'

Drawing P2110_08, 'Block Plan Project 2: Sheraton Cable Route'

Drawing P2110_06 Rev A, 'Site Location Plan Project 2: Sheraton Cable Route' (insofar as this approved scheme solely relates to the cable route denoted as 'Cable Route Option 1')

6. A) No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording;
 2. The programme for post investigation assessment;
 3. Provision to be made for analysis of the site investigation and recording;
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 5. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).
 - C) The development shall not be operational or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
7. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless any variation is otherwise agreed in writing by the Local Planning Authority.

8. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and agreed in writing with the Local Planning Authority, to agree the routing of all HGVs movements associated with the construction phases, effectively control dust emissions from the site remediation and construction works. This shall address earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements, wheel cleansing measures to reduce mud on highways, road sheeting of vehicles, offsite dust/odour monitoring, communication with local residents and measures to prevent the queuing of construction vehicles prior to the opening of the site. Thereafter, the development shall be carried out in accordance with the agreed details.
9. Notwithstanding the submitted details, a detailed scheme of soft landscaping within the vicinity of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the above ground construction of the development hereby approved. The scheme must specify sizes, types and species, indicate the proposed layout, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out prior to the end of the first planting season following the completion of the development or first export of electricity whichever is the sooner. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
10. The scheme for the disposal and management of surface water associated with the development hereby approved shall be carried out solely in accordance with the submitted 'Sheraton Hall Solar Farm Cable Route Flood Risk Assessment', reference L491-DOC04 FRA Cable Route / June 2021 (date received by the Local Planning Authority 7th July 2021). The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme shall demonstrate that the surface

water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document).

11. Construction operations shall only take place within the following hours:

07.30 to 19.00 Monday to Friday
07.30 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

12. A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 40 years from the date of first export. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.
13. In the event the site does not export electricity to the grid for a continuous period of 12 months after the date of first export, a scheme of early decommissioning works ("the Early Decommissioning Scheme") and ecological assessment report detailing site requirements in respect of retaining ecological features ("the Early Ecological Assessment Report") shall be submitted no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.
14. Notwithstanding the submitted information and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, a scheme for the protection and retention of the retained landscape features shall be first submitted to and agreed in writing with the Local Planning Authority. Thereafter and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development, the agreed protection measures shall be implemented on site (and thereafter retained until the completion of the development). Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees that are found to be dead, dying, severely damaged or diseased as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.

Appeal D

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.

2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall cease on or before the expiry of a 40 year period from the date of first export of electricity.
4. The Local Planning Authority shall be given at least seven days prior written notification of the date of first export of electricity.
5. The development hereby approved shall be carried out in accordance with the following approved plans:

Drawing P20-2110.100 Rev D 'Detailed Landscape Proposals' date received 01/02/2022 by the LPA

Drawing P20-2110_07 Rev C, 'Site Location Plan', date received 03/02/2022 by the LPA

Drawing SUB_CSR (GBR_Hart Moor Substation_EPD_05)

Drawing SUB_ELEV (GBR_Hart Moor Substation_EPD_05)

Drawing SUB_FP (GBR_Hart Moor Substation_EPD_05) all plans date received 17/10/2022 by the LPA.

6. A) No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording;
 2. The programme for post investigation assessment;
 3. Provision to be made for analysis of the site investigation and recording;
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 5. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).
- C) The development shall not be operational or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for

analysis, publication and dissemination of results and archive deposition has been secured.

7. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - a) Measures to control surface water runoff during construction;
 - b) Pre-works survey for badger;
 - c) Measures to ensure mammals have a means of escape from any excavations left open over night;
 - d) Reinstatement of short sections of hedgerow impacted by construction/access; and
 - e) Avoidance of hedgerow removal during the bird breeding season, or pre-clearance checks by a suitably experienced ecologist.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless any variation is otherwise agreed in writing by the Local Planning Authority.

8. Prior to the commencement of works, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority, in consultation with National Highways. The CTMP shall be comprehensive and shall address the following matters:
 - Keeping pedestrians and vehicles apart;
 - Minimising vehicle movements;
 - Consideration of people on site;
 - Turning vehicles;
 - Visibility; and
 - Signs and instructions.

Thereafter and following the written approval of the Local Planning Authority, the development shall be solely carried out in accordance with the CTMP.

9. Prior to above ground construction, final details of the external finishes to the development hereby approved shall be submitted to and approved by the Local Planning Authority, samples (or high-quality photographs) of the desired materials being provided for this purpose. The approved finishes shall be implemented and retained thereafter.
10. Notwithstanding the submitted details and prior to the laying of any hard surfaces, final details of proposed hard landscaping and surface finishes shall be submitted to and agreed in writing by the Local Planning Authority. This shall include all external finishing materials, finished levels, and all construction details, confirming materials, colours and finishes. Permeable surfacing shall be employed for hardstanding areas where possible to provide infiltration and additional attenuation storage. The agreed scheme shall be implemented prior to occupation of the proposed development and/or the site being open to the public.
11. Prior to the end of the first planting season following the following the completion of the development hereby approved or first export of electricity

whichever is the sooner, all planting, seeding or turfing comprised in the landscaping and tree and shrub planting hereby approved shall be implemented in accordance with the following plans and details; DRWG No: P20-2110.100 Rev D (Detailed Landscape Proposals) received by the Local Planning Authority on 1st February 2022. Thereafter the landscaping hereby approved shall be maintained in accordance with the agreed scheme, for the lifetime of the development hereby approved, unless otherwise agreed in writing with the Local Planning Authority. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.

12. The scheme for the disposal and management of surface water associated with the development hereby approved shall be carried out solely in accordance with the submitted 'Drainage Strategy', reference L474-DOC06 FRA Substation / June 2021 (date received by the Local Planning Authority 6th July 2021). The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document).

13. Construction operations shall only take place within the following hours:

07.30 to 19.00 Monday to Friday
07.30 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

14. A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 40 years from the date of first export of electricity. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.
15. In the event the site does not export electricity to the grid for a continuous period of 12 months after the date of first export, a scheme of early decommissioning works ("the Early Decommissioning Scheme") and ecological assessment report detailing site requirements in respect of retaining ecological features ("the Early Ecological Assessment Report") shall be submitted no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.

16. Notwithstanding the submitted information and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, a scheme for the protection and retention of the retained landscape features shall be first submitted to and agreed in writing with the Local Planning Authority. Thereafter and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development, the agreed protection measures shall be implemented on site (and thereafter retained until the completion of the development). Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees that are found to be dead, dying, severely damaged or diseased as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.
17. Notwithstanding the submitted information and prior to the commencement of development, details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected and any proposed mounding and/or earth retention measures shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

Appeal E

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall cease on or before the expiry of a 40 year period from the date of first export of electricity.
4. The Local Planning Authority shall be given at least seven days prior written notification of the date of first export of electricity.
5. The development hereby approved shall be carried out in accordance with the plans and details:

UK Hulam Castle Eden Cable Route_LP1-IDL_03

Site Location Plan, drawing P20-2110_05 Rev C, date received by the Local Planning Authority PA16/11/2021.

6. A) No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording;

2. The programme for post investigation assessment;
 3. Provision to be made for analysis of the site investigation and recording;
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 5. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).
- C) The development shall not be operational or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
7. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless any variation is otherwise agreed in writing by the Local Planning Authority.
8. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and agreed in writing with the Local Planning Authority, to agree the routing of all HGVs movements associated with the construction phases, effectively control dust emissions from the site remediation and construction works, this shall address earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements, wheel cleansing measures to reduce mud on highways, road sheeting of vehicles, offsite dust/odour monitoring, communication with local residents and measures to prevent the queuing of construction vehicles prior to the opening of the site.

9. Notwithstanding the submitted details, a detailed scheme of soft landscaping within the vicinity of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the above ground construction of the development hereby approved. The scheme must specify sizes, types and species, indicate the proposed layout, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out prior to the end of the first planting season following the completion of the development hereby approved or first export of electricity whichever is the sooner. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.

10. The scheme for the disposal and management of surface water associated with the development hereby approved shall be carried out solely in accordance with the submitted 'Flood Risk Assessment', reference L474-DOC05 FRA Cable Route & Substation/June 2021 (date received by the Local Planning Authority 7th July 2021). The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document).

11. Construction operations shall only take place within the following hours:

07.30 to 19.00 Monday to Friday
07.30 to 12.00 Saturday

No operations including the maintenance of machinery and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

12. All development related HGV movements, from the South of Hulam Solar Farm are to utilise the A19/B1281 interchange and return on the A19 South for further exit onto Bellows Burn Lane. All development related HGV movements leaving Hulam Solar Farm at the A19/Bellow Burn Lane junction are required to turn left and head south to further turn on to the A19/A171-B1280 interchange in order to head north and eliminate the need to use gaps in the central reservation.

13. A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 40 years from the date of first export of electricity. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.

14. In the event the site does not export electricity to the grid for a continuous period of 12 months after the date of first export, a scheme of early decommissioning works ("the Early Decommissioning Scheme") and ecological assessment report detailing site requirements in respect of retaining ecological features ("the Early Ecological Assessment Report") shall be submitted no later than 3 months after the end of the 12 month non-electricity generating period to the local planning authority for its approval in writing. The Early Decommissioning Scheme and the Early Ecological Assessment Report shall be implemented in full thereafter.

15. Notwithstanding the submitted information and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, a scheme for the protection and retention of the retained landscape features shall be first submitted to and agreed in writing with the Local Planning Authority. Thereafter and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development, the agreed protection measures shall be implemented on site (and thereafter retained until the completion of the development). Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees that are found to be dead, dying, severely damaged or diseased as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.

ANNEX B – APPEARANCES AND DOCUMENTS

FOR THE APPELLANT:

Mr Hardy LLB(Hons), BCL(Hons)
(Oxon) of CMS Cameron McKenna
Nabarro Olswang LLP

Instructed by Lightsource BP

He called:

Frances Horne CMLI

Director, Pegasus Planning Group

Nigel Cussen BSc(Hons), DipTRP,
MRTPI

Senior Planning Director, Pegasus Group

Alex Smethers, BA(Hons), MSc,
MRICS FAAV

Senior Development Manager, Lightsource
BP

FOR DURHAM COUNTY COUNCIL:

Mr Barrett of Counsel, instructed by Neil Carter, Solicitor, Durham County Council

He called:

Stephen Laws BA(Hons) DIPLA CMLI

Glencamp Landscape Architects

Gordon Halliday MA MPHIL MRTPI

on behalf of Durham County Council

FOR HARTLEPOOL BOROUGH COUNCIL:

Mr Robson of Counsel, instructed by Hartlepool Borough Council

He called:

Stephen Laws BA(Hons) DIPLA CMLI

Glencamp Landscape Architects

Daniel James BA(Hons) MSc MRTPI
Council

Planning Team Leader, Hartlepool Borough
Council

INTERESTED PARTIES:

Mrs Booth on behalf of Mr Irvine – local resident

Mr Cowan - CPRE Durham and Durham Bird Club

Mr Booth - local resident

Ms N Perryman (MRTPI) – Acting on behalf of the following group of local residents:
Nicol, Neil and Susan Perryman, Alan Frost and Julie Berton, Gary Thompson,
Kenny and Paula Thompson, Katherine Hutchinson and Jeff and Martin Hutchinson

DOCUMENTS

- Doc 1 - Plan P20-2238-012 Solar arrays
- Doc 2 - Plan P20-2238-10 Combined sites
- Doc 3 - P20-2238-13 Inspector's Site Visit Itinerary Plan
- Doc 4 - Revised Site Visit Itinerary
- Doc 5 - Statement by Mr Irvine
- Doc 6 - The County Durham Landscape Strategy
- Doc 7 - Documents relating to the synchronous condenser application
Ref: DM/22/01679/FPA
- Doc 8 - Hartlepool Borough Council Finance and Policy Committee Agenda of 25 April 2022
- Doc 9 - Hartlepool Borough Council Finance and Policy Committee Minutes and Decision Record of 25.04.22
- Doc 10 - Farm Tenancy Renewal
- Doc 11 - Draft Section 39 Agreement
- Doc 12 - Screening directions
- Doc 13 - Revised Statements of Common Ground

DOCUMENTS SUBMITTED FOLLOWING THE ADJOURNMENT OF THE INQUIRY

- Doc 14 - Completed Section 39 Agreement
- Doc 15 - Schedules of conditions with tracked changes in relation to Appeals A & B
- Doc 16 - Schedules of conditions with tracked changes in relation to Appeals C, D & E



Appendix 8



Appeal Decision

Hearing held on 18 July 2023

Site visit made on 17 and 18 July 2023

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023

Appeal Ref: APP/V1505/W/23/3318171

Land at Crays Hall Farm, Church Lane, Crays Hill, Essex CM11 2UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Boom Power Ltd against the decision of Basildon District Council.
 - The application Ref 22/00296/FULL, dated 25 February 2022, was refused by notice dated 1 December 2022.
 - The development proposed is installation of renewable energy generating station comprising ground mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.
-

Decision

1. The appeal is allowed and planning permission is granted for installation of renewable energy generating station comprising ground mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancement on Land at Crays Hall Farm, Church Lane, Crays Hill, Essex CM11 2UN in accordance with the terms of the application, 22/00296/FULL, dated 25 February 2022 and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Boom Energy Ltd against Basildon Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are as follows:
 - The effect of the proposed new solar farm and associated infrastructure on the openness of the Metropolitan Green Belt, taking into account the existing Outwood Solar Farm;
 - The effect on landscape character and visual amenity;

- Whether an undertaking or agreement is necessary to make the development acceptable in terms of the effects on farmland birds, healthcare, decommissioning and monitoring; and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Policy background

4. The Development Plan for the area includes the Basildon District Local Plan Saved Policies of 2007 (LP). No LP policies are referred to in the reasons for refusal, which relies on national guidance in the National Planning Policy Framework (NPPF).
5. A replacement Local Plan was withdrawn from examination in 2022 and this attracts no weight. However the evidence base for the emerging plan included the Green Belt Review of 2017 and The Landscape Character Assessment and Capacity Study of Basildon Borough of 2014 (LCABB). The former aimed to determine permanent Green Belt boundaries for the long term and assisting in identifying spatial opportunities where growth could take place to address the Borough's needs for housing and employment. It does not address renewable energy or solar power but provides useful background information on the character and openness of various parcels of land which encompass the appeal site. The LCABB carried out by the Landscape Partnership provides helpful advice on landscape character, sensitivity and capacity and attracts significant weight. It does not however directly address the sensitivity or capacity of the landscape for any specific type of renewable energy development. The Council confirmed that no work had been done on this.
6. Other relevant guidance now of some age include Basildon's Renewable and Low Carbon Energy Constraints and Opportunities Assessment of 2015 (RLCECOA) which showed that large scale solar arrays could provide the most electricity for the Borough followed by microgeneration and wind turbines; and a Renewable and Low Carbon Energy Options Topic Paper of 2017. The RLCECOA indicates at page 37 areas suitable for large scale solar arrays following analysis of the physical and policy constraints suggested in the 2011 East of England Renewable and Low Carbon Energy Capacity Study by Aecom (RLCECS). The potential sites are all designated as Green Belt.
7. As background, the Council intends to work towards net-zero carbon emissions from the Council's operations by 2030, and for the borough as a whole by 2050.
8. Paragraph 158 of the NPPF says that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. National policy as a whole supports and encourages the development of renewable energy sources. Photovoltaic development is a key technology in achieving this. Paragraph 5.10.12 of the Overarching National Policy Statement for Energy (EN-1) says that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites and (5.10.13) that a judgement has to be made on whether the visual effects on

sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project.

9. National Planning Practice Guidance (PPG) advises that 'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'. Paragraph 151 of the NPPF advises that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development: in such cases developers will need to demonstrate very special circumstances if projects are to proceed. The paragraph goes on to say that such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

Openness

10. The area of Green Belt between Billericay, Wickford and Basildon consists in the most part of open arable countryside in the broad valley of the River Crouch, interspersed with farm buildings, industrial structures and isolated individual dwellings, some semi-detached or in loose clusters. The edges of the built settlements noted above are visible and sometimes abrupt on the higher ground to the west, south and east but the valley is approximately 2.4 kilometres wide at Crays Hall Farm and visibly extends further towards woodland on Kent Hill to the north beyond a railway line. Within the valley, the land is gently undulating. Irregular fields are mostly separated by mature native hedges with prominent trees. Some hedge lines are of considerable depth, especially where incorporating footpaths.
11. The introduction of the proposed solar panels would detract from the openness of a significant part of the central part of the valley and would be seen alongside existing panels comprising the extended Outwood solar farm. The essentially industrial, metallic and reflective repetitive nature of the panels along with associated structures and installations such as transformers, security fencing and CCTV poles would contrast starkly with the historic predominantly agricultural landscape. However, the existing Outwood solar farm to the north of the appeal site lies in similar sized fields and this provides a useful comparative reference point and indicates that the effect on openness would be mitigated by the limited field sizes and odd shapes, undulating ground, frequent hedges with mature trees and the proposed biodiversity enhancements. In considering this matter I have taken into account the Council's concerns that new mitigation planting would not be as effective as the appellant anticipates. However the submitted photomontages indicate that for the great majority of the time the panels are in place, there would be a good level of vegetation cover of a type already consistent with existing hedges and field boundaries.
12. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. PPG advises that the reversibility of a scheme is a relevant consideration to assessing the impact on the openness on the Green Belt. The harm to openness for 40 years nevertheless attracts substantial weight.

Landscape character

13. The site lies in an area designated as Landscape Character Area (LCA) 9 *Upper Crouch Valley Farmlands*. Key characteristics include the gently sloping landform, intact historic pattern of medium scale fields with good hedges and mixed arable and pasture to the centre of the area running north/south between Crays Hill and Barrenleys Wood. Physical influences include vegetation following the line of the river and good hedgerow structure and linear woods. This character is apparent seen from the surrounding higher ground. However industrial uses, farm buildings (some of significant size), dwellings and the surrounding urban edge indicate that the landscape supports a 'medium' level of sensitivity and I note that the parties agree on this assessment. The area is affected by farming activity and noise in the background from traffic on surrounding roads but is relatively tranquil at its centre. The proposed site is split into the 'northern' section north of the isolated St Mary's Church and the 'southern' fields west of the extensive farm complex at Crays Hall farm.
14. The existing Outwood solar farm is on the south facing (north) side of the valley and largely concealed by existing and reinforced boundary vegetation. It is of limited area and because of the overall scale of the valley only has a minor impact on landscape character, except in close views from footpath 164 which runs along its northern edge. The proposed new panels in the northern fields (parcel 1) would not be easily or frequently seen in conjunction with those at Outwood because of field boundary vegetation, topography and because of gaps and intervening fields remaining under cultivation. Enhancements to the stream corridor across the fields and new native tree and hedgerow planting adjacent to footpath 33 would be effective in reducing its visibility and landscape impact. New panels and equipment in the southern fields (parcels 2 and 3) would occupy a significant area of ground and would have a much more obvious and extensive impact. They would be on be seen in conjunction with Outwood panels in views from Church Lane and Crays Hill, albeit separated by trees and vegetation. However, overall, the degree of change in the character in the valley west of the farm would still be limited simply because the important components of the broad valley landscape which contribute most to its character would remain largely unaffected. Moreover, the proposed infilling of gaps and hedgerow planting along footpaths 34 and 36 which borders the northern edge and divides the southern fields would do much to reduce visibility of the development and would enable the landscape to absorb much of the negative impact of the panels.
15. Accordingly there would be a locally moderate adverse effect on landscape character. This would diminish with time as mitigation planting matures. I consider that with regular maintenance, the mitigating effect of field boundary planting and hedgerow reinforcement would increase beyond the 5 years shown in the submitted visualisations. The NPPF at paragraph 174 requires decision makers to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The harm caused to landscape character, which would pertain for 40 years, needs to be considered in the balance.

Visual amenity

16. The area is popular with local residents, horse-riders, walkers and cyclists. The open undeveloped landscape is highly valued by local communities and

performs an important role in maintaining a sense of separation between the three main settlements in the Borough. Many public rights of way (PROWs) cross the site linking local communities and facilitating recreation. Following planting enhancements, the development would not be easily perceived from drivers on main roads such as the A129 but would be seen by pedestrians and from the rear gardens and windows of houses on the ridge of Crays Hill and glimpsed from some other properties. The views across the Crouch valley are highly valued by residents but for most these would be wide and would include other parts of the valley not affected by the development.

17. Walkers and residents are of high sensitivity. However it is common ground that the landscape is not a 'valued' landscape in the meaning expressed in the NPPF at paragraph 174 (a). Even if it were, the extent of the harm to visual amenity caused by Outwood and the appeal scheme together would not be so severe as to suggest it could not be made acceptable.
18. There is an isolated and remote feel to the centre of the area around St Mary's Crays Hill where public footpaths cross with links to wooded hills to the north. The existence of the solar farm and its equipment would be quickly apparent to users of PROWs passing the church and proceeding west or north. However any negative experiences caused by the development by these users would be brief. The countryside beyond the solar farm would retain its intrinsic beauty. The proposed mitigation planting would do a great deal to reinforce field boundaries and protect the experience of users, whilst increasing biodiversity interest¹. There would be no more than a moderate adverse effect on residential receptors. The effect on users of PROWs would be greater, but brief and mitigated to an extent by biodiversity enhancements including the planting of a meadow mix between the arrays, filtering views, and an increase in variety of species in the hedgerows.
19. The 'Ramsden Crays Circular Walk' would be most seriously affected, including views of solar arrays at Outwood together with the appeal scheme. There would remain plenty of views available outside and between solar installations, but it is accepted that the value of this suggested and promoted walk as a rural experience would be appreciably diminished. The long distance Essex Medieval Mingle route (which includes footpath 164) would not be affected to the extent that the appreciation of this rural route would be seriously compromised.
20. The development would conflict with several aims of the LCABB but this study, whilst providing helpful guidance and advice, was not focussed on the development of renewable energy. Having regard to the Council's Landscape and Visual Hearing Statement and the table of significance of effects I do not disagree with the conclusions therein. The harm is taken forward to consider in the final balance.

Whether an undertaking or agreement is necessary

21. The Council agreed at the hearing that the matters of concern, healthcare and decommissioning and monitoring had either fallen way or could be the subject of conditions. The protection of farmland birds is the subject of a 'Grampian' condition which has the effect of providing alternative nesting space which I am satisfied meets the requirements of PPG.

¹ Including in the Site of Importance for Nature Conservation crossing the site along the route of PROWs 34/158

Other matters

22. Turning to heritage considerations, the Grade II* listed St Mary's church lies near the eastern edge of the development. It has an extensive church yard which contributes to its setting. The solar arrays would not encroach near enough to the church or its curtilage to prevent appreciation of its heritage significance. Nor would visitors approaching the church find that their experience of this heritage asset would be significantly affected. The Saxon field pattern is not affected. Any walkers approaching the church along footpaths 8 and 33 would notice the arrays in the northern field and some views of the tower would include solar panels, but these would not cause anything other than a very low level of less than substantial harm in the terms used in the NPPF. The benefits of renewable energy together with the temporary nature of the effects, in the context of a 12-14th century building restored in the 19th century, indicate that the substantial public benefits outweigh the harm.
23. The proposed Barleylands solar farm² adjacent to the southern fields has been refused planning permission by the Council. It is unlikely to occur and in accordance with the recommendations in the Guidelines for Landscape and Visual Impact Assessment (3rd edition) Chapter 7, I do not consider the potential cumulative effects further.

Very special circumstances

24. The NPPF advises that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. A number of circumstances combine to indicate the proposed site may be suitable for solar renewable energy, including the proximate grid connection, the lack of any evidence of any 'best and most versatile' agricultural land on the site, the mixed nature of the area including industrial, farm and domestic buildings and not least, its identification as suitable, along with other areas of Green Belt countryside around Basildon, by the Council in the RLCECOA. No available sites providing anything approaching an equivalent contribution to renewable energy have become available in Basildon, and no comparable schemes on brownfield land or on commercial roofs. No other sites have come forward except that at Barleylands adjacent to the proposed Crays Hall Farm scheme and that has been rejected. The proposal allows for continued commercial use for sheep grazing and includes very significant biodiversity enhancements. The Council maintains that very special circumstances do not exist for any of these factors individually, but acknowledges that in combination some circumstances may collectively outweigh the harm to the Green Belt by reason of inappropriateness.
25. Economic benefits in terms of construction, employment and maintenance, any benefits attached to ceasing intensive agricultural use and increased business rates could apply to any site and would be unlikely to represent very special circumstances. However the provision of a renewable energy scheme with a generation capacity of 25.6MW, and annual generation output of 36,499.26 MWh, offsetting 13,300 tonnes of CO₂ emissions annually whilst potentially meeting the electrical needs of 12,585 homes attracts very significant weight. The intrinsic reversibility of the scheme and the longer term benefits to soil

² Ref 22/00411/FULL

- structure add weight to the environmental benefits of the project overall. The biodiversity benefits (landscaping and land management proposals that would result in a 94% gain (area based habitats) 53% gain (linear habitats)) are very significant and would lead to noticeable and beneficial improvements for the area and those who use it and attract substantial weight.
26. A moderate level of harm would arise to landscape character diminishing with distance and reducing noticeably within 5 years and further within 10. The solar development at Outwood already partly defines the landscape locally. The additional impact of the appeal scheme would increase the level of harm but not to the extent that the broad open character of the majority of the Crouch valley would be seriously affected.
27. The effect on visual amenity would be moderate to major adverse, reducing to moderate with mitigation within a few years. However none of the PROWs would be affected for a significant distance except the Circular Walk.
28. The proposal allows for continued agricultural use for grazing where applicable and encourages biodiversity improvements around arrays. The Council does not dispute that the proposal goes beyond policy requirements in this regard and significant positive weight attaches to this.
29. The Council recognises the pressing need for renewable energy sources and the large amount of national legislation, guidance and policy which strongly supports the transition to a low carbon future. The potential energy generation together with the limited degree of harm to landscape character and visual amenity alone comprise the very special circumstances that outweigh the harm by reason of inappropriateness, and the other harm identified, that allow this project to proceed. The substantial environmental and biodiversity benefits and the lack of suitable sites in Basildon add weight to my conclusion that planning permission should be granted.

Conditions

30. Apart from the usual time limitation on development, conditions are necessary to ensure that the solar panels and associated infrastructure is removed and the land returned to agriculture after 40 years, or after a period during which no electricity is generated. The mitigation and enhancement works are an important part of the project which must be in place before any electricity is exported. The times during works can take place are limited in the interests of local residents, unless agreed in advance by the Council.
31. A Construction Environmental Management Plan, a Construction Environmental Management Plan (Biodiversity), a Landscape and Ecological Management Plan, a Biodiversity Enhancement Strategy for protected and priority species and a programme of archaeological investigation are all necessary to ensure that the development proceeds with all the proper safeguards for biodiversity, the environment and heritage interests. Other conditions ensure that flooding and external lighting is properly controlled. An Arboricultural Method Statement is required to ensure that existing trees are properly protected. A 'Grampian' condition has been agreed between the parties which facilitates a Farmland Bird Mitigation Strategy securing offsite compensation measures for nesting skylark, lapwing and yellow wagtail. Finally, the development needs to be constructed in accordance with the approved drawings and documents, for the avoidance of doubt and in the interests of proper planning.

Conclusion

32. National policy sets out the urgency for new energy infrastructure to contribute to a secure, diverse and affordable energy supply. The Council's 2020 Climate Change Strategy and Action Plan calls for and requires significant and urgent action. Increasing local renewable energy generation forms part of one of the three key pillars of the Action Plan.
33. There are no relevant up to date development plan policies. The presumption in favour of sustainable development at paragraph 11(d) of the NPPF in respect of decision-taking sets out that where there are no relevant development plan policies, or the policies which are most important for determining an application are out of date, planning permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development. This includes land designated as Green Belt. It has not been shown that national policy or guidance provides a clear reason to refuse this scheme and for all the above reasons the appeal should succeed.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jonathan Clay	Of Counsel
Chris COX BSc (Hons) MA MRTPI	Pegasus
Frances Horne BA BA (Hons) Dip LA Dip UED CMLI	Pegasus
Gail Stoten MCifA FSA	Pegasus
Si Gillett	Humbeat
Jack Spurway BSc (Hons)	Boom Power
Jacob Lane	Boom Power

FOR THE LOCAL PLANNING AUTHORITY:

Louise Cook BA (Hons) MA MRTPI	Principal Planner, Basildon Council
Christine Lyons BSc (Hons) PGDipTP MRTPI	Head of Planning, Basildon Council
Robert Browne BA(Hons) MA CMLI	Place Services
Lewis Reynolds BA(Hons) PGCert MA MIAgrM MCIHort	Place Services
Charles Sweeney BSc(Hons) PGDipTP CertUD MRTPI	Development Team Manager, Basildon Council

DOCUMENTS

- 1 R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant); [2020]
- 2 Wychavon DC v Secretary of State for Communities and Local Government [2008] EWCA Civ 692; [2009]
- 3 Basildon Borough Council Planning Committee Officers Report 22/01486/FULL, 7 June 2023
- 4 Appellant's closing submission and costs application
- 5 Suggested agreed 'Grampian' condition to provide farmland bird mitigation

Schedule of conditions

- 1) The development hereby permitted shall begin not later than [3] years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, submitted reports and conditions listed on this decision notice:
 - A001 Rev 1.2 (Location Plan)
 - P21-3208.003 Rev B (Landscape Masterplan)

- B004 Rev 3.0 (Cable Route)
 - B104 Rev 1.0 (Compound Area Layout)
 - B105 Rev 1.0 (Education Board Elevations)
 - B008 Rev 1.0 (Education Board Location)
 - B107 Rev 1.0 (Internal Access Track Cross Section)
 - B001 Rev 2.1 (Overall Layout Planning)
 - B112 Rev 1.2 (Perimeter Deer Fence Elevations)
 - Proposed Advert (Unnumbered)
 - B005 Rev 1.0 (DNO 33kv Substations Foundations & Elevations)
 - B101 Rev 1.0 (CCTV Pole Elevations Fence)
 - B114 Rev 1.0 (Site Entrance Gates Elevation Wooden)
 - B115 Rev 1.0 (Solar Farm Cross Section)
 - B002 Rev 1.1 (Solar Panel Elevations)
 - B003 Rev 1.1 (Solar Panel Layout)
 - B116 Rev 1.0 (Storage Container Foundations & Elevations)
 - 36762IPLS-01 Sheets 1 to 21 (Topographical Survey)
 - B117 Rev 1.2 (Transformer Substations Foundations & Elevations)
 - B119 Rev 1.1 (Trenching Cross Section)
 - Arboricultural Survey, Impact Assessment and Protection Plan by Andrew Cunningham dated 28th January 2022
 - Drainage Operation and Maintenance Manual by Pegasus Group dated January 2022
 - Ecological Impact Assessment by Clarkson and Woods dated February 2022
 - Flood Risk Assessment & Surface Water Drainage Strategy by Pegasus Group dated January 2022
 - Construction Traffic Management Plan by Pegasus Group dated January 2022 and Figure 2.1 (Site Location and Construction Traffic Routing Plan)
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the Grid. The applicant/developer shall notify the Local Planning Authority in writing within 10 working days of electricity being generated from the development being first exported to the Grid.
- 4) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV farm, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of works shall include the following: (a) a programme of works; (b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site; (c) details of any items to be retained on site; (d) a method statement

- for restoring the land to agriculture; (e) timescale for the decommissioning, removal and reinstatement of the land; (f) a method statement for the disposal/recycling of redundant equipment/structures; (g) soil management plan. The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.
- 5) If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.
 - 6) No construction or decommissioning works shall take place except between the following hours: 08:00 to 18:00 Monday to Friday, and 08:00 to 13:00 Saturday, unless otherwise approved in advance in writing by the Local Planning Authority. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.
 - 7) Before any electricity is exported to the grid, all mitigation and enhancement measures and/or works shall have been carried out in accordance with the details contained in Ecological Impact Assessment (Clarkson and Woods Ltd, February 2022). This must include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall supervise all activities, and works shall be carried out, in accordance with the approved details.
 - 8) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority following the recommendations made within the Ecological Impact Assessment (Clarkson and Woods Ltd, February 2022). The CEMP (Biodiversity) shall include the following:
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 9) A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority, following the recommendations made by Clarkson and Woods Ltd, February 2022. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where applicable);
 - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - e) persons responsible for implementing the enhancement measures; and
 - f) details of initial aftercare and long-term maintenance (where relevant).
 - g) a timetable for the works.

The works shall be implemented in accordance with the approved details and timetable prior to occupation and shall be retained thereafter.

- 10) Before any works commence, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority prior to first exportation to the National Grid. The content of the LEMP shall include the following:
- (a) Description and evaluation of features to be managed;
 - (b) Ecological trends and constraints on site that might influence management;
 - (c) Aims and objectives of management;
 - (d) Appropriate management options for achieving aims and objectives;
 - (e) Prescriptions for management actions;
 - (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - (g) Details of the body or organisation responsible for implementation of the plan;
 - (h) Ongoing monitoring and remedial measures;
 - (i) a timetable for the works.

The LEMP shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details and timetable.

- 11) No development or preliminary groundworks of any kind shall take place within the whole site until a programme of archaeological investigation has been secured and implemented, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the Local Planning Authority following the completion of the archaeological evaluation.

No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the Local Planning Authority.

The applicant shall submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Local Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 12) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following:

(a) the parking of vehicles of site operatives and visitors;

(b) details of access to the site;

(c) loading and unloading and the storage of plant and materials used in constructing the development;

(d) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;

(e) wheel washing facilities;

(f) measures to control the emission of noise, dust and dirt during construction;

(g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and

(h) details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.

- 13) No development shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved before any power is exported to the grid.
- 14) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details, subject to any such variation that may be agreed with the Local Planning Authority. No additional external lighting shall be installed without prior written consent from the Local Planning Authority.
- 15) Prior to commencement of development, an Arboricultural Method Statement (including any demolition, groundworks and site clearance) shall be submitted to and approved in writing by the Local Planning Authority. The Statement should include details of the following:
 - (a) Measures for the protection of those trees and hedges on the application site that are to be retained, in accordance with the requirements of BS 5837: 2012 – Trees in Relation to Design, Demolition and Construction;
 - (b) Details of all construction measures within the 'Root Protection Area' (defined by a radius of $dbh \times 12$ where dbh is the diameter of the trunk measured at a height of 1.5m above ground level) of those trees on the application site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstanding, roads and footpaths;
 - (c) A schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings / structures, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

The development shall be carried out in accordance with the approved Method Statement. The protection measures as approved shall be undertaken at the site in accordance with the approved Method Statement before any work in connection with the development hereby permitted commences at the site, and shall be retained for the entire period of the duration of any work at the site.
- 16) Prior to the commencement of development, a Farmland Bird Mitigation Strategy shall be submitted to and approved by the local planning authority to compensate the loss or displacement of any Farmland Bird territories (including 11 skylark territories, 3 lapwing territories and 1 yellow wagtail territory) identified as lost or displaced. This shall include the provision of offsite compensation measures to be secured in nearby

agricultural land. The Farmland Bird Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measure eg. Skylark nest plots;
- b) detailed methodology for the compensation measures eg. Skylark plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots';
- c) locations of the compensation measures by appropriate maps and/or plans;
- d) persons responsible for implementing the compensation measure; and
- e) timescales.

The Farmland Bird Mitigation Strategy shall be implemented in accordance with the approved timescales and all features shall be retained for a minimum period of 10 years.



Appendix 9



Appeal Decision

Site visit made on 11 September 2023

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/T3725/W/23/3317247

Land to the west of the A46, Sherbourne, Warwick, CV35 8AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by PD412WAR Limited against the decision of Warwick District Council.
 - The application Ref W/22/0548, dated 30 May 2022, was refused by notice dated 26 August 2022.
 - The development proposed is a solar farm and associated development.
-

Decision

1. The appeal is allowed and planning permission is granted for a solar farm and associated development on land to the west of the A46, Warwick, CV35 8AH in accordance with the terms of the application, ref W/22/0548, dated 30 May 2022, and the plans referred to in Condition 2, subject to the conditions set out in the schedule to this decision.

Main Issues

2. The main issues in this case are:
 1. the effect of the proposal on the West Midlands Green Belt and on the landscape character;
 2. the effect on archaeological remains;
 3. the impact on highway safety and the highway network;
 4. the impact on biodiversity and nature conservation;
 5. the impact on flood risk; and
 6. whether there are very special circumstances to allow this development in the Green Belt.

Reasons

Issue 1: the effect of the proposals on the West Midlands Green Belt and on landscape character

3. The proposal is for a solar farm of about 20MW. It would occupy two parcels of arable land totalling about 29.8 hectares near the junction of the M40 and the A46, within the Green Belt. It is common ground that the proposal amounts to

inappropriate development in the Green Belt. There is a presumption against such development, and permission should not be granted other than in very special circumstances.

4. The scheme would have a spatial and visual impact on the openness of the Green Belt; it would be seen from bridges over the M40, from the A46, from the B4463 and from parts of the public footpath network. From these viewpoints it would appear as an encroachment of manmade structures into the countryside. However, views of the installation would not be widespread, and even the northernmost part of the site, which would be expected to be more prominent because it is on a slight rise, would not have a wide visual impact. Parts of the site offer the opportunity of additional boundary screening. Moreover, the development would be seen in the context of the major road infrastructure around the junction of the M40, A46, A4298 and B4463, which itself has a significant effect on the openness, rural character and the tranquillity of its surroundings. In this context the additional visual impact of the scheme on the openness of the Green Belt would be relatively limited.
5. Similar points apply to the scheme's landscape impact. The Warwickshire Landscapes Guidelines SPG places the site within the Avon Terrace Farmlands and the Wooded Estatelands. Local Plan policies BE1 and NE4 seek good design and the protection and enhancement of landscape character. The landscape on and around the site consists of pleasant countryside of low relief with fields bordered with hedges, mature trees and minor watercourses, but it does not carry any special local or national designation. It is inescapable that there would be a degree of conflict with policies BE1 and NE4 because the solar farm would change the character of the landscape on which it is sited. However, it would be seen in close association with the major road infrastructure, and with its impermanent, relatively low panels, slender 15m lattice tower, and modest-sized ancillary cabins and other equipment, would have a limited additional impact on the character of the landscape. Its impact would be mitigated through landscaping including boundary planting as required by Conditions 4 and 5. To control the appearance of the scheme, Condition 17 requires the approval of the details of the materials and layout.
6. The above conclusions relate to the scheme on its own. Planning permission has recently been granted under reference W/23/150 for another solar farm, again in two parts, close to the appeal scheme. Both parts of scheme W/23/150 would extend further westwards than the corresponding parts of the appeal scheme, pushing further into open countryside away from the major highway junction. The southern part of that scheme would have a considerably wider spread than the appeal scheme when seen from the direction of the A46 and would have a notably greater impact on the public rights of way north of the A46. In my assessment scheme W/23/150, which was granted planning permission in the Green Belt on the basis of very special circumstances, would have a greater visual effect on the countryside and the Green Belt than the appeal scheme.
7. Should the appeal scheme and the permitted scheme both go ahead, a more extensive area would be covered by solar panels. However, the appeal scheme would not extend further westward into open countryside than the scheme that has already been permitted; rather, both the northern and southern parts of the appeal site would largely be contained between the corresponding parts of scheme W/23/150 and the highway infrastructure. As a result, the appeal

scheme would have a relatively small additional impact on the Green Belt and landscape compared with that which has already been permitted.

8. The scheme would have a 40 year life. To enable the site to be returned to open land, Conditions 18 and 19 limit the permission to 40 years from the date on which electricity is first exported and contain requirements for the decommissioning and removal of the solar farm.
9. Overall, therefore, both alone and in conjunction with permitted scheme W/23/150, and subject to the conditions discussed above, the appeal proposal in practical terms would cause limited harm to the openness of the Green Belt, and to landscape character. The question of very special circumstances is dealt with as the final issue in this decision.

Issue 2: the effect on archaeological remains

10. The historic environment desk-based assessment dated February 2022 refers to the existence of a number of archaeological finds and features of different periods in the locality. The geophysical survey carried out on behalf of the appellants has not conclusively identified significant features on the sites themselves; much of the northern part of the site has been subject to excavation in connection with nearby highway works, and deep ploughing is likely to have had an adverse impact on the preservation of archaeological features. Nevertheless, the assessment concludes that the potential for undiscovered remains at the site is high, particularly of the prehistoric, Romano-British and medieval periods, with potential for finds, features and sites of greater than local significance. When Junction 15 of the M40 was constructed in 2008 and 2009, an area of buried remains comprising an Iron Age D-shaped enclosure was preserved in situ within the northern part of the site.
11. The proposed development therefore has the potential to disturb buried archaeological features. However, a solar farm has a more limited subsurface impact than a permanent building, and the layout is adaptable. In the circumstances, therefore, permission can be granted subject to a condition requiring further archaeological investigative work prior to the commencement of development. The final form of the development may need to be tailored to take into account any feature of archaeological interest that should remain in situ and should be submitted to and approved by the local planning authority subsequent to the investigation. The investigation should also inform the final construction management plan. This variation is allowed for in conditions 2, 3, 13 and 17. Compliance with these conditions will ensure that any important remains are capable of being retained in situ and will enable the scheme to comply with the objectives of Local Plan policy HE4 Policy which resists development which would cause substantial harm to archaeological remains of national importance and their settings.

Issue 3: the impact on highway safety and the highway network

12. The scheme would have a noticeable transport impact only during the 40 week construction period, when there would be between 23 and 30 average daily HGV trips for deliveries to the site, with an overall average of 13 trips in and 13 out split between the two northern accesses. The Indicative Revised Traffic Management Plan (Rev A, February 2023) provides further explanation of the access arrangements. This version was produced after the Council issued its

decision notice, but as it takes into account comments made by the Council, the Highway Authority and other representations, and does not involve any substantive physical changes, no-one's interest is prejudiced. There would be three access points from the B4463 and no direct access from the A46. All HGV deliveries would be made to the northern part of the site and then transported to the southern part using lighter vehicles, making use of an existing concrete access track. This track is in part a public right of way and its use would be affected during the construction period, but HGVs would not use this route and given the temporary impact this aspect of the proposal is acceptable.

13. Appended to the Indicative Revised Traffic Management Plan is an independent road safety audit (February 2023). The appellants propose to undertake a number of measures in response to the recommendations of the audit. These include controlling vehicle movements through an agreed construction traffic management plan, amending the access designs to avoid over-running or over-sailing kerb lines or encroachment into opposing lanes, creating a level dwell area at one of the accesses, providing construction phase signage to reduce the likelihood of sudden vehicle manoeuvres, providing longer visibility splays and cutting back and raising the canopies of trees at the northern access point, and creating an additional vehicle waiting bay on the track leading to the southern access point. In response to the Highway Authority's comments, junction visibility and vehicular swept paths are analysed in the technical Transport Note of February 2023 and demonstrate that there is scope to provide adequate junction geometry. All the arrangements discussed in this paragraph and paragraph 11 above are taken into account by conditions 13 to 16.
14. A glint and glare study has identified no significant impacts on road safety or aviation activity.
15. Access from the highway network for construction traffic would be good because the sites are very close to the M40/A46/B4463 junction. Construction traffic would therefore have a limited impact on the road network and on local communities. The Indicative Revised Traffic Management Plan sets out acceptable measures for construction traffic management.
16. After construction, the scheme would generate very little traffic: the Indicative Traffic Management Plan (March 2022, revised February 2023) anticipates two van movements per month (in other words one visit) for maintenance. No cycling or pedestrian visits are envisaged. This level of movement does not require a transport assessment or travel plan.
17. Subject to the conditions discussed above, the scheme would not cause significant harm to highway safety, and traffic from the scheme would not add significantly to congestion on the highway network or have any significant effect on local living conditions. The scheme would accord with Policy TR1 of the Local Plan which seeks safe access and would not conflict with the objectives of Policy TR2 which seeks to control and reduce the impact of vehicular movements on the environment.

Issue 4: the impact on biodiversity and nature conservation

18. The site does not have any national or local nature conservation designation. However, it supports breeding birds and badgers and has the potential to support a range of other species including great crested newts. Initial survey work did not find great crested newts on the site, and their environmental DNA

was not detected by scientific survey, but there is potential for newts to inhabit the ditches and ponds, so Condition 8 is attached requiring further survey work.

19. The scheme would not require any trees to be removed. All the hedgerows would be retained except for two short sections, and the best use would be made of existing entranceways. The Preliminary Ecological Appraisal recommends that the mature trees and hedgerows should be protected during the construction work, and that if this is carried out, further surveys for bats are not required. However, the road safety audit refers to the potential need to trim trees in connection with vehicle access arrangements. Conditions 4, 6, 7 and 9 are therefore attached requiring the trees to be protected; details of any trimming necessary; and a further bat survey to be submitted should it be necessary to carry out works to any trees.
20. The ecological appraisal recommends that precautionary methods of working and reasonable avoidance methods should be adopted in respect of great crested newts, hedgehogs, reptiles, otters and water voles. Condition 11 is attached requiring the submission of a detailed landscape and ecological management plan which will include such measures.
21. The scheme would take the site out of arable use and, with the enhancement of the hedgerows, would provide the opportunity for creating biodiversity gain. The preliminary biodiversity net gain metric indicated on site net percentage change of about 76% in habitat units and 15% in hedgerow units. To ensure that biodiversity is adequately taken into account and that opportunities for enhancement are taken, Condition 10 is attached which requires a biodiversity impact assessment together with the submission of biodiversity enhancement measures.
22. Subject to the conditions referred to above, the scheme would improve the biodiversity of the site and would not harm any protected or priority species. It would be in accordance with Local Plan policy NE2 which seeks to protect such species, and with policy NE3 which aims to protect and enhance biodiversity.

Issue 5: the impact on flood risk

23. The submitted flood risk assessment indicates that the southern part of the site is situated within Flood Zone 1, but some of the northern part of the site is at risk from fluvial flooding and falls within Flood Zones 2 and 3. This is associated with the Horse Brook, which is culverted beneath the M40 and mostly runs on the opposite side of the motorway but also weirs into part of the site. Producing a full hydraulic model would require extensive data on topography and the surface network around the M40 which would be a disproportionate task given the nature of the scheme and the limited risks involved, as discussed below. However, using Environment Agency JFLOW data and LIDAR mapping, the submitted flood risk assessment estimates that the identified area is at risk of between 200mm and 100mm of flooding for the 1 in 100 year plus 40% of fluvial flooding. There is one area at risk of around 670 mm of flooding for a 1 in 100 year flood event including an allowance for climate change and this is used as a conservative figure for future mitigation.
24. The National Planning Policy Framework seeks to avoid inappropriate development in areas at risk from flooding by directing development away from the areas of highest risk, and Local Plan policy FW1 shares the same objective.

The NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding, an exception test is applied, informed by a flood risk assessment, and it should be demonstrated that the development would provide wider sustainability benefits to the community that would outweigh the risk, and that it will be safe for its lifetime taking account the vulnerability of its users, without increasing flood risk elsewhere. Where possible, flood risk overall should be reduced. In this instance the scheme would pass the exception test for a number of reasons.

25. Firstly, the risk to users would be low: the site would attract one visit per month for maintenance when the development is operational, and all essential infrastructure for the scheme would be located in Flood Zone 1.
26. Secondly, the scheme would have a negligible effect on flooding on the site. The proposed panels would be a minimum of 800 mm above the ground which in practical terms would raise them out of the flood risk zone. The panels would be held on racking supported by a steel pile system on support posts of around 0.1m diameter, spaced to allow for the free flow of water and the design would only introduce a small area of impermeable surface. There would be a minimum of 10mm gap between the modules; rain falling on each module would run off the surface and flow into in the sheltered rain shadow area beneath.
27. Thirdly, the scheme would not increase flooding or give rise to detrimental effects elsewhere, and would be likely to be beneficial in this respect. Vegetation would grow below the panels, which would prevent and reduce the erosion of sediment from the site. A swale system would provide surface water runoff storage. Access and maintenance roads would be constructed from permeable materials. The existing grass covered areas, which are likely to provide infiltration, would only be marginally reduced. There would be significant benefits in comparison with typical farming activity because the fields would not be ploughed, would retain vegetation throughout the year and would not be regularly traversed by heavy machinery. The likelihood therefore is that runoff rates from the site would be reduced, and ground infiltration would be improved.
28. Fourthly, the scheme has a specific reason to be located here, which is to make use of a power line with spare capacity, and it would have wider environmental and sustainability benefits, as discussed below.
29. Taking all these matters into account, and subject to Condition 12 requiring the implementation of an approved surface water drainage scheme, the proposal would not give rise to additional flood risk on or off site and would accord with national policy in the NPPF and with the aims of Local Plan Policy FW1.

Issue 6: whether there are very special circumstances to allow this development in the Green Belt

30. The National Planning Policy Framework states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. It adds that when such projects are located in the Green Belt, very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The appeal scheme would power the equivalent of about

- 6,600 local homes annually for 40 years, or the equivalent of one tenth of the dwellings in the district per year. This is a significant environmental benefit.
31. The appellants have conducted an extensive, reasonable and proportionate site search, and the assessment report demonstrates the difficulty of finding suitable sites outside the Green Belt or on brownfield land. The site has locational advantages in that it would make use of spare capacity in the 33kV power line which runs through the site; the site is large enough to be economically viable, is available, is not required for another purpose, is not in a position where residential living conditions would be adversely affected and is not best and most versatile agricultural land.
32. Warwick Local Plan policy CC2 "Planning for Renewable Energy and Low Carbon Generation" supports proposals for renewable energy projects where they minimise impacts on adjacent land uses and local residential amenity, minimise the impact on landscape, ecology and visual impact, conserve heritage assets and maximise appropriate opportunities to address the energy needs of neighbouring uses. The effects of the scheme are discussed in connection with the preceding issues, and the scheme meets these policy criteria.
33. The Council have argued in respect of a number of the issues that insufficient information was submitted with the application. I do not find that to be the case, and where additional information has subsequently been submitted – a normal feature of the preparation for a planning appeal – it has enabled certain matters to be clarified without introducing significant changes and without prejudicing the interests of any party in the locality. The National Planning Policy Framework states that, when determining applications for renewable and low carbon development, local planning authorities should approve the application if its impacts are (or can be made) acceptable. In this case the development can be made acceptable through the imposition of planning conditions. Suitable conditions would ensure that the impacts on landscape, archaeological remains, highway safety, ecology and biodiversity and flood risk are minimised. As national planning practice guidance states, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.
34. Given the national targets for a transition towards a low carbon future, the importance attached to the objective by the Council in declaring a climate emergency, the clear support given to renewable energy development in the NPPF, and the support for renewable energy within Local Plan policy CC2, it is evident that the proposal would provide a very significant environmental benefit. The impact on the openness of the Green Belt and the effect on the landscape would be limited, whether this site is considered on its own or in conjunction with the nearby permitted scheme. The environmental benefits would significantly outweigh the harm to the Green Belt and the impact on the landscape. Subject to the conditions discussed in this decision, there would be no harm in respect of any of the other issues. There are therefore very special circumstances in this case to allow this appeal.

Conditions

35. Conditions are set out in the attached schedule. The need for these conditions is discussed above under the relevant issues and is not repeated here. The Council's suggested conditions have been taken into account, but adjustments

have been made to avoid overlapping or over-prescription, or to respond to submitted evidence. There is no substantive evidence to support the Council's suggested noise condition and given the location of the site next to major highways such a condition is not necessary.

Conclusion

36. For all the reasons given I conclude that the appeal should be allowed.

Jonathan Bore MRTPI

INSPECTOR

APP/T3725/W/23/3317247

SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice, subject to any variations required in connection with Condition 3(c) and 17:
 - a) Red line boundary Scale 1:10000 Date 7/3/2022
 - b) Existing Site Plan Rev. A1 dated 07/03/2022
 - c) Switchgear Housing Rev. A1 dated 13/01/2022
 - d) Substation Housing Rev. A1 dated 13/01/2022
 - e) Racking Detail Rev. A1 dated 13/01/2022
 - f) Inverter/ Transformer detail Rev. A1 dated 18/01/2022
 - g) Storage/ Comms/ Switch Room Rev. A1 dated 13/01/2022
 - h) WPD-10238 Rev. A (15m SLP2 Tower (C50-B50-B48) c/w Anti-climb, Feeders, Latchways)
 - i) Solar Farm Layout Rev. No. D1 dated 16/08/2022
 - j) CCTV Detail Rev. A1 dated 13/01/2022
 - k) Fence detail Rev. A1 dated 13/01/2022
- 3) No development shall take place until:
 - a) a written scheme of investigation for a programme of archaeological evaluative work has been submitted to and approved in writing by the local planning authority;
 - b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved scheme has been undertaken, and a report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority;
 - c) a mitigation strategy, informed by the results of the archaeological evaluation, has been submitted to and approved in writing by the local planning authority, to include any archaeological mitigation measures, including any necessary adjustment to the layout and details of the scheme and any requirement to be included in the construction management plan. Any such adjustment shall be incorporated into the details submitted under conditions 2, 13 and 17.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition, shall be undertaken in accordance with the approved archaeological mitigation strategy.

- 4) The development hereby permitted shall not commence until a landscaping scheme containing details of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The details to be submitted shall include:
- a) the treatment proposed for all ground surfaces, including hard surfaced areas;
 - b) existing trees, hedges or other soft features to be retained;
 - c) all existing trees, hedges and other landscape features, indicating clearly any to be removed;
 - d) details of the trimming and cutting back of any tree and hedgerow in connection with access arrangements for the construction phase;
 - e) planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees;
 - f) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
 - g) compliance with the biodiversity net gain metric;
 - h) the continuation of unobstructed movement of species within the site;
 - i) finished levels or contours within any landscaped areas;
 - j) any structures to be erected or constructed within any landscaped areas means of enclosure;
 - k) functional services above and below ground within landscaped areas.

The works shall be carried out as approved prior to the first exportation to the National Grid, or in the first available planting season following such exportation and retained and maintained in accordance with the agreed lifetime of the development.

- 5) Any tree or shrub which within a period of five years from the completion of the development dies, is removed or becomes seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, trees and shrubs shall be planted in accordance with British Standard BS4043 Transplanting Root-balled Trees and BS4428 Code of Practice for General Landscape Operations.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the trees on the site (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the trees shall be carried out as approved.
- 7) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner, other than in accordance with the approved

plans and details, without the prior written approval of the local planning authority. "Retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 8) No development shall take place until a detailed survey to establish the presence or absence of great crested newts in and around the ponds, ditches and water bodies, to include details of any necessary mitigation and protection measures, has been carried out by a qualified ecologist and has been submitted to and approved in writing by the local planning authority. The protection and mitigation measures shall be implemented in accordance with approved details.
- 9) In the event that it is necessary to carry out any works to the trees on the site, no development shall take place until a bat survey has been carried out by a suitably qualified surveyor, and a report of findings submitted to and approved in writing by the Local Planning Authority. The report should include, where the presence of bat or bat roost is established, appropriate measures to safeguard the protected species. Such measures shall be carried out in accordance with a programme to be incorporated in the report and agreed in writing by the local planning authority.
- 10) No development shall commence until:
 - a) a biodiversity impact assessment has been submitted to and approved in writing by the local planning authority to ensure that the scheme does not lead to the net loss of biodiversity, and where possible provides a net gain; and
 - b) the biodiversity enhancement measures approved under (a) have been completed in accordance with the approved details, with the exception of any planting, which must be completed within the first planting season following first occupation.

The biodiversity enhancement measures shall thereafter be retained and maintained in accordance with the approved details for the lifetime of the development.

- 11) The development hereby permitted shall not commence until a landscape and ecological management plan has been submitted to and approved in writing by the local planning authority, to include details of precautionary methods of working and reasonable avoidance methods in respect of great crested newts, hedgehogs, reptiles, otters, water voles and breeding birds, together with habitat enhancement and creation measures and their management. The measures shall thereafter be implemented in full in accordance with the approved plan.
- 12) The solar farm shall not be brought into operation until surface water drainage works based on sustainable drainage principles have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- b) include a timetable for its implementation; and,
 - c) provide a management and maintenance plan for the lifetime of the development which shall include arrangements to secure the operation of the scheme throughout its lifetime.
- 13) The development hereby permitted shall not commence until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall provide for: highway safety management of vehicular traffic entering and exiting the access, including signage and the creation of any necessary dwell area; the parking of vehicles of site operatives and visitors; site working hours and delivery times; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of any security hoarding; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and a scheme for recycling or disposing of any waste resulting from construction works. The development shall be carried out in accordance with the approved construction management plan.
- 14) Prior to the commencement of development, full details of the proposed accesses shall be submitted to and approved in writing by the local planning authority. The submitted details shall include suitable visibility splays, swept path analysis, construction specifications and a Stage 1 Road Safety Audit. The approved details shall be implemented in accordance with approved plans and constructed ready for use prior to first export to the National Grid and shall be retained for the lifetime of the development.
- 15) No vehicle shall enter the site directly from the A46.
- 16) No HGVs shall access the southern part of the site.
- 17) Prior to their installation, full details of the final location, design and materials to be used for the panel arrays, transformers/inverter cabins, storage/communication/switch room cabins, substation, switchgear unit, CCTV cameras, feeder tower, fencing and gates, external lighting and any other auxiliary buildings or structures shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained in the agreed form for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
- 18) Within one month of the first commercial export of electricity from the site, the developer shall submit to the local planning authority a notice stating the date on which the first commercial export of electricity commenced. The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid. At the end of the 40-year period, or prior to that date if the solar farm ceases to export electricity to the grid for a continuous period of 12 months, the development shall be removed, and the land restored to its previous

agricultural use in accordance with details that shall have been previously submitted to and approved in writing by the local planning authority.

- 19) The details required by Condition 18 shall be submitted to the local planning authority no later than 6 months prior to the expiry of the planning permission or no later than 10 working days after the continuous period of 12 months referred to in Condition 3, and shall include the following:
- a) a programme of works;
 - b) a method statement for the decommissioning, dismantling and removal of the solar farm and all associated above ground works/surfacing and foundations below ground;
 - c) details of any items to be retained on site;
 - d) a method statement for restoring the land to agriculture;
 - e) the timescale for the decommissioning, removal and reinstatement of the land;
 - f) a method statement for the disposal/recycling of redundant equipment/structures and any associated infrastructure.



Appendix 10



Appeal Decision

Hearing Held on 12 December 2023

Site visits made on 30 November and 12 December 2023

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/Z1510/W/23/3325681

Land West of Park Road, Rivenhall, Essex

Easting 582286 Northing 218522

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Novus Renewable Services Limited against Braintree District Council.
 - The application Ref 21/03735/FUL, is dated 16 December 2021.
 - The development proposed is described on the application form as '*Installation of solar farm and associated development*'.
-

Decision

1. The appeal is allowed and planning permission is granted for the Installation of solar farm and associated development at Land West Of Park Road, Rivenhall, CM8 3PG in accordance with the terms of the application, Ref 21/03735/FUL, dated 23 December 2021, subject to the conditions set out in Appendix A.

Procedural Matters

2. The address used in the above header is used by the Appellant and the Council on the Appeal form and Decision Notice respectively. It is clear as to the location of the proposal from the submitted drawings. I have therefore adopted the address as stated above.

Background and Main Issues

3. The Local Planning Authority (LPA) did not issue a decision within the normal timeframes. The Appellant exercised their right to appeal this failure in July 2023. In September 2023 the proposal was taken to the LPA's Planning Committee who resolved that, were they in a position to determine the proposal, they would have refused it on two grounds. Put simply, the effect on nearby heritage assets and the effect on rural character and appearance of the area.
4. Taking into account the evidence before me, I consider that the main issues in this case are:
 - i) Whether or not the proposal would preserve the setting of nearby listed buildings, and;

- ii) The effect of the proposed development on the character and appearance of the area, and;
- iii) The overall planning balance.

Reasons

Heritage Assets

5. The proposal seeks the erection of a solar energy development located principally within two fields. This would be for an operational period of 40 years. The proposal would generate approximately 22.5MW of electricity, which could power roughly 5,768 dwellings and save approximately 5,333 tonnes of carbon dioxide each year. The proposed development would connect to existing overhead wires in order to integrate into the wider electricity grid network. The solar panels themselves would be no greater than 3.1 metres as a top height. They would be laid out in arrays from east to west. The site would be enclosed by 2 metre high deer fencing, together with existing and new planting.
6. Rivenhall Place is a Grade II* listed building and lies to the north of the appeal site. Located within its grounds is the Grade II listed building Bridge to Rivenhall Place. The settlement of Rivenhall is to the east and not readily visible from the appeal site, although the church tower of St Mary & All Saints Church, which is a Grade I Listed Building, is visible from parts of the appeal site. Whilst I note that there are some other heritage assets in the vicinity of the appeal site the principal concerns of the main parties (and interested parties where raised) relate to these listed buildings¹. Moreover, neither main party has identified any harm to any other heritage asset. I therefore see no reason not to concur and have focussed on these listed buildings.
7. Put simply, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, sets out that special regard should be had to the desirability of preserving listed buildings including their settings. Chapter 16 : Conserving and enhancing the historic environment of the *National Planning Policy Framework* (the Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of the level of potential harm to its significance.
8. The main parties agree that the proposal would result in 'less than substantial harm' to Rivenhall Place, the Bridge to Rivenhall Place, and The Church of St Mary and All Saints² in terms of the Framework. The Appellant says this harm is 'low' and the Local Planning Authority says it is 'towards the lower end of the scale' in the agreed *Statement of Common Ground*. At the Hearing, the Council explained that in their view the harm to Rivenhall would be 'low-moderate' and to St Mary and All Saints as 'low'.
9. The national *Planning Practice Guidance* indicates that within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.³ In this case, the significance

¹ Agreed *Statement of Common Ground* dated 24 November 2023, page 13 of 17, paragraph 5.25

² Agreed *Statement of Common Ground* dated 24 November 2023, page 13 of 17, paragraph 5.24

³ <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment> Paragraph: 018 Reference ID: 18a-018-20190723 Revision date: 23 07 2019

of these heritage assets derives, in part, from their situation within an agrarian context. This enables viewers of all three assets to understand the linkage between them and the local rural landscape. However, this linkage is more readily understood by looking at maps and having knowledge of the former occupants of the Wiseman or Wyseman family who resided at Rivenhall Place in its earlier period and the connection with the local church. Put another way, the historical connection between the assets is predominantly based upon the written record rather than a direct visual link between them.

10. With regard to St Mary and All Saints at the settlement of Rivenhall, this is located within its own graveyard, with an attractive low wall surround. It is located to the northern edge of the Rivenhall settlement, which the Council confirmed mainly grew in the mid to late 20th Century. I saw that the church, rather than being 'isolated' as suggested by the Council, was in fact to the northern edge of the settlement and is read as an important landmark feature defining the countryside behind you as you travel south on Church Road and the settlement in front of you to the south. Views of the church and back to the appeal site would be possible from a few vantage points within the appeal site. However, large tracts of open countryside would continue to remain in and around the church even with the implementation of the proposal.
11. Whilst I concur with the main parties that the proposal would result in less than substantial harm to the significance of this designated heritage asset, the extent of this harm would be almost negligible. This is because future visitors to the church are unlikely to have their experience of the church and its peaceful grounds affected in any significant way; whether for historical and architectural interest or indeed for spiritual purposes. Moreover, with a large field to the west of Church Road retained the agricultural context and relationship would be maintained and future visitors will continue to experience the agricultural context of church.
12. In terms of Rivenhall Place, the grounds are not a Registered Park and Garden, nor are they subject to any designated heritage status such as being a Conservation Area. I heard at the Hearing that the landscaping around Rivenhall Place, which is a Grade II* listed building, was likely to have been the work of the landscape designer Humphry Repton in the late 1700s. However, since then the gardens and landscape have changed. The appeal site makes a small contribution to the significance of Rivenhall Place and the Bridge through the contribution it makes as a contextual agrarian landscape. However, it is not possible to ascertain how much of this is a 'borrowed' landscape or indeed how much the area of the appeal site has changed over the intervening years with changes in agricultural technology and farming practices.
13. Similar to the main parties, I concur that the proposal would result in less than substantial harm to the significance of these heritage assets. This is because the proposal would result in changes to the setting of the designated heritage assets at Rivenhall Place and the Bridge through the loss of some of the contextualising landscape area. This would be especially so when viewed from Rivenhall Place to towards the south. Whilst this is a private residence and it has not been possible for the heritage experts at the Hearing to gain access to this building to ascertain the magnitude of any change, the objection raised by occupiers indicate that there are views of the appeal site possible from the ground and upper floors of the building.

14. At the same time, a large field area has been retained as farmland between the two main components of the proposal, to ensure that future visitors to these heritage assets can see the link between the more formal garden and grounds of the listed building and the more informal rural landscape beyond.
15. There was much debate at the Hearing between the main parties as to whether 'towards the lower end of the scale' meant low or low-moderate. In this case, I find that the level of harm to significance of Rivenhall Place and Bridge would be low when clearly articulated. This is because the historical and structural integrity of both assets would remain undiminished. Whilst there would be some changes in their context, there would remain large parts of it unaffected and consequently their settings would only be minimally impacted.
16. Less than substantial harm does not equate to less than substantial planning objection. Great weight needs to be given to the asset's conservation. Paragraph 202 of the Framework indicates that where less than substantial harm is found, this needs to be weighed against the benefits of the proposal. I consider this matter in greater detail in the planning balance section of this decision.

Character and appearance

17. The appeal site is not within any international, national or regional landscape designations. The proposal would, undoubtedly, result in changes to the character and appearance of the area. This would be through the introduction of arrays of solar panels in two fields, together with associated infrastructure. Furthermore, the proposal would see the introduction of hedgerows into the landscape, in places reinforcing those already present, and in other places introducing them as a new feature. From the evidence before me, and my site inspections, I note that the surrounding area is characterised by open fields which are typically bounded by trees and hedges.
18. The submitted *Landscape and Visual Impact Assessment* (LVIA) contains photomontages showing the proposal with and without planting⁴. From these montages, which are not disputed by the LPA in terms of accuracy, it is possible to see that once planting is established receptors (that is people) will be unlikely to see much of the proposal from either viewpoint 7 (public footpath 105/11) or viewpoint 4 (Church Road). Instead, they would, in the main, see established hedgerows which would not be dissimilar to those in the surrounding area. Indeed, whilst I note that the LVIA found that the proposal would minor-to-moderate in terms of the potential effects on Rivenhall Place, the views would be entirely screened within a period of 8-10 years. Whilst users of the nearby Public Rights of Way (PROW) would have some of their views affected by the proposal, once the planting is established this effect would diminish and they would continue to be able to use, enjoy and appreciate the PROWs and the countryside location they are set in.
19. Furthermore, the solar development would be reversible and removeable from the site and this can be secured by means of a planning condition at the end of a 40 year operating period. After its removal, the land would still be Best and Most Versatile Agricultural Land (BMVAL) and could thereafter be used again for more intensive agricultural purposes (rather than sheep grazing as its use whilst solar panels are present). The hedgerows, and associated biodiversity

⁴ See pages 73 to 78 of pdf, and in particular photomontage 1, 1a, 2 and 2a.

gains and habitats that these would provide over the 40 year life of the proposal would likely continue once the permitted use has expired. Whilst I note the point made by the Council that if permission was granted here this might make the site more attractive for future allocation for renewable energy use, I consider that there is a strong likelihood that with the use of the suggested soil management plan and biodiversity improvements conditions, the land would be equally attractive for farming at the end of the solar farm use of the land.

20. As found in the submitted LVIA, the landscape and visual impacts are contained to the site and its immediate local landscape and that outside the site and its immediate environs, the scheme would be visually contained and would be barely discernible. Given the evidence before me, and visiting the site and local area, I am inclined to agree with that summary. Taken in the round, whilst I acknowledge the proposal would result in a change to the character and appearance of the appeal site, this would not equate to a negative impact on it.

Other Matters

21. Other matters have been raised by interested parties, which I now consider before coming to an overall conclusion. With regard to ecological matters I acknowledge the concerns raised in respect of the potential impact on animals such as badgers, foxes and farm birds including skylarks. However, the potential impacts on such creatures and their habitats have been considered and assessed by suitably qualified persons. Furthermore, it is reasonable to use planning conditions to ensure that the biodiversity gains and benefits of the proposal are secured.
22. I note concerns have been raised over the loss of views from nearby residential dwellings. However, it is generally acknowledged that views are not typically 'protected' in the planning system. Moreover, I have assessed the impact of the proposal on the character and appearance of the area; including on users of PROWs, and found that the proposal would not have a negative impact.
23. With regard to the use of BMVAL, this was highlighted as a concern of the Council at the Committee Report stage but not given as a putative reason for refusal. Given the proposal would be time limited to 40 years, that it would not involve a 'significant' loss of agricultural – nor indeed a loss at all as it would still be farmed with sheep grazing – that the soil has the potential to be improved at the end of the solar farm use, and lastly the removal of the solar farm can be secured by condition, I find that the proposal would not result in the loss of BMVAL nor would it result in harm to it.
24. Taken in the round, I do not find that these matters nor any others raised, whether considered individually or cumulatively, indicate the dismissal of the appeal scheme.

The Planning Balance

25. The Appellant has put forward a number of benefits which they consider weigh in favour of the proposal. These are set out in the table provided at page 15, paragraph 6.13 of the agreed Statement of Common Ground.
26. I find that the provision of renewable energy, albeit limited to 22.5MW, and the associated potential to reduce carbon emissions, should be afforded very

- substantial weight in favour of the proposal as a public benefit. This includes the benefits of addressing the negative impacts of climate change and addressing UK energy security. This is because it aligns with both local and national strategy and policies of moving Britain and the Braintree area to low carbon energy generation⁵.
27. The provision biodiversity net gains would enable invertebrates and the larger creatures that rely on them for food to flourish. Through the use of indigenous hedgerows and wildflower planting, together with sheep dung, the habitats created would be attractive to a variety of creatures. Accordingly, I attribute this public benefit very significant weight. I note the Council suggested at the Hearing this should only be attributed moderate weight as Biodiversity Net Gain is a national requirement. However, even if a national requirement it would provide a public benefit which should not be automatically discounted or lessened just because it is not optional.
28. The economic benefits of the proposal relate to construction jobs during the erection of the solar panels and associated infrastructure such as the deer fencing and planting of hedgerows. During its operational life, it is likely to directly employ a small number of people – a shepherd for the grazing sheep and a handful of site operatives for maintenance. It would also provide in the region of £6.5 million of business rates, and support a number of indirect jobs over its lifetime. It would also create energy equivalent to 5,000+ homes, which could be used to power homes or indeed schools, hospitals, and businesses. I therefore afford this benefit moderate weight in favour of the proposal.
29. As indicated earlier, the less than substantial harm to designated heritage assets needs to be weighed against the public benefits of the proposal under Paragraph 202 of the Framework. In this case, whilst giving considerable importance and weight to the desirability of preserving heritage assets, I find that the public benefits of the proposal in this case outweigh the less than substantial harm identified.
30. Accordingly, I find that the proposal would accord with Policies LPP1, LPP47, LPP52, LPP57 and LPP73 of the *Braintree Local Plan 2013-2033* (Adopted February 2021)⁶ (herein LP) in respect of heritage matters, which, amongst other aims, seek to encourage renewable energy schemes where the benefit in terms of low carbon energy generating potential outweighs harm to heritage assets, including the setting of heritage assets. The proposal would also accord with the heritage related policies of the Framework.
31. Turning to character and appearance, I have found that the proposal would not result in a negative impact on this. Accordingly, I find that the proposal would accord with Policies SP1, LPP42, LPP52, LPP67 and LPP73 of the LP, which, amongst other aims, seek that proposals for renewable energy schemes are encouraged where the benefits in terms of low carbon energy generating potential outweighs harm to or loss of landscape character, BMVAL, Public rights of way and nature conservation. The proposal would also accord with Paragraph 174 of the Framework which seeks that planning decision should recognise the intrinsic character and beauty of the countryside.

⁵ See Local Plan Policy LPP73

⁶ References to the Local Plan include that of both Section 1 and Section 2

32. Whilst noting that the proposal would result in some harm to the setting of listed buildings, I find that the public benefits would outweigh this harm. I also find that the proposal would accord with various policies of the adopted LP and the Framework.

Conditions

33. A list of suggested conditions agreed between the main parties was submitted prior to the Hearing. In considering suggested conditions I have taken into account Paragraph 56 of the Framework and guidance provided in the national *Planning Practice Guidance* and the use of planning conditions. The Appellant confirmed verbally at the Hearing (and subsequently in writing), that the use of the pre-commencement conditions suggested are accepted.
34. Conditions requiring the proposal to be carried out in accordance with the submitted plans, the submission of material samples, and commencement within three years are necessary and reasonable to provide certainty. Similarly conditions causing the permission to expire in 40 years, decommissioning activities and the submission of a soil management plan, are necessary and reasonable in order to provide certainty and for the avoidance of doubt.
35. Conditions relating to flood risk, site access, a construction management plan, hours of construction works, a noise report, and the submission of a construction environmental management plan are reasonable and precise in order to protect the amenity of local residents and of visitors to the area more generally.
36. A condition pertaining to Natural England licences, and conditions relating to a skylark mitigation strategy, the submission of a Landscape and Ecological Management Plan, landscaping details, tree protection plan and no external lighting are necessary and reasonable in order to protect the ecology of the area. Lastly, six conditions have been suggested in relation to archaeological matters. However, these could be integrated into one condition whilst retaining their content. The use of such a condition is necessary in this case to ensure that any archaeological remains on the appeal site are identified and properly recorded.

Conclusion

37. With regard to s38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, the proposed development would accord with the adopted development plan when considered as a whole. Furthermore, there are no material considerations that indicate a decision otherwise than in accordance with it.
38. Accordingly, for the reasons given above, I conclude that the appeal should be allowed.

C Parker

INSPECTOR

Appendix A – List of conditions imposed

1. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

Location Plan	343/PG/19	N/A
Location Plan	343/PG/2	E
Proposed Plans	PG-343-20-1	N/A
Proposed Plans	PG-343-20-2	N/A
Proposed Plans	PG-343-20-4	N/A
Proposed Plans	PG-343-20-5	N/A
Proposed Plans	PG-343-20-6	N/A
Proposed Plans	PG01	N/A
Flood Risk Assessment	343/SP08	2
Flood Risk Assessment	Addendum 25.04.2022	
Site Plan	343-PG-12	E
Other	343-PG-21	B
Arboricultural Report	UTC-0466-03-AIA	18.10.21
Other	Biodiversity Net Gain Metric	28.07.2022
Other	Biodiversity Net Gain Report 343/BNG	2
Management plan	2107-082/CTMP/01	C
Other	Ecological Impact Assessment 343/EcIA	1
Flood Risk Assessment	343/PG/24	N/A
Transport Technical Note	2107-82/TN/01A	N/A

2. The development hereby permitted shall begin not later than three years from the date of this decision.
3. The permission hereby granted shall expire 40 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.
4. Not later than 12 months before the expiry of the permission hereby granted, a decommissioning and site restoration scheme shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented within 12 months of the expiry of the permission hereby granted.

Within 12 months of the solar farm hereby permitted ceasing to be used for the generation of electricity, it shall be permanently removed from the land and the site restored in accordance with a decommissioning and site restoration scheme which has been submitted to and approved in writing by the local planning authority.

5. Prior to commencement of development, details of colours to be used in the construction of the solar arrays, transformers, spares container store and CCTV poles hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials.
6. No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no loss of soil quality within the operational lifetime of the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved throughout the life of the development.
7. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment Ref: 343/SP08 (v2) dated March 2022 and Addendum to Flood Risk Assessment dated 25.04.2022.
8. No development shall commence until the site access as shown in principle on planning application drawings 2107-082 SK02 and 2107-082 SK03 has been completed. The visibility splays shall be retained free of obstruction at all times.
9. No unbound material shall be used in the surface treatment of the access within 15 metres of highway.
10. No development shall commence until the 'Construction Traffic Management Plan' is revised and submitted to and approved in writing by the Local Planning Authority and the highway works within the Construction Traffic Management Plan have been completed.

The Construction Traffic Management Plan must include the following:

- A) A package of signage and safety measures to protect the users of the PROW network within the site during the construction phase;
- B) A Temporary Traffic Regulation Order to reduce the speed limit of Church Road in the vicinity of the access for the entire duration of construction and to comply with the works required by the TRO.

The development shall be carried out in accordance with the approved Construction Traffic Management Plan.

11.a) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours –1800 hours

Saturday 0800 hours –1300 hours

Bank or Public Holidays ·& Sundays –no work

- a) A dust and mud control management scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall be adhered to throughout the construction process. (Particular reference shall be made to the control of dust at the time of removal).
- b) No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.
- c) No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.

12. Prior to commencement of development, an updated noise report with confirmation of details of plant design, noise mitigation and resultant noise levels at noise sensitive premises. Noise levels (L_{aeq},15min) from the typical operation of the plant shall be at least 10 dB(A) below the background noise level (LA₉₀,15min) at noise sensitive dwellings so as to not give rise to an increase in the background noise level at those locations. The noise shall have no prominent tone at 100Hz at any residential property when assessed in accordance with Annex C of BS4142:2014+A1:2019.

13. Prior to commencement of development or any site clearance, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in general accordance with the Landscape and Ecological Mitigation Plan – Rev B (Corylus Planning & Environmental Ltd, July 2022). The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (EcoW) or similarly competent person.

- h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
- i) Details of any lighting during construction.

Thereafter the CEMP shall be implemented as approved during the construction phase of the development.

14. No development shall commence unless the Local Planning Authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or;
- b) A GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or;
- c) A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

15. Prior to commencement of development a Skylark Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority, to compensate the loss of the evidenced Skylark territories within the site. The content of the Skylark Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed measures
- b) Detailed Methodology for measures to be delivered
- c) Location of the proposed measures by appropriate maps and/or plans
- d) A legally secure Mechanism for implementation & Monitoring of delivery.

The measures contained in the Skylark Mitigation Strategy shall be implemented in the first nesting season following commencement of the development and in accordance with the approved details, or any amendment as may be approved in writing pursuant to this condition, and all features shall be delivered for the lifetime of the Solar Farm.

16. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

17. No development shall commence until a detailed Landscape Scheme and Landscape Management Plan has been submitted to and approved in writing by the Local Planning Authority which provides details of the following:
- a) Demonstrates how the Landscape Scheme follows the principles contained within the Landscape and Ecological Mitigation Plan 343/PG/21
 - b) Details of soft landscaping to include the plant type, size, planting numbers and distances, and a programme detailing the timing of the landscaping works in relation to the phasing of construction together with express confirmation that any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with plants of the same size and species.
 - c) Details of a long term landscape management plan which includes details for the watering of the new hedgerow plants and trees which will be managed and maintained at a minimum height of 3m when established and confirmation of the maintenance regime to ensure that all the identified landscaping on the site is continually managed for the lifetime of the development; to the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

Development shall only commence in strict accordance with the Landscape Scheme and Landscape Management Scheme, which shall subsequently be implemented only in accordance with the approved details for the lifetime of the use hereby approved.

18. The development hereby approved shall only be carried out in accordance with the recommendations and tree protection plan contained with the Tree Survey and Arboricultural Impact Assessment UTC-0466-03-AIA dated 18/10/21. The approved means of protection shall remain in place for the duration of construction and no machinery, materials, goods or articles of any description shall be operated stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

19. There shall be no external lighting at the site for the entire operational lifespan of the Solar Farm hereby approved.
20. a) No development or preliminary groundworks shall take place until a Written Scheme of Investigation (WSI) for a programme of archaeological evaluation has been submitted to and approved in writing by the Local Planning Authority.
- b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation, identified in the WSI, is confirmed in writing by the Local Planning Authority.
- c) Following the completion of the archaeological evaluation, a mitigation strategy detailing the excavation / preservation strategy shall be submitted to and approved in writing by the Local Planning Authority.
- d) No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in part c), is confirmed in writing by the Local Planning Authority.
- e) Within 6 months of the completion of fieldwork, the applicant shall submit a post excavation assessment to be approved in writing by the Local Planning Authority. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
- f) All works carried out within the archaeological areas (1 to 3) identified in the approved document (TJC2022.106 - Jessop Consultancy, 2022) shall be carried out under supervision by a suitably qualified archaeologist.

***** END OF CONDITIONS *****

APPEARANCES

FOR THE APPELLANT:

Chris Cox, BSc(Hons) MA MRTPI

Frances M Horne, BA(Hons) DipLA, DipUED,
CMLI

Dan Slatcher, BA(Hons) MA FSA MCIfA

Associate Planner, Pegasus Group
Director, Pegasus Group

Heritage Consultant, The JESSOP
Consultancy (TJC Heritage Ltd)

FOR THE LOCAL PLANNING AUTHORITY:

Alison Rugg

David Sorapure

Peter Radmall, MA BPhil CMLI

Principal Planner

Heritage Consultant, Place Services

Independent Landscape Architect

INTERESTED PERSONS:

Robert Turner

Michael McNamara

Local Resident

Local Resident



Appendix 11



GREEN NATION
SOLAR ENERGY

27 October 2023

Community Energy Statement

Noke Solar Farm proposes to compartmentalise 5MW of capacity from the solar farm to allow the discounted sale of power to local businesses and households within a 5km radius of the solar farm, enabling this locally produced renewable energy to benefit the local community.

Green Nation is developing this proposal with a partner specialising in the sale of electricity from renewable energy sites to their neighbours. Their service is in full commercial operation for sale to business customers. Noke Solar Farm will be at the vanguard of the industry with respect to providing energy to individual households. Our energy partners believe they will be able to offer that capability within the next 12-18 months, about the time that the proposed solar farm will be commissioned. Green Nation and Noke Solar Farm will work with them to facilitate the service.

Customers of the service will be powered by Noke's solar energy when the plant is producing, and by other renewable energy sourced over the grid when it is not.

The community energy service is intended to provide both a discount to normal electricity prices and greater price stability, reducing the impact of future price spikes like the one experienced following Russia's invasion of Ukraine. Both local residents and businesses will therefore gain a direct benefit from Noke Solar Farm.