

Places4People Planning Consultancy

Appendices to Proof of Evidence  
on behalf of Bentley Parish Council  
and SGFS

## Appendix 1 - Asset Protection Initial Enquiry



# Asset Protection Initial Enquiry Questionnaire

*Please note: works should not commence, and no access is permitted onto Network Rail land until confirmation is received from the Network Rail Construction Manager.*

Date: 07/11/2025

Asset Protection Enquiry Reference Number: 0000439722

Your Company Reference Number: 1013 Grove

#### PROPOSER (Client) OF THE WORKS (mandatory)

Contact Name: [REDACTED]

Email: [REDACTED]@qair.energy

Telephone: [REDACTED]

Company Name: Qair UK

Address: 5th Floor, Exchange Station, Tithebarn Street

Liverpool

Post Code: L2 2QP

#### LOCATION OF WORKS (mandatory)

Street Address: IP9 2LT, Bentley

Town / City: Ipswich

Post Code: IP9 2LT

What3words Location: paddocks.upsetting.rising

Additional location information:

Planned start of work: 04/01/2027

Anticipated duration: 4 weeks

Is the work you are planning related to mobile phone radio equipment: No

Are you working for / on behalf of a utility provider or highways department:

No

Please give a brief description of what you're planning to do: (mandatory)

We have a solar scheme currently in the planning system. Our point of connection to the national grid is a pylon, situated few hundred metres to the east of our site. Unfortunately, it is also the other side of the Ipswich to Manningtree railway line.

We would like to explore the possibility of a horizontal directional drill beneath the railway line, and would appreciate your guidance in what the necessary next steps are.

Acting as consultee on our planning application Network Rail also requested that we contacts the Town Planning team to discuss the closure of the Island Public Footpath Level Crossing with the Liability Negotiations Manager.

**Network Rail recommended a holding objection in their consultation response to Babergh District Council dated 14 February 2024.**

**On 1<sup>st</sup> December 2025 Bentley Parish Council made a Freedom of Information request to Network Rail for the following information –**

1. **Has ASPRO any record of contact from the developer (Green Switch Capital now Qair) in relation to the creation of a new undertrack crossing for cables. If so please give dates of the contact and subject under discussion.**
2. **Have any feasibility studies been completed by Network Rail to assess the impact of these works on this part of the railway infrastructure.**
3. **Has there been any asset protection agreement made between Network Rail and the developer regarding agreement to carry out these works.**

Network Rail responded as follows -

---

OFFICIAL

1. The developer (Qair) submitted an Initial Enquiry Questionnaire to ASPRO on 7 November 2025. Please see the attached "Asset Protection Initial Enquiry Questionnaire\_Redacted" as well as email correspondence they've had with us labelled "Fw\_Town Planning team\_Redacted".

It is understood from conversations with the developer on 5 December 2025 that the proposed crossing will be located >200m to the south of the island level crossing.

2. We do not hold any feasibility studies<sup>2</sup> but in the attached email, our Liability team confirms to Qair that Island level crossing has been closed with a diversionary route in place. As such, Qair's development will not affect the safety of the level crossing.
3. We do not hold this information as a Basic Asset Protection Agreement (BAPA) has not been issued. It is understood from the developer that they will consider setting up the BAPA after January 2026 once the other planning issues are resolved.

**Regulation 13(1) of the EIRs – personal data**

I have withheld names, signatures and contact details of Network Rail and third party employees under regulation 13(1) of the EIR. This regulation allows us to withhold personal data where its disclosure would breach the data protection principles set out at Section 35 of the Data Protection Act 2018 and Article 5 of the UK General Data Protection Regulations. In this instance, publishing the personal data of our employees and third parties would breach the first principle, which states that data should be processed lawfully, fairly and in a transparent manner. The individuals in question would have had no reasonable expectation that their details would be provided to the world at

---

<sup>2</sup> Under regulation 12(4)(a), we do not have to provide information that is not held at the time of the request.

**Appendix 2 - Decision Notice & Statement of Reasons.**  
**Application Reference: s62A/2022/0011 Land East of**  
**Pelham Substation, Maggots End, Manuden**



## Decision Notice & Statement of Reasons

Site visits made on:

Tuesday 20 September 2022 & Monday 27 March 2023

**By Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC**

**a person appointed by the Secretary of State**

**Decision date: 11 May 2023**

**Application Reference: s62A/2022/0011**

**Land East of Pelham Substation, Maggots End, Manuden**

**(Easting 547257, Northing 228104)**

- The application was made under Section 62A of the Town and Country Planning Act 1990 (TCPA) by Low Carbon Solar Park 6 Limited.
- The site is located within the local planning authority area of Uttlesford District Council.
- The application was dated 15 September 2022, with a valid date of 10 February 2023.
- Consultation took place between 10 February and 20 March 2023.
- An Environmental Statement was submitted, dated December 2022.
- The development proposed is described as '*Construction and operation of a solar farm comprising ground mounted solar voltaic (PV) arrays and battery storage together with associated development, including inverter cabins, DNO substation, customer switchgear, access, fencing, CCTV cameras and landscaping.*'

### Decision

1. Planning permission is **refused** for '*Construction and operation of a solar farm comprising ground mounted solar voltaic (PV) arrays and battery storage together with associated development, including inverter cabins, DNO substation, customer switchgear, access, fencing, CCTV cameras and landscaping*' at Land East of Pelham Substation, Maggots End, Manuden, for the reasons set out in this notice.

### Procedural Matters

2. The application was submitted under s62A of the *Town and Country Planning Act 1990*, as amended (TCPA). This allows for applications to be made directly to the Secretary of State (SoS), where a local authority has been designated. Uttlesford District Council (UDC) have been designated for major applications since February 2022. The SoS has appointed a person under section 76D of the TCPA 1990 to determine the application instead of the SoS.
3. The application was screened under *The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017*, (as amended) by UDC and by the SoS<sup>1</sup>. The SoS screening direction found that: '*On the basis of the information provided, the Secretary of State considers that the Proposed Development has the potential to give rise to significant visual effects and significant cumulative effects including those on the local landscape through an increase in the amount of electrical*

<sup>1</sup> Dated 5 October 2022, viewable in Appendix 2.2 of the *Environmental Statement, Technical Appendices* dated December 2022.

*infrastructure within the locality'* and an Environmental Impact Assessment was required. An Environmental Statement (ES) has been submitted. The Applicant publicised the ES in line with the requirements of Regulation 20 of the EIA Regulations 2017. This, together with comments from statutory consultation bodies and any representations duly made by any particular person or organisation about the ES, has been taken fully into account in determining this application.

4. Following the closure of the representation period, Article 22 of *The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013* requires the SoS (or appointed person) to consider the application either by hearing or on the basis of representations in writing.
5. Taking into account Section 319A of the TCPA and the *Procedural guidance for Section 62A Authorities in Special Measures*<sup>2</sup> published by the SoS (including Paragraph 5.1.1), the appointed person considered that the issues raised in this case could be clearly understood from the written submissions.
6. In accordance with Article 4 of *The Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013*, on 24 March 2023, the Inspectorate wrote to the applicant to confirm the procedure.
7. Unaccompanied site visits were carried out on Tuesday 20 September 2023 at the validation stage and on Monday 27 March 2023; after the consultation period had ended. The inspection included viewing the site and the surrounding area. I, as the appointed person, have taken account of all written representations in reaching my decision.

### **Background and recent planning history**

8. The application seeks permission for a solar farm to generate up to 49.9 MW of electricity to power approximately 16'500 homes and displace 11'000 tonnes of Carbon Dioxide (CO<sup>2</sup>) per annum. The application site is located on agricultural land to the south of Berden, northwest of Manuden and around 6km to the north of Bishops Stortford. Further particulars are described and provided in the voluminous documents provided by the Applicant, designated authority and other interested parties, which have been taken into account in determining the application. Accordingly, it has not been re-produced here. However, where appropriate, references are provided to the source text.
9. Planning application UTT/21/3356/FUL sought full planning permission for the 'Construction and operation of a solar farm comprising ground mounted solar photovoltaic (PV) arrays and battery storage together with associated development, including inverter cabins, DNO substation, customer switchgear, access, fencing, CCTV cameras and landscaping'. This application was submitted to Uttlesford District Council in November 2021 and subsequently refused on 24 January 2022 under delegated powers with eight reasons for refusal.
10. The Council acknowledged that this revised application has been submitted to the Secretary of State in which further information and revisions have been made in the attempt to address and overcome the reasons for refusal as imposed on the decision notice ref: UTT/21/3356/FUL.

---

<sup>2</sup> [Procedural guidance for Section 62A Authorities in Special Measures - GOV.UK \(www.gov.uk\)](https://www.gov.uk/procedural-guidance-for-section-62a-authorities-in-special-measures)

11. The Council has also recognised that the Applicant held pre-application discussions with the officers of both Essex County Council and Uttlesford District Council prior to the submission of this application to the Secretary of State.<sup>3</sup>

## **Reasons**

### *Need and potential benefits*

12. The proposal would generate electricity to power around 16'500 homes and displace around 11'000 tonnes of CO<sub>2</sub> per annum. On the basis of these figures, over the 40-year lifespan of the proposal, it would potentially displace around 440'000 tonnes of CO<sub>2</sub>. This would make a moderate contribution to the local and national aspirations and legal requirements to transition to a low carbon future.
13. Indeed, there is a large amount of national legislation, guidance, and policy which supports the transition to a low carbon future<sup>4</sup>. Renewable energy creation; including schemes such as the proposal here, will play an important part in delivering this. Locally, UDC declared a climate change emergency in 2019, and seeks to reduce its own emissions to net zero by 2030.
14. It is clear, therefore, that there is a pressing need for renewable energy sources to provide part of the future energy mix as England moves towards a low carbon future. This is a factor which I afford significant weight in favour of the proposal. That said, it does not automatically follow that any scheme for renewable energy creation has a *carte blanche*: as with most planning matters the need for renewable energy creation needs to be weighed against the potential adverse effects or harm arising and, if this occurs, whether this harm can be mitigated, so allowing a judgment in favour of the proposal.
15. The proposal would result in socio-economic benefits in the form of the creation of 117 direct/indirect jobs and up to £3.6 million of gross value added over the five-month construction period. During the proposed 40-year operational lifespan, the proposed development would create five net additional jobs in the Uttlesford economy, £6 million of gross value added per annum and business rates of around £3.7 million over 40-years<sup>5</sup> (at present values). However, it has not been clearly indicated how this would compare with the existing socio-economic activity on the application site. This being so, these social-economic benefits are afforded modest weight in favour of the proposal.
16. The development proposes biodiversity enhancements including the provision of ten bat boxes, hedgerow improvements, the provision of three hibernaculum for Great Crested Newts, seeding of native grassland and diverse wildflower seeded areas, 20 bird boxes, and installation of 20 dormouse boxes in Battles Wood. Given that many of these enhancements could be instigated regardless of whether permission was forthcoming, and that some of them are mitigation measures intended to ameliorate adverse impacts on protected species arising from the proposal, these benefits are accordingly afforded only modest weight in favour of the proposal.

---

<sup>3</sup> Letter from UDC dated 15 March 2023 from Principal Planning Officer following Planning Committee meeting on 8 March 2023

<sup>4</sup> See for example, *Planning Statement, Pelham Spring Solar Farm, P20-1300, Appendix 4*, Dated August 2022

<sup>5</sup> *Environmental Statement, Non-Technical Summary, January 2023* Page 15

### *Character and appearance of the area*

17. The application site is currently used as a mix of nine agricultural fields. These are used as a mixture of mainly arable farmland with two pastoral fields. The proposal would see a large part of the nearly 80-hectare site area covered by solar arrays and associated infrastructure in six 'development zones'. The effect would be that the currently open, rural and agrarian character and appearance of the area would be drastically and noticeably altered with the introduction of an overtly utilitarian industrial infrastructure into the open countryside.
18. This would be highly contrasting industrial infrastructure that would be present for an extended period of around 40 years. This extended chronological span, together with the scale and size of the proposal, would be perceived as permanent rather than temporary features within the landscape. Whilst there is the potential to use planting to mitigate some of the impact, this would take time to establish and would not completely screen the site from public vantage points.
19. Accordingly, the proposal would have a significantly harmful effect on the rural character and appearance of the area through adversely eroding the agricultural landscape and the intrinsic beauty of the countryside. As such the proposal is contrary to Policy S7 of the *Uttlesford Local Plan 2005* (LP) which sets out that in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area and that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
20. The proposal is also contrary to Paragraph 174 of the *National Planning Policy Framework* (the Framework) which sets out that planning policies and decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### *Landscape and Visual*

21. Chapter 6 of the *Environmental Statement* (ES) identifies in the summary of Significant effects, that during the five months construction period there would be High magnitude of effect and Major significance of effect which would have major adverse significant residual effects from a number of viewpoints, public footpaths/bridleways, and for receptors (occupiers) at residential properties Brick House End Cottages and Rose Garth.
22. Longer term, during the 40-year operational phase, the magnitude of effect would be High in most cases, with a few reductions to Medium. The magnitude of effects would be High to the sensitivity of receptors, with significance of effects Major, with the residual effects considered to be 'Moderate'.<sup>6</sup>
23. In landscape terms, the proposal would introduce long rows of solar panels and associated infrastructure which would have a starkly more utilitarian appearance when compared to the currently unspoilt and open rural qualities of the site. The proposal would detract from the currently pleasant rural scene

---

<sup>6</sup> *Environmental Statement, Chapter 6, Table 6.5 Summary of Significant Effects, Mitigation and Residual Effects*

and erode the qualities of the lower rolling farmed and settled undulating slopes.

24. Moreover, with the solar panels potentially up to three metres high, it would not be possible to completely mitigate the effects of the development. The regimented arrays of dark coloured panels would contrast sharply with the harmonious organic pattern of open fields and appear odd amongst the typical patchwork of green- and yellow-coloured fields found in the location generally. This drastic change would become especially acute for users of various Public Rights of Way and Bridleways both in and near to the site, and also users of nearby public highways such as that between East End and Maggots End, who would no longer be able to enjoy the rural landscape through its extended and prolonged use as a large utilitarian development.
25. Accordingly, the proposal conflicts with Paragraph 174 of the Framework which sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

#### *Heritage assets – setting*

26. The Framework explains in the Glossary that:

**'Setting of a heritage asset:** *The surroundings in which a heritage asset is experienced. Its 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.'*

27. In terms of Scheduled Monuments, the Applicant's Heritage Statement concludes that there is considered to be no harm to the heritage significance of the Scheduled The Crump with regards to setting<sup>7</sup>. It provides no similar conclusion in respect of the Scheduled Monument of Battles Manor.
28. The Crump is a well-preserved earthwork. Historic England, the government's statutory adviser on the historic environment, identify that these are rare nationally with only 200 recorded examples and, as one of a limited number and very restricted range of Anglo-Saxon and Norman fortifications, ringworks are of particular significance to our understanding of the period. Historic England identify that the proposal would result in less than substantial harm to The Crump. Similarly, the 'Moated site at Battles Manor' are the remains of a medieval moated enclosure<sup>8</sup>. Historic England suggest that there is the potential for less than substantial harm to this latter Scheduled Monument.
29. These Scheduled Monuments are located within a strongly defined rural context, and this contributes positively to their surroundings and significance. Visitors are currently able to appreciate the agricultural and societal history of this part of Essex and its connection with the wider landscape. The introduction of rows of solar panels and associated infrastructure would drastically alter this relationship and the experience of those seeking to appreciate it. Instead of open agricultural fields the proposal would form an expansive industrial 'techscape', severing the monuments from the rural context in which they are currently experienced.

---

<sup>7</sup> Applicant's Heritage Statement dated September 2022, Page 47, paragraph 7.11

<sup>8</sup> Historic England representation dated 23 February 2023

30. The Crump in particular is a rare survival, and the monument draws a considerable amount of significance from how it is experienced in the historic landscape setting. A setting which, whilst changing over the centuries, retains a dominantly rural character. Accordingly, this would result in harm to the significance of the scheduled monument The Crump, and to a lesser degree, that of Battles Manor.
31. With regard to listed buildings, Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, (PLBCA) requires that the SoS shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.
32. The Crump (buildings rather than the ringworks) and Battles Hall are both Grade II listed buildings. The latter is also associated with the Grade II listed Cart Lodge, and Dovecote. Brick House, Rose Garth and Peyton Hall and Barn are all Listed Grade II buildings and located no more than 500 metres from the site. Similar to the Scheduled Monuments, the settings of these listed buildings would be dramatically altered. Rather than read and experienced within a rural landscape and associated historical connections with it, the listed buildings would instead be experienced in an utilitarian setting defined by solar arrays, fencing, CCTV cameras on poles, a DNO substation and other infrastructure. Accordingly, the proposal would fail to preserve the setting of the listed buildings.
33. Great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. In this case, the harm arising to the settings of the Scheduled Monuments and listed buildings identified would be no greater than less than substantial<sup>9</sup> and therefore Paragraph 202 of the Framework applies.
34. The public benefits of the proposal are set out in the 'Need and potential benefits' section of this decision. Whilst these benefits weigh significantly to moderately in favour of the proposal, they would not outweigh the significant harm to the settings of the Scheduled Monuments the conservation of which is afforded great weight in the Framework. For similar reasons, they would fail to preserve the setting of the listed buildings, in being contrary to the clear expectations of s66(1) of the PLBCA, which anticipates special regard being had to that preservation. The dual conflict of the proposal with national policy and statute, and the cumulative harm that would arise from them, are matters of very significant weight that militate against them succeeding.
35. Accordingly, the proposal conflicts with Policies ENV2 and ENV4 of the LP which require that where nationally important archaeological remains and their settings are affected by proposed development there will be a presumption in favour of their physical preservation in situ and development affecting a listed building should be in keeping with its scale, character and surroundings.
36. It is also at odds with Chapter 16. Conserving and enhancing the historic environment of the Framework, which include in determining applications, local planning authorities should take account of the desirability of sustained and enhancing the significance of heritage assets and that great weight should be

---

<sup>9</sup> This is, to varying degrees and applicability, in line with the advice provided by the Applicant's Heritage Consultant, Historic England, and the designated authority's heritage advisers who all identified 'less than substantial' to at least some of the heritage assets in this section.

given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

#### *Heritage assets – Archaeology*

37. Paragraph 194 of the Framework sets out that where there is potential for archaeological interest on sites, an appropriate desk-based assessment and, where necessary, a field evaluation should be undertaken. Footnote 68 of the Framework sets out that '*Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.*'
38. Significant archaeological remains from Iron Age to Roman dates and a moated enclosure and ditch-like anomalies from geographical survey are identified on the site. These are located in the northern and western parts of the application site. The applicant's heritage expert indicates that '*The majority of moated sites served as prestigious aristocratic and noble residences with the provision of a moat was intended as a status symbol. They commonly consist of wide ditches which are often water-filled, which partly or completely enclose an 'island' of dry ground*<sup>10</sup>.'
39. A metal detector survey was undertaken in the mid-2000s, but only on part of the northern end of the site, and there have been finds of coins from the early first millennium. On this basis, the Applicant considers that the potential for significant archaeological remains of Iron Age to Roman date within the site is moderate to high. They go on to consider that there are around 6'000 moated sites known within England, and the two potential enclosures identified within the application site, and contained within areas earmarked for development, are not scheduled like others found nearby with the visible remains are barely perceptible above ground. They should, therefore, be considered as non-designated heritage assets rather than as commensurate with Scheduled Monuments.
40. Place Services, Essex County Council -Specialist Archaeological Advice dated 20 February 2022<sup>11</sup> set out that significance of the remains of the moated enclosure have not yet been ascertained. They recommend that trial trenching evaluation is undertaken in advance of a planning decisions. Historic England note the above comments and indicate that it is best practice in terms of the assessment of archaeological remains to identify whether any important remains are present that could preclude or modify the proposed development.
41. With a lack of trial trenching at the application site it is not possible to ascertain the significance of buried archaeological remains. In such circumstances, the decision-maker is unable to undertake the balancing exercise set out at Paragraph 202 of the Framework (or Paragraph 201 if substantial harm).
42. Clearly there is an incomplete picture in the evidence before me. The geophysical survey has found evidence of Romano-British enclosed structures; yet it is unclear whether there is any discernible evidence as to what these are and what other archaeology remains. Whilst there has been some metal

---

<sup>10</sup> Applicant's *Heritage Statement* dated September 2022, Page 18, Paragraph 5.28

<sup>11</sup> I consider this to be a typo of 202, as it is clearly referenced as a response to the application here.

detector surveying these were limited to the northern part of the site and took place some time ago. My role is to consider what is reasonable and proportionate based upon the available evidence before me. Despite evaluation carried out to date, I cannot be assured of the specific nature or significance of the potential buried archaeological remains.

43. An understanding of the significance of any heritage asset is the starting point for determining any mitigation, and therefore I am unable to assess whether the mitigation proposed would be appropriate. Similarly, I cannot be certain of the potential harm that may result to the archaeological interest from the proposal, for example through the siting of solar arrays and the groundworks required.
44. The heritage asset might have archaeological interest which could be unlocked through further field evaluation which would enable a greater understanding of any remains and their wider context. On this basis, and given that the significance of the potential remains could be of local and potentially regional importance (or greater if associated with the nearby Scheduled Monuments), I find that the approach suggested by Place Services and endorsed by Historic England is proportionate to the potential asset's importance and no more than is sufficient to understand the potential impact of the proposal. This approach is consistent with Paragraph 194 of the Framework.
45. Furthermore, I do not consider that the imposition of a planning condition would provide adequate mitigation for the safeguarding of what amounts to a non-designated heritage asset, given the affected land is in close proximity to land that has known above ground archaeological remains which are afforded the highest levels of protection as Scheduled Monuments.
46. After careful consideration of the archaeological matters arising in this instance the evidence remains incomplete. I therefore conclude that the application fails to provide sufficient evidence regarding potential archaeological remains or features of interest, such that I cannot be assured that material harm to archaeological remains would not result.
47. Accordingly, the application would fail to accord with Policy ENV4 of the LP, which, amongst other aims, seeks to ensure that in situations where there are grounds for believing that sites, monuments or their settings would be affected developers will be required to arrange for an archaeological field assessment to be carried out before the planning application can be determined thus enabling an informed and reasonable planning decision to be made. In circumstances where preservation is not possible or feasible, then development will not be permitted until satisfactory provision has been made for a programme of archaeological investigation and recording prior to commencement of the development. This policy requires an approach to the conservation of archaeological remains that is consistent with the *Overarching National Policy Statement for Energy (EN-1) July 2011*.
48. The proposal would also conflict with Section 16: Conserving and enhancing the historic environment of the Framework and in particular Paragraphs 194 and 200 (and footnote 68) which, amongst other aims, set out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to assets of the highest significance, notably scheduled monuments should be wholly exceptional.

### *Best and Most Versatile Agricultural Land*

49. The Applicant's survey and report on Agricultural Land Classification identifies that around 54% of the site is evaluated to be within the Grade 2 (very good) category, roughly 28% as 3a (good) and the remaining 19% as 3b (moderate) or other land/non-agricultural<sup>12</sup>. The *Framework* defines the Best and Most Versatile Agricultural Land (BMVAL) as being in Grades 1, 2 and 3a. Accordingly, around 82% of the site is within the BMVAL classification. The Report suggests that the Uttlesford district benefits from a high proportion of agricultural land in Grade 2 (approximately 80%, compared to 14% in England and 29% in the Eastern Region)<sup>13</sup>.

50. Whilst the currently arable land around the solar arrays and associated infrastructure could potentially be used for sheep grazing, it is likely that over the 40-year life of the proposed development there would be a significant reduction in agricultural production over the whole development area. This would not be an effective use of BMVAL, as reflected in the planning practice guidance which encourages the siting of large solar farms on previously developed and non-agricultural land.

51. Whilst the Applicant refers to the temporary nature of the proposal, 40 years is a considerable length of time for the solar arrays, DNO substation, fencing, CCTV towers and other associated structures to be present on site. Given this duration the proposed development would be seen as permanent features rather than as temporary.

52. Whilst an *Alternative Sites Assessment* (dated September 2022) has been submitted, this is limited by the reliance on an unsubstantiated distance of 4km point of connection with the electricity grid. Moreover, the search area was mainly limited to the Uttlesford District (for example the brownfield land search) even though the East Herts District is located immediately to the west of the site. Whilst such assessment cannot be exhaustive *ad infinitum* it is, nonetheless, reasonable to assume that it would detail reasoning as to why 4km is the maximum range for a connection point and take into account the geographical scope of the site – rather than local authority boundaries. It has also not been demonstrated that the significant development of this BMVAL is necessary in this instance – even taking into account net zero aspirations.

53. Accordingly, the proposal would conflict with Policy ENV5 of the LP which sets out that development of BMV land will only be permitted where opportunities have been assessed for accommodating the development on previously developed sites or within existing development limits. It goes on to indicate that where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.

54. It would also conflict with Paragraph 174 of the *Framework*. This sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside – including the economic and other benefits of the best and most versatile agricultural land. Footnote 53 indicates that where significant

---

<sup>12</sup> Agricultural Land Classification: Pelham Spring Solar Farm, Essex dated September 2021, Page 12, Paragraph 3.6.1

<sup>13</sup> Ibid, page 13, Paragraph 4.2.1

development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

#### *Highway safety*

55. Principally, construction traffic (of around 922 vehicles/trips) would access the site to the east of Manuden Road, with the vehicles having lengths of no more than 16.5 metres. These vehicles would use the M11, with access to and from along the B1383 (aka London Road to the south of Newport), turning to the west at Newport along the B1038, to Clavering when turning to leave/enter the site down Manuden Road. It is envisaged that construction traffic will only access the site from this north route and not through Manuden. Nonetheless, these are roads which, when leaving the motorway, tend to become narrower and winding without many places for larger vehicles to easily pass each other the closer to the site one is.
56. The proposed route for construction traffic is included in the submitted *Construction Transport Management Plan Sept 22 Issue (2)* (CTMP). However, since that work was undertaken further planning applications for similar development proposals have been submitted<sup>14</sup>. The CTMP does not take into account the potential cumulative impact arising from the number of proposed developments in this locality. In particular, it requires further investigation on traffic movements on Stortford Road and in specific around Clavering Primary School. The cumulative impact of construction traffic should be assessed in order to inform any plans for mitigation and co-ordination of traffic movements between sites during the construction phases.
57. Moreover, the main site access requires an updated Stage 1 Road Safety Audit and additional information to determine if the existing vehicular access at Maggots End is safe and suitable for operational vehicles. This should include a speed survey with visibility splays provided in accordance with the 85<sup>th</sup> percentile recorded. A road safety audit should accompany the current proposals.
58. In the absence of the above information and assessments, the proposal is contrary to Policy GEN1 of the LP which sets out that certain criteria should be met in order for development to be permitted. This includes that access to the main road network must be capable of carrying traffic generated safely and accommodated within the surrounding road network.
59. For the same reasons, in the absence of the above information, surveys and assessments the proposal would have an unacceptable impact on highway safety. It is therefore contrary to Paragraph 111 of the Framework which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

#### *Biodiversity*

60. The Applicant's *Ecological Impact Assessment* (September 2021) identifies that the application site contains breeding territories, sites, or foraging areas for farmland bird species including Skylarks, Yellow Wagtails, and Yellowhammers. These are all 'Red Species of Conservation Concern' and as 'Species of Principal

---

<sup>14</sup> See consultation response from Essex County Council Highways and Transportation Services, dated 20 March 2023

Importance' under Section 41 of the *Natural Environment and Rural Communities Act 2006*, as amended (NERC). In particular, Skylarks were found to show 'a persistent association with the site'.<sup>15</sup>

61. The *Ecological Impact Assessment* identifies that at the time of the surveying, around seventeen breeding territories for Skylarks were identified across the site<sup>16</sup> and in particular on the areas identified as development zones. The main loss of habitat is almost entirely attributed to loss of arable vegetation; habitat which is used by at least three Species of Principal Importance. Ground-nesting species such as Skylark will be especially affected by the loss of the arable farmland and its conversion to pastoral land for sheep-grazing and solar farming.
62. Consequently, it is necessary to adopt a precautionary principle and so it is reasonable to assume that the application site will support a considerably reduced number of birds than it currently supports. As such, a negative impact on breeding birds of open ground (particularly skylarks) is anticipated as a result of loss of nesting habitat as well as unmitigated direct impacts of construction associated with the proposal.
63. Mitigation for the loss of the Skylark territory has been suggested in arable fields in the local area through the provision of two 'bird foraging plots' per territory lost and that there is an abundance of open, arable farmland within the surrounding 5km of the site. However, it is unclear as to how such mitigation would be provided given that, as the *Ecological Impact Assessment* identifies: 'any off-site mitigation would need to be secured via a Section 106 agreement' but no such legal agreement is before me. Nor is there any indication where within the application site itself such areas could be provided. Lastly, it is unclear as to how such provision would also be made for other Species of Principal Importance identified such as Yellowhammer and Yellow Wagtail.
64. The potential biodiversity improvements arising from the proposal are noted. These include improvements in foraging areas, in soil qualities, and in hedgerows. However, the proposal would result in significant harm to Species of Principal Importance and their habitats. This is harm that cannot be avoided, adequately mitigated, and there is no mechanism to secure compensation for. Paragraph 180 of the Framework indicates that planning permission should be refused in such circumstances.
65. The proposal in this case would fail to conserve and enhance biodiversity, the Duty of which falls on public bodies in England under Section 40 of NERC. It is contrary to Policy GEN7 of the LP which sets out that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature to nature conservation and where the site includes protected species or habitats for protected species measures to mitigate and/or compensate for the potential impacts of the development, secured by planning condition or condition, will be required.
66. The proposal is also contrary to Paragraph 180 of the Framework which sets out that when determining planning applications, local planning authorities should apply the following principles: (a) if significant harm to biodiversity

---

<sup>15</sup> Applicant's Ecological Impact Assessment Sept 2021, Paragraph 2.6.127

<sup>16</sup> Applicant's Ecological Impact Assessment Sept 2021, Paragraph 2.6.105

resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

67. The information concerning European Protected Species on or near to the site, including Bats and Great Crested Newts (GCN), has been fully considered. The information concerning badgers, which are protected under the *Countryside and Wildlife Act 1981*, as amended, and also the *Badger Protection Act 1992*, as amended, has been taken into account.
68. The impact of the proposal on these species could potentially be adequately mitigated through the biodiversity improvements suggested and secured through the use of appropriately worded planning conditions. Nonetheless, this does not overcome the significant harm identified to bird species on or visiting the application site arising from the proposal.

#### *Noise*

69. The submitted *Acoustics Report A1784 R01b* dated September 2021 identifies that the noise climate during set up of monitoring equipment was relatively tranquil. Besides some noise from larger passenger aircraft, most sources of noise included birdsong, grasshoppers, other natural sounds and low-level wind noise in trees at monitoring station M01 and M02. The application would result in operational noise from the facility and associated infrastructure. The report does not consider impact arising from noise to users of the nearby Public Rights of Way/ Public Bridleway.
70. The UDC Environmental Health comments of 17 March 2023 identify a number of concerns with the submitted report, including what British Standards have been applied. It concludes that it is not possible to apply a robust post construction condition to ensure that noise from the site will not be detrimental to residential amenity or increase background and ambient noise levels in the area. It also raises concerns that the low frequency noise levels at noise sensitive receptors will increase because of the proposed development and may result in significant adverse impact when considered individually and cumulatively with the existing facilities.
71. Whilst there are some 'modern' noise intrusions – such as that from the overhead power lines and commercial aircraft – in the main the application site currently benefits from a relatively tranquil noise environment. This includes users of Public Rights of Way close to and near to the site. As evidenced in the comments from interested parties, this is an area that is prized for its recreational and amenity value because of its tranquillity.
72. Accordingly, the proposal would be at odds with Paragraph 185 of the Framework which sets out that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or wider area to impacts that could arise from the development. In doing so they should (a) mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life and (b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

73. Accordingly, the proposal conflicts with Policies GEN2, GEN4, and ENV11 of the LP which, amongst other aims seek to not permit developments where noise generated would cause material disturbance or nuisance to occupiers of surrounding properties.

### **Other Matters**

#### *Planning obligation*

74. The designated planning authority indicate that they expect the submission of a s106 agreement (or planning obligation) to address a decommissioning plan and secure a bond or deposit to cover decommissioning works if required. No such obligation was submitted by the applicant. Nonetheless, as the proposal is refused, I have not considered this matter further.

#### *Conditions*

75. I note that conditions have been suggested by the designated planning authority and other parties. Whilst my considerations of the planning merits indicate that permission should be refused, I am satisfied that the use of planning conditions would not mitigate or address the harms arising in this case in order to make the proposal otherwise acceptable.

### **Planning balance and Conclusions**

76. The proposal would clearly result in wider benefits including the moderate contribution to the local and national aspirations to transition to a low carbon future, the significant benefit arising from the renewable energy creation and future energy mix, the modest weight to socio-economic benefits and the modest benefits to ecology and biodiversity.

77. However, these fail to negate the harms identified to character and appearance, landscape and visual matters, the settings of designated heritage assets, archaeological remains, loss of BMVAL, highway safety, biodiversity and noise. The benefits in this case are clearly outweighed by the harms identified.

78. Accordingly, the proposed development would not accord with the adopted development plan when considered as a whole and there are no material considerations which indicate a decision otherwise than in accordance with it. It would also conflict with significant parts of national planning policy identified, including those principally contained within the Framework.

79. Accordingly, planning permission is refused for the aforesaid reasons.

*C Parker*

INSPECTOR (appointed person for the purposes of s62A and 76D TCPA)

## **Informatives**

- (i) *In determining this application, the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In doing so, the Planning Inspectorate worked with the applicant to seek solutions to ensure an efficient and effective determination of the application.*
- (ii) *The Planning Inspectorate, on behalf of the Secretary of State, has taken the environmental information provided - comprising the Environmental Statement and technical appendices - into account during the determination of this application by the appointed person.*
- (iii) *The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 is final. This means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision.*
- (iv) *These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>*

Appendix 3 – Appeal Decision APP/W2845/W/23/3314266  
Land at Milton Road, Gayton, Northamptonshire



Department for Levelling Up,  
Housing & Communities

Nick Pleasant  
Stantec  
4th Floor, 2 Whitehall Quay  
Leeds  
LS1 4HR

Our ref: APP/W2845/W/23/3314266

Your ref: WNS/2021/1858/EIA

13 March 2024

*Sent by email only*

Dear Sir

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

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

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

**Inspector's recommendation and summary of the decision**

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

## Environmental Statement

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

## Matters arising since the close of the inquiry

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

## Policy and statutory considerations

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

## *Emerging plan*

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

## **Main issues**

### *Landscape Character and Appearance*

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

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

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

*Temporary Nature of the Proposal*

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

*Heritage Assets*

28. The Secretary of State notes there are three principal heritage assets relevant in this case: the Grand Union Canal (GUC) Conservation Area (CA), the Gayton CA and the Grade II listed building, the Turnover Bridge, Bridge 47 (IR10.64).

29. The Secretary of State notes that the GUC CA Management Plan describes the overall character as being defined by the gently curving canal, the modest grassy towpath and the surviving bridges, with its setting being of particular note as it passes through the river valleys (IR10.66). He agrees at IR10.66 that the significance of the GUC lies in its historic and architectural value, which includes the engineering of the contoured route of the canal. For the reasons given at IR10.67 he agrees that the northern parcel of the appeal site is an element of the setting of the GUC CA. He agrees at IR10.68 that the introduction of solar panels would alter the relationship to the canal and appreciation of its embanked form within a rural landscape and that there would be harm to the setting of the GUC. The Secretary of State agrees that the harm is limited to a short stretch in what is a very long linear CA (IR10.69). However, he finds the harm to the setting of the GUC, even in this short stretch, is moderate and in the lower to middle end of less than substantial harm unlike the Inspector who finds limited harm at IR10.69.

30. For the reasons given at IR10.70-71 the Secretary of State agrees that the Gayton CA would be preserved.

31. The Secretary of State agrees that the Turnover Bridge provides important context to the historic use of the canal and its significance is therefore both architectural and historic (IR10.72). He further agrees at IR10.72 that its historic value and functional purpose is intrinsically linked to the canal, which is therefore the key component of its setting, although on crossing the bridge, parts of the northern parcel would be evident. The Secretary of State finds, unlike the inspector at IR10.73 who finds low harm, that the northern parcel is part of the setting of the bridge and even with proposed planting the introduction of solar panels here would cause moderate harm to the setting of the Turnover Bridge in the lower to middle end of less than substantial harm.

32. In line with paragraph 205 (formerly 199) of the Framework, The Secretary of State assigns great weight to the collective harm to the Heritage Assets and concludes the proposal would conflict with Local Plan policy S10(i) which seeks to protect, conserve and enhance the natural and built environment and heritage assets and their settings. In line with the heritage balance set out at paragraph 208 of the Framework (formerly 202), the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of GUC CA and the Grade II listed Turnover Bridge, is outweighed by the public benefits of the proposal. The Secretary of State notes the Inspector's analysis at IR10.117 and returns to this in paragraph 47 below.

### *Best and Most Versatile Agricultural Land*

33. The Secretary of State notes IR10.76-78 and prefers the findings of the Agricultural Quality of Land Report in line with the Inspector at IR10.78. He agrees there is 10.64Ha of Grade 3a land spread across both parcels and that this is not contiguous and cannot practicably be farmed separately to the lower grade land (IR10.78).

34. The Secretary of State accepts the evidence put forward by Nick Pleasant in his representation dated 30 January 2024 that the site was most recently used for animal feed/crops and not for 'food production'. He also notes that the Grade 3a land on this site is not capable of being farmed separately to 3b. For these reasons, and those reasons given at IR10.79-80 and IR10.82-85 the Secretary of State agrees that the loss of BMV land should be afforded limited weight. He further agrees at IR10.85 that the loss of some BMV land conflicts with Policy SS2 of the LPP2.

### *Other Matters*

35. The Secretary of State agrees, for the reasons given at IR10.87-94, that for the temporary construction period, the additional HGV movements would be utilising an acceptable route and be of such a level that there would be no unacceptable additional highway safety concerns, nor would the residual cumulative impacts on the road network be severe.

36. For the reasons given at 10.96-97 the Secretary of State agrees that future grid connections are a matter for the Distribution Network Owners (DNO).

37. For the reasons given at IR10.98-10.99 the Secretary of State agrees that there are significant ecological benefits associated with the proposal (IR10.99). He agrees at IR10.112 that enhanced biodiversity planting and measures identified which represent a BNG of 195%, should be afforded significant weight.

38. For the reasons given at IR10.100-102 the Secretary of State agrees that there will not be residential noise impacts associated with the northern parcel (IR10.102). He is also satisfied that there are opportunities to ensure sufficient separation from the recreational receptors and the finalised layout of panels and inverter/transformers, as required by conditions (IR10.102). For the reasons given at IR10.103-105 he further agrees that for the southern parcel the effects should be fully reviewed when the final layout, notably the type and positioning of transformers and inverters, is known through a condition for a final noise assessment.

39. The Secretary of State further notes IR10.106 that decommissioning proposals are agreed by the Council and would be secured by condition and at IR10.107 that roof areas would not, on the basis of current conditions, meet the expectations of the significant, rapid expansion needed in renewable energy generation.

### **Benefits**

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

41. The Secretary of State agrees at IR10.113 that the scheme is a temporary one meaning the site could be returned to agricultural use at some stage and considers this should be afforded negligible weight.

42. For the reasons given at IR10.114 the Secretary of State agrees that private investment funding should be afforded very limited weight and the creation of employment opportunities limited weight.

### **Planning conditions**

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

### **Planning balance and overall conclusion**

44. The Secretary of State, like the Inspector at IR10.109, finds compliance with local and national renewable energy policy. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with parts of LPP1 Policies S10 and S11 and parts of LPP2 Policies EMP6 and SS2 of the development plan. The Secretary of State finds the appeal scheme is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

45. Weighing in favour of the proposal is the production of renewable energy which carries significant weight. Enhanced biodiversity planting and BNG also carries significant weight. The reversibility of the proposal in landscape or visual terms, which carries little weight. The creation of employment opportunities carries limited weight and private investment funding also carries very limited weight. The site being returned to agricultural use at some stage carries negligible weight.

46. Weighing against the proposal is the less than substantial harm to designated heritage assets which carries great weight. Visual harm to landscape character and appearance carries major weight reducing to major-moderate over time, and the loss of BMV land carries limited weight.

47. In line with the heritage balance set out at paragraph 208 (formerly paragraph 202) of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall the Secretary of State considers that the benefits of the appeal scheme are not collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the heritage assets. He considers that that the balancing exercise under paragraph 208 (formerly paragraph 202) of the Framework is therefore not favourable to the proposal.

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

49. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

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

### **Right to challenge the decision**

51. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

52. A copy of this letter has been sent to West Northamptonshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

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

**Annex A Schedule of representations****Representations received in response to the Secretary of State's letter of 17 January 2024**

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



---

# Report to the Secretary of State

**by Mike Robins MSc BSc(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Date 15 November 2023**

---

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL MADE BY**

**ANNESCO Ltd**

**against**

**WEST NORTHAMPTONSHIRE COUNCIL**

Inquiry Opened on 23 May 2023  
Site Visit 25 May 2023

OFFICIAL

Land at Milton Road, Gayton, Northampton NN7 3HE

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

CONTENTS	PAGE
GLOSSARY.....	3
Procedural and Preliminary Matters.....	4
The Site and Surroundings.....	5
Background and Planning Policy .....	6
The Proposal .....	7
The Case for the Appellant.....	9
The Case for West Northampton Council.....	19
The Case for other persons appearing at the Inquiry.....	27
Written Submissions .....	34
Conditions .....	35
Inspector's Conclusions .....	36
Inspector's Recommendations.....	55
APPENDIX 1: Appearances at the Inquiry.....	56
APPENDIX 2: Documents submitted during the Inquiry.....	56
APPENDIX 3: Core documents .....	58
APPENDIX 4: Recommended conditions should permission be granted.....	62

**GLOSSARY**

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

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

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

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

---

**Procedural and Preliminary Matters**

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

consultation responses was challenged<sup>1</sup>. However, as was pointed out in the Inquiry, this is a matter for the Council and I am satisfied that during the appeal process, proper notification and consultation was carried out and all interested parties have had full opportunity to present their case, either in writing or in person.

- 1.7 The appellant's community engagement in relation to their initial and amended proposals, as referred to in paragraph 1.3 above, were also questioned<sup>2</sup>. While I accept that local residents often feel such schemes are not developed with their full engagement, I have reviewed the notification and consultation processes during the initial application and particularly during the appeal after the submission of the amended proposals. The provided Statement of Community Involvement included details of some 421 leaflets distributed in the Gayton Area in April 2021, and details of the website and webinar consultation, which remained available to the public for review. This, in addition to the statutory notification process of the Council, is considered an acceptable level of consultation.
- 1.8 The matter of the revised scheme was addressed at the CMC and evidence provided to confirm that consultation on the amendments had taken place, and that the process was accepted by the Council. I am satisfied that the consultation in relation to the amendments was appropriately carried out and that there was no prejudice arising from that procedure.
- 1.9 I requested that the main parties, in liaison with the Parish Council, produced a site visit itinerary<sup>3</sup>. I was able to carry out unaccompanied site visits to view the proposed route for construction vehicles accessing the site, and at school drop off time to the primary school in Gayton. After the end of the presentation of evidence, I carried out the accompanied site visit on 25 May 2023, following the agreed itinerary, including the circular footpath route from Rothersthorpe and the canal marinas and towpath near to the northern parcel. The route also extended to Gayton village and the southern parcel, including the roads either side and views from the rear garden of No 15 Blisworth Road, Three Chimneys, the road towards the school and that around the Church. Further areas covered included the footpath links from within the Gayton Conservation Area (CA) towards the site.
- 1.10 On the 12 April 2023, the Secretary of State for Levelling Up, Housing and Communities (the Secretary of State), under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, directed that they would determine the appeal. The reason for this direction is that the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.
- 1.11 Statements of Common Ground (SoCG) were submitted to address both the overarching scheme and landscape matters. These and all other documents associated with the scheme were made available virtually and can be accessed on West Northamptonshire Council's Planning Register ([West Northants](#)).

## **The Site and Surroundings**

---

<sup>1</sup> ID8

<sup>2</sup> ID3

<sup>3</sup> CD5.16

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

### **Background and Planning Policy**

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

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

- 3.5 In this context, the development plan includes the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (the LPP1), adopted in 2014 and the South Northamptonshire Local Plan (Part 2) (the LPP2). The full list of policies relevant to the appeal are set out in the SoCG. In particular, the Council's reasons for refusal alleged non-compliance with Policies S10(i) and S11 of the LPP1 and Policies SS2 (1b and 1d) and EMP6 (1b) of the LPP2.
- 3.6 The overarching SoCG indicates agreement between the main parties that Policy S11 of the LPP1 was the relevant policy for determination of the development. This policy seeks that renewable energy proposals should be sensitively located and designed to minimise potential adverse impacts on people, the natural environment, biodiversity and historic assets and should mitigate pollution. Also mentioned in the reason for refusal, Policy S10(i) states that development will protect, conserve and enhance the natural and built environment and heritage assets and their settings.
- 3.7 Policies of the LPP2 referred to in the reasons for refusal include the general design principles in Policy SS2, parts 1(b), which seeks a design led approach for development compatible with its surroundings and distinctive local character, and 1(d), that expects suitable landscape treatment as an integral part of the planning of the development. Policy EMP6 part 1(b) states that farm diversification will be acceptable subject to the character, scale and type of proposal being compatible with its location and landscape setting.
- 3.8 The National Planning Policy Framework (the Framework) along with the national Planning Policy and Guidance (nPPG) represent the national planning policy approach and are material considerations. The above development plan policies are generally consistent with the Framework, which sets out that planning policies and decisions should recognise the intrinsic character and beauty of the countryside and the wider benefits, including economic and other benefits of the best and most versatile agricultural land, and of trees and woodlands<sup>4</sup>.
- 3.9 National policies clearly recognise the need to plan positively for renewable energy that maximises the potential for suitable development while ensuring that adverse impacts are addressed satisfactorily<sup>5</sup>. The Framework notes that schemes need not justify the need for the energy and that authorities should approve schemes where the impacts are (or can be made) acceptable<sup>6</sup>. The nPPG supports this, noting that increasing supplies from renewable sources where local environmental impact is acceptable, will help make sure the UK has a secure energy supply, reduce greenhouse gases, slow down climate change and stimulate investment. Particular considerations for solar farms are addressed, noting that they can have a negative impact on a rural environment, particularly in undulating landscapes<sup>7</sup>.

## **The Proposal**

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

---

<sup>4</sup> Paragraph 174

<sup>5</sup> Paragraph 155

<sup>6</sup> Paragraph 158

<sup>7</sup> nPPG Paragraph 013 Ref ID: 5-013-20150327

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

- 4.2 The proposal would include deer fencing and a laser security beam system, but also landscaping, including trees and the introduction of new hedgerows, scrub and other planting.
- 4.3 The site, if operated to the full proposed capacity, is reported by the appellant to be sufficient to provide for some 13,250 homes, saving 11,750 tonnes of CO<sub>2</sub> per annum. These figures were questioned, and I deal with this in my planning balance section below under scheme benefits.
- 4.4 While there will be traffic associated with the construction phase, the indicative programme suggests an average of eight HGV movements per day over a 36-week construction period. The nature of the road network means that the appellant has agreed with the local Highway Authority (LHA) that articulated HGV deliveries will only be to the southern parcel with smaller, rigid vehicles delivering to the northern parcel. Operationally, the site will only have the occasional visit for maintenance purposes.
- 4.5 The solar farm is proposed for a period of 40 years, with conditions being sought to ensure decommissioning to remove all operational equipment and returning the site to its present agricultural use.

## **The Case for the Appellant**

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

### **Introduction**

5.2 The issues between the main parties to the appeal are strikingly narrow as it is agreed that the only potential reason for refusal is based upon landscape and character.

5.3 Within that, it is agreed that there are no significant effects on any of the landscape character areas as a whole, whether at national, regional or even local level<sup>8</sup>. It is agreed that there are no significant effects on longer range views<sup>9</sup> and, in character terms, that the site is not designated and is of 'medium' landscape value.

5.4 It is agreed that the Landscape and Visual Impact Assessment (LVIA) methodology is sound, with the only differences between landscape witnesses being matters of reasonable differences in professional judgement.

5.5 Whilst the Council alleges some heritage harm, contrary to the appellant's case of no harm, this is said to attract only limited weight and is agreed to be outweighed by the public benefits. The harm relates to the Grand Union Canal CA and the Grade II listed Turnover Bridge (Bridge 47).

5.6 It is agreed that there is no harm to the Gayton CA and no publicly accessible views of the appeal site from the Gayton CA. There are no other harms alleged by the Council.

5.7 The benefits of generating renewable energy are agreed to be, at least, significant. It is also agreed that significant weight should attach to the ecological enhancements that would be brought about by the scheme<sup>10</sup>.

5.8 Interested parties raised concerns in relation to a number of other issues such as loss of agricultural land, highways objections, including proximity to the Gayton School, grid connection and impact on tourism. The appellant's professional evidence demonstrates an absence of effect on highways, as agreed by the Highway Authority, the HGV route does not pass the school, grid connection is not a matter for this appeal, although early connection is secured, there is no evidence of any effect on leisure or tourism and the loss of BMV land, around 10Ha split across both parts of the site, has been taken into account but is afforded limited weight by the Council and very limited weight by the appellant.

### **Landscape Character**

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

---

<sup>8</sup> CD5.4 Landscape SoCG para 1.7 and 1.11

<sup>9</sup> CD5.4 Landscape SoCG para 1.26

<sup>10</sup> CD5.7 para 5.10

5.10 Further, it is agreed that there would be beneficial effects on two landscape receptors, canopy trees and hedgerows.

5.11 The only points of difference in relation to negative effects on landscape receptors relate to open fields / land use in relation to the susceptibility and therefore sensitivity of this element and the magnitude of change.

5.12 In relation to susceptibility and therefore sensitivity, given an agreed medium value for the site, the appellant considers the site to be of low susceptibility and, on a precautionary basis, of medium sensitivity, whereas the Council considers that the site has a high susceptibility and a high sensitivity. However, the 'high' rating is out of kilter with relevant guidance on this subject provided by Natural England (NE)<sup>11</sup> and endorsed by the authors of GLVIA<sup>12</sup> in which characteristics of this appeal site fit far more closely with characteristics associated with those types of landscapes said to have a lower sensitivity to solar development including: larger open fields; not being rugged, steep or natural in land cover; not being parkland; that the site includes major infrastructure such as the A43 and West Coast Mainline, roads and tracks; that it is not remote or wild; and that there are no important designated views into the site and no landscape designations.

5.13 Accordingly, the appellant's evidence should be preferred as being based upon the most relevant guidance and, as a matter of common sense, the landscape is not right at the top end of sensitivity.

5.14 In this regard, the appellant and those who reviewed the LVIA and updates on behalf of the Council, were eventually in broad agreement, with that review finding that the site had a medium sensitivity or medium-high in some places<sup>13</sup>. The Southern Green review finds that the site and immediate vicinity "*vary between low to medium sensitivity depending on the presence of local negative detractors such as compounds, the railway corridor and major roads, with associated loss of tranquillity*". The Council's witness is therefore something of an outlier in ascribing a high susceptibility and sensitivity when all other experts have determined that the site should be better described as having around a medium sensitivity.

5.15 In relation to magnitude of change, the Council's assessment that there would be a large magnitude of change at Year (Y) 1 and not diminishing at all at Y15 again skews their conclusions towards the more severe end of the spectrum. At site level they concluded a major adverse effect at Y1 and remaining major at Y15. This, the appellant considers, fails to reflect a balanced approach, where, on the Council's own assessment, two of the site landscape receptors experience beneficial rather than negative effects, and fails to reflect the GLVIA recommended inputs into magnitude, which would include consideration of the temporary nature of the scheme and its reversibility.

5.16 The Council accords solar development the highest level of change and harm, but this shows that they have not applied the methodology in a way which would acknowledge that other developments such as housing or other built form would have an even greater impact. As such, the Council's judgements are skewed unreasonably, the appellant states, towards the higher end and do not reflect the

---

<sup>11</sup> CD4.12

<sup>12</sup> CD4.11 Q41

<sup>13</sup> CD3.2 para 1.5

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

## Visual effects

### Canal

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

5.18 It is accepted by the appellant that there are some gaps in that hedge, as with any hedgerow, but the site is demonstrably not contributing to any sense of openness or "long views out across the countryside"<sup>14</sup> in this location which instead, is achieved by looking to the south towards Gayton and along the key views that are identified. Further, those gaps will be infilled as part of the landscaping plan<sup>15</sup>. The panels are also set back beyond 10 and 20m of scrub planting and around 30-40m from the hedge in total in this location, which further contributes to reducing views of the proposal. Whilst the Council criticised the heights that might be achieved by the proposed species mix on the landscape strategy plan, this is merely a strategy plan at this stage, it is not a planting plan and a proposed condition secures final details, which the Council can input into to agree an appropriate species mix and management regime.

5.19 Again, the Council's views that the effects would not reduce over time are not in accordance with others. The appellant considers that the effects would reduce from moderate at Y1 to minor at Y15 for users of the canal, whereas the Council sees no reduction at all. This is, in the appellant's view, plainly unrealistic. It is also again contrary to the Council's own review of the LVIA, which concluded that planting would assist to mitigate effects as the planting matures<sup>16</sup>.

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

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

---

<sup>14</sup> CD4.18 para 31

<sup>15</sup> CD5.11

<sup>16</sup> CD3.2 para 1.6

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

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

#### Walkers on roads

5.22 It was agreed that no significant effects would be experienced by passengers or drivers of vehicles. However, the Council argued there would be an effect on walkers using Milton Road and Wrights Lane.

5.23 Simultaneous or sequential views may be experienced when travelling on Milton Road. However, this route is most unlikely to be undertaken by foot given the lack of footway, and, if it is used by walkers, their attention is likely to be focussed upon the traffic and not on any scenery available over the hedges on either side of the road. Further, any view is oblique, fleeting and partial.

5.24 In relation to Wrights Lane, the majority of this route does not afford views of the northern parcel. For a short stretch of the southern section towards Gayton, part of Field E in the northern parcel is visible as part of an oblique view to the east. The higher portion of this field is most visible, and the appellant has amended the scheme to pull the panels down the hill and away from the most visible areas of this field. In context, this is not a significant effect, and as part of the wider journey on Wrights Lane, the experts agree the view is intermittent, partial and oblique<sup>17</sup>. The view also takes in the West Coast rail line and the periphery of Northampton including development on the M1 corridor.

#### Viewpoint SCP14<sup>18</sup>

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

---

<sup>17</sup> Landscape SoCG para 1.36

<sup>18</sup> Site Context Photographs (SCP)

## Viewpoint SCP28

5.26 The Council witness picked out this viewpoint from a longer route moving through this landscape, which takes in SCP7, 8 and 29, none of which he considered to give rise to significant effects. This says much about an approach which has focussed upon the photo viewpoint rather than the walk as a whole. When looking at the walk as a whole, neither witness identifies a significant effect, the appellant states negligible/minor and the Council minor/moderate. It was agreed in cross examination that the view is part of a sequence where the land rises and falls, and this was at the worst point.

5.27 It should be noted that it is viewpoint SCP29 which is most akin to the important view from the Gayton Conservation area and not SCP28 which is much further outside the CA, although both are in fact outside the CA. Neither witness considers there to be any significant adverse effect from SCP29, and SCP28 is too far from the CA to be sensibly associated with it, given it is the second field away from the boundary.

## Landscape and visual overall

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

## Other matters

### Highways and HGV routing

5.29 The Inspector and Secretary of State have the transport statement<sup>19</sup> and supplementary note<sup>20</sup> provided by Motion together with the swept path analysis for the sharp bend in Gayton<sup>21</sup>. Further, the Council raises no issues in relation to highways and the Highway Authority does not object subject to the imposition of conditions securing a construction management plan. That condition is proposed and agreed between the parties, it will include securing a route for HGVs and appropriate hours of working during the construction phase amongst other things.

5.30 Together, these documents demonstrate:

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

---

<sup>19</sup> CD 1.26

<sup>20</sup> ID9

<sup>21</sup> ID10

- The construction phase is 36 weeks. It will generate 8 construction vehicles per day. Spread over the day and timed to arrive separately through the management plan, this is very far from a severe impact.
- An absence of any harm caused by HGV construction routing. The route avoids sensitive areas, does not pass any schools, does not require HGVs to cross any bridge with a weight restriction<sup>22</sup> and is wholly adequate for the 8 movements a day.
- An HGV is well capable of making the tightest turn on the route at the bend in Gayton as demonstrated by the swept path. This works in both directions.

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

### **Best and Most Versatile Agricultural Land**

5.32 10.46Ha of the site is Grade 3a and therefore BMV land. However, the land does not in fact function as BMV, as the mapping shows that the parcels of 3a are within the broader 3b site and are not capable of being farmed in any different way to the remainder of the site, which is 3b, non BMV land. They are not usable or meaningful in extent<sup>23</sup>.

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

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

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

### **Decommissioning**

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

---

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

<sup>23</sup> CD1.2 para 7.26-7.28 Fig 7.1

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

### **Noise / tranquillity**

5.37 The appellant has undertaken a thorough noise assessment<sup>24</sup>, which assessed noise sensitive receptors, including residential canal boats and dwellings, and concluded that internal noise criteria would be met for sensitive receptors. The BWB rebuttal note<sup>25</sup> confirms that noise levels would also be met for garden areas.

5.38 Finally, the appellant has submitted a tranquillity assessment<sup>26</sup> to consider receptors on PRoWs including through the site and on the GUC towpath. Again, the conclusion is that noise generation would be below background levels as the area is demonstrably not tranquil given the nearby presence of the West Coast mainline and the A43.

5.39 No other technical noise evidence has been presented to the Inquiry and the Council's only comment by their witness in cross examination was that he wasn't convinced that BWB had assessed receptors at the western end of the northern parcel. However, as explained by the appellant, this is not correct, the plan of survey locations within the assessment shows a number in and around the western end of the site including on the PROW and the GUC towpath. Accordingly, there has been no evidence to undermine BWB's assessment that there are no material negative noise effects associated with the appeal scheme, merely assumptions which are not supported by evidence.

5.40 There is no proper basis either for the imposition of a condition requiring yet further noise surveys or a finding of any harm in this regard. Particularly, there is no basis for assuming conflict with paragraph 100 of the Framework which should be seen as referring to PRoWs as a physical, usable resource rather than a policy which takes in amenity concerns – this is more accurately paragraph 174(e) and a reference to noise pollution and needs to be seen in the context of the Council's planning witness agreement that the Council did not take issue with the part of Policy S11 which referred to minimising pollution.

### **Grid connection and cabling**

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

---

<sup>24</sup> CD 2.10

<sup>25</sup> CD 2.11

<sup>26</sup> CD 5.5 Appendix 1

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

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

## Heritage

5.43 The Council asserts that there is a low level of less than substantial harm to the GUC and to the Grade II listed Turnover bridge (bridge 47), for which it collectively affords limited weight.

5.44 The careful note from the appellant's heritage expert<sup>27</sup> explains that there are areas of the setting which do positively contribute to the significance of the GUC as a heritage asset (see para 4.1.9). However, that cannot be applied to the appeal site. No identified 'important views' within the CA Management Plan<sup>28</sup> include views of the appeal site. To the contrary, the existing hedgerow between the northern parcel and the GUC towpath is an '*important hedgerow*' and will be maintained and enhanced as part of the proposals.

5.45 The heritage statement explains that the site is an incidental and barely perceptible aspect of the setting. In the appellant's view, the northern parcel does not contribute anything to the significance of the GUC CA and therefore any harm to the site is not to be equated to harm to the significance of the canal as a heritage asset<sup>29</sup>.

5.46 The GUC Management Plan does make reference to the importance of landscape to the setting of the canal. The appellant accepts that, but it is not equally true for all parts of the setting for the full 26-mile stretch of the canal through the authority area. That is why the management plan has identified what truly is 'important' to the significance of the canal and it does not include the appeal site or views towards it. Further, the general amenity provided by the landscape surrounding the canal should not be conflated with heritage significance, the two are separate and in terms of visual receptors experiencing any harm to amenity, this falls to the landscape evidence to assess. This applies equally to the bridge.

## Planning Policy

5.47 The planning witnesses agreed that the main policy against which the proposals should be assessed is Policy S11. The other parts of policies referred to in the reason for refusal are all references to protecting the landscape character of the area and add little to the policy test in S11.

5.48 Policy S11 needs to be read in the context of the plan as a whole and specifically its own supporting text. That text refers expressly back to Objective 1 of the Joint Core Strategy (JCS) which is "*To minimise demand for resources and mitigate and adapt to climate change, by:... Encouraging renewable energy production in appropriate locations*".

---

<sup>27</sup> CD5.5 Appendix 2

<sup>28</sup> CD4.18

<sup>29</sup> CD5.5 App 2 para 4.1.20

5.49 Policy S11 therefore needs to be read as a policy which seeks to implement the objective of seeking to encourage renewable energy schemes. It is also the tool by which the plan determines whether a location is "appropriate".

5.50 In doing so, two tests are agreed to arise (1) that the proposal be sensitively located and (2) that it be designed to minimise harm to a range of factors, the only ones of which are said to be in play relate to landscape, visual receptors and heritage (in the limited sense covered above, albeit that the Council's evidence does not assert that heritage should be a reason why Policy S11 should be found to be breached). The other factors in S11 are either not in play (pollution) or there is an agreed benefit (biodiversity). These should be taken into account on a balanced approach to Policy S11.

5.51 In relation to whether the proposals are sensitively located the Council relies upon (1) landscape evidence, (2) the GUC and listed bridge as heritage assets and (3) the GUC as a green infrastructure corridor, for their argument that the site is not sensitively located because it is itself a sensitive location.

5.52 The first, landscape, is agreed to be bound up with the landscape evidence. The heritage argument does not greatly assist the Council as even on its case the harm attracts limited weight and, on the appellant's professional evidence, which represents the only heritage expert to provide evidence to the Inquiry, the harm is instead, nil.

5.53 In relation to the green infrastructure corridors and Policy NE3. The Council does not allege any conflict with this policy, nor could it sensibly do so, as green infrastructure policies seek to protect green infrastructure as a resource or asset. Green infrastructure is not a landscape designation and there is no associated "setting". The site is not within a green infrastructure corridor and whilst it adjoins the GUC corridor, the landscape proposals are to add additional planting and therefore green infrastructure in this location and thereby expand the corridor and increase the value of the green infrastructure as an asset. There is no direct or indirect harm to the green infrastructure.

5.54 The Council's argument boils down to the northern part of the site sharing a boundary with the GUC. However, the area hosts 26 miles of canal, and it cannot be that development is banned on both sides of the canal for the whole stretch. Instead, the sensitive parts of the canal should be avoided, which the appeal site does.

5.55 Further it is right that the appellant has taken steps to sensitively locate the development within the site itself by amending the scheme to pull panels away from the highest part of Field E, by including planting along the GUC corridor and large areas of scrub in this location to provide set back. These points also go towards satisfying the second part of Policy S11 in relation to minimising effects. Steps have been taken to minimise potential effects and, as agreed by the Council, the policy cannot be read as requiring effects to be eliminated altogether.

5.56 Draft EN-3 is agreed to be relevant and includes a recognition that solar projects are likely to cause significant impacts, largely in rural areas, but are nevertheless a key part of Government policy to address climate change, energy security and achieve net zero. In fact, the proposals are to increase solar energy production five-fold. The parties agree that at least significant weight should attach to the benefits of renewable energy generation in light of the national policy context.

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

5.57 The parties are also in agreement that the proposals represent an opportunity to secure meaningful biodiversity net gain in the order of 195% on the site, a benefit which should also be afforded significant weight.

5.58 The proposal will also generate economic benefits in terms of effects arising from the construction and decommissioning phases and smaller economic effects generated during the lifetime of the project associated with monitoring and maintenance of the panels, landscaping and the output of the scheme.

5.59 The appellant rightly notes the long-term landscape benefits arising out of the landscaping scheme, which will endure beyond the lifetime of the project. The Council's concern that the trees might also come down in 40 years with the panels is, the appellant states, fanciful, and would likely require a felling licence.

## **Conclusions**

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

## **The Case for West Northampton Council**

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

### **Background**

6.2 The Council accept that the site is not part of a designated landscape or a valued landscape for the purpose of the Framework, paragraph 174. There would be no significant impacts at a national or regional character area level and no significant impacts at a county or district level character area looked at as a whole.

6.3 There are two PRoWs through the northern parcel in addition to the towpath along the Grand Union Canal, although there are none which affect the southern parcel. Neither part of the site is located within a CA, although the canal itself lies within a CA and the northern parcel adjoins the canal. The bridge over the canal is Grade II listed.

6.4 Following resolution by the Council to refuse planning permission in October 2022, the appellant altered the scale and nature of the scheme, including the reduction of panels to the eastern part of the northern site and increased levels of landscaping.

6.5 A landscape SoCG has been agreed with the remaining differences about the level of impacts at the local and site levels. It is agreed that effects assessed as moderate or above are 'significant' for the purpose of decision-taking.

6.6 These submissions address the two main issues identified by the Inspector.

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

#### **Landscape Character**

6.7 The Guidelines for Landscape and Visual Impact Assessment (3rd Edition) (GLVIA3)<sup>30</sup> states at paragraphs 2.11 and 2.12 that landscape is important because it provides "*a shared resource which is important in its own right as a public good*", provides "*the setting for day to day lives – for living, working and recreation*", allows "*opportunities for aesthetic enjoyment [and provides] a sense of place*", and has "*continuity with the past through its relative permanence*". GLVIA3 also states at paragraph 5.26 that "*the fact that an area of landscape is not designated either nationally or locally does not mean that it does not have any value*".

6.8 The methodology used in the LVIA is agreed<sup>31</sup> and the Council has adopted its vocabulary for the sake of consistency. Both experts have sought to be objective and transparent, while recognising that professional judgment plays a large part

---

<sup>30</sup> CD4.9

<sup>31</sup> CD1.24a Appx A.1

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Visual Amenity**

6.14 The LVIA presents two sets/types of photographs. Site Appraisal Photographs (SAP) taken from within the site and Site Context Photographs (SCP) taken from outside it. SCP, including those added during the appeal process<sup>32</sup>, form the representative views agreed to be appropriate for the Inspector's assessment in this case (LVSoCG paragraph 1.21). This is no substitute for a comprehensive site and area visit and an agreed Site Visit Route Plan was produced (LVSoCG Appx 1) to which Cllr Cooper added some points to visit having consulted interested local residents.

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

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

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

---

<sup>32</sup> CD5.18 are the reference photographs.

6.17 The areas of disagreement are again best understood by reference to LVSoCG paragraph 2.5 and Table 2.

6.18 The first two rows in Table 2 concern receptors living, traveling on or walking beside approximately 500m of the GUC<sup>33</sup>. The GUC is not simply important as a designated heritage asset. The Local Plan makes clear, as have very many local people, that it is an important cultural, recreational and wildlife asset. It is also part of a network of multi-functional green space giving rise to quality of life benefits. It is a "*tranquil haven from which to enjoy unspoilt countryside*", as well as being "*an important landscape feature*" in its own right and the quality of the surrounding landscape is "*vitally important*"<sup>34</sup>. These descriptors do not simply apply to a consideration of mooring policy as was suggested by the appellant<sup>35</sup>, they are careful and considered statements in the Local Plan's section on protecting and enhancing the canal network.

6.19 Both landscape witnesses agree that the effects in Y1 will be significant. However, the appellant contends that, as a result of mitigation planting, the effect in Y15 will not be. The Council disagrees. The Inspector will be well placed to judge having seen the section of the canal on an embankment that would be difficult to plant, and the area proposed for 'scrub' landscape planting some 6m below the canal and having read the proposed management regime for the scrub<sup>36</sup>.

6.20 The Council notes a tendency by the appellant during the Inquiry to rely on changes to the landscape strategy that might be undertaken when the conditions come to be discharged. This does not display confidence in the strategy submitted with the appeal, which has been revised from that submitted with the application.

6.21 Having regard to Table 1.5 in the LVIA methodology the Council consider it is difficult to understand why the appellant's witness should regard those travelling on PRoW RL/001 (Northampton Round) between Gayton and Anchor Farm<sup>37</sup>, as having anything other than a "high" sensitivity. Walkers on this local circular route plainly fall full-square within the category of people enjoying outdoor recreation where their attention is likely to be focussed on the landscape. The Council also contends for a greater magnitude of change in the view than the appellant's "barely perceptible". The Inspector will doubtless have seen for himself.

6.22 For those travelling on the PRoW, when passing through the Site and its immediate vicinity, as represented by SCP01, SCP02, and SCP06, the appellant again down-grades their sensitivity. Inexplicably, the Council say, they also reduce the magnitude of change likely to be experienced so that the overall effect is "moderate" adverse and not "major", that is to say, merely a "noticeable deterioration" and not one which is "pronounced". This assessment, in particular, illustrates a trait of the appellant to downplay impact judgments such

---

<sup>33</sup> SCP10

<sup>34</sup> CD4.1 South Northamptonshire Local Plan paras 11.41, 12.21-4

<sup>35</sup> Mr Pleasant in Re-examination

<sup>36</sup> CD5.11

<sup>37</sup> SCP14

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

6.23 The appellant appears to do the same thing in their assessment of the impacts on residential receptors on Blisworth Road and Milton Road. Only the residents at Sandlanding Wharf are ascribed a significant impact (moderate adverse). The inspector will have seen all these receptors.

6.24 While views by vehicle-borne users of local roads such as Milton Road and Wrights Lane may not experience significant effects, we say that the Council's assessment that pedestrians walking local roads will appreciate a significant impact should be accepted, although again, this is probably best appreciated on site. The same applies to those walking north on footpath RL/003 (SCP28 and 8).

6.25 Overall, the Council submits there will be many significant visual and landscape impacts to weigh in the planning balance.

### **Main Issue 2 - planning policy and the planning balance.**

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

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

a. The LPP1.

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

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

a. The LPP2.

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

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

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

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

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

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

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

6.29 The relevance and requirements of national planning and energy policy have not featured prominently during the Inquiry. That is because they are essentially agreed. In the very recent appeal decision in Telford, Shropshire<sup>38</sup>, both the Inspector and the Secretary of State made the position very clear.

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

- a) The development would significantly contribute towards meeting national renewable energy targets and reducing carbon emissions. It would provide up to 49.72MW of electricity, which is equivalent to approximately the annual needs of in excess of 13,000 houses and can result in a carbon saving of approximately 11,750 tonnes per annum. Energy production is plainly a benefit that attracts significant weight<sup>39</sup>.
- b) The development would support direct and indirect jobs during the construction phase (and a smaller number of jobs when the solar farm is operational). The Council gives this benefit limited weight<sup>40</sup>. Any jobs created in construction would have to be balanced by the loss of tenant farming jobs during the 40-year operational phase.
- c) In terms of Biodiversity Net Gain (BNG), it is agreed that based on the Defra Biodiversity Metric 3.0, the development would enable a net gain of 195% and this is a significant benefit from an ecological perspective which goes significantly above and beyond policy and legislative requirements. The Council accepts this should attract significant weight.

---

<sup>38</sup> CD6.0

<sup>39</sup> As in the Shropshire Appeal

<sup>40</sup> As in the Shropshire Appeal

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

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

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

- a) Harm to the landscape and character of the area. Plainly given that the parties are at odds over the impact, the weight is not agreed either. However, the Council submits that the appellant has seriously underestimated the scale of the change that will be brought about in the area, particularly close to the village of Gayton. The Inspector has heard from local people how that change will affect them on a daily basis. Similarly, the appellant stresses the temporary nature of the permission, but 40 years is a generational change, perhaps even longer than that. Local people feel that they are being asked to shoulder too great a burden on behalf of the national need for clean energy.
- b) There will be a loss of around 10.46Ha of Grade 3 agricultural land<sup>41</sup>. Draft EN3 advises 'avoid where possible'. This is a matter to which the appellant gives very limited weight and the Council, limited weight. Some 16% of the appeal site is BMV. The appellant has stressed that the site would be "sheep ready" so that an agricultural function would remain. However, no real examples of practice elsewhere were given, and the evidence from local farmers is that stocking levels are very much reduced. It sounds to the Council like a management mechanism rather than a serious agricultural enterprise.

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

- a) The appellant's heritage assessment concluded that the northern parcel is "*not considered an aspect of the setting of the conservation area that contributes to its significance.*" Unsurprisingly, faced with that advice, the appellant gives the alleged harm no weight at all.
- b) The Officer Report<sup>42</sup> identifies some harm to the setting of the GUC CA. The area appraisal and management plan<sup>43</sup> recognises how important the landscape setting is to the heritage significance of the area<sup>44</sup>.
- c) The Council is correct to give this heritage harm limited weight in the overall planning balance even though it was considered to be outweighed by the public benefits of electricity generation in the overall Framework balance.

---

<sup>41</sup> CD1.2

<sup>42</sup> CD3.1 p6 and p18, para 8.58-59

<sup>43</sup> CD4.18

<sup>44</sup> CD 3.1 para 6.1 and 8.3

6.34 The Council has not identified any harm to the Gayton CA but submit that the development will diminish the overall tranquillity of the area and this too is a factor on the 'negative' side of the overall planning balance in addition to the visual harm to amenity. While there is no highway objection from the local highway authority, the construction traffic on narrow country local roads with the potential at least for temporary conflicts and 'reversing up', will make the area a much less tranquil place to live in. The appellant proposes construction traffic on a Saturday; although this was debated in the condition session.

6.35 In the overall planning balance, the Council recognises, like the Inspector did in the Shropshire case, that there are conflicting demands on the countryside resource, and that the demands on the countryside to help meet the need for renewable and clean energy generation are increasing. However, the Council submits that in this particular corner of the countryside, the demand being made by the appellant is excessive and that the appeal should be dismissed.

## **The Case for other persons appearing at the Inquiry.**

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

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

- 7.1 Mr Knibbs set out this is not an objection to the rights or wrongs of solar energy, and he accepts that there are compelling arguments as to why renewable energy sources are vital to the country's long term energy requirements. His objection is based on the geographical location of this proposal and the irrevocable and protracted harm that it will create in Gayton and the wider West Northants area.
- 7.2 There is currently 170 acres of productive farmland, delivering over a 13% higher yield than the national average, which will be lost to food production for years to come. The proposed site was only identified based on revenue generation for the landowner, this is not a reason to refuse but a reason to question the appropriateness of the selection and consider if taking this land out of production is sensible. Defra has recently graded the land as Grade 2 and 3, and it is odd that the application seems to downgrade this.
- 7.3 The Gayton Parish Council submission details eleven issues and provides an excellent summary of why the development in this location is flawed and contravenes so many Council policies. Even now the appellant is changing the application and has, for the first time, confirmed the position on the proposed installation of battery storage<sup>45</sup>.
- 7.4 This is a huge application that will impact forever on the local landscape and the rolling countryside that locals and visitors use. It would not only be visible from the village but also from across the Nene valley and the Grand Union Canal.
- 7.5 Thousands of visitors use the canal and come to the local marinas and, for over a kilometre, the first thing they will experience is moving slowly past acres of solar panels. Solar farms are needed, but in the right place. There are thousands of acres of roofs across Northamptonshire with not a single panel on them. While it is accepted that this would require government direction, are we prepared to irrevocably change the open countryside?
- 7.6 There has been no dialogue with the village by the applicant, no proper consultation, just a questionnaire, a leaflet extolling solar power and recently a letter dealing with the changes made in the appeal. The application is flawed, with ambiguity, vagaries and a lack of detail. For example, no mention is made over how the two sites will connect across the GUC, the A43 and M1 to get to the nearest grid connection. Must we assume later applications for overhead power lines and more negative impacts on the countryside?
- 7.7 The Transport Statement significantly underestimates the transport movements and the impact on the village. The applicant states eight commercial vehicles per day, but this is misleading as it relates only to the panels and not access by

---

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

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

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

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

- 7.10 These concerns are centred on the visual impact of the development and the appellant's inadequate proposals to mitigate the visual intrusion.
- 7.11 Hedgerow infilling. A central plank of the proposal is to reduce visual impact through infilling and tree planting. We believe this will have no perceptible effect during the lifetime of the development. The existing hedgerow must be at least 40 years old and does not exclude views into the northern site from the GUC or the towpath.
- 7.12 The appellant claims a BNG of 195% but this only through the arable crop cultivation that would be sown with grassland meadow seed mix. The scale of gain is simply due to the vast area to be planted. The Ecological Study did not mention new gain from hedgerows, which appears to be a mere 2.7% over 5 years. This is insufficient time to gain any screening, and the Metric calculations suggest that any tree benefit would take 30 years to achieve the intended result. The appellant's case for mitigation relies on this.
- 7.13 A further significant concern is in relation to batteries, but it is accepted that these may not be in the scheme now.
- 7.14 In relation to the canal and towpath, as well as being a CA, these are a valuable recreational resource which make an important contribution to the leisure, tourism and employment economies of the area, as well as the health and well-being of residents and tourists alike. The strip of land alongside the GUC is within the solar site and is a green infrastructure corridor, but this seems to have been given little credit in the appellant's design<sup>46</sup>.
- 7.15 The GUC Character Appraisal and Management Plan<sup>47</sup> states the need to 1) Protect the surrounding countryside from inappropriate development affecting the setting of the canal; 2) Encourage appropriate new tree planting and manage existing trees and hedgerows and; Action 1: The landscape setting to the canal

---

<sup>46</sup> CD1.12 Site Context Plan

<sup>47</sup> CD4.18

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

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

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

7.17 There was a decision to unanimously refuse this application by the Council owing to the location and size of the site. This appeal is not considering the same application, which has many changes and some misleading claims and errors.

7.18 There is a comprehensive response from Gayton PC, but this response deals with two aspects.

7.19 Firstly, the negative impact on the GUC CA, which the site borders for almost 1 km. This former method of transportation is now very much considered to be for leisure and wellbeing, and is of national and international interest to thousands of people. There is a Grade II listed 'turnaround'<sup>48</sup> bridge that directly overlooks a significant section of the industrial solar site.

7.20 The Council recognises the recreational potential of the GUC, and I refer to Policy RC7 of the South Northamptonshire Local Plan, which identifies the potential offered by the GUC and other canals as well as the Rivers Nene, Tove, Cherwell and Great Ouse, and seeks opportunities to increase the recreational use of these resources and safeguard the quality of these special environments.

7.21 Secondly, as advised by the local feed mill, this site of 70Ha produces enough corn to make over 1 million loaves of bread, that could feed 2 million people for a week. 44,000Ha are reported to have already been given over to solar and lost from food production. As a country, we are only 68% self-sufficient and rely on imports which come with their own energy usage.

7.22 Fertile land is a diminishing asset and Defra rate this as Grade 2 and 3, producing 9.2 tonnes per HA compared to the national average of 8.5 tonnes. Although sheep grazing is proposed, typical densities of 15 to 20 per acre would likely be 1 sheep per acre under the proposal.

7.23 Although landscape details have been adjusted, these would not mature to a degree to camouflage the panels over a 20-40 year timeframe, and the point of decommissioning is not covered. While parishioners are not against alternative forms of energy production, it is vital, at the same time, to preserve good, fertile agricultural land for food production, and protect the landscape, particularly where it is so important.

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

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

---

<sup>48</sup> Referred to as Turnover in the GUC CA Plan and throughout this Report

7.25 The only reasonable vehicular access would be up the Bugbrooke Road and hence past the school, a road already made difficult by parking and a chicane<sup>49</sup>. HGVs regularly passing would cause chaos and considerable danger, with frustrated drivers competing with parents and children trying to access the school. The primary school has been open for over 100 years and there have been accidents when people cross the road, Students regularly walk from the school to the church.

7.26 The major disruption will be to traffic flows around the village, as well as noise and pollution, and all the HGVs are likely to damage roads. In routing this all through Gayton, it will have a very serious impact on the quality of life for the village as a whole.

7.27 Visually it will be impossible to hide the ugly installations leading up to the village along Milton Road and being in immediate proximity to our ancient, rural village; it will seriously detract from its desirability. It would be wholly incongruous with the surroundings and local CAs.

7.28 It is still not clear how it is intended to connect to the Grid across the canal or railway line, and national media suggest that there is currently over £2 Billion worth of green projects still waiting for access to the Grid, with waits of up to 10 years being reported. What guarantees are there that even were it to proceed that it would not be sitting there redundant and unused for years?

**Mr Price- Local Resident - Objecting.**

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

**Mrs Auld – Local Resident - Objecting.**

7.30 The primary concern is traffic with issues over the use of rural, damaged roads with many potholes, the sharp right hand turn at the Church, including necessary reversing manoeuvres, and the use of the two bridges with weight limits. The roads are just not suitable and will lead to stuck lorries and much inconvenience.

7.31 Furthermore, the fragility of food supply must be secured, and this is fertile farming land. With land being lost to housing, freight links and more, rural areas will soon no longer exist. Alternatives must be thought of instead of just being put on the fringes of rural villages, and the appellant has not taken into account the views of villagers. It is all about money and there is nothing for local residents who get the disruption but no benefits.

7.32 With other issues of noise, ecology, light pollution and long-term recycling of the panels, it is inappropriate in this rural and tranquil location.

**Mr Ayres – Local Resident - Objecting.**

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

---

<sup>49</sup> Note – the appellant has presented a route that does not pass the school

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

7.34 The road infrastructure is not good enough. HGVs will not be able to turn by the Church, and in any case, how will HGVs be required to stick to that route? This area has suffered with the stress of HS2 and now this, which adds considerably to the pressures on residents.

7.35 There is no plan for removal of the panels, and probably no intention to do so, leaving a wasteland.

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

7.36 Reported to be speaking on behalf of 66 residents of Gayton who have objected to this scheme. In addition to the objections of the Council and the Parish Council, there were objections from both Rothersthorpe and Blisworth Parish Councils. There has been a tremendous level of support from local residents opposing this appeal, and while it is understood that there is a need to increase energy output and that green energy is good, the 'environment' is not simply energy related. It encompasses the visual, the quality of life, the impact on the surrounding area, the entire carbon footprint of a project, including the manufacture, installation and final decommissioning of the products, not purely the output during its working life.

7.37 The world's call out for climate change is also about protecting the Earth's nature and food supplies, not ripping it up for generations to come. This proposal is a highly invasive solar industrial site; it cannot possibly be described as a farm, and 40 years is not a temporary scheme.

7.38 Nature plays a huge part in our physical and mental well-being. People benefit from Green Prescribing. This site is a vital part of open, green and natural space for the local communities of Gayton and far beyond, who are incredibly fortunate to have it, but it has never been more important to preserve it. The prospect of walking alongside acres of solar panels in an area used and appreciated by so many people, and the impact this will have on people enjoying the GUC, is unthinkable. Solar farms are essential, but they must be in the right place and there is clear and conclusive evidence that this is not the right place.

7.39 Agricultural Land: Gayton is a true farming community, and a solar farm would undermine the local Tenant Farm business and employment. It would extinguish agricultural land much needed by our country to grow crops. Food security is as important as electricity generation and the bountiful harvest from 170 acres should not be sacrificed.

7.40 The appellant claims this will power 13,250 homes, assuming three people per house, this is less than 18% of the population of Northampton. This is not an efficient use of a large area of valuable agricultural land, it cannot be justified covering so much land for so little energy. Solar farms have a limited lifespan and ruin the ground beneath them.

7.41 Size and Scale: 98 football pitches of highly visible rural landscape, dwarfing the size of the inhabited area of the village and running alongside the gardens of many homes and impossible to screen from view. This will change the character of the village forever.

7.42 The Northamptonshire M1 motorway corridor is lined by warehouses, most of which are not forced to have solar energy as the power source; this should be made compulsory and the land alongside used for solar so as not to affect the rural landscape. There are large estates around Northampton with roof space where it would make perfect sense to put solar panels.

7.43 Site Construction: Gayton is one of the most inaccessible villages in the country. There are weak bridges, narrow village roads, tight 90-degree bends between a Grade II listed church and a Grade I listed manor. What damage would be caused?

7.44 There would be noise and pollution and risk to pedestrians as most routes do not have pavements. HGVs would be a huge safety hazard; residents feel life would be unbearable.

7.45 Gayton is a peaceful, historic village in the English countryside, its history can be traced back to 1086 and it should be treasured and protected. It has a 'slow-paced' feel, you can hear birds sing and the Church clock chime, the roads are country lanes. It sits on a hill with panoramic views, and people come from miles around to appreciate these historic views. The area is used extensively for horse riding, with many stable yards in and around the village. Positioned immediately behind housing, the site is highly visible.

7.46 Grand Union Canal: While the appellant states there are no important assets to be harmed, this is incorrect. The GUC within its CA is a most significant asset. The proposed development would be immediately adjacent to the CA, which runs the length of the canal.

7.47 This beautiful and quiet landscape attracts tourists and walkers. The marinas offer boat hire to explore the canal and there is a peaceful campsite for holiday makers to stay and enjoy the views. Many boats, for some people their homes, moor along the canal, and tourism, which supports many local businesses, will decrease.

7.48 Wildlife and Ecology: There would be a loss of open field habitat, flora and fauna and other ecology impacts. The land is valuable for wildlife. Residents have seen deer, badgers and foxes in the fields and several species of birds. The development will disrupt their habitat forever.

7.49 Health and wellbeing: a solar farm would have a significant negative impact on the quality of life and wellbeing of Gayton residents due to the loss of unspoilt scenic countryside. A resident wrote to highlight concerns over disruption from HGVs and impact on their livestock during construction, as well as on their horses, which they ride locally on the roads. There is currently a limited number of HGVs using these roads.

7.50 We ask that the appeal is dismissed.

**Duncan Wakelin and Clive Wakelin – Tenant Farmer - Objecting**

7.51 Originally submitted as a written response presented by Councillor Cooper, the tenant farmers statement was as follows.

7.52 As a tenant farmer, he objects, from a selfish point of view, as the fields are good and there is plenty of lower value land available. There is a choice between food and energy, energy can be produced in many ways, but food can only come

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

7.53 At the planning hearing there were questions about connection across the canal, railway and motorway, there is concern that later applications to achieve this will be forced on the local authority. Councillors voted 12 to 0 that it should not be allowed, that result should stand.

7.54 Having farmed and lived on the land, he wanted to express anxiety over the proposal. It is wrong that these solar farms are inflicted onto local communities and spoil villages and good farmland. What are the government's priorities, food or energy; there is a right place for all these things. Northampton is a town full of warehouses, why aren't there solar panels on those?

7.55 It is hard to move around the narrow roads around the village with tractors and large machinery, the local bridges have been damaged in the past by large vehicles that cannot manoeuvre over them, and there are then weeks of waiting for them to be rebuilt. There will be an increase in lorries and other machinery, and this will make it impossible to move on the roads at times. The government should do the right thing and have this solar farm built in a more sensible place.

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

7.56 The statement raised some issues with the way the original application was handled by the Council, submitted as a separate written comment. Presented to the Inquiry was the following submission.

7.57 There is a clear and urgent need for low CO<sub>2</sub> impact electricity generation to reduce the use of fossil fuels, meet the need for electric vehicles, heat pumps and hydrogen generation and reduce our present high reliance on energy imports. Currently 38% of the energy used in the UK is imported and of that produced here, about 40% is gas. In contrast, we are importing about 32% of our food, based on consumption figures from opponents of this scheme, which could be significantly reduced by a modest change in eating habits.

7.58 There are few existing low CO<sub>2</sub> technologies for electricity generation. Biofuels are renewable but not a low CO<sub>2</sub> source, and will require considerable land areas compared to solar. Nuclear power is low CO<sub>2</sub> but planning and construction times are very long, and it is not a near-term option.

7.59 In the future, there may be new, low CO<sub>2</sub> technologies, but these are likely to take decades to develop to a point where they can make a significant contribution. This only leaves solar and wind as sustainable options for electricity generation.

7.60 With a relatively low capacity figure, solar should not be used for more than around 15-20% of the total energy consumption. Even at that level the land required would correspond to less than 1% of the present total area of agricultural land. Solar panels on buildings, houses and warehouses, can make a useful contribution but are not in themselves sufficient. Furthermore, solar power is far simpler and cheaper to decommission than both nuclear and wind.

7.61 Having set out the case for a significant expansion of ground based solar power it would be disingenuous not to accept that it might be visible from the roads leading to Gayton. The limited visual impact of the proposed development is a

small price to pay for reduce CO<sub>2</sub> emissions, increased electricity generation and less reliance on energy imports, consequently the appeal is supported.

## **Written Submissions**

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

**Conditions**

- 9.1 Suggested conditions were discussed at the Inquiry based on a final agreed draft between the main parties<sup>50</sup>. The focus of the discussions was to ensure that all matters of control and mitigation were properly addressed, and all conditions were necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects.
- 9.2 Were the Secretary of State to consider that this proposal should be allowed, and permission granted, I have considered in my assessment below possible conditions that I recommend should be applied. These can be found in Appendix 4.

---

<sup>50</sup> ID11

## Inspector's Conclusions

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

### Introduction

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

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

### Landscape Character and Appearance

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

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

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

10.6 The appellant submitted an LVIA and a proof of evidence from the consultancy who prepared that LVIA. During the application process, in response to Council concerns, they also commissioned a Landscape and Visual Advisory review<sup>51</sup>. The Council itself reviewed the LVIA during the application process<sup>52</sup> and presented evidence at the Inquiry. No alternative LVIA was submitted and the SoCG on landscape confirmed, among other matters, that the two parcels of the

---

<sup>51</sup> Southern Green - September 2022

<sup>52</sup> CD 3.2 - Askew Wilson

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

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

#### The Value of the Existing Site

10.8 The proposed development is divided into two separate parcels, it is necessary to consider the value of each independently, albeit both lie within the National Character Area 89 – Northamptonshire Vales. At a district level, the South Northamptonshire Landscape Character Assessment identifies the parcels as lying within the undulating hills and valleys landscape and specifically 13b, the Bugbrooke and Daventry Landscape Character Area (LCA). It is common ground between the main parties that the proposal would have no material effect at the national or district level. [5.9, 6.2 ]

10.9 Locally, the southern parcel is identified as being within the 13f Gayton local LCA and the northern parcel within 13e, the Rothersthorpe local LCA. Again, it is accepted by the main parties that there would be no significant impact on the landscape of these LCAs. [5.9, 6.2 ]

10.10 Having driven and walked extensively over the local area, I would agree that the character of these relatively large-scale areas would not experience material or significant change. Nonetheless, they do assist in understanding the value of the sites.

10.11 The southern parcel, notwithstanding its position relatively close to the village of Gayton and location to the rear of some residential gardens, is not a prominent site. Experienced in oblique views over the hedge from Milton Road, in some long views and from the rear gardens of a few properties on Milton Road or Blisworth Road, it is a large arable field with hedgerow or woodland boundaries, notably the tree belt to the east. There are no major detracting elements from a typical agricultural field set in a rural landscape, but its relative containment means it is not an important component in terms of the setting of the village.

10.12 The northern parcel is more extensive and set within a more complex landscape. It is a flatter landform located towards the valley floor, but with rising land to the east. While the northern parcel itself has an agricultural, rural character, it lies adjacent to a number of strongly defined transport routes, the GUC in particular, but also the main line railway, the A43 corridor to the east and a short distance to the north, the M1. Although the motorway is not directly experienced within the immediate local context, it is in the long views across the valley, and represents a strong division between the built up and industrialised

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

10.13 These features introduce activity, noise and man-made forms into this area. However, it is important to note that the industrialised heritage of the canal has given way to its present-day role as an important recreational resource, for which its predominantly rural setting and tranquillity are one of its attractions. However, although part the northern parcel shares a boundary with the hedgerow alongside a length of the towpath of the canal, I do not consider that it is as important to the character or the enjoyment and experience of those using the GUC as the canal route itself and views to the south. [6.18, 7.14, 8.2]

10.14 This is confirmed when reviewing the GUC CA Character Appraisal and Management Plan and designation maps<sup>53</sup>. This, in considering landscape and views, agrees with my experience of walking the towpath here, that the canal, in maintaining its route along a contour, is embanked, with the proposed panels on this part of the site set notably lower along much of the stretch. Furthermore, the hedgerow to the northern bank, although somewhat patchy in places, nonetheless provides a visual barrier. While the maps note the important views to the south towards Gayton, the section here is otherwise relatively enclosed, with the typical experience for those using it being of the long linear views along the canal towards the bridges. [5.17, 5.18, 5.44, 5.46, 6.33, 7.15, 7.16]

10.15 To the eastern end of this parcel, where it is set back from the main canal section, but closer to the Northern Arm and marinas, the Plan identifies these areas as being compromised by road noise from the A43. I found that this is the experience across much of the site, although considerably less so to the western end. There are regular trains, which themselves introduced defined periods of activity and noise, and while the frequency of the trains passing was questioned, it is nonetheless a component of this landscape, and experienced from the northern parcel and the footpath network running through and alongside it. [5.14, 5.38, 6.18]

10.16 The footpaths which cross the site towards the western and eastern ends, LA/004 and RL/004, pass from the rural areas to the north and into the complex of the marinas and towpaths nearer to the site, and currently walkers experience a short stretch of typical agricultural field when traversing the site. To the east, the footpath emerges near to a large, fenced utility pumping station, which again introduces a detractor to the rural character here.

10.17 Overall, I find nothing to disagree with the main party's findings that the site is of medium value. [5.3, 5.12]

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

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

---

<sup>53</sup> CD4.18 and CD4.19

10.19 In terms of landscape effects, the appellant argues that the Council have unacceptably given a high value to the susceptibility of the site to change and its sensitivity, contrary to guidance. [5.12]

10.20 Susceptibility, the ability of a landscape to accommodate a proposed development must, in my view, be a function of both the existing landscape form, quality and features and the nature of the development. The appellant argues that the Council have considered this proposal as industrial development, and of a scale and effect akin to large-scale housing or other energy infrastructure. [5.16]

10.21 Having reviewed the relevant guidance<sup>54</sup> referred to, I am satisfied that while the proposal would introduce large area of panels and other distinctively man-made structures of a hard and unnatural regular form in close views, they are low-level, in this case to a maximum of under 3m, with limited noisy or distracting elements. From distance, the perception of their character will change for different viewers. To some this could be to something more positive, perhaps reminiscent of water, to others less so, with glint or glare elements and a continued unnatural shape and form.

10.22 Nonetheless, while of a large horizontal extent, a factor which can lead to an exaggerated perception of harm in some cases when viewed two-dimensionally on a plan or in an aerial view, understanding the impacts of such a scheme is essentially site-specific, dictated by the topography, existing character and relationships and level of containment, but also, as a matter of perception.

10.23 I appreciate many view large-scale solar developments as harmful in a rural setting, but others view them as a necessary and relatively benign alteration to our landscape. While there can be no question that, at this scale, there will be significant landscape and visual change associated with any solar farm, there are sites where, with suitable mitigation, they have been successfully integrated into rural landscapes. The appellant refers me to a number which have received support at local or national levels<sup>55</sup>. Nonetheless, there are cases where harm to landscape, alone or cumulatively with other matters have led to refusal of schemes. Judgements depend on site specific circumstances.

10.24 I find these examples exemplify the need for careful appraisal of each scheme, and while material, are not determinative of the suitability of any particular proposal.

10.25 In this context and having set out the value of the appeal site above, I find both northern and southern parcels to be of medium susceptibility to change from a solar farm proposal. The southern parcel is well contained and in my view of only medium sensitivity, leading to a moderate adverse effect in early years and reducing with appropriate levels of set back and maturing of the mitigation planting.

10.26 Development of the northern parcel would introduce unnatural elements into a landscape with a number of existing man-made influences. However, it would be of larger scale and more readily perceived and experienced as an additional landscape element. Critically, the Council also argue that the northern parcel is an important component of the green infrastructure corridor, as defined in the

---

<sup>54</sup> CD4.11 and CD4.12

<sup>55</sup> CD6.0, CD6.1 and CD6.2

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

10.27 I do not support the Council's consideration that it is part of the 'setting' of a green infrastructure corridor. Such corridors, by their nature provide relief from surrounding land use or provide publicly accessible routes through an area; rightly the Council did not promote any conflict with the relevant policy on this matter. Although I have found that the northern parcel is not a key component of the experience of the GUC, the bounded nature of the canal and occasional enclosure by development or historic industrial settings, is generally relieved by the open fields to either side when passing through more rural areas. While I deal in more detail with the heritage implications below, the change to a solar character rather than an agricultural one would materially affect the experience of the canal, albeit limited by the factors that reduce the importance of the northern parcel's relationship to the canal set out above. [5.51, 5.53]

10.28 The introduction of panels and other infrastructure on the northern parcel would be another element of a more industrial, man-made character than the wider rural context, and the existing fields are in and of themselves valuable as an open and rural element providing some contrast to detractors already within the landscape. For those experiencing the landscape from the road bridges, notably where the route to access the canal from the Gayton Junction parking crosses the Turnover bridge, those crossing the rail line further to the east, or even those crossing the site on the circular routes to Rothersthorpe or up to Gayton, it would be perceived as a significant and harmful addition to the landscape.

10.29 However, to my mind, this does not take the susceptibility of this landscape to the highest value, it remains medium because of the existing character and the nature of the scheme. The northern parcel itself is well contained in parts, and the alterations to the scheme to set back areas and remove the panels from the higher land to the east are positive in this regard. Nonetheless, notably in the early years and during seasons when the existing and proposed screening would be more limited, the experience of this landscape as a rural area with transport links would be harmed by the proposal.

10.30 The CRT highlighted the value of the tranquillity of the GUC for users and the Council argued at the Inquiry, that there would be an effect on the tranquillity around the northern parcel to the detriment of the character of the area. [6.18, 7.32, 8.2]

10.31 The appellant had commissioned a noise assessment, a noise rebuttal and a tranquillity technical note to inform their finding that there would be no effect on tranquillity, in part because of the existing noise climate, even at the western end of the parcel. [5.37, 5.38, 5.39]

10.32 I fully accept that there is a background presence of road noise across the northern parcel, albeit reducing to the west, and I noted even during my site visit the regular passing of trains on the railway next to the canal. However, there remains some sense of tranquillity here which, to my mind, is not just about noise. It is enhanced here by the nature of the GUC corridor itself, by the slow movement of the water and the quiet movements and activity of boats and people along it. While noise is a fundamental component when assessing tranquillity, there is a relative level of calm that also can contribute.

10.33 There is no reason why solar development should be significantly harmful to that experience, it lacks significant moving elements or activity, but it is not

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

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

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

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

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

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

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

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

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

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

10.42 For users of the canal, either moored or on slow-moving boats, or those walking the towpath or footpaths from the marinas or the car parks, there will be points where gaps in the northern hedgerow allows views of the proposed development. In addition, there would be raised views from the bridges providing more open views into the northern parcel. I am conscious that the revised proposal has promoted enhanced tree planting and scrub planting as well as strengthening of the northern hedgerow, a characteristic feature of the canal, with further scrub planting on the slopes behind it. While these would provide screening and reduce views, and for many utilising these routes, their attention is a generally linear one along the canal, these are receptors with high sensitivity, many using the area for its rural character, and even glimpsed views must be considered to be moderate adverse, major in some places, albeit this will reduce over time as the planting becomes more established. [5.18, 5.19, 6.18, 6.19, 7.4, 7.15, 7.19 ]

10.43 Despite the concerns of some parties, I can see no reason why properly managed planting should not be successfully established on the land between GUC and the proposed panels, even on the sloping part of the site. Such requirements can be addressed in conditions.

10.44 The footpath network here is well marked and likely to be popular, I note that the circular walk utilising RL/004 and LA/004 is reported to be a promoted route, and I was able to cover all of these stretches during my site visit. From areas north of the site, in which the majority of this route takes place, there would be little experience of the northern parcel and none appreciable of the southern. Approaching in a southward direction, some views, particularly in winter, would open up on close approach to the northern parcel, and quite clearly, crossing the site would introduce users to close range and relatively unfiltered views of panels, particularly in the early period of the proposal. [5.20, 6.21, 6.22]

10.45 For these crossings, where existing users experience seasonal changes and an open outlook, the panels would be a significant detractor leading to major adverse effects. However, these crossings are a relatively short part of the routes. The perception reduces relatively quickly at points beyond the crossings themselves, particularly to the north, and walkers heading south are exposed to routes on the road network, which generally do not have footways, notably Milton Road, and to significantly greater exposure to noise and activity associated with the pumping station, the marinas and increasingly the railway and the roads, amongst others.

10.46 I was referred to longer range views on walking routes, and in particular RL/003 which connects Gayton to the canal, and RL/001 heading northwest from Gayton. RL/003, passes over a pronounced ridge and consequently, despite a number of interested party statements made that the northern parcel would be visible from Gayton<sup>56</sup>, views only open up some way along this route at SCP28, and intermittently from there down to the railway bridge. [5.25, 5.26, 5.27, 6.24]

10.47 Walkers would unquestionably notice the layout of panels on the northern parcel, an adverse element within a predominantly rural landscape, albeit this is

---

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

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

10.48 The longer-range views from RL/003, SCP14, provide a similar panorama, and while parts of the northern parcel would be within the view, the effects on a route, within which only intermittent views can be taken within a wide field of view, would be minor adverse.

10.49 There are residential properties from which there may be some views of the proposal. Sandlanding Wharf is the nearest house to the northern parcel. This has a small upstairs window looking toward the west and the upper part of Field E in the northern parcel. Removal of the panels from this area under the latest amendments would reduce direct impacts, but some views are still likely, notwithstanding the planting and hedge management proposed. However, the predominant view for this property is eastward and over the canal. Overall, I consider this would be a moderate adverse effect, reducing to minor. [6.23]

10.50 There is also a row of houses along Milton Road, the nearest of which to the site may experience some views, and along Blisworth Road, where a number of houses back onto the southern parcel. These properties lie on the fringe of the village and generally have a relatively open outlook to front and rear, although garden boundaries would appear to be mature and substantial relative to the southern parcel. The proposed set back and planting on site would limit the lower-level views from these properties, nonetheless, there may be some views in which the fencing and some extent of panels might be seen. Consequently, I consider these represent moderate adverse views in the early years of the proposal, but the effect would reduce considerably with planting. [6.23]

Interested parties' concerns.

10.51 When considering the more significant concerns of the interested parties, I cannot agree that the proposal would lead to the dramatic impacts suggested for Gayton village or the tourism offer of the GUC. Canal users, were they to find opportunities to glance through the occasional gaps in the hedgerow, would, in early years of the scheme, be able to see the panels on the northern parcel. As the proposed planting to the hedge and scrub planting to the rear matures, even those views would be noticeably reduced. [5.8, 7.9, 7.14, 7.47]

10.52 I have dealt with the experience of those using the footpath network above, including concerns relating to horse riders and walkers using Milton Road who over time, in my view, would have reduced awareness of the panels on the southern parcel, subject to managed hedgerow growth and planting. I do not consider that the additional height proposed to the hedgerow here would have a material effect on the character of the area; strong hedgerows bound rural roads and are very characteristics of the area, and the approach to Gayton, and the prominence of the woodland element to the north of the village and later, the Church tower on that approach, would be unaffected. [7.27]

10.53 Furthermore, having walked that route, it is not one attractive to walkers, or likely to be taken by many in preference to the footpaths that cross the fields to the west, which themselves provide very little appreciation of the southern parcel development. I appreciate that horse riders may be more aware, but they would

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

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

#### Conclusion on Landscape and Visual Effects

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

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

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

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

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

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

10.60 In my view, S11 must be read on its face, and any proposal must be able to show that it has been chosen with sensitivity to the location. For solar farms there is an unavoidable and very strong locational driver of being able to connect to the national grid in an area with capacity to accept the connection. I deal with the issue of grid connection below, but this is a fundamental driver for location, coupled with the need for a large area of land, which invariably drives such schemes into rural areas. This is acknowledged in local and national policies.

10.61 While there may be sites where the sensitivity precludes large scale solar, notably, but not exclusively, nationally designated or highly valued landscapes or even landscapes of great heritage value, these are not in play in this case, although there are sensitive elements here that may not be present in other locations.

10.62 This area is essentially rural, although crossed by transport routes which bring other components to the character of the area, it also has small historic settlements, such as Gayton, and attractive and valued features, such as the GUC. In my judgment, although it is clear that there have been design elements seeking to minimise adverse impacts, notably the set back of panels in more prominent areas and the introduction of large areas of scrub, hedgerow and tree planting, I have still found the proposal to be moderately harmful. In this context, there is a degree of conflict with Policy S11, but also with that part of Policy S10 that seeks to protect the natural environment and those parts of Policies SS2 and EMP6 in the LPP2, which seek development compatible with its surroundings.

10.63 Such policy conflict must be weighed against supporting policies and the benefits of the scheme in the planning balance.

### **Heritage Assets**

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

10.65 The Planning (Listed Buildings and Conservation Areas) Act 1990 s66(1) requires the Secretary of State have special regard to the desirability of preserving a listed building or its setting. Although the site does not lie within

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

10.66 The GUC CA borders the northern parcel. The CA Management Plan describes the overall character as being defined by the gently curving canal, the modest grassy towpath and the surviving bridges, with its setting being of particular note as it passes through the river valleys. It acknowledges that, in places, the hedgerows completely contain views along it, which to an extent is the experience here when considering the outlook to the north and the appeal site. The significance of the GUC lies in its historic and architectural value, which to my mind includes the engineering of the contoured route of the canal.

10.67 I have found no particular relationship and no views between the marina area and the northern parcel, nor do I consider that it forms part of the setting here. However, an appreciation of the raised and embanked form is a component in understanding the historic and architectural significance of the canal, and the northern parcel has a part to play in that. In addition, views from raised areas, and the Turnover bridge provide exactly that, allowing an appreciation of not just the engineering, but also the rural setting through which parts of the canal run. The northern parcel is therefore an element of the setting of the GUC CA.

10.68 The effect of the site on the landscape or visual experience are not the same as its contribution to the heritage significance of the canal, nonetheless, I consider the introduction of solar panels would alter the relationship to the canal and appreciation of its embanked form within a rural landscape. Consequently, I consider there would be harm to the setting of the GUC.

10.69 The scale of this is limited to the short stretch in what is a very long linear CA. The harm to the CA as a whole, would therefore be limited and at the lower end of less than substantial harm, when considered on the context of the Framework.

10.70 Turning to Gayton CA, notwithstanding the Council position, there were a number of very concerned residents who felt that the historic value of the village would be harmed by the proposals. Gayton is a village which retains a compact form, with many high-quality vernacular buildings and some listed ones, and which retains its strong historic character. Its significance lies in its archaeological and historic context and the architecture, but also its rural setting. The occasional panoramic view out from the core of the village, in particular to the north is an important component. However, I have found little visual connection between the village and the appeal site parcels, although glimpsed views of the southern parcel on approach to the village may slightly alter perceptions of the rural setting in the early years of the proposal. I consider the character and appearance would be preserved.

10.71 A particular concern raised was the construction phase and the introduction of additional HGV movements through the village and past the Church, which is Grade II\* listed, and Gayton Manor, which is Grade I listed. Notwithstanding the high value of these assets, they are already set within a road network through which traffic passes in the course of regular day to day activities. While I deal with the detail of traffic movements below, I do not consider the scale of the movements and the temporary period over which they would be experienced would be perceived as an impact sufficient to diminish the settings of these listed

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

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

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

#### Conclusion on heritage assets

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

#### **Best and Most Versatile Agricultural Land**

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

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

10.77 The appellant's finding that there is some 10.64Ha of Grade 3a land spread across the appeal site comes from a site-specific Agricultural Quality of Land Report, May 2021. It is unclear what evidence supports the suggested Defra findings, although I am aware that, as agreed by the Council and the appellant<sup>57</sup>, this may be high level maps sourced as part of their assessment. I am also aware that Natural England produce strategic maps identifying likely BMV areas and agricultural land classification. I accept that these may have shown good or even very good land in the area, and the extract provided in the CPRE written representation is indicative of this. However, such strategic mapping is not sufficiently accurate for use in individual site assessments. [5.16, 5.32]

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

---

<sup>57</sup> ID12

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

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

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

10.81 Although it is often argued that this extended period would allow the land to recover from its more intensive agricultural use, and the soil condition and structure improve, this is challenged, notably by CPRE. In their written representations they refer to a Secretary of State decision in Wales<sup>58</sup>. It is suggested that this finds solar farms to be harmful, causing soil compaction and disturbance and overall leading to permanent loss of BMV. I do not have access to the evidence presented, but note that, in that case, the majority of the site was found to be Grade 2 and Grade 3a land. Nor do I know the nature or agricultural activity associated with that land, the soil type or nature of use.

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

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

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

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

---

<sup>58</sup> Blackberry Lane, Pembrokeshire. Ref DNS/3245065

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

## Other Matters

10.86 I note the concerns of the local Parish Councils, organisations and interested parties on the proposal's effects on other matters including highway safety, future grid connection, ecology and noise.

10.87 The appellant provided highway evidence, which included a Transport Statement<sup>59</sup> as part of the application, and a Construction and Traffic Management Plan (CTMP), which assessed construction and operational traffic levels. This included details of the required HGV numbers specifically set against the elements of plant and materials required for construction. This evidence was assessed by the Local Highway Authority (the LHA) and a number of changes made as a result of matters raised by the LHA and statutory consultees, including CRT. [5.29, 5.30]

10.88 These included a specified transport route and timings of deliveries to be set out in a management plan, specified access points to each parcel and associated visibility splays, along with the proposed transfer of loads from HGVs to smaller rigid vehicles for delivery across the canal bridge from the southern to the northern parcel.

10.89 The Transport Statement assessed there to be an average of 8 two-way movements over the 36-week construction period, 4 arrivals and 4 departures. Operational traffic for occasional security or maintenance checks would be at around 4 two-way movements per month. These matters were set out in evidence and summarised in a Transport Note provided to the Inquiry<sup>60</sup>. The LHA and Council raised no specific highway safety or capacity issues with the proposals.

10.90 Nonetheless, considerable concerns were expressed at the Inquiry and in written submissions with reference to the proposed HGV numbers and the routing. There were concerns about effects on pedestrians on the proposed routes, on other villages and specifically on the village of Gayton itself. Further concerns were raised over potential damage to the roads and particularly the canal bridges. [7.8, 7.25, 7.26, 7.34, 7.44, 7.49, 8.2]

10.91 The appellant has clearly set out a proposed route via A-roads from the M1 and then along Towcester Road, Station Road, past the Walnut Tree Inn, and finally along Blisworth Road to the relatively sharp bend past the Church into Milton Road. Access to both parcels would be off Milton Road. This route therefore entirely avoids Blisworth Village and, despite the considerable concerns of some residents about the primary school and those walking to it, it would avoid Bugbrooke Road and Back Lane. I took the opportunity to drive the route and while there are a few parts without footways, and a number of junctions, including that in Gayton itself, I saw nothing to challenge the appellant's position, endorsed by the LHA, regarding the acceptability of the route. The appellant has committed to this route, which can be secured by an enforceable condition. [5.8, 5.29, 5.30]

---

<sup>59</sup> CD1.26

<sup>60</sup> ID9

10.92 The assessed HGV numbers were provided by an experienced transport consultancy, were reviewed by the LHA and accepted by the Council. I note specific concerns that they represent an underestimation of traffic levels as the 8 movements per day were perceived to not include other movements, including workers, management, plant deliveries or waste removal, notwithstanding the details set out in the CTMP. While I accept there may be other ancillary movements, I am satisfied that the HGV movements are quantified and this addresses the types of traffic that, on these rural roads, may differ from normal everyday users.

10.93 I am also satisfied that the swept-path analysis<sup>61</sup> confirms that such vehicles can negotiate the junction near the Church. I do not underplay the nature of the road here and noted the parking outside of the terraced cottages in front of the Church which narrows the road to a single lane, nor do I suggest that there will never be events involving the construction HGVs that may lead to frustration, delay or minor disturbance to other users. [5.30]

10.94 However, this is not the relevant test. Overall, I am satisfied that, for the temporary construction period, the additional HGV movements would be utilising an acceptable route and be of such a level that there would be no unacceptable additional highway safety concerns, nor would the residual cumulative impacts on the road network be severe.

10.95 Concerns about the existing poor state of the roads being made worse by the construction traffic can be addressed through the recommended condition for pre- and post-construction surveys and reinstatement works. [7.26, 7.34]

10.96 There were also a number of concerns raised about the future grid connections. The appellant very clearly identified that they were one of the solar schemes which had a confirmed grid connection and that this was available from 2024. However, the appellant also confirmed that any connection across the two sites or to the grid was a matter for later consenting if required. [5.8, 5.41, 5.42]

10.97 I have some sympathy for local residents who question how those connections may be made and whether there would be more above ground infrastructure to achieve this. However, this, as set out by the appellant, is a matter for the DNO and not before this Inquiry. This was accepted by the Council in the SoCG [7.6, 7.28, 7.29]

10.98 Turning to ecology, The Council agree that the proposal would represent a BNG of some 195%. I accept that this is challenged by some objectors who consider that the hedgerow element, and possibly trees also, would not be a benefit for a considerable period. Nonetheless, this value was calculated against an agreed Metric and the conversion of semi-improved agricultural land to grassland and meadow is an acknowledged ecological improvement. The introduction of scrub areas and extensive hedgerow and tree planting, the quality and retention of which can be secured by conditions, as can the delivery of the expected gains, will undoubtedly enhance the biodiversity potential of the appeal parcels. [6.30, 7.12, 7.23]

10.99 I note specific concerns raised over the effect on some larger species and others requiring open field habitats. While the panel coverage will potentially reduce habitat opportunities for some species, this will be more than offset by

---

<sup>61</sup> ID10

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

10.100 Turning finally to noise. I have dealt with the issue of noise effects on tranquillity as part of the character of the area. It is important also to consider the effect on residential living conditions for those near to the sites. I have previously set out the noise assessments and commentary from the appellant on this. [5.37, 10.30]

10.101 As I have set out above, solar farms are not without noise and there are concerns raised by objectors relating to footpaths and properties in the surrounding areas. [7.26, 7.32, 7.44, 8.3]

10.102 The noise assessment utilises weekday background readings and modelled potential noise sources, noting that the models are based on open-field, and hence worst-case scenarios. The Council did challenge that the background levels were not fully representative, but this was addressed by the appellant in rebuttal and elsewhere. I am satisfied that there will not be residential noise impacts associated with the northern parcel, albeit there should be consideration of recreational users on the canal towpath and the footpaths that cross the site. I am satisfied that there are opportunities to ensure sufficient separation from the recreational receptors and the finalised layout of panels and inverter/transformers, as required by conditions, has the potential to reflect that.

10.103 The modelling of the southern parcel found that with the development, the noise levels at the closest receptors would exceed existing background levels but that internal noise level criteria would be met. However, the appellant's noise evidence considered the exceedance to be in the context of very low background levels that would not exceed a general level set out in British Standards<sup>62</sup> as desirable for garden areas. Internal noise levels, they argued, would be below the BS8233 guideline levels. Consequently, the appellant considers that there is no need for any further conditions in relation to noise. [5.40]

10.104 I accept that it is likely that, based on the modelled layout and parameters, the internal noise level impacts would be minimal. However, the level and tonality of inverter and transformer noise could materially affect the living conditions in garden areas as the level of this is dependant not only on the make and model of the units chosen but their layout in respect of noise sensitive receptors.

10.105 Consequently, although I acknowledge the findings of the assessment, and that there is continual improvement in the noise performance of technology used in solar farms, the effects should be fully reviewed when the final layout, notably the type and positioning of transformers and inverters, is known. As this is a requirement of proposed conditions, I consider it necessary, to protect the

---

<sup>62</sup> BS8233:2014 - Guidance on sound insulation and noise reduction for buildings

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

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

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

### **Overall Planning Balance**

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

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

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

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

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

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

10.113 There would not be a loss of all agricultural use, as it is accepted some could continue during operation of the solar farm, and the site is on land identified in the Framework as of mostly of poorer quality, with better land interspersed across the site and not viable for continued use were a solar proposal to come forward on the rest of the land. The scheme is a temporary one meaning the site could be returned to agricultural use at some stage; however, this carries negligible weight, in light of the proposed length of the temporary period.

10.114 Finally, the operation in terms of the construction phase would make some contribution to the economy, albeit it is not clear how much would contribute locally. While I give very limited weight to private investment funding, I do to the employment opportunities it would enable, albeit there will be some lost economic value from the change to the agricultural use of the site. I have therefore found the weight to be given to this benefit quite limited.

10.115 There is some disagreement with the Council, despite initial comments in the Officer Report, over benefits to be associated with the suitability of the site. Put simply, I consider that site location is a key factor in the assessment of policy compliance and not a factor associated with planning weight. [6.31]

10.116 The countryside is an asset on which there are conflicting demands. Rural areas in particular may be valued for their beauty and the pleasure and health benefits they give to those who access them. They are also the source of the majority of our food and other agricultural products and, in addition, are now expected to meet the need to diversify and decarbonise our energy sector, at least in part. These conflicting needs are clearly present here, with the valued recreational resource of the GUC, the local farmers' desire to see food security and continued productivity from the fields and the passion felt by local residents for the beauty and tranquillity of the countryside accessible on footpaths surrounding the villages. Consequently, while the overall thrust of government policy may be in favour of renewable sources, this does not give them unquestioned primacy over the other demands.

10.117 The harm to heritage significance should be weighed against the public benefits of the proposal. I give considerable importance and weight to the preservation of these assets, but have found that the harm would be at the lower end of less than substantial harm. The production of renewable energy for direct export to the national grid is one of significant public benefit, and, to a lesser extent the biodiversity enhancement would improve the public realm here and carry some positive public weight also. In accordance with the Council's own findings, I would recommend that the Secretary of State finds that the public benefits outweigh the less than substantial harms I have identified to heritage assets.

10.118 Turning then to the overall planning balance, the weight to heritage harms must be added to the initially major, but long-term moderate weight associated with harm to the landscape character and appearance, and the limited weight to loss of BMV. However, I have identified significant weight from renewable energy production, significant biodiversity enhancements and other moderate to limited weights in favour of the scheme. Overall, it is my judgement that the benefits would outweigh the harm. The benefits of the

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

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

## Conditions

10.120 There were full discussions at the Inquiry on suitable conditions were the appeal to be allowed. These included the main and interested parties. I am satisfied that, for the reasons stated below, all these conditions meet the relevant tests and, in the event that permission were to be granted, they are recommended as set out in the attached Appendix 4. The draft conditions discussed may have been altered in minor terms so that they comply with the tests or avoid duplication.

10.121 Turning to reasons, the relevant conditions are listed in (). In addition to the standard implementation and temporary period conditions (1, 2), I recommend a requirement for compliance with the plans (3), accepting that some plans are to be in general accordance as other conditions seek further details on these matters. Compliance with the recommendations of the ES would also be required (4). These conditions would be necessary to provide certainty.

10.122 As the development is a temporary one, the restoration requirement is set out for both the end of that 40-year period or, if export of electricity ceases during that period, at any time before that (5), to minimise impact and ensure restoration. To ensure that the original ecological surveys remain valid, I recommend a condition for updated surveys (6)

10.123 To address any highway implications, a Construction Environmental Management Plan would be required to address, HGV routing and timings of construction traffic, among other matters (7). In response to concerns regarding the condition of the road network, a highway survey and reinstatement condition is proposed (8), as well as delivery of the visibility splays and access to the site (17).

10.124 For reasons of protecting the character and appearance of the area and biodiversity, commitments made by the appellant to ensure agreed delivery of landscaping and to secure biodiversity enhancements and protect habitats during the scheme would be secured through submission of a detailed scheme (9), as well as specific measures during the construction period (10) and for the operation period, through a Landscape and Ecology Management Plan (11). Tree protection (12) and specific measures to achieve the Biodiversity Net Gain benefits (13) over the period of the proposal are also proposed to be secured by conditions.

10.125 To meet the expectations of the landscape and biodiversity requirements and protect the character and appearance of the area, finalised details of the layout and materials to be used would also be required to provide certainty on the positioning of the equipment across the site (14). Similarly, a condition to ensure delivery of the proposed landscaping would be necessary (22).

10.126 With regard to noise, the Council remained concerned that the modelling work had not fully categorised the necessary mitigation. While this condition

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

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

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

### **Inspector's Recommendations**

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

*Mike Robins*

INSPECTOR

**APPENDIX 1: Appearances at the Inquiry****FOR THE APPELLANT:**

Stephanie Hall of Counsel	Instructed by Barton Willmore now Stantec
who called:	
David Webster, BSc(Hons) MSc MA CMLI	Landscape and Visual Impact Landscape Planning Associate – Barton Willmore now Stantec
Nick Pleasant, BA(Hons) DipTP MRTPI	Planning Policy Planning Associate Director – Barton Willmore now Stantec

**FOR WEST NORTHAMPTONSHIRE:**

Hugh Richards of Counsel	Instructed by the solicitor for West Northamptonshire Council
who called:	
Stephen Wadsworth BA(Hons) DipLA DipUD CMLI	Landscape and Visual Impact Landscape Consultant - HCUK
Gary Stephens BA(Hons) MA PGCert UD MRTPI	Planning Policy Planning Director - Marrons

**INTERESTED PERSONS:**

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

**APPENDIX 2: Documents submitted during the Inquiry.**

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

**APPENDIX 3: Core documents****CD1 Application Documents and Plans**

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

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

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

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

## **CD3 Committee Report and Decision Notice**

<b>CD</b>	<b>Document</b>	<b>Reference</b>
CD3.0	Decision Notice	
CD3.1	Officer Report	
CD3.2	Speakers List Agenda Supplement	

## **CD4 The Development Plan and Policy Documents**

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

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

## CD5 Appeal Documents

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

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

## CD6 Relevant Appeal Decisions

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

**APPENDIX 4: Recommended conditions should permission be granted.**

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

Site Layout (drawing C0002451-01 Rev G)

Location Plan (drawing C0002451-04 Rev A)

Block Plan (drawing C0002451-05 Rev A)

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

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

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

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

Typical Fence Detail (drawing C0002451-09 Rev A)

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

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

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

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

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

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

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

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

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

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

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

9) Notwithstanding the approved Landscaping Strategy Plan (drawing LN-LP-07 Rev C), no development shall take place (including demolition, ground works, vegetation clearance) until a detailed scheme for landscaping the site has been provided to and approved in writing by the local planning authority which shall include:

- a) further details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc);
- b) further details of the existing trees and hedgerows to be retained or felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and
- c) details of the hard landscaping including access tracks within the development.

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

10) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include as a minimum:

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

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

11) No development shall take place (including demolition, ground works, vegetation clearance) until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

12) No development shall take place until the existing tree(s) to be retained have been protected in the following manner unless otherwise previously agreed in writing by the local planning authority;

- a) Protective barriers shall be erected around the tree(s) to a distance not less than a radius of 12 times the trunk diameter when measured at 1.5m above natural ground level (on the highest side) for single stemmed trees and for multi-stemmed trees 10 times the trunk diameter just above the root flare.
- b) The barriers shall comply with the specification set out in British Standard BS5837:2012 'Trees in Relation to Construction – Recommendations'.
- c) The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development [and / or demolition] and shall be maintained until all equipment, machinery and surplus material has been removed from the site.
- d) Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the local planning authority.

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

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

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

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

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

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

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

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

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

- 17) Before construction commences on site, access visibility splays shall be provided in accordance with Drawing Nos 2105055-01A, 2105055-03, 2105055-04.

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

- 18) Before construction commences a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to the local planning authority for approval in writing. This shall include:

- a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and other identified matters) of all elements of the proposed drainage system,

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

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

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

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

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



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

### Challenges under Section 288 of the TCP Act

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

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

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

## SECTION 3: AWARDS OF COSTS

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

## SECTION 4: INSPECTION OF DOCUMENTS

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

Appendix 4 – Appeal Decision APP/E2205/W/24/3352427  
Land south of the M20, Church Lane, Aldington, Kent



## Appeal Decision

Inquiry opened on 4 February 2025

Site visits made on 12 February 2025 and 5 March 2025

**by Paul Griffiths BSc(Hons) BArch IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> July 2025**

**Appeal Ref: APP/E2205/W/24/3352427**

**Land south of the M20, Church Lane, Aldington, Kent**

- 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 EDF Energy Renewables Ltd (trading as EDF Renewables) against the decision of Ashford Borough Council.
- The application Ref.22/00668/AS, dated 14 April 2022, was refused by notice dated 29 April 2024.
- The development proposed was described as 'installation of a solar farm comprising ground mounted solar panels; access tracks; inverter/transformers; substation; storage, spare parts and welfare cabins; underground cables and conduits; perimeter fence; CCTV equipment; temporary construction compounds; and associated infrastructure and planting scheme'.

### Preliminary Matters

1. The Inquiry opened on 4 February 2025 and closed on 13 February 2025 after 6 sitting days. I carried out a comprehensive, accompanied site visit on 12 February 2025. As indicated at the Inquiry, I carried out a further, unaccompanied visit to the site and its surroundings on 5 March 2025.
2. In their decision notice the Council added some wording to the description of development to make it clear that the solar farm proposed would have a generating capacity of up to 49.9MW. I have proceeded on that same basis.
3. The originating application was accompanied by an Environmental Statement (ES) submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). In their evidence, prepared in advance of the Inquiry, the Council highlighted the likelihood of impacts on the setting and thereby the significance of a series of heritage assets, both designated and non-designated. The appellant pointed out that this evidence went well beyond the range of designated heritage assets identified in the ES as potentially sensitive to the development, and covered in the Officers' Report, and based on that, the relevant reason for refusal. The Council promptly withdrew the elements of their heritage evidence that went beyond the Officer's Report and the relevant reason for refusal.
4. When I carried out my accompanied visit on 12 February, I looked at the additional heritage assets that the Council had raised issues about in their evidence, amongst other things. Having done so, I formed the view that the Council was correct to say that the proposal would affect the setting of these additional assets in a way that could affect their significance.

5. The appellant submitted some assessment work to address that shortfall<sup>1</sup>. However, it appeared to me that this situation could be argued to have brought the adequacy of the ES into question. So, I requested this formally as further information (FI) under Regulation 25, and it was duly submitted as such. While not strictly necessary, I opened the information up for consultation, through the Council, and responses to the FI were duly received. I have to say that some of these responses went well beyond the confines of what the FI was intended to address. However, I have taken the ES, along with this FI, and the responses to it, so far as they are relevant to the FI, into account in my determination of the appeal.
6. In advance of the Inquiry, the parties helpfully agreed on a range of Core documents, and I gained access to them before, during and after the Inquiry electronically. They are listed and stored at <https://www.ashford.gov.uk/east-stour-solar-farm-inquiry> so I have not set them out again at the end of this decision. I have however listed out the documents received in the course of the Inquiry in Annex 2.
7. During the Inquiry, it became clear that the layout of the solar panels as depicted on the application drawings appeared to interfere with the course of a public footpath (AE432). A series of revised drawings were prepared and submitted to address this issue<sup>2</sup>. This change in layout, while important, is relatively minor in its scope. I am therefore of the view that I can take it into account in determining the appeal without causing any difficulties in consultation terms.

## **Decision**

8. The appeal is dismissed.

## **Main Issues**

9. The Council refused planning permission for the proposal for five reasons encompassing, in brief, impacts on the landscape and public rights of way; the setting of designated heritage assets; archaeology; highway safety; protected species; and the safeguarding of minerals.
10. However, in the lead up to the Inquiry, the appellant and the Council were able to agree a main Statement of Common Ground (Main SoCG) and two supplementary Statements of Common Ground – the first dealing with landscape and visual impacts and the second archaeology, traffic and transport, and ecology. This meant that the Council's case as presented to the Inquiry was largely confined to impacts on the landscape and public rights of way (PRoWs) and the setting of designated heritage assets.
11. Reflective of that position, in opening the Inquiry I set out the main issues as: (1) the effect of the proposal on the character and appearance of the area, encompassing questions around PRoWs (the landscape and visual impact issue); (2) the effect of the proposal on the setting and thereby the significance of a series of heritage assets, both designated and non-designated (the heritage issue); and (3) the acceptability, or otherwise, of the proposal having regard to the development plan and national policy, the benefits of the proposal, and the need for a 'planning balance'.

---

<sup>1</sup> ID19

<sup>2</sup> ID11, ID12, ID15 and ID16

12. Having heard the evidence, and visited the site, I intend to deal with these same matters, but for reasons that will become clear, in a different order.

## **Reasons**

### *Background*

13. The appeal site is on land south of the M20 motorway, straddling the Channel Tunnel Rail Link (the HS1 railway line), and lies to north-east of Aldington.
14. The proposed array would be arranged in three distinct parts. The northernmost element would lie between the motorway and the railway to the west of the recently permitted (and it seems under construction) battery storage facility and condenser plant that lie to the west of Church Lane. The existing Sellinge Converter Station sits on the opposite side of Church Lane with the sewage works lies beyond that.
15. The second element would lie to the south of the first on the opposite side of the railway, to the west of Church Lane. The third element would lie to the east of the second element, on the opposite side of Church Lane, to the south of the operational Partridge Farm (or Sellinge) Solar Farm.
16. As set out in the Main SoCG, the proposal would consist of an array of ground mounted, solar photo-voltaic panels set at an angle of about 20 degrees, with a maximum height of 3 metres with associated ground anchors and concrete feet; the upgrading and/or widening of existing access tracks, together with the creation of a new access point on to Church Lane and new access tracks; up to 20 containerised inverter/transformer units of up to 6 metres long by 3 metres wide, 3 metres high; up to three cabinets containing welfare facilities, security and solar farm control systems, and equipment for general maintenance and spare parts; up to four sub-stations of up to 6 metres long by 3 metres wide, 3 metres high; underground cabling; a security perimeter fence in stock style up to 2.15 metres high, together with gates; CCTV cameras; and up to three temporary construction compounds with temporary lighting.
17. The scheme also includes the planting of new hedgerows, and the improvement of existing hedgerows, some native trees, and wildflower/grassland/ riparian mix planting.

### *Policy*

18. The development plan for the area includes the Ashford Local Plan (LP), adopted in February 2019, and the Aldington and Bonnington Neighbourhood Plan (NP) that was adopted in October 2024. The relevant policies from both are set out in the Main SoCG, with those most relevant highlighted.
19. The principal policy aimed at proposals like that at issue is LP Policy ENV10 that deals with renewable and low carbon energy. It is permissive provided that, amongst other things, the development either individually or cumulatively does not result in significant adverse impacts on the landscape, natural assets or historic assets, having special regard to nationally recognised designations, such as AONBs, conservation areas and listed buildings, and their settings.
20. NP Policy AB10 takes a broadly similar approach with projects supported where the benefits of renewable energy can be shown to outweigh landscape and (other) environmental impacts.

21. LP Policy ENV13 is directed towards the conservation and enhancement of heritage assets. Of particular relevance in this case, it says that where a development would lead to less than substantial harm to the significance of a designated heritage asset, or where a non-designated heritage asset is likely to be impacted, that harm will be weighed against the public benefits of the proposal.
22. Put simply, NP Policy AB11 says that development proposals affecting designated heritage assets either directly or indirectly, should preserve or enhance the significance of the asset, including those elements of the setting that do not contribute to significance. Given the lack of any integral balancing mechanism, and the questionable approach to elements of setting that do not contribute to significance, I do not consider this policy to properly accord with Government policy in the National Planning Policy Framework (the Framework) but in the event, nothing turns on it. NP Policy AB4 refers to the protection of locally significant views. These views are set out in Figures 8 to 10. Figure 9 refers to View 4 from the rear of St Martin's Church.
23. LP Policy ENV3a covers landscape character and design and expects all development proposals to demonstrate particular regard to a series of landscape characteristics, in a proportionate way according to the landscape significance of the site. These include a) landform and topography; d) the pattern and composition of field boundaries; and f) the presence and pattern of historic landscape features. Alongside that, LP Policy ENV5 seeks to protect and where possible enhance features like rural lanes that have a landscape, nature conservation or historic importance; PRoWs; and other local historic or landscape features that help to distinguish the character of the local area.
24. The Main SoCG covers the Framework and Planning Practice Guidance, and wider Government policy and guidance in so far as it relates to renewable energy. The obvious importance of renewable energy nationally is ably summarised in the quotation from the Written Ministerial Statement of 30 July 2024: *Turning to green energy, boosting the delivery of renewables will be critical to meeting the Government's contribution to zero carbon electricity generation by 2030. That is why on this Government's fourth day in office we ended the ban on onshore wind, with that position formally reflected in the update to the National Planning Policy Framework published today. We must however go much further – which is why we are proposing to: boost the weight that planning policy gives to the benefits associated with renewables; bring larger scale onshore wind projects back into the Nationally Significant Infrastructure Projects regime; and change the threshold for solar development to reflect developments in solar technology.*
25. The National Policy Statement for Renewable Energy Infrastructure (EN-3) makes it clear that energy production from solar projects is a key part of the Government's strategy for low-cost decarbonisation of the energy sector and that the Government has committed to sustained growth in solar capacity.

#### *The Benefits*

26. While the Council did raise some (legitimate) issues around overpowering, the scheme as presented would have a generating capacity of up to 49.9MW. It would export this energy to the grid through the nearby Converter Station. Importantly, the scheme has a pre-2030 grid connection offer meaning that it could contribute to the zero carbon electricity generation by the 2030 target.

27. Once operational the array would produce sufficient power to meet the equivalent annual needs of around 17,000 homes in the Council area, or 32% across the Borough. I am told that it would save the equivalent of 14,300,000kg of carbon dioxide for each of the 40 years it would operate for. On top of that, as the appellant sets out, the scheme would deliver a range of biodiversity benefits including a net gain of 250.94 habitat units which equates to a 116.84% net gain on habitats and a 230.36% net gain of hedgerows. Moreover, the scheme would create jobs in the construction, operational and decommissioning phases, with attendant socio-economic benefits.
28. There can be no doubt that the generation of renewable energy on this scale, so quickly, would be a significant benefit that must attract substantial weight in the planning balance. The added biodiversity and economic benefits add significantly to that. That said, while Government policy generally, and the LP and NP locally, are supportive of renewable energy projects, there is no carte blanche. There are other matters to consider, and I turn first to the impacts of what is proposed on the historic environment.

#### *The Heritage Issue*

29. The two designated heritage assets that the Council relies on in evidence are the Church of St Martin, a Grade I listed building, and Court Lodge Farm, a Grade II\* listed building. These are now a Parish Church and a farmhouse but were once a chapel and associated hunting lodge serving the Archbishop of Canterbury. Both lie within the Aldington Conservation Area.
30. The tower of the Church is located at the highest point of the ridge and is a notable presence in the landscape, especially on the approach from the north. Moreover, the group formed by the Church and Court Lodge have an historic association with the surrounding landscape, which may well have formed part of the historic ecclesiastical manor. While this landscape is much changed since the time the archbishop hunted within it, one is still able to appreciate and understand that link. In that way, while there is undoubtedly a great deal of significance locked into the fabric of these buildings, they do derive an important element of their overall significance from their place in the landscape, whether that is their immediate setting, or their wider setting.
31. The wider setting of the Church and Court Lodge has already been undermined by the M2 motorway, HS1, the Sellinge Converter Station, the battery storage battery storage facility and condenser plant under construction, and the operational Partridge Farm solar array. However, these significant elements of infrastructure have the benefit of sitting in the base of the valley so the extent to which they impact harmfully on an appreciation of the listed buildings in their settings is limited.
32. On my analysis, the same is true of much of the solar array proposed. However, that is not the case for the southernmost projection of the eastern blocks, towards Hungry Down, and the southern projection of the block to the west of Church Lane, that would expand over the crest of Bested Hill and down its south facing slope. The latter would be readily apparent on the approach along the footpath towards the Church from Aldington village, to the west, while despite some screening from trees and hedgerows, both would appear in views from the east of the Church<sup>3</sup>.

---

<sup>3</sup> As illustrated by Viewpoints 7 and 6

33. In my view, the presence of the array in these views in particular would be most incongruous. It would give the strong impression that infrastructure is spilling out from the valley floor into the rural hinterland of the Church and Court Lodge. This intrusion would undoubtedly dim the link between these important listed buildings and the surrounding landscape. As a result, there would be harm caused to their settings, and as a consequence, the significance of both individually, and as a group.
34. There was some useful discussion at the Inquiry about the scale of any harm that would be caused. As all accept, the threshold for a finding of substantial harm is very high. It seems to me that in a case like this, where it is the setting of the listed buildings involved and the contribution that makes to significance that is affected, the harm caused would be less than substantial<sup>4</sup>. Notwithstanding that conclusion, one is still left with the question of where on the scale of less than substantial harm, which ranges from the merest scintilla of a harmful impact to something not very far short of complete destruction, the harm in this case lies.
35. Unsurprisingly perhaps, the parties have rather different views about where on that scale the impacts lie. As I have set out above, by far the greatest proportion of the significance of both buildings lies in their fabric. However, both derive an important element of their overall significance from their settings, and the same is true of the grouping. As a consequence, my judgment is that the scale of less than substantial harm that would be caused to the significance of the Church of St Martin and Court Lodge is between the lower end of the scale and its mid-point.
36. Reflecting the workings of the Planning (Listed Buildings and Conservation Areas) Act 1990, and associated Case Law, paragraph 212 of the Framework tells us 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
37. Paragraph 215 explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. There is then a need to balance this less than substantial harm against the public benefits of the proposal that I have set out above. That is also what the development plan requires.
38. However, the harm to the significance of designated heritage assets in this case is not limited to the Church of St Martin and Court Lodge. On my analysis, having regard to the FI submitted on behalf of the appellant, and what I saw during my site visits, the setting of other designated heritage assets would be affected by the proposal.
39. First of all, the Church and Court Lodge lie within the Aldington Conservation Area and are the principal buildings within it. Unlike the other listed buildings in the conservation area, the Church and Court Lodge derive some significance from their wider setting. Given the contribution these buildings make to the significance of the conservation area, it follows that it does too.

---

<sup>4</sup> On the basis that the fabric of both buildings, where most of their significance is found, would be unaffected

40. It must also follow that if the significance of the Church and Court Lodge would be harmed by the proposal, then so would the significance of the conservation area. However, a good deal of the significance of the conservation area would be unaffected so I would assess the level of harm caused as lying at the lower end of the less than substantial scale.
41. Just to the south of the eastern element of the array, on the southern slope of Bested Hill, lie Hogben Farmhouse and its associated former dairy and former barn). All three are Grade II listed buildings. As a farm group, they derive something of their significance from their rural setting. Notwithstanding the planting proposed in the southernmost corner, the elements of the array on the southern slope of Bested Hill would be uncomfortably close to this complex. That proximity would undermine the rural setting of these listed buildings and as a result, their significance individually, and as a group. Bearing in mind that the fabric, and other elements of the rural setting of these buildings would be unaffected, my view is that the level of less than substantial harm that would be caused would be at the lower end of the scale.
42. I recognise that there are other listed buildings covered in the FI, as well as some non-designated heritage assets, but bearing in mind their relative importance, and the degrees of separation involved, I am of the view that while the setting of these buildings would change as a result of the proposal, it would not do so in a way that would harm their significance.

#### *Interim Conclusion*

43. At this stage then, having regard to the workings of LP Policies ENV13 and ENV10, and the Framework, I must weigh the less than substantial harm against the public benefits of the proposal. As I have set out above, those public benefits of the scheme would be substantial indeed. However, the harmful impacts I have found, and in particular those affecting the Church of St Martin, a Grade I listed building, and Court Lodge, a Grade II\* listed building, are matters of considerable importance and weight too.
44. It is my conclusion that the public benefits of the proposal do not outweigh the less than substantial harm that would be caused to the significance of the Church of St Martin and Court Lodge. The harm I have found to the significance of the Aldington Conservation Area and the Hogben Farmhouse complex tips the scales even further against the proposal. I reach that conclusion notwithstanding the fact that the impact of the proposal would be temporary, albeit I note that 40 years is a relatively long time, and reversible.
45. The central reason behind that conclusion is the fact that a good deal of the benefits offered by the scheme could be provided without any harmful impact at all on the setting and thereby the significance of these two very important designated heritage assets, or for that matter, any others. The benefits that would be secured by the elements of the array on the south facing side of Bested Hill, and edging towards Hungry Down, are not sufficient to justify their attendant harmful effects on the setting of the Church and Court Lodge.
46. I have carried out this balancing exercise on the basis of the scheme as it is presented and formed my conclusions accordingly. However, having regard to the way the matter was explored at the Inquiry, I am firmly of the view that a better designed scheme using the appeal site in a way that avoided these impacts, could bring forward most, if not all, of the same benefits.

47. Paragraph 213 of the Framework says that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. On the basis of the foregoing, I am not persuaded that this requirement has been met.
48. Bringing those points together, for the reasons I have set out, I find that the proposal is contrary to LP Policies ENV10 and ENV13, and NP Policy AB10, and as a result, the development plan considered as a whole. The scheme also falls foul of the Framework. There are no material considerations that would justify a decision contrary to the development plan so it is my conclusion that the appeal should be dismissed.

#### *The Landscape Issue*

49. On the basis of that conclusion, I can deal with the landscape issue relatively quickly. From what I saw, the appeal site is strongly representative of the two Landscape Character Areas (LCAs) in which it sits<sup>5</sup>.
50. Notwithstanding the screen planting included as a part of the scheme, the imposition of a solar array on the various land parcels is bound to have a significant adverse effect on the receiving landscape. Moreover, notwithstanding the revisions to the layout referred to above, the experience of walking along the PROWs that pass through and near to the proposal would undergo a change that would be a negative one.
51. That said, if solar arrays are to be brought forward in order to secure the benefits of renewable energy, then landscape and visual impacts of this sort are inevitable. The key point though is that these impacts must be controlled, in an appropriate way.
52. Bearing in mind the infrastructure already in place, the landscape and visual impacts of those elements of the proposal that lie within the 'valley floor', as I have put it in my findings above, demonstrate that appropriate level of control.
53. Notwithstanding the screen planting, that would in any case take some time to become established, those elements of the proposal that spill out of that area - the southernmost projection of the eastern blocks, towards Hungry Down, and the southern projection of the block to the west of Church Lane, that would expand over the crest of Bested Hill and down its south facing slope - would not. These elements of the scheme would appear incongruous and have a significantly harmful impact in landscape and visual terms.
54. On that basis, the proposal does not accord with LP Policy ENV3 and ENV5 and as a result, LP Policy ENV 10 and NP Policy AB10. This conclusion adds weight to my central conclusion that I have set out above.

#### *Other Matters*

55. Issues were raised about the potential impact of the proposal on highway safety. Given the nature of Church Lane, in terms of its width and alignment, I agree that the construction traffic would need to be carefully managed to avoid undue difficulties with congestion, and the safety of road users.

---

<sup>5</sup> The Evgate Mixed Farmlands LCA and the East Stour Valley LCA

56. However, I am satisfied that a Construction Traffic Management Plan (CTMP), secured by condition in the event planning permission was granted for a scheme on the appeal site, could effectively control those potential impacts. Whether that CTMP needed to include a road closure on Church Lane would be a matter for those with oversight of the process for discharging such a condition to consider.

57. I am conscious of the implications of my conclusions for the Stonestreet Green DCO – another solar array to the west of the proposal that is also likely to have an impact on the setting and thereby the significance of the two listed buildings I am so concerned about. That said, I would note that the public benefits of that scheme will be on a different scale to those before me and in any event, my findings are matters that those examining the DCO, and in time the Secretary of State, will have to grapple with.

**Final Conclusion**

58. For all the reasons given above, it is my conclusion that the appeal should be dismissed.

**Paul Griffiths**

**INSPECTOR**

## **Annex 1: APPEARANCES**

### **For the Local Planning Authority**

Annabel Graham Paul, Counsel

Instructed by Cheryl Parks,  
Senior Planning and  
Development Lawyer, Ashford  
BC

She called:

David Withycombe MSc CMLI

Director, Land Management  
Services Ltd

Graham Rusling MIPROW

Head of PROW and Access  
Service Kent CC

Grace Connolly MA(Hons) MSc

Senior Conservation Officer,  
Ashford BC

Matthew Durling MA MRTPI

Deputy Team Leader (Strategic  
Applications), Ashford BC

### **For the Appellant**

Shemuel Sheikh, Counsel

Instructed by Peter Nesbit,  
Partner and Kirsty Smith,  
Senior Legal Manager,  
Eversheds Sutherland

He called:

John Ingham BA(Hons) DipLA CMLI

Director of Landscape Planning,  
Stephenson Halliday

Rob Bourn BA MA MCIfA

Managing Director, Orion  
Heritage Ltd

Steven Longstaff BA(Hons) MSc MRTPI

Director, ELG Planning

### **Interested Persons**

Jonathan Tennant

Local Resident and  
Representative of the Church  
Lane Group

Edward Evans

Local Resident

Derek Burks

Local Resident

Linda Harman

Chair of Aldington and  
Borrigton Parish Council

## **Annex 2: INQUIRY DOCUMENTS**

ID1	Opening Statement and List of Appearances on behalf of the appellant
ID2	Opening Statement and List of Appearances on behalf of the Council
ID3 (1) and (2)	Submissions of Mr Tennant
ID4	Submission of Mr Evans
ID5	Proposed Planning Conditions
ID6(1) and (2)	PRoW Overlay Drawings
ID7	Submission of Mr Burles
ID8	Copy of Memo from Ms Dee to Mr Durling dated 28 March 2024
ID9	Further Submission from Mr Evans
ID10	East Stour Capacity Note
ID11	Plan 1: ENGN1006-100n.1
ID12	Plan 2: ENGN1006-100n.2
ID13	Copy of email relating to grid connection agreement
ID14	Revised East Stour Capacity Note (to replace ID10)
ID15	Revised Layout Plan 1 (to replace ID11)
ID16	Revised Layout Plan 2 (to replace ID12)
ID17	Closing Statement on behalf of the Council
ID18	Closing Statement on behalf of the appellant
ID19	Additional Heritage Assessment

Appendix 5 – Appeal Decision APP/W0530/W/22/3300777  
Land to the South East of Burton End, West Wickham, CB21  
4SD



## Appeal Decision

Site visit made on 12 July 2023

**by H Wilkinson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

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

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

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

### Decision

1. The appeal is dismissed.

### Main Issues

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

### Reasons

#### *Character and appearance*

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

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

5. A Landscape and Visual Appraisal<sup>1</sup> conducted in accordance with industry standard methodologies and guidelines accompanied the planning application whilst the appeal is also supported by a Supplementary Landscape and Visual Impact Appraisal<sup>2</sup>, planting plan and landscape specification. The findings of these appraisals suggest that the landscape character has a low sensitivity to development and a high capacity to accommodate the proposal. Having regard to the evidence before, in my view the relevant landscape including the appeal site has a medium landscape value and medium sensitivity to change.
6. The appeal development relates to the installation of 4580 solar panels which would be arranged in 22 rows, around 5 metres apart and would be orientated in an east to west direction across the appeal site. The installation would reach a maximum height of some 3 metres above ground and would have a dark grey/dark blue/black finish. In addition, a substation and switch room would be provided either side of the proposed access whilst an inverter would be in the centre of the site. The substation, being the tallest of the proposed structures would reach a height of around 3.5 metres.
7. The attractive, unspoilt open qualities of the appeal site would be replaced by regimented rows of uniform solar panels mounted on metal frames together with ancillary buildings. The homogenous and typically geometric form of the proposal together with its industrial appearance and dark finish would erode the rural character of the appeal site and diminish its contribution to the key landscape characteristics of the West Wickham Wooded Claylands area. Within this context, I find that the proposal would read as a highly obtrusive and discordant form of development. As such, it would have a harmful effect on the landscape.
8. Due to the exposed and plateaued nature of the surrounding landscape there are long, open views across the area in which the appeal development would be appreciated. Consequently, whilst I recognise that the landscape change and visual effects would be relatively localised, the appeal proposal would nonetheless be readily perceived by passers-by. The proposal would be particularly apparent to road users when approaching the site from both directions due to the level of the site relative to the road and the lack of field boundaries. In addition, and notwithstanding the intervening distance, there would be sight of the solar array and ancillary buildings from the surrounding rights of way network. Instead of viewing pleasant, open fields and panoramic views of the countryside from these locations, the visual receptors would experience row upon row of solar panels and utilitarian structures which would be at odds with their rural surroundings.
9. It has been put to me by the appellant that the provision of brushwood screening would offer mitigation in the short term whilst the proposed new hedgerow planting would reduce the adverse impacts and provide an overall enhancement in the long term. I acknowledge that the additional planting together with the undulating topography of the surrounding land would to some extent soften the visual effects. However, the subdivision of the field would result in a fragmented field pattern which would be uncharacteristic of the site

---

<sup>1</sup> Landscape and Visual Appraisal (11 November 2020)

<sup>2</sup> Supplementary Landscape and Visual Impact Appraisal (May 2022)

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

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

#### *Best and most versatile agricultural land*

13. Annex 2: Glossary of the National Planning Policy Framework (the Framework) sets out that best and most versatile agricultural land (BMV) includes land in grades 1, 2 and 3a of the Agricultural Land Classification. For the purposes of Natural England's Provisional Agricultural Land Classification Maps, the appeal site is recorded as grade 2 land. This however is contested by the appellant who submits that in accordance with the site-specific assessment<sup>3</sup> (ALC) submitted as part of the appeal, the site is grade 3b – moderate quality agricultural land.
14. The Planning Practice Guidance (PPG) indicates that where a proposal involves greenfield land consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays<sup>4</sup>.
15. Policy CC/2 of the Local Plan indicates that planning permission for proposals to generate energy from renewable and low carbon sources will be permitted where they do not have unacceptable adverse impacts on high quality agricultural land. Policy NH/3 deals specifically with the protection of

---

<sup>3</sup> Agricultural Land Classification Assessment prepared by Wilson Wraight dated May 2022

<sup>4</sup> Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 March 2015

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

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

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

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

### **Other Matters**

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

### **Planning Balance and Conclusion**

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

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

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

*H Wilkinson*

INSPECTOR

Appendix 6 – Appeal Decision APP/M1005/W/22/3299953  
Land north west of Hall Farm, Church Street, Alfreton DE55  
7AH



## Appeal Decision

Inquiry opened on 18 October 2022

Site visit made on 2 November 2022

**by Paul Jackson B Arch (Hons) RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 December 2022**

**Appeal Ref: APP/M1005/W/22/3299953**

**Land north west of Hall Farm, Church Street, Alfreton DE55 7AH**

- 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 KS SPV 61 Ltd against the decision of Amber Valley Borough Council.
- The application Ref AVA/2020/1224, dated 10 December 2020, was refused by notice dated 7 December 2021.
- The development proposed is a photovoltaic solar park and associated infrastructure.

### **Preliminary matters**

1. The Inquiry sat for 6 days. Costs applications were submitted in writing on the last sitting day and following written responses, the Inquiry was closed in writing on 8 November 2022.
2. I carried out unaccompanied site visits to the appeal site and surrounding viewpoints and heritage assets on 17 October and 31 October. An accompanied site visit to various viewpoints and the tower at Wingfield Manor was carried out on 2 November.
3. Applications for costs were made against KS SPV 61 Ltd and the holding company Kronos Solar Projects GmbH by the Council and the Save Alfreton Countryside Rule 6 party. These applications are the subject of separate Decisions.
4. Prior to the Inquiry, the Council advised that it would not be defending reason for refusal no. 2 insofar as it refers to the proposed development not contributing to the preservation or enhancement of the setting of the Amber Mill and Toad Hole Conservation Area. I have considered the appeal accordingly.

### **Decision**

5. The appeal is dismissed.

### **Main Issues**

6. The main issues are as follows:
  - The effect of the proposed solar farm on the landscape quality and character and appearance of the area;

- The effect on the setting of St Martins Church, listed at Grade II\* and Alfreton Hall at Grade II; and
- The effect on other heritage assets including Wingfield Manor House (Grade I), Alfreton Park and conservation areas at Alfreton and South Wingfield.

### **The site and surroundings**

7. The site comprises 75 hectares (ha) of agricultural fields and woodland north west of the town of Alfreton. According to the Agricultural Land Classification (ALC) for England<sup>1</sup> the land is mostly Grade 4 (poor) with some areas at Grade 3 (good). It is used primarily for pasture and silage. Alfreton lies on a distinct ridge and most of the site slopes down towards the Alfreton Brook to the north. The western edge of the site slopes to the north west. The site is crossed by several public footpaths and there are long ranging views from these towards Crich and Wessington<sup>2</sup>.
8. A group of farm buildings (Ufton Fields farm) including dwelling conversions lies on the western edge of the area proposed for solar panels. During the course of the application, a number of fields and parts of fields around the perimeter and around the farm buildings and on the eastern edge of the scheme between Wren Wood and Pond Wood were removed from the proposal, without affecting the potential output. The Council considered the development on the basis of the reduced area.
9. Hall Farm itself comprises a collection of buildings on the western edge of the town next to St Martins Church. The church lies at the highest point in the settlement and its square tower is conspicuous in the landscape. The farm and church are within the Alfreton Conservation Area though the adjacent associated Alfreton Hall is not.
10. The site is divided between 2 parishes, Alfreton to the east and South Wingfield to the west. The parish boundary also follows the historical western boundary of Alfreton Park, land associated with the Morewood family that lived at Alfreton Hall. The evolving pattern of footpaths, pleasure grounds and woodland associated with the 1724 Alfreton Hall and its subsequent extension can be seen on surviving maps from the Alfreton Park Enclosure map of 1812 through to Ordnance Survey maps in the 20<sup>th</sup> century<sup>3</sup>.
11. Extensive opencast coal operations took place in the 1950s on much of the parkland but areas of woodland were preserved. It appears that the land was restored to something very similar to its previous shape and form, sympathetic to the large and dominant extended Hall at the highest point next to the farm and church. Changes to hedge and fence boundaries do not now diminish understanding of its historical use as parkland. Demolition of the original 1724 hall in the 1960s due to subsidence has left the 19<sup>th</sup> century extension standing alone. It remains a substantial building on the ridge.

---

<sup>1</sup> Detailed analysis of 6 samples has been provided by Liz Scott (see ID19 below). Parts of the site indicate an ALC level of 3b. Local detailed analysis can often vary and this is not inconsistent with the broader regional classification by Natural England. Level 3b would indicate that the land would not be considered 'best and most versatile'

<sup>2</sup> With reference to the Zone of Theoretical Visibility (ZTV) Fig 5 of the Landscape and Visual Impact Assessment (LVIA)

<sup>3</sup> See Mr Cox's and Ms Morris's appendices

## **Policy background**

12. The development plan for the area consists of saved policies of the Amber Valley Borough Local Plan (LP) adopted on 12 April 2006 and policies of the South Wingfield Parish Neighbourhood Plan 2020-2035 (NP), made on 20 January 2022. With respect to the latter, it was found that the version of the NP subject to referendum had omitted in error the text of policy NPP 11 'Renewable Energy and Low Carbon Construction Method'. A modification proposal has been made under Regulation 14 (a) (v) to modify the plan to rectify the omission. The weight that can be attributed to this policy was subject to debate at the Inquiry. Consultation is taking place for a period of 6 weeks from 13 October 2022.
13. The second reason for refusal refers to NPP 11 *Renewable Energy and Low Carbon Construction Methods* paragraphs 4 a) b) and c), however proposed policy NP 11.5 is supportive of suitably located and designed development proposals for the supply of renewable energy where it is demonstrated that adverse impacts have been addressed satisfactorily in respect of a) amenity of residents and visitors; b) natural environment designated sites and protected species; c) the significance of Wingfield Manor and other heritage assets; and d) loss of best and most versatile agricultural land. The policy was examined by the Inspector and its provisions are uncontroversial. It had been subject to consultation. I regard the omission as a procedural error that is likely to be rectified without objection. However the fact that the policy wording is not included in the NP lessens the weight that can be given to it.
14. The replacement Amber Valley Local Plan 2021 – 2038 is at an early stage of consultation and attracts very little weight.

## **Reasons**

### *Landscape character*

15. The majority of the site lies on the western edge of National Character Area (NCA) 38 *Nottinghamshire, Derbyshire and Yorkshire Coalfield* within which the effects of widespread industrialisation have influenced the landscape. Whilst identifying the potential for solar farms in the south of the area, Natural England identifies opportunities such as raising the overall quality of design and location of new developments, by amongst other things, ensuring that parklands are under management that maintains their historical value while enhancing the biodiversity and recreational benefits that they offer, and their settings.
16. A small part of the site lies in the neighbouring NCA 50, *Derbyshire Peak Fringe and Lower Derwent*. The NCA is described as a picturesque transitional area between the natural beauty of the Peak District National Park to the west and the largely urban, formerly mined Derbyshire Coal Measures to the east. Natural England advises that the area is often referred to as the 'Gateway to the Peaks' and is rich in semi-natural habitats, intimate and dramatic landscapes, views and vistas and as such, it is an important area for recreation.
17. The site lies within Derbyshire County Landscape Character Type (LCT) Coalfield Estatelands, which surround Alfreton. This is described as a heavily industrialised and urbanised landscape characterised by settlements, parkland, woodland and dairy farming. The most relevant key characteristics include a

gentle undulating landform, dairy farming dominated by pasture, plantation woodlands, tree belts and coverts, fields of medium size defined by hedgerows, extensive areas of existing and relict parkland, and occasional country houses with associated parkland trees. Extensive areas of amenity parkland at Shipley and Alfreton are referred to, that at Alfreton being the non-designated parkland associated with Alfreton Hall. The change in character between small fields used for grazing around Ufton Fields Farm and the expansive parkland, or estate, character on the east side of the site including significant woodland (Pond Wood, Wren Wood, Long Plantation, Beech's Plantation and Highfield Plantation) is quite apparent.

18. LCTs in the surrounding setting of the site include Wooded Farmlands to the west (described as a mixed farming landscape on undulating ground with a strong wooded character) and Wooded Slopes and Valleys (described as a landscape of small pastoral fields on undulating rising ground with woodlands on steeper slopes), and Coalfield Village Farmlands to the north (characterised by pastoral farming and localised arable cropping). However the site is better characterised as transitional between these neighbouring types. This is best understood on the high ground near the centre of the site looking west and north.
19. The proposed development would occupy a large part of the sloping fields on the west side of Alfreton. Many of the panels would be mounted to face the sun on slopes descending in the opposite northerly direction. This would accentuate the appearance of the rear of the panels which would present as a starkly industrial mass of metal ascending the hill. En masse, they would be a prominent feature seen from as far away as 4-5 km away to the west and north. From higher ground about 3 km away at Wessington, the large Ferrero (Thorntons) factory is visible south of Alfreton. The panels would extend the area of industrial development into an area close to the town that is currently open countryside. This would be even more apparent from further west at the Crich Memorial, where more extensive industrial development to the south of Alfreton is also visible. From here, the fields that characterise the countryside on high ground immediately west of Alfreton would be largely subsumed. Whilst it is proposed that new hedging would be planted, that would not succeed in hiding the extent of the solar farm, especially seen from higher ground. Moreover, hedges of sufficient height to mitigate for the height of the panels (up to 3m) would be out of character with the area, where traditional hedges are typically much lower. They would also tend to obscure the perception of the smaller fields that characterise the Coalfield Estatelands and Coalfield Village Farmlands LCTs.
20. However, the effect on character within 2 km of the development would be more significant. The site forms a large part of the southern slope of the small scale valley of the Alfreton Brook between the A61 and the B6013. The waste water treatment works is not a defining feature. The scale of the fields and woodland is almost intimate with a distinct sense of tranquillity. The ground also rises to the west towards South Wingfield across the valley of the River Amber. The consistent undulating valley sides carpeted with mainly small fields and groups of trees does not lend itself to introduction of the proposed large scale industrial installation that would rise well above the low hedges and dominate the topography.

21. Turning to whether the landscape is valued (in the terms set out in the National Planning Policy Framework (NPPF) at paragraph 174, the site does not form part of a designated landscape. The appellant's assessment concludes that the site is of overall 'moderate' value. I consider<sup>4</sup> that in terms of rarity, heritage, and perceptual factors, that assessment undervalues the site and its landscape setting. Rarity is the presence of rare elements or features in the landscape or the presence of a rare LCT. In Landscape Institute guidance it is combined with 'representativeness' into a newly-named factor 'distinctiveness'. The relic Alfreton Hall parkland and literary associations with D H Lawrence mentioned by many local people indicate to me that this factor should be higher than the 'low' considered by the appellant<sup>5</sup>, if only because these ingredients do imbue a strong 'sense of place' notwithstanding its acknowledged natural beauty and views of Crich Memorial and to a lesser extent Wingfield Manor in addition. Heritage value in terms of landscape essentially derives from the association with Alfreton Hall and the Palmer-Morewood family, whose influence on Alfreton and its surroundings is well known and recorded, not least in the current brochure for the Hall as a wedding venue. The remaining protected woodland, field boundaries, remnant estate fencing, relationship to the farm and church and non-designated heritage asset status all indicate to me a higher value assessment than 'moderate'. In perceptual terms, the contrast with the immediately adjacent urban environment of Alfreton and apparent isolation from industry and busy main roads, indeed tranquillity, combined with the far-reaching prospect towards the Peak District, suggest a strong sense of detachment. This in combination with the evident wildlife, in particular birds such as skylark, means that the perceptual factor should be higher than 'moderate'. Overall, there is strong evidence to conclude that the appellant has underestimated the landscape value of the appeal site and its setting. Moreover, there is a large body of evidence testifying to the enhanced value placed on the parkland and the appeal site by local people.
22. With regard to impact, the appellant acknowledges a major adverse effect, even after mitigation, on the Coalfield Estates LCT and on NCA 38, due to the scale of development proposed. Although only 2 fields of the scheme are within the 'boundary line' of NCA 50 *Derbyshire Peak Fringe and Lower Derwent*, the appellant's assessment of a 'minor adverse' impact here gives insufficient emphasis to the transitional nature of the landscape in the Amber valley and the visibility of the solar farm from the west and north. That impact level should be substantially raised. In considering this point I note that cross-referencing the Table 6 and the assessment of NCA 50 as 'medium-high' landscape value in the appellant's own LVIA indicates a higher level of harm than 'minor'. The ability to appreciate the landscape value of NCA 50 as inextricably linked with that of NCA 38 arises from longer views of the scheme, and also because of the dip where the Alfreton brook meets the Amber river, clearly seen from, for instance, the Matlock Road.
23. None of the evidence leads to a conclusion that the landform or vegetation in the former parkland or neighbouring fields have been significantly altered by open cast working in the 1950s. I give this matter very little weight in assessing the landscape value of the site and its surroundings.

---

<sup>4</sup> Having regard to the Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> edition (GLVIA) which provides a list of factors at Box 5.1, and the Landscape Institute's Technical Guidance Note TGN 02-21 *Assessing landscape value outside national designations*

<sup>5</sup> Acknowledged by the appellant in cross-examination

24. The proposed development would have a major adverse effect on the Coalfield Estatelands LCT and a localised major adverse effect on NCAs 38 and 50.

*Visual amenity*

25. Industrial development lies on the north side of Alfreton, including a large sewage treatment works and activity associated with the explosives industry. It will include a recently approved solar farm at Meadow Lane. On the south side, beyond the A38, there is an extensive area of warehousing and industrial manufacturing visible from high ground at Crich. A countryside gap of about half a kilometre (km) between Alfreton and South Normanton to the east is separated from the town by a railway line, is relatively featureless and has very few public footpaths. Alfreton Park and the surrounding fields comprise the only area of attractive open countryside easily accessible from the town. This adds to its value for local residents.

26. Local occupiers and users of public footpaths are regarded as being of 'high sensitivity' when considering the impact on visual amenity. The site is criss-crossed by several public rights of way of historic and distinctly rural character. FP18 and FP19 lead directly from the Alfreton Conservation Area, St Martins church and Hall farm towards Oakerthorpe and South Wingfield, Toadhole Furnace and Shirland respectively via footpaths 47, 48, 49 and 50.

27. Immediately on leaving the churchyard, users of both footpaths would notice the extent of the solar farm to the west and to the north west of Wren Wood due to its height of up to a maximum of 3m. Although its utilitarian industrial appearance would be mitigated over time by new screening hedging, this would be in stark contrast to the prevailing field boundary hedges which are much lower. The new vegetation would seriously restrict views beyond the former parkland towards Crich and NCA 50, which currently unfold for the walker on the popular FP18. Elements such as equipment storage containers and transformer stations would be visible, sometimes above the hedges. Metal deer fencing would be apparent as a new and discordant feature, the effect lessened by mitigation in time but remaining highly visible looking at the scheme from the north. The hedging would not be effective mitigation from this direction<sup>6</sup>. The CCTV cameras would project above on poles and would be seriously inharmonious and intrusive in this relatively unspoilt undulating rural environment.

28. Moreover, there would be inverters positioned throughout the scheme which would produce a humming noise when in operation. At several locations, these are close to public footpaths<sup>7</sup> where the noise, especially when the inverters are under load for instance in sunny weather<sup>8</sup>, would add to the visual impact of the panels in the visitor's experience.

29. Occupiers of dwellings at Fourlane Ends would notice panels on the ascending slope opposite but there would be intervening pasture and the solar farm would not seriously impact on their experience of the surrounding landscape, unless they wanted to walk into the area of panels. On the other hand, occupiers of dwellings at Ufton Fields farm would experience a significant change in the character and appearance of the area from tranquil open small scale grazing

---

<sup>6</sup> Most clearly indicated on the photomontages ID5, (year 10)

<sup>7</sup> Using Ms Miller's plan at page 19 of her proof

<sup>8</sup> 62 dB at 10m distance

land to a dominant industrial installation with associated noise from inverters. This is despite the appellant withdrawing parts of fields nearest to these dwellings. It has been demonstrated that in the worst case, inverter noise (32dB) heard at Ufton Fields could exceed background noise levels from traffic on the B6013, A615 and other sources (30dB). The difference would be less than 3dB and unlikely to be noticed often, but it remains the case that local occupiers would frequently encounter an inverter, or a pair of inverters on walking into the surrounding solar farm on footpaths 49 and 50 and this would reinforce their impression of a significant and detrimental change in the character and appearance of the area.

30. In many ways the most serious visual impact would be experienced from Lower Delves farm on the south facing slope below Shirland. Occupiers of dwellings and users of footpaths and the golf course here would have a direct view of the rear of an extensive area of solar panels facing up the slope. The suggested mitigation planting would do little here to conceal the extent of new deer fencing, cctv and inverters. The magnitude of change to visual amenity in this small valley would be major, with major adverse significance of effect.
31. In conclusion on this issue, the proposed development would be significantly out of scale with the landscape of undulating small fields and would completely dominate an attractive valley landform. It would effectively prevent many locally important views towards the Peak District from a dense network of well used public footpaths on the edge of a settlement, occupiers of which greatly value the landscape and views into and from it. The proposed mitigation might reduce the impact on the upper contours where the ground is reasonably flat but would achieve little on the extensive west and north facing slopes. The new hedges would at the same time significantly change the character of the landscape and diminish the experience of the area for local occupiers and recreational users.
32. As such, the scheme would seriously conflict with the landscape and visual amenity protection aims of LP policies LS3 (a) and (b), EN7 (a)(b) and (e), EN35 (d) and SWPnP policies NPP3 1 (a) and NPP11 5 (a). The development would also conflict with the guidance in NPPF paragraphs 174 (a) and (b) and 158.

*The settings of listed buildings*

*St Martins church and Alfreton Hall*

33. The heritage significance of St Martins derives mainly from its architectural, communal and historic interest as an important building at the centre of the community. As the parish church of Alfreton it is prominent on the highest ground in the town with far reaching views to the north and west across parkland. The church is understood as part of a historic group of buildings and the surrounding landscape which includes Alfreton Hall, its park and the farm buildings between them. Mature trees have grown around the churchyard but these do not obscure the top of the large stone square tower and flagpole which can be discerned from some distance. The parkland forms an important part of the setting of the group and extends as far as Beeches Plantation to the west.
34. The solar farm would be more than 300m from the church at its nearest point on footpath 18 and considerably further on footpath 19 and would not be

especially distracting in views from the church, certainly after mitigation planting has matured. However people approaching the church and town from the west and north on footpaths 18 and 19 would pass through and alongside the solar farm at close quarters and this would initially remove the ability to properly appreciate the parkland origins of the landscape. New high hedging around these paths would dramatically change the experience, emphasised by new deer fencing, inverters and cameras.

35. It is almost certain that FP19 has ancient origins, leading to and from Alfreton, the church and Park Mill on the Alfreton brook. Approaching Alfreton, once past Wren Wood and Pond Wood, the church tower, set within and above trees, becomes much more clearly visible. This would be at a point where the Hall would also gradually become apparent, albeit including more modern buildings and trees in its curtilage. The harm to setting would result from the industrialisation of a large part of two approaches to the church and related assets and the effect on perception of the full extent of the Alfreton Hall parkland setting until this point is reached. The historic rural estate setting of the church and hall would be significantly diminished. With reference to the scale of effects on the significance of the church in the appellant's appendix 10, the degree of change in setting of this asset of high sensitivity would be minor/moderate and the level of harm to significance would be less than substantial, at the lower end of the scale.
36. Similar considerations apply to Alfreton Hall, except that there is a more obvious historic and long-standing relationship between the Hall and the surrounding non-designated parkland and this remains plain and evident because of the deliberate planting of woodland belts and the remnants of estate fencing around the remaining large fields. The ha-ha on the north side of the house remains, as does the extensive pleasure-ground to the south of the Hall with some exceptional specimen trees. This area is very popular with local residents who would clearly see the solar farm at the edge of the wooded section from the many interconnecting paths. The panels and supporting structure would effectively obscure the views through to the open fields and the historic landscape beyond. The 18<sup>th</sup> century hall was demolished in the 1960s leaving the 19<sup>th</sup> century extension, still a substantial building and a popular wedding venue that relies on its history for publicity and as an attractive location. Modern development within its curtilage to the east has detracted from its setting and the woodland to the west is one of the few areas where something of the original parkland and the history of the hall and Park can still be experienced. For this reason, I consider the intrusion of the solar arrays into the hall's setting would have a minor/moderate impact, again leading to a degree of less than substantial harm to heritage significance at a slightly higher level than that to the church.

#### *Alfreton Park*

37. There is substantial and credible evidence of the park's extent and changes in woodland and field boundaries since at least 1610 and records of changes in ownership since the 13<sup>th</sup> century. Estate surveys by the Palmer-Morewood family and later by Ordnance Survey reveal the evolution of field boundaries and footpaths since the early 19<sup>th</sup> century. The Historic Environment Record (HER) identifies the whole of Alfreton Park which includes the area north of the Hall including much of the appeal site. There is no evidence that open casting and subsequent restoration here has resulted in any perceptible change apart

from additional field boundaries. The Park is different in character from adjacent farmland by virtue of stands of broad mixed plantations, designed vistas, large, open fields and specific tree planting on the northern boundary.

38. The eastern part of the solar farm beyond the South Wingfield parish boundary would lie entirely within the western part of the area designated as Alfreton Park in the HER. I accept that the larger part of the park still remains as one cohesive design and that this is readily perceptible and enjoyed by visitors. The panels and associated containers and inverters would prevent any appreciation of the original extent of the park and its evolution over time, as well as completely obstruct many of the views out between woodland towards countryside around Shirland, South Wingfield and Crich. The intended mitigation planting would do no more than hide the panels and installations from immediate view whilst further removing any ability to perceive the historical extent of the park, unlike the existing hedges and fencing which is low and permeable in nature.
39. Deer, fencing, access tracks and cameras will add to the entirely incongruous impact of the solar farm which overall will largely vitiate the cultural identity of the park and its association with Alfreton Hall. The park should be assessed as a heritage asset of medium significance and the erasure of a large proportion of the open part of the park amounts to a substantial level of harm to this non-designated asset.

#### *Wingfield Manor House*

40. Wingfield Manor House is a ruined 15<sup>th</sup> century palatial structure on a conspicuous rocky outcrop. It lies about 900m south of the centre of South Wingfield with extensive views in all directions. It is arranged round a pair of courtyards with a 22m high tower. Originally the home of Ralph, Lord Cromwell, Treasurer of the Exchequer, it was subsequently prison accommodation for Mary, Queen of Scots, three times and the site of English Civil War sieges twice. The Manor derives significance from its archaeological, architectural and historic interest and is an exceptional survivor. Its prominent setting in largely open rural surroundings once included extensive deer parks. As far as can be ascertained, these did not extend eastwards as far as Alfreton or the appeal site. The site does not fall within any of the key views towards Wingfield Manor identified in the NP, although solar panels would be visible from footpaths around the Manor in the context of the deer parks.
41. The centre of the solar farm would be about 3 km from the tower but the nearest panels (on the approach to Ufton Fields farm) would be around 2.25km away. There would be some visibility of the Manor from the site but such views are incidental and not 'designed'. Whilst it is appreciated that panels could obstruct these where they occur, the amount of harm caused in terms of the ability to appreciate the Manor's heritage significance seen from the site would be minor.
42. In views from the tower, and from nearby footpaths (South Wingfield FP11, FP12 and FP14), clusters of fields containing solar panels would be apparent by virtue of the contrasting industrial, metallic glazed appearance on the side of the valley and extending onto the Alfreton ridge. The development would be distracting above the treeline from FP14<sup>9</sup>. However the overall contribution

---

<sup>9</sup> Mel Morris Appendix 2 Panoramas 6 and 7

made to the heritage significance of the Manor by the undeveloped site, as part of extensive 360 degree views, is minor. Mitigation planting would reduce the impact in time, but the intrusion into the panoramic view from the tower would be noticeable and distracting. It would be seen as an addition to some other developments such as industrial units and wind turbines, but this is not a reason to justify further incursions. A prominent part of the rural surroundings would become industrial in appearance. Overall, the harm to the setting of this Grade I listed building and Scheduled Monument would be less than substantial but would attract important weight, leading to a moderate degree of harm to significance, and failing to preserve the setting of this remarkable heritage asset.

*The effect on conservation areas*

*South Wingfield CA*

43. The South Wingfield Conservation Area encompasses the Manor and its immediate surroundings together with the central part of the village, the church and corn mill in the Amber Valley to the east. Its character and appearance derives principally from the existence of the Manor and its high status and the historic dependent relationship between the village and its inhabitants and the occupants of the Manor. The development would be visible from several points on the ridge along which most of the village lies, as part of a generally pleasant rural outlook towards Alfreton generally free of large scale development. This would not prevent appreciation of the character and appreciation of the CA, however, and its character and appearance would be preserved.

*Alfreton CA*

44. Alfreton CA comprises the oldest part of Alfreton town centre including Church Street, Market Place, St Martins Church, the churchyard, vicarage, Glebe House and Hall Farm, excluding Alfreton Hall but including the gatehouse to the Hall (listed Grade II). The conservation area boundary extends as far as the point just north of the church where footpaths 18 and 19 meet and where extensive views can be appreciated to the north and west. The proposed construction access A to the proposed development would pass through Hall farm along Church Street which is bounded by vulnerable stone and brick structures and trees protected by virtue of being in the CA.
45. The existing farm access is used by farm traffic including tractors and trailers and for the movement of cattle. Construction of the development would cause additional temporary, but significant, noise and disturbance. However the suggested conditions could include measures to ensure that the access is suitably protected in physical terms and a Transport and Construction Management Statement would need to be approved by the Council, which would include limiting the size of vehicles and restricting timing of deliveries. I conclude on this matter that the character and appearance of the CA would be preserved.

*Other heritage assets*

46. The Peacock Hotel (Grade II) lies on the A615 to the west of the proposed development. It is a former coaching inn, dating from the early 17<sup>th</sup> century. Its heritage significance derives from its architectural and historical interest

and its prominent location as an overnight stop on an ancient route. There would be views of some solar panels from the building, more pronounced on the upper floors, separated from the hotel by bungalows and undeveloped fields. The hotel can be seen from the appeal site as part of a group including 20<sup>th</sup> century residential development. Whilst there would be a minor impact on its setting, the solar farm would not prevent full appreciation of its history and architecture.

47. I conclude on heritage matters that there would be harm to the settings of St Martins Church and Wingfield Manor House, leading to a degree of 'less than substantial' harm to the heritage significance of these assets. The heritage significance of the northern part of the non-designated Alfreton Park would be seriously compromised, affecting the ability to appreciate the setting of Alfreton Hall and leading to a degree of 'less than substantial' harm to the heritage significance of the Hall. the scheme would conflict with the heritage protection aims of LP saved policies EN24 c) and policy NPP5 4 of the NP. The harm to heritage significance should be weighed against the public benefits of the proposal.

### **Other matters**

48. The impact of noise was not a reason for refusal but was raised by the Rule 6 party, Save Alfreton Countryside, with particular reference to noise and disturbance during construction and decommissioning and the effect of noise emanating from the completed development on pupils at Alfreton Park Community Special School. There would be solar panels in fields immediately adjacent to the existing school but the panels themselves do not emit any noise. The appellant acknowledges that inverters further away would produce noise. Specialist evidence was heard on the likely 'worst case' noise levels that would be produced by a range of the most likely models of inverters during operation with a 'noise reduction kit' in place. This indicated that it is extremely unlikely that noise pressure levels from the inverters would exceed background noise levels at any time<sup>10</sup>. The nearby A615 and the A38 dual carriageway are responsible for most of the background noise.

49. Pupils at the school are amongst the most vulnerable in society with a range of special needs, where conventional assessment of noise pressure levels may not be sufficient to prevent a harmful effect. I do not doubt that where children have complex audio-sensory processing difficulties perhaps with a hypersensitivity to noise, they may be disturbed by unusual tonal elements or unexpected sounds, and that this can be very difficult to manage. There is no evidence to contradict the experience of school staff that some pupils have enhanced audio-sensory capabilities and susceptibility to sounds which most people cannot hear. Moreover the school may need to expand further towards the northern boundary, nearer the inverter noise source. An additional difficulty is envisaged when children use local footpaths through Alfreton Park for amenity and nature appreciation purposes. Noise from inverters, perhaps behind a hedge, could be difficult for children to process.

50. A planning condition could ensure that operational noise would never exceed background noise pressure levels at the school boundary, but this would not prevent difficulties for those with increased auditory perceptual capacity. Nor

---

<sup>10</sup> 14 dB below the typical daytime background sound levels at the school

would it prevent difficulties when children use local footpaths through the scheme- something that would be hard to avoid. Noise during construction of the development in immediately adjacent fields would be temporary and could be mitigated but not entirely eliminated by measures in the Construction Environmental Management Plan, for instance by limiting hours of working. I conclude that there is reasonable evidence to indicate that the development would cause problems for children with audio-sensory processing difficulties during construction (and ultimately, removal) and when using local footpaths. The interests of vulnerable people are an important consideration but one that must be balanced against the public benefits of the proposal in the form of tackling climate change and the supply of renewable electricity. However without further information on who the affected children are, the nature of their disability and how they might be affected, it is difficult to judge whether the inverters proposed would have an unacceptable impact, what the extent of that would be and if so, whether there are means by which any harm could be successfully further mitigated. In this case, steps have been taken to move inverters away and provide noise-reduction kits. That is not to say that a conclusion can be firmly drawn that there would not be any harmful effect, especially when using local footpaths. These considerations weigh against the scheme.

51. As for the whether the impact of the proposed development on the children at the school would constitute an infringement of their rights under the Equality Act 2010 and the public sector equality duty referred to by the SAC, this does not apply to private organisations such as the applicant company. The Council, and the decision maker are required to comply with the duty. The duty is to have due regard to the need to a) eliminate discrimination (direct or indirect), harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The duty is not a positive or absolute duty to advance equality, eliminate discrimination or foster good relations in every case at the expense of all other considerations; it is a duty to have due regard to the need to take these steps where possible. Essentially, the duty requires consideration of any negative impact the decision may have as regards equality principles and, where the negative impact is significant and mitigation is possible, steps should be taken to mitigate the negative impact and/or advance equality of opportunity. I am dismissing the appeal for other reasons and do not consider this matter further, beyond noting the potential for harm.
52. Many objectors refer to the abundance of wildlife on the site, in particular birds. The development would result in restoration of existing hedgerows and the introduction of new hedgerow planting. Grassland would be improved with the introduction of new meadow species. An area would be set aside for the local population of skylarks. Future management would be controlled by means of grazing or light cutting for the benefit of seed dispersion and wildlife. Bat and bird boxes would be provided across the scheme. Ecological concerns do not weigh against the scheme.
53. I have taken into account the impact of this development bearing in mind cumulative effects that may occur as a result of an approved solar farm at Meadow Lane and another withdrawn application at Alfreton North (Upper Delves Farm). The appellant has confirmed that Alfreton North is unviable

because its area is too small to reach the desired installed capacity. There is no proposal to resubmit any application for a solar farm on this site. Meadow Lane is on the north east side of Alfreton between a waste water processing plant and industrial development. There are very few places where it could be appreciated at the same time as the appeal development. Accordingly I do not find any unacceptable cumulative impacts would occur.

54. A signed and dated S106 Unilateral Undertaking (UU) has been provided with the objective of providing a community benefit fund of £10000 annually for 20 years, index linked, for the parishes of Alfreton and South Wingfield to provide improvements to recreational and leisure facilities 'including improvements to local walking routes and other recreational facilities and enhancements to public awareness information about local heritage assets to help address and compensate for recreational leisure and heritage impacts of the Development'.
55. The benefit fund would not be addressing any specific projects or benefits for which a need has been identified. It is doubtful that even if suitable benefits had been put forward in the UU, they would approach being fairly and reasonably related in scale and kind to this particular scheme, which would have very significant impacts. The UU places obligations on others not party to the UU to form part of a decision-making panel to administrate the fund.
56. It has not been shown that the fund is necessary to make the development acceptable in planning terms. The appellant confirmed that the approach adopted here is standard and similar to that used at other schemes. I do not discount the benefits offered, but bearing in mind the 3 tests set out in Planning Practice Guidance<sup>11</sup>, the UU can only carry very limited weight.

## **Conclusion**

57. The production of up to 49.9 MW of renewable energy, sufficient for between 11500 and 13360 homes or more than 22% of the Borough's total households<sup>12</sup> is a very significant factor in favour, along with the associated reduction in carbon dioxide emissions and the contribution that would be made to addressing climate change. The development would lead to a significant and useful increase in solar renewable energy in the Amber Valley area, substantially helping the Council in its aim to support and encourage the generation of energy from renewable sources. The return of the land to arable production after 40 years means that it would not be taken out of production in the long term. The intention to continue to use the land for grazing in the meantime, as set out in the appellant's planning appraisal at page 21 and in other places, carries some weight.
58. Planning Practice Guidance advises that local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on landscape: and that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. Protecting local amenity is also an important consideration which should be given proper weight in planning decisions<sup>13</sup>.

---

<sup>11</sup> Paragraph: 002 Reference ID: 23b-002-20190901

<sup>12</sup> 11500 as per officers report. Appellant advises this is equivalent to 13360 homes (E Robinson proof 8.2.7)

<sup>13</sup> Paragraphs 007 Reference ID: 5-007-20140306 & 013 Reference ID: 5-013-20150327

59. In this case, the solar farm would be mounted largely on sloping land with a very significant zone of visual influence extending for several km across attractive and locally valued countryside in a transitional character area with long reaching views. Whilst I have found that the character and appearance of the Alfreton and South Wingfield Conservation Areas would be preserved, there would be a substantial level of harm to Alfreton Park, a non-designated asset, and a degree of 'less than substantial harm' caused to the settings of Wingfield Manor, St Martins Church and Alfreton Hall.
60. The need for renewable or low carbon energy does not automatically override environmental protections. I have taken into account all the other matters raised including the proximity of a suitable grid connection, but in the overall balance, the harm caused to landscape character and visual amenity is decisive. The adverse impacts cannot be addressed satisfactorily on a site of this size and character, and the suggested planting mitigation measures would be seriously out of keeping and would largely worsen, rather than mitigate for the landscape and visual impact. Objectors point out that the panels could simply be replaced after 40 years but it is difficult to predict whether national energy strategy will still require large solar installations in 2062. I consider that 40 years is a very significant period in people's lives during which the development would seriously detract from landscape character and visual amenity.

61. For all the above reasons, the appeal must be dismissed.

*Paul Jackson*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ned Westaway	Of Counsel
He called:	
Melanie Lloyd Morris BA (Hons) DipArch Cons IHBC MRTPI	Mel Morris Conservation
Deborah Evans MA CMLI IHBC	DE Landscape and Heritage Ltd
Michael Bamford BA(Hons) MPLAN MRTPI	Planning & Design Practice Ltd

### FOR THE APPELLANT:

Celina Colquhoun	Of Counsel
She called:	
Peter Cox MCIfA	AC Archaeology
Ivor Matthew CMLI	Laurence Associates
Frank Bohne MBA	Kronos Solar Projects GmbH
Jo Miller BSc MSc MBA MCIEH MIA	Miller Goodall
Emily Robinson	Laurence Associates

### FOR SAVE ALFRETON COUNTRYSIDE:

John Campbell	Of Counsel
He called:	
Richard Marsden	Alfreton and District Footpaths Society
John Ydlibi	CPRE The Countryside Charity
Josie O'Donnell	Headteacher, Alfreton Special School
Peter Milner FRICS	

### INTERESTED PERSONS:

Emma Stevenson	Local resident
Caz Moon	Local resident
Julia Williams	GEW2 Ltd
Dr Clare Price-Dowd	Local resident
Paul Gibbons	Local resident
Laura Brown	Local resident
Paul Steven Jackson	Local resident and on behalf of Cllr Valerie Thorpe (deceased)
Liz Scott	Local resident
Martin Harrison	Local resident
Chris Handforth	Local resident
Nigel Mills MP	

Jo Utting	Local resident
Cllr Barry Lewis	Derbyshire County Councillor
Amanda Stalker	Parkside Stables
Jamie Selby	Local resident
John Glasby	Alfreton Park
Pam Crofts	Community Special School
Debbie Horabin	Local resident
Diane Baggaley	Local resident
David Nevins	Local resident
Andrew Mason	Alfreton Rambling Club
Peter Wood	Local resident
	Local resident

## INQUIRY DOCUMENTS

- ID1 Appellant Opening
- ID2 Respondent Opening
- ID3 Photo from resident
- ID4 Staunton Harold Hall
- ID5A Alfreton South Photomontages A
- ID5B Alfreton South Photomontages B
- ID5C Alfreton South Photomontages C
- ID6 Photo from the tower of Wingfield Manor taken in 2015
- ID7 Appeal Decision - Land at Higher Farm, Fifehead Magdalen, Dorset
- ID8 Appeal Decision Hangmans Hall Farm, Twenty Acre Lane, Sutton Cheney
- ID9 R V Thanet District Council v Kentish Projects Limited
- ID10 Extract from GLVIA 3rd edition
- ID11 Addendum Noise Note 19th October 2022
- ID12 Revised Layout Description April 2021
- ID13 Revised Layout Description September 2021
- ID14 2264.M4.001.0 R Alfreton Module Array Layout South updated
- ID15 Land North West of Hall Farm Conditions 28-10-2022
- ID16 Unilateral Undertaking updated 27-10-2022
- ID17 Clarification on layout
- ID18 ABRS+ Inquiry Statement
- ID19A Soil Samples Interim Report

ID19B Email regarding Soil Samples

ID19C Location of sample no. G078827.01

ID19D Location of sample no. G078827.02

ID19E Location of sample no. G078827.03

ID19F Location of sample no. G078827.04

ID19G Location of sample no. G078827.05

ID19H Location of sample no. G078827.06

ID19I Soil Samples Full Analysis Report

ID20 Updated Unilateral Undertaking

ID21 Kronos' Note on fence and hedge layout and hedge trimming

ID22 Submission from Amanda Stalker

## Appendix 7 – Appeal Decision

APP/D0840/W/22/3293079 Land at Tregorrick Farm,  
Tregorrick, St Austell, Cornwall, PL26 7AG.



## Appeal Decision

Site visit made on 2 January 2023

**by Neil Pope BA(HONS) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 05 January 2023**

**Appeal Ref: APP/D0840/W/22/3293079**

**Land at Tregorrick Farm, Tregorrick, St Austell, Cornwall, PL26 7AG.**

- 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 M Hilditch of E H Energy Ltd against the decision of Cornwall Council (the LPA).
- The application ref. PA20/11504, dated 23/12/20, was refused by notice dated 7/9/21.
- The development proposed is a ground mounted solar PV farm with battery storage and associated infrastructure.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Amended plans, including alterations to the proposed landscaping layout, were considered by the LPA when it determined the application. I have taken these amended plans into account in determining the appeal.
3. In submitting the appeal, and in attempt to overcome the LPA's concerns regarding the impact upon archaeological interests, the appellant has submitted a further amended layout plan<sup>1</sup>. In essence, this plan shows the proposed compound, including the battery storage element and part of the proposed access track, sited further south<sup>2</sup> to that shown on the layout plan to which the LPA's decision notice relates. Amongst other things, the amended site layout plan also shows a reduction in the number of solar modules<sup>3</sup>.
4. The LPA has been able to consider some elements of the proposed amended site layout and, on its own, the reduction in the number of proposed solar modules<sup>4</sup> would amount to a minor amendment that would be unlikely to prejudice the interests of any interested party. However, interested parties to this appeal, including the Parish Council and local residents, have not been afforded an opportunity of commenting upon the proposed repositioning of the compound and access track. This is not an insignificant change to the layout of the proposed development. In all likelihood, this is a matter upon which some interested parties would expect/wish to be consulted upon.
5. I am mindful of the Wheatcroft Principles<sup>5</sup> and guidance issued by the Planning Inspectorate<sup>6</sup>. If an appellant believes that amending its proposals would

<sup>1</sup> The latest version is drawing ref. SHF.378.002.PLD.002 D.

<sup>2</sup> Under plan ref. SHF.378.002.PLD.002.D, the proposed compound would be about 20 metres further south.

<sup>3</sup> Approximately 322 fewer modules, equating to about a 0.15 MW reduction in capacity.

<sup>4</sup> Less than 3% of the total number of modules in the layout plan to which the LPA's decision notice relates.

<sup>5</sup> *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37].

<sup>6</sup> Annex M of the 'Procedural Guide: Planning appeals – England (updated 21 December 2022)'.

overcome the LPA's reasons for refusal it should normally make a fresh application. The appeal process should not be used to evolve a scheme.

6. If I was to determine the appeal on the basis of the details shown on the amended layout plans that were submitted after the appeal was lodged it would be tantamount to 'sidestepping' the rights of interested parties. To avoid such procedural unfairness, I have determined the appeal on the basis of the plans that were considered by the LPA when it determined the application.
7. The appeal site lies outside, but forms part of the extensive setting to the Cornwall Area of Outstanding Natural Beauty (AONB)<sup>7</sup>.

### **Main Issue**

8. The main issue is whether any adverse effects of the proposed development, with particular regard to the likely impact upon: the character and appearance of the area, including the setting of the AONB; the agricultural industry and the need to protect the best and most versatile (BMV) agricultural land; and archaeological interests, would outweigh the benefits of the proposal, including the production of energy from a renewable resource.

### **Policy Context**

9. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP). My attention has been drawn to numerous policies. The most important ones to the determination of this appeal are LP policies 14 (renewable and low carbon energy), 21 (best use of land), 23 (natural environment) and 24 (historic environment).
10. The LPA has produced its Climate Emergency Development Plan Document (DPD). Hearings were held in June 2022, as part of the Examination into the soundness of this DPD. Consultation in respect of the proposed modifications to the DPD has taken place and the Examiner's 'Fact Check' Report has recently been issued to the LPA. This document has reached a very advanced stage and can be given considerable weight. This includes policy RE1 (proposals for renewable and low carbon energy).
11. My attention has also been drawn to the Cornwall Renewable Energy Planning Advice Supplementary Planning Document (SPD), published by the LPA in 2016. Amongst other things, this incorporates 'An Assessment of the Landscape Sensitivity to On Shore Wind Energy and Large Scale Photovoltaic Development' (ALS) that was published in 2011. This Assessment was updated as part of the evidence base to the above noted DPD. I have determined the appeal on the basis of the most up-to-date version of the ALS.
12. I have also taken into account the provisions of the National Planning Policy Framework (the Framework). Amongst other things, this aims to increase the use and supply of renewable energy whilst ensuring that adverse impacts are addressed satisfactorily. The Framework also provides that development within the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on such designated areas.

---

<sup>7</sup> I am mindful of the duty under section 85(1) of the Countryside and Rights of Way Act 2000.

13. The Written Ministerial Statements relating to renewable energy and solar development dated 24 April 2013, and 25 March 2015, have also been taken into account.
14. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets. The target for carbon emissions was initially set at 80% of the 1990 baseline figure by 2050. This was amended to 100% 'net zero' by section 2 of the Climate Change Act 2008 (2050 Target Amendment) Order SI 1056 in July 2019. This constitutes a legally binding commitment to end the UK's contribution to climate change.
15. The UK Solar PV Strategy sets out guiding principles for the deployment of solar energy development in the UK. Amongst other things, this recognises that solar PV assists in delivering carbon reductions, energy security and affordability for customers. It acknowledges that large scale developments can have a negative impact on the rural environment and on local communities. This Strategy was published a number of years ago and has moderate weight.
16. In determining the appeal, I have also taken into account relevant provisions of the Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2027 (MP). These include policies PD-P11 (development within the setting of the AONB) and PD-P14 (renewable energy). I note from the MP that the appeal site is adjacent to the South Coast Central part of the AONB. The special qualities of this part of the AONB are described as including, an extremely tranquil and well-managed farmed landscape with a globally renowned, stunning coastline that extends east across Mevagissey Bay and on to St. Austell Bay. The MP can be given moderate weight.

## **Reasons**

### *Character and Appearance*

17. This 9.3 ha appeal site includes four regular shaped fields with hedgerow boundaries. These fields form part of the upper section of a steeply sloping valley side. Vehicular access is from Tregorrick Road. This also affords access to an overspill car park<sup>8</sup> for the adjacent St. Austell Rugby Football Club.
18. The appeal site is approximately 0.7 km from the A390, which runs along the southern edge of St. Austell. The village of Tregorrick is about 0.35 km to the west and Menagwins Sewage Treatment Works (STW) is 0.9 km to the south west. The boundary of the AONB is about 0.25 km to the south of the site.
19. As I saw during my site visit, the appeal site forms part of the open countryside along the southern fringes of St. Austell. I walked many sections of the network of public rights of way that bisect the surrounding landscape, including sections of paths within the AONB. Amongst other things, I noted that the area around the appeal site is popular for outdoor recreational activities/pursuits. These include walking, cycling, horse riding and golf<sup>9</sup>.
20. During my visit, I also noted the elevated and prominent position of the appeal site within the local landscape. This was especially apparent when viewed from the south and west. Its green, unspoilt, open qualities form an integral part of the attractive rural surrounds to St. Austell. Notwithstanding some lighting

---

<sup>8</sup> This car park was in use during my visit, with children playing on an adjacent sports pitch.

<sup>9</sup> Porthpean golf course lies to the east and west of the appeal site and St. Austell golf course lies further west.

columns at the rugby club and a nearby telecommunications mast which appear on the skyline above the site, the above noted attributes of the appeal site provide a pleasing contrast to the built environment of the town and to the mining landscape that exists to the north of St. Austell. The site makes an important contribution to the character and appearance of the local area.

21. The appeal site lies within the Gerrans, Veryan and Mevagissey Bays Landscape Character Type (LCT), as defined within the Cornwall and Isles of Scilly Landscape Character Assessment 2007. This LCT includes a high farmland plateau that is intersected by stream valleys that give rise to an undulating landform. The undulating high plateau of a mixture of arable and pastoral farmland is one of its key characteristics. The visual sensitivities of this LCT include a very peaceful, rural landscape which has a relatively unspoilt character and few obvious build structures in the countryside. Its attractive balance of arable and pasture land, and even woodland distribution is noted as giving this LCT a special quality.
22. The above noted ALS identifies this LCT, overall, as being of medium sensitivity to solar PV developments between 5-10 ha in size. Strategic landscape guidance, set out in the ALS for this LCT, aims to avoid locating solar developments on the steep upper slopes of the stream valleys where they would be particularly visible.
23. The proposed development would result in much of the appeal site being covered with arrays of photovoltaic panels. The maximum height of the solar panels would be 2.75 metres from ground level. The proposed substation, transformer/invertor units, battery stores, CCTV poles and compound and perimeter fencing would, in the main, also be of limited heights. In addition, some new landscape planting is proposed, including a new Cornish hedge.
24. Overall, the development would not be unduly high and the new planting would help to strengthen the pattern of fields/hedgerows within the local landscape. Nevertheless, the proposal would markedly change both the character of the site and the south west facing slope of the hillside of which it forms part.
25. The large number of proposed arrays and the ancillary works would considerably erode the green, unspoilt, open qualities of the appeal site. This sizeable and overtly man-made addition to the local landscape, with its regimented lines of solar panels, utilitarian substation, units and stores, would have an urban/industrial character. In effect, the proposed development would denude the naturalistic attributes and countryside character of the site and contrast awkwardly with the unspoilt character of the fields on the lower slopes of the valley side.
26. The proposal would upset the balance of arable and pasture land within this part of the LCT and seriously detract from the pleasing contribution the site makes to the countryside to the south of St. Austell. Whilst this change in character would be limited to a period of 30 years and would be largely reversible, the harmful effects that I have identified would endure for a significant period of time.
27. The proposed development would be seen from numerous parts of the public realm, including some land within the AONB. Seeing a development does not in itself amount to a harmful impact and there is no planning policy preclusion on solar farms within the countryside. Some landscape and visual harm is an

almost inevitable consequence of accommodating this type of development within rural areas.

28. In this instance, due to the elevated and prominent nature of the appeal site, the proposed development would be very conspicuous within the local landscape. In particular, when seen from sections of the popular public rights of way to the south and west<sup>10</sup>, as well as from parts of the St. Austell Golf Club<sup>11</sup> on the western side of the B3271, the rows of solar panels would appear as a striking and very discordant addition to this part of the countryside.
29. The proposed arrays would dominate the upper south/south west facing slope of the hillside and would have a serious adverse impact upon the appearance and visual amenities of the area. In all likelihood, most high sensitivity receptors would deem the impact to be major, adverse with lesser harm experienced by those using St. Austell golf course. Given the topography of the appeal site, the proposed landscape planting would have a negligible effect in mitigating the visual harm that I have identified.
30. In some instances, and when viewed from a distance, solar arrays can be akin in appearance to water within a landscape and may be considered less intrusive within the countryside<sup>12</sup>. However, that is very unlikely to be the case in the appeal before me. Here, the proposed arrays would 'cling' to the steep upper slope of the valley side and would appear as a very conspicuous and incongruous addition in the countryside to the south of St. Austell.
31. The harm that I have identified above to the character and appearance of the area weighs very heavily against granting planning permission.
32. The proposed development would be seen from some parts of the South Coast Central section of the AONB and could not reasonably be described as very small scale as provided for in LP policy 14(4). Whilst it would be a very detracting addition to the character and visual qualities of the local landscape there is nothing to demonstrate that it would harm the tranquillity<sup>13</sup> of this section of the AONB, or an appreciation of the coastline. I note that the Cornwall AONB Unit advised the LPA that the effects would be such so as not to require comment "*in the context of the primary purpose of the designation.*"
33. Nevertheless, when seen by high sensitivity receptors within the AONB, the proposal would, in effect, bring urban/industrial development very much closer to a section of this nationally designated landscape. In so doing, it would erode the quality of views from the northern edge of the AONB and, in all likelihood, detract from the enjoyment/experience of some public rights of way in this section of this nationally important landscape. There would be some limited harm to the setting of the South Coast Central section of the AONB.
34. The proposed development would conflict with the provisions of LP policy 23, the objectives of the LPA's SPD (including the strategic landscape guidance) and the thrust of MP policies PD-P11 and PD-P14.

---

<sup>10</sup> From these parts of the public realm the proposal would be seen by 'high sensitivity' visual receptors. This includes the section of footpath that runs between Managwins Farm and Roseweek. For whatever reason, this was not selected as a viewpoint within the appellant's Landscape and Visual Impact Assessment.

<sup>11</sup> The main purpose of those using the golf course would be to play golf, but many users would appreciate the pleasing attributes of the landscape. Such people could reasonably be termed 'moderate sensitivity' receptors.

<sup>12</sup> During my visit, I noted the arrays along the valley floor adjacent to the STW.

<sup>13</sup> Some short-term erosion of tranquillity could be expected in part of the AONB during the construction phase.

### *Agriculture/BMV*

35. The appellant's Agricultural Land Classification Report identifies the vast majority of the appeal site (94.8%) as grade 3b and 4 agricultural land. The remainder of the site 0.48 ha (5.2%), which is the area nearest to the access track, has been identified as grade 3a agricultural land. This smaller part of the site comprises BMV, as provided for within the glossary to the Framework.
36. To ensure the best use of land, national and local planning policies, in essence, seek to avoid development on BMV. In particular, account needs to be taken of the economic and other benefits (including food production) of BMV. In this regard, I understand that part, or all, of the appeal site has previously been used to grow crops/potatoes.
37. The proposed development would only involve the use of a very small quantity of BMV<sup>14</sup>. Whilst the cumulative impact of the incremental use of BMV for development unrelated to agriculture could be significant, the appellant has informed me that sheep would be allowed to graze the land after the proposed development was completed<sup>15</sup>. Agriculture, albeit in a much less intensive manner, would therefore continue in association with this proposed scheme for renewable energy. As already noted above, the development would also be reversible and for a limited period of time. If deemed appropriate, more intensive agricultural use could resume upon cessation of the development.
38. There is no cogent evidence before me to demonstrate that the proposal would entail the harmful loss of BMV or result in any significant adverse impact upon the agricultural industry or food production. There would be no conflict with the provisions of LP policy 21. The appellant has also informed me that, having reviewed the LPA's brownfield land register, there are no suitably sized brownfield/Previously-developed sites available or viable<sup>16</sup> as an alternative to the appeal site.

### *Archaeology*

39. The LPA's Archaeologist has advised that the proposed development lies within an area characterised<sup>17</sup> as Medieval Farmland with a probability for the survival of buried archaeological remains. There are also a number of known buried heritage assets located nearby. These include a Bronze Age barrow, a Prehistoric enclosure, Medieval ridge-and-furrow and post-Medieval mining remains. This suggests that the appeal site could contain important archaeological interests that could be harmed by the proposed development.
40. The application was accompanied by a number of supporting documents. This included a Historic Environment Assessment. However, there was no geophysical survey results necessary to ascertain the likely impact upon archaeology. I concur with the LPA's Archaeologist that, given the site context, it would have been inappropriate to require the submission of a geophysical survey as a condition of any approval.
41. The appeal was accompanied by a report that sets out the findings of a geophysical survey and a separate Written Scheme of Investigation for a

---

<sup>14</sup> During my visit, I noted that some agricultural machinery was being stored on part of the BMV.

<sup>15</sup> I have witnessed sheep grazing on land around solar arrays elsewhere within South West England.

<sup>16</sup> Including having a suitable point of access/connection to the grid.

<sup>17</sup> Cornwall & Isles of Scilly Historic Environment Record.

Programme of Archaeological Work. Amongst other things, the survey identifies archaeological interest/activity within the site. This includes a combination of former field systems and three discontinuous sub-circular features, possibly representing later Prehistoric ring ditches or stock enclosures. At a late stage in the appeal, the appellant submitted a separate report (dated November 2022) detailing the results of an archaeological trench evaluation within the site<sup>18</sup>. This confirms the presence of important archaeological interests<sup>19</sup> in part of the appeal site.

42. As already noted, the receipt of this latest archaeological report prompted the appellant to submit an amended site layout plan. I have set out above why I am unable to take this into account. On the basis of the plans to which the LPA's decision notice relates, the proposed compound and access track would be likely to result in harmful disturbance to important archaeology. This would amount to moderate harm. The Framework requires a balanced judgement to be undertaken and to weigh this harm against the benefits of the proposal.

#### *Benefits*

43. The proposed development would have a generating capacity of up to 6MW with battery storage facility. It is intended that 1.4MW would be supplied directly to Menagwins Sewage Treatment Works (STW) by a dedicated private wire connection<sup>20</sup>. On behalf of the appellant, it has been calculated that the remainder (4.6MW) would be sufficient to generate electricity for about 1,600 homes and could save approximately 2,400 tonnes of CO<sub>2</sub>. I have also been informed that some of the electricity generated could be supplied to the rugby club. If this were to occur, there would be a direct community benefit.
44. The proposal would allow South West Water Limited who operate the STW to reduce its carbon emissions and, at the same time, reduce the pressure on the local electricity system. I understand that local electricity substations are at or over capacity and that reinforcement works are required to the local grid network to avoid stress and to accommodate the likely increase in pressure with future planned growth in/around St. Austell area. This includes electric vehicle charging points. The STW is a critical piece of local infrastructure and I note the support for the appeal scheme from the water company.
45. The proposed development would increase energy generation from a renewable source, as well as increasing local capacity. The supply of electricity to the STW would remove a significant local user of electricity from the grid and, in so doing, create 'headroom' for growth elsewhere within this part of Cornwall. The proposal would assist in helping to meet the UK target of net zero carbon emissions by 2050 and the reduction of carbon emissions by 78% of 1990 levels by 2035. It would also help increase the security of supply. I attach considerable weight to these benefits.
46. The development would result in ecological benefits, such as enhanced wildlife corridors/habitat connectivity, the planting of species rich grasses and wildflowers. There would be an expected 10% biodiversity net gain. A biodiversity management plan would also be formulated for the site, some new

---

<sup>18</sup> Amongst other things, this found archaeological features within eight of the twelve trenches that were dug.

<sup>19</sup> There is no indication that these remains amount to anything other than non-designated heritage assets.

<sup>20</sup> I have been informed that this grid connection was secured in July 2020 and was designed specifically for the operators of the sewage treatment works.

hedgerow and meadow planting undertaken and the provision of bird and bat boxes. I afford such ecological benefits moderate weight.

47. During the construction phase, there would be benefits to local economy with the likelihood of some construction workers using local accommodation, shops, restaurants etc... There would also be the potential to source local materials where possible. I attach limited weight to these economic benefits.
48. The development could also result in some educational benefits. This could include school and college visits being undertaken, so as to better understand how a solar farm operates and its role in helping to address climate change and support biodiversity. I afford such benefits some limited weight.

#### *Other Matters*

49. The appeal site lies within the extended settings of a number of listed buildings<sup>21</sup>. The LPA has informed me that the proposed development would not affect the setting of any listed building. I concur with the finding in the appellant's Historic Environment Assessment that the proposal would not affect the significance of any designated heritage asset. There is nothing of substance to refute this finding. The proposal would preserve the settings of designated heritage assets that can be found within the local landscape.
50. The application was supported by the LPA's officers. However I note that a finely balanced recommendation was made. I also note the findings of some other Inspectors in appeal decisions for solar farms elsewhere. Each case must be determined on its own merits and no two sites are exactly the same. The topography of the site in the appeal before me and its landscape context are very different to the other cases that have been drawn to my attention. These other decisions are not on all fours with the case before me and do not set a precedent that I am bound to follow.

#### **Conclusion**

51. I do not set aside lightly the benefits of the proposal, especially at a time when there is added pressure on the security of energy supplies. The benefits would be sufficient to outweigh the harm to archaeological interests that I have identified. As a consequence, there would be no conflict with the provisions of the Framework that are aimed at conserving the historic environment or LP policy 24. However, national and local planning policies and guidance also require careful consideration of the landscape and visual impacts of solar farms within the countryside. Even under current circumstances, increasing energy supplies from renewable sources does not override all other considerations.
52. In this instance, the adverse effects of the proposed development upon the character and appearance of the area, including the setting of the AONB would, on balance, outweigh the benefits of the proposal. The proposed development would conflict with the provisions of LP policy 14, DPD policy RE1 and the provisions of the Framework when read as a whole.
53. Given all of the above, I conclude that appeal should not succeed.

*Neil Pope*  
Inspector

---

<sup>21</sup> The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

