

**APPEAL APP/D3505/W/25/3370515**  
**GROVE FARM SOLAR, BENTLEY**

**CLOSING SUBMISSIONS**  
**ON BEHALF OF RULE 6 PARTY**  
*(as delivered)*

**Introduction**

1. After 38 years at the Planning Bar, I can submit with complete conviction that this appeal has been a remarkable case study for *the* merits of the public inquiry. This is for two principal reasons:
  - i. There has been a demonstrable need to test multiple assertions made in evidence to establish their reliability and, so often, those made on behalf of the Appellant have been found to be wanting. Much has been left unsaid by the Appellant and it has been the role of the Council and Rule 6 Party to fill the evidential voids; much has been either misleading or just plain wrong and, time and again, we have had to set the record straight. By way simply of three examples at this stage: the repeated assertion that the CA's southern boundary was entirely arbitrary and aligned on a 19<sup>th</sup> century farm track (which turned out to be entirely erroneous); the chorus of claims that the site represents a "heavily degraded landscape" stripped of its long-established hedges in the 1950s (which turned out to be completely speculative); and the omission of any consideration of Uplands on the basis that it had no relationship with the eastern field due to intervening vegetation – a proposition

which Mr & Mrs Owen disputed at least 4 times in writing<sup>1</sup> (to no avail) and which is patently absurd if you take the trouble to view the position on the ground.

- ii. The evident and sustained public interest in this appeal: the way that members of the public have attended with great regularity and participated extensively in the process.
  
2. I hope you will take the message back to HQ that the public inquiry as a mode of determination of an appeal is alive, well and flourishing - and performing its essential function very effectively.
  
3. The essential thesis of the Rule 6 Party is that this scheme is not fit for purpose: it is the wrong scheme in the wrong place and, as we saw last week, at the wrong time. That is not merely an advocate's riff; that is precisely what the evidence has demonstrated. A great deal is at stake here in terms of the reputation of the planning system. Most of those who have come to this inquiry support solar and renewable energy, but say resoundingly: no, not here. If more sites are genuinely needed, and even that is questionable at the moment, then there must be better ones than this - wholly within a Conservation Area, within a Valued Landscape and surrounded by homes.

### **The Nature of the Appeal Development**

4. I submit that there is a real need to understand what this proposal comprises and not be lulled into a false sense of security by stock images of a few panels in the distance

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<sup>1</sup> 25 Jan 2024 (Objection 8476649); 01 Sep 2024, 21 Oct 2025 (Comment 8948415), 03 Nov 2025 to Pegasus

generously set within a lush green meadow with a large flock of sheep grazing contently, whist birds flutter and bees hum in the background and hedges and trees frame the view.

5. This scheme, although obviously not at NSIP scale, is nonetheless of a substantial size, and is important to understand the full inventory of elements which are attendant upon these appeal proposals and are part of the reason for the steadfast opposition with which it has been met from the local community and the local planning authority.
6. It would comprise: 64,000 plastic modules mounted on metal stands fixed deep into the soils, arranged in two compounds, bisected by the Quiet Lane known as Church Road. Solar development has high value components and is a hazardous installation because of the currents carried, so these compounds are required to be securely fenced and also to have a full range of CCTV cameras, mounted on 3m tall masts and facing outwards, as there are no employees to take care of the installation. Mr Burrell agreed in XX that there would be approximately 50 such CCTV cameras surveying the boundaries of the site 24/7. This proposal would require 3.65 kilometers of metal fencing to protect it against thefts and also against deer ingress. There would be 11 transformers converting the current, the latter installations generating sufficient noise to require 3.4m high solid acoustic screens where they sit closest to Potash Lane. In addition to this, there is a requirement for not one but two new substations. These are, frankly aggressively industrial in their appearance, with gantry elements rising 7.5m tall, that is 2.5 domestic storeys in height<sup>2</sup> and requiring rigid steel palisade fencing.

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<sup>2</sup> See C31, p. 6 from application drawings

Then there are over 2km of hard surfaced roads, mostly constructed over and across good arable land and four new accesses carved out of field banks and/or hedges.

7. The Appellant attempts to portray this package as modular and lightweight (even, by implication, benign) and insists that because large solar farms occur in the countryside, that renders them appropriate and therefore acceptable. However, that there is nothing rural or benign about this proposal. Mr Mason accepted in XX that most normal people would regard it as “industrializing” and, of course, that is how the Appellant’s original heritage consultants characterised it before they were taken off the case and replaced with Ms Garcia. Mr Mason also agreed in XX that the fact that a form of development is found in the countryside does not mean that it is congruent there and that, if a large solar development were congruent (and appropriate to a rural area), then it would not be necessary to devote so much effort to trying to screen and hide it.
  
8. So that is the proposal. What about the location for which it is proposed? In my Opening Submissions, I spent some time explaining that, by reason of its position in the landscape and in the parish, the appeal site performs an unusually large number of functions: and I invite you to re-read the R6 Opening Submissions: para.9.i-x. What we have seen is that the appeal site lies - quite literally – at the heart of the parish of Bentley. Indeed, it is the centrepiece of the booklets of walks produced by the Bentley WI over a decade ago called “Heart of Bentley”<sup>3</sup>; as well as being the epi-centre of

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<sup>3</sup> E5

the “Six Walks from the Case”<sup>4</sup>. Accordingly, it is bordered on multiple sides by some of the most popular and best loved walking routes in Bentley.

9. Church Road, as its name suggests, is the route which links the more recently settled part of the village to the south with its ancient church and churchyard to the North. I will return to the relevance of this locational centrality later.
  
10. Against that background, I turn now to examine the main issues in the order in which you formulated them at the CMC.

**Whether or not the proposed development would preserve the setting of the following listed buildings: Bentley Hall (grade II\*), the associated Meeting Hall Stables (grade II\*), Bentley Hall Barn (grade I); St Mary’s Church (grade II\*); Maltings House (Grade II)**

11. It will be clear that the Rule 6 Party has relied upon the Council for detailed evidence as to the significance and setting of the individual listed buildings and the impacts thereon which would arise from the appeal proposals. We note that even the Appellant acknowledges an adverse impact on the setting of Grade II\* St Mary’s Church.
  
12. The Rule 6 Party’s evidence has purposely avoided duplication of the Council’s case in relation to the settings of the individual buildings, but has focused instead upon the

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<sup>4</sup> Alison Farmer Proof, App 6.

impacts on the Bentley Conservation Area looked at holistically – as a fusion of the impacts on the historic landscape and historic buildings, both designated and undesignated. These will be addressed below.

13. But for the purposes of main issue (a), we note that the much remarked upon Hall/Church complex at Bentley comprises no fewer than 3 Grade II\* Listed Buildings and one Grade I Listed Building. This is a very special and rare complex and Church Road comprises the main approach to the broader complex from the village to the south. The appeal site represents the last pair of open agricultural fields before you enter the heart of the complex and is a key part of the setting of these buildings, all of which draw significance from their open rural setting. We completely reject the suggestion made by Ms Garcia in XX, based upon the formulation of the Court of Appeal (on very different facts) in *Catesby v Steer*<sup>5</sup> that the Bentley Hall complex is “completely remote” from the appeal site. It is 4 seconds in car; a minute max on foot. Any such suggestion is palpably absurd.

14. The whole sense of arrival at the Hall/Church complex from the south will be very greatly diminished and indeed the solar development will provide a completely alien and unsympathetic prelude to this remarkable *ensemble*. I return to this below.

**Whether or not the proposed development would preserve or enhance the character or appearance of the Bentley Conservation Area; and, whether there are material matters arising from its date of designation**

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<sup>5</sup> [2018] EWCA Civ 1697, H8

15. The Bentley Conservation Area (“CA”) was, of course, designated after the refusal of planning permission in this case. As a consideration, it carried no weight at all in the Council’s refusal. So it is a completely new material consideration at this appeal, which we say adds considerable weight, both legally and most importantly substantively, to the case for dismissing this appeal.

16. The Appellant’s Statement of Case<sup>6</sup> appears to presage a fully-fledged attack on the CA. This is also the purport of Ms Garcia’s Appendix 2, which plainly was not written by her, as it contains nothing to which she was privy. There had also been talk of judicial review of the designation, but all relevant deadlines have come and gone with nothing happening and the whole attack on the designation of the Bentley CA has completely fizzled out.

17. Why, you might ask? The answer, in my submission, is quite simple. It is because, when properly analysed, both the lawfulness and the intrinsic merit of the Bentley CA are inescapable. No Court would strike it down and its detractors must have realised that and, however tactically advantageous a challenge might have seemed, none has been mounted and none can now be mounted.

18. It may be tempting for a casual or superficial observer to seek to dismiss the Bentley CA as indistinguishable from “any ordinary piece of English countryside”. However, once one is prepared to delve a little deeper, a truly fascinating story emerges and, even during course of this appeal, that story has become *richer* and the interest of the

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<sup>6</sup> p.13, para.8.7

*CA even more special* than was recognised at the time of designation. Moreover, the notion which Ms Garcia appeared to be peddling that, if you cannot identify the elements of the “special interest” of CA on the face of the asset without assistance, then they cannot be “special” must be incorrect. There are countless heritage assets - not least Scheduled Ancient Monuments, but also many listed buildings - where the special interest only becomes apparent with the assistance of the written word: hence the need for SAM citations, List descriptions and Conservation Area Appraisals.

19. In the case of the Bentley CA, we have the very comprehensive and accessible CAAMP<sup>7</sup> prepared by Officers at Babergh DC, building upon the work of Steven Handforth, but we will also have the AO illustrated plan of the CA commissioned by the Parish Council<sup>8</sup>, which will be sited in the brick shelter beside St Mary’s Church signposting the 50 heritage assets and other interesting elements of the CA for all to see.

20. As you know, your duty is to take a view as to the nature and composition of that special interest and the implications for it of the proposed development as at the date of your decision. This will therefore include matters such as:

- i. the evidence of Mr Edward Martin, now retired, but Suffolk County Archaeological Officer for 40 years, not involved in the CA designation, but one of the foremost historians of Suffolk’s landscape. He gave evidence<sup>9</sup> (as a friend of the inquiry) in relation to the manorial structure of Bentley, the age of its ancient

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<sup>7</sup> Final adopted version at F11

<sup>8</sup> See ID24

<sup>9</sup> C18C

woodlands and the antiquity of its field system, having also identified Potash Lane as “le Hundredisweye”<sup>10</sup>, a route of probable Saxon origin, and Pond Hall Lane at “Kantissestrete” or “Kentissestrete”, a fossilised lane mentioned in 13<sup>th</sup> century deeds<sup>11</sup>.

- ii. The report of Leigh Alston<sup>12</sup>, one of Suffolk’s foremost architectural historians of timber framed buildings, identifying for the first time Potash Farm as dating from 1500-1550<sup>13</sup>, Bentley House as having late Medieval elements<sup>14</sup> and opining that these and several additional buildings within the CA are of listable quality, omitted by mistake by the listing surveyors in the 1970s: see his Summary on p.1.
- iii. The Veteran Tree Survey<sup>15</sup> undertaken last year, which follows through on the conclusion of the Suffolk Hedgerow Survey 1998-2012 that Bentley had the highest number of veteran hedgerow trees of any parish in Suffolk and surveys the CA more widely. This has revealed a very high number of truly magnificent specimens, now catalogued and photographed for posterity, including many in the immediate vicinity of the appeal site along the “Waye to Ingreywoode”, another ancient fossilised route, referenced on numerous occasions in the 1613 Tollmache survey, still unmetalled and virtually unaltered today<sup>16</sup>. Mr Martin indicated in XinC that would be recommending its addition to the Suffolk HER.

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<sup>10</sup> Ibid, p7

<sup>11</sup> Ibid, p6

<sup>12</sup> Alison Farmer App 4

<sup>13</sup> Ibid, p2-3

<sup>14</sup> Ibid, p7

<sup>15</sup> Alison Farmer App 5

<sup>16</sup> See also Leigh Alston Report AF App 4, p.33, Fig 41

21. The special interest of the CA was originally crystallised in the CAAMP on page 6/153<sup>17</sup>:

*The special interest of the Bentley Conservation Area is predominantly derived from its ancient manorial structure and its associated connection with the Tollemache family who consolidated four manors at Bentley in the 16th century, enlarging an estate which they had held since 1200.*

*This resulted in the development of a relatively large rural settlement of scattered hall houses, farmsteads, cottages, church and associated structures.*

*The key features of interest are outlined below:*

- *the historic core, centred around the grade II\* listed church*
- *open fields and manorial land*
- *dispersed farmsteads*
- *ancient woodland*
- *high quantum of highly graded manor houses and high-status houses, largely set in their historic settings*
- *modest railway interventions that have resulted in attractive publicly accessible routes, bridges and cottages*
- *the ancient tracery of footpaths that criss-cross the conservation area*

22. It should be self-evident that the special interest of the Bentley CA is derived from both its special architectural **and** historic interest, the character or appearance of which it is considered by the LPA, in accordance with section 69 of the T&CP LB &

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<sup>17</sup> F11

CAA 1990 desirable to preserve or enhance. However, Ms Garcia seemed to struggle with the concept of a CA which did not have buildings as its sole focus: see her proof, para.6.30, where she complains that a view “contains no built form” (only Medieval woods and lanes....).

23. The ancient manorial structure finds expression in a wide variety of ways: the farmland, the ancient woodlands, the ancient tree and hedge-lined lanes and ways, the veteran trees and the buildings which served the agrarian economy of Bentley. The significance of the CA does reside solely in one or other these, but in the *mosaic*. The notion that there is “no significance” the open manorial fields betrays a complete failure to grasp the special interest of the CA. Ms Farmer was clear in her XinC that the openness of the appeal site was critical to the significance of the CA. Ms Garcia was alone in her inability to appreciate both the role of the open manorial fields and that the special interest resides of the CA in the *mosaic*.

24. The evidence of Ms Farmer and Mr Martin establishes conclusively that the appeal site was held by the Tollemache family as part of the manors of Bentley Churchehouse and Bentley Fastolfes from the 1540s. We now have the field names and sizes precisely documented as at 1613: see AF *App 1* Figure 5. This manorial estate was certainly extant when the vast Grade I Listed grain barn<sup>18</sup> north east of Bentley Hall was constructed by the family during the reign of Elizabeth I - to serve their newly enlarged Bentley holdings.

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<sup>18</sup>“...it is amongst the largest and most impressive Tudor structures in Britain and, although masonry barns of comparable scale survive, it may be the longest timber-framed barn of the period in the country”: see Historic England’s List Description: F11, p.140/153

25. Bentley (Churche) House, the ancient manor house of the manor of that name, still survives to north of the Church, having found a new role as the Vicarage in the early 19<sup>th</sup> century, when the Ruck Keenes chose to place their younger sons successively as Vicars of Bentley. The 1613 survey of the manor records that much of the appeal site was associated with the surviving manor house (see the fields marked in green).
26. The remainder is manorial lands of the Manor of Bentley Fastolfes (marked in purple). This has a fascinating history even before acquisition by the Tollemaches in the 1540s, linking directly to the family of Shakespeare's Falstaff. We can only speculate as to how fascinating that early period might be, as the Appellant has deliberately chosen not to reveal the privately published "History of Fastolfe Manor" which it holds, only disclosing a couple pages when pressed by me<sup>19</sup>. Even that shows a long history of Fastolfes/Falstaffs and at least 7 members of the Tollemache family as Lords of the Manor. Ms Garcia knew (but failed to disclose) that the Tollemache Duke, a cousin of the main line commemorated in St Mary's Church, had re-acquired the manors in 1679, only 17 years after its sale to family friend Sir Philip Meadows. The rest of the book has not been disclosed, even though Falstaff Manor has long been accepted to be a NDHA of relevance to this case and its significance is a material matter in this appeal, as to which a judgment needs to be made.
27. Of course, the ancient manor house of Fastolfes/Falstaffs also survives and Mr Alston is in no doubt that the house is a contender for listing, but he was refused access for an internal inspection to examine any surviving features from the Medieval manor

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<sup>19</sup> ID12

house in the west wing (unlike Ms Garcia, who exhibits photographs taken from the interior). This is partial and frankly rather unattractive conduct, suggesting that there may well be features of considerable interest internally which the Appellant did not want Mr Alston to view. I can offer no other credible explanation for the refusal to offer him equivalent access to that granted to the Appellant's witness.

28. Unfortunately, Ms Garcia was not so much an independent expert witness offering views to assist the inquiry, but self-evidently *parti pris*, putting "her case" (see title of her section 4), highly selective in her choice of what she was prepared to disclose, supremely reluctant to concede even the most basic of points and then, when she got it wrong, focused upon covering her tracks and re-formulating her case, rather than properly acknowledging an error and its consequences.

29. Examples of this approach are:

- i. The attack on Potash Lane as the southern boundary of the CA, on the basis that "there is no evidence of [it] pre-1800"<sup>20</sup>. Ms Garcia's repeats this claim no fewer than nine times in her Proof, in an attempt to discredit the CA process<sup>21</sup>. Of course, she was wrong, as Mr Martin and Ms Farmer demonstrated conclusively, although Ms Garcia then complained in XX that she hadn't been presented with a copy of the 1299 Deed (which is properly referenced in Mr Martin's proof, had she wished to consult it). I also note that, when pressed in XX, Ms Garcia told me that she was not suggesting that the southern boundary should have been further

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<sup>20</sup> Proof para.4.6

<sup>21</sup> Paras 4.6, 6.12,6.13, 6.14, 6.18, 6.66, 6.68, 6.69 and 7.13

north (so as to exclude the appeal site), but seems to be inviting it to be drawn further south, where she claimed there was a “perfectly justifiable boundary”. This begs the question what was the point of the attack on Potash Lane as the southern boundary, as the appeal site would still be fully within the CA, even on her own case?

- ii. The suggestion that “it is very important to note that Falstaff Manor didn’t come into the ownership of the Tollemache family until after the move to Helmingham”<sup>22</sup> [in 1510], as if the rebuilding of Helmingham by Lionel Tollemache I marked the end of any real family interest in Bentley. Of course, Ms Garcia’s proposition rebounds against her case: the significant point is that the Manors of Bentley Churchehouse & Falstaff were *both* acquired in the 1540s<sup>23</sup>, conclusively demonstrating the continuing importance of the Bentley estate to the family long after they married into Helmingham.
- iii. The repeated assertion that all of the “newly acquired” manors were no longer in the hands of the family post 1662<sup>24</sup>. In fact, Mr Martin knew this to be incorrect and said so in his Proof, as they were all re-acquired by cousin Tollemache Duke in 1679. Both Tollemache Duke Senior and his son, whom he proudly called by the same name, lived in Bentley and are both buried in the Church. Ms Garcia must have known this, as she was sitting on the “History of Fastolfe Manor” but chose not to mention or reference it in her evidence, until we asked her to substantiate other selected references in her Rebuttal, which it transpired relied upon this work (still unreferenced). As I have already submitted, withholding plainly relevant material and only releasing a front page and 2 internal pages of

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<sup>22</sup> LG Proof, 10.6.

<sup>23</sup> See Edward Martin, C18C

<sup>24</sup> Para.4.10.

the work under pressure in an effort to suppress the significance of a heritage asset is a highly unattractive course to take and should cause you to view Ms Garcia's evidence with considerable circumspection.

- iv. The assertion that "Bentley does not seem to hold any special or particular place in the memories or considerations of the Tollemache family"<sup>25</sup> and that no members of the family remained at Bentley. Mrs Barlow<sup>26</sup> has demonstrated that to be completely erroneous, as she and her late mother are directly descended from the earliest Tollemaches and she has lived at Bentley all her life. She also mentions that Bentley Park, House and Manor have all been homes to members of the wider family in her memory. Moreover, she attached to her representations a letter from Lord Tollemache and the Hon Edward Tollemache written from Helmingham Hall contradicting the account of Ms Garcia. So the Bentley CA celebrates (in part) a direct link with one family which has persisted for over 800 years. During that time, the family has touched virtually every building, field and, of course, ancient woodland in the CA. Ms Garcia's attempt to dismiss or diminish this remarkable connection was ill advised and did not succeed.
- v. The allegation<sup>27</sup> of the removal of three [or four] ancient yew trees in the Churchyard. Notwithstanding that her own evidence was entirely second hand, only with the greatest reluctance did she admit that she had got this wrong and that you should take the unchallenged evidence of Rev Donald Mehen at face value. She eventually conceded that Rev Mehen's account should be relied upon in preference to hers.

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<sup>25</sup> L Garcia, proof, para.6.24

<sup>26</sup> ID18

<sup>27</sup> L Garcia proof para.7.8

vi. Last for these purposes, her assertion in XX that the presence of the railway in the Bentley landscape was properly characterized by her Plate 45<sup>28</sup>, notwithstanding that it is a shot of the bed of the track, which runs in cutting through Bentley. This was, I submit, another ill-judged, un-evidenced and frankly preposterous claim.

30. The unattractive approach which I have described above was then compounded by a series of patently flawed judgments which do not sit within any recognized framework for heritage decision-making that we can find: for example, the suggestions that the appeal site would “not remove the *last* agricultural field with Tollemache connections... or the *last* piece of manorial land...”<sup>29</sup>. This is not a test which my experts recognize. The question is not “are we at last chance saloon for the CA”, but what contribution does the appeal site make to the CA and what would its effective loss mean for the significance of the CA.

31. In fact, the Court in *Spitfire Homes* described the correct approach in the following terms<sup>30</sup>:

*“Section 72 requires an overall assessment of the likely impact of a proposed development on the conservation area, and not just that part of it where the development site is located...”*

That simply means that the assessment of impact must be contextualized by reference to the special interest of the whole conservation area and not simply part of it.

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<sup>28</sup> L Garcia proof p.81

<sup>29</sup> L Garcia, proof, p.8-9, para.4.16

<sup>30</sup> H18, para 44

32. Once the impact is understood, Gilbert J explains in *Irving* the consequence of that assessment<sup>31</sup>:

“If there is harm to the character and appearance of one part of the conservation area, the fact that the whole will still have a special character does not overcome the fact of that harm. It follows that the character and appearance will be harmed. While I accept that the question of the extent of the harm is relevant to consideration of its effects, it cannot be right that harm to one part of a conservation area does not amount to harm for the purposes of considering the duty under section 72 of the PLBCAA1990.

On the facts there set out, it follows that the development would cause harm to the character and appearance of the conservation area. That must attract significant weight as a disadvantage of the development, as a matter of law, as per the approach set out in the Bath Society case [1991] 1 WLR 1303...” (emphasis added)

33. I will return to this topic in the landscape section of these submissions, but Ms Garcia’s case in relation to the impacts of the appeal proposal depended in large part on the assertion that all the internal boundaries of the appeal site “have been removed”. However, she had to concede to me in XX:

- i. that she could produce no evidence that those boundaries were marked by substantial hedges to divide the land into a patchwork of fields;
- ii. that she had no basis upon which to contradict Mr Edward Martin’s evidence that the site lies on the edge of an area where open field systems were found;

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<sup>31</sup> H42, paras.58-59

- iii. that the RAF photograph of 1945 provides no evidence of substantial hedged enclosures across the site;
- iv. that LIDAR<sup>32</sup> shows no evidence of ditch and hedge boundaries
- v. the site has been in single ownership for hundreds of years, so there was no need to introduce internal boundary features to mark ownership.

34. This led her to accept directly in XX that, if Mr Martin is correct in his analysis, culminating in the proposition that “views from the lanes across to Engry Wood have a long history”<sup>33</sup>, then this scheme would be introducing as a permanent feature within the CA a landscape of thick hedge planting and tree belts for which there is no historical precedent and which would be alien to this part of the CA which was historically open.

35. As I have recorded above, as a counterpoint to Ms Garcia, you have the evidence of Mr Martin, in my submission, supremely independent and authoritative. Additionally, you have the evidence of Ms Farmer which places the fascinating slew of heritage material in context and, after careful deliberation<sup>34</sup>, reaches a properly reasoned judgment that, in this case, the harm arising from imposing these proposals onto this site would amount to substantial harm, because it would “seriously affect a key element” of the special interest of the Bentley CA. The historic mosaic would be ruptured by the imposition of alien forms associated with a power generation development across 116 acres of the Bentley Conservation Area.

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<sup>32</sup> F11, p.109/153

<sup>33</sup> C18C, p.8

<sup>34</sup> See AF Proof, paras 159-184

36. Ms Farmer reaches this conclusion, not based upon arithmetic and proportions, but on her view that the southern part of the CA contains a concentration and intensity of historic interest, of features, of relationships which are particularly strongly expressed at this location<sup>35</sup>. 116 acres of power generation development at this location would, in her view strike at the heart of the CA, such that the experience would be “seriously diminished”: see also ReX. This conclusion must attract the greatest possible weight in the context of the section 72 duty.

**Whether there are any non-designated heritage assets which would be affected by the proposed development and if so the extent of any harm should it arise, (the NDHAs identified are Falstaff Manor, Grove Farm, Potash Cottages, Red Cottages, Church Farm House and Barn, Bentley House, Glebe Cottage**

37. All of these assets have been addressed in the Rule 6 party’s evidence and all draw upon the *mosaic* for their significance. I invite you to rely upon Mr Alston’s report for the full detail. I would single out for special mention Falstaff Manor and Bentley House, the two original manor houses which served the manorial lands comprised in the appeal site and also Church Farm, which became the substitute farmstead, once Bentley House had been re-purposed as a vicarage for the younger sons of the head of the family. These houses all play a part in the judgment on the CA set out above, but separately engage para 216 of the NPPF and relevant development plan policies.

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<sup>35</sup> AF Proof, para.183 & XX’d

38. You will recall that Ms Garcia did not challenge any of Mr Alston's work: XX'd. She also accepted in XX that her statement<sup>36</sup> that Church Farm had no historic association with the appeal site was incorrect: XX'd: see also R-K estate sale, LG p.95, plate 62. She also accepted Mr Alston's analysis of the fabric of Bentley House and Glebe Cottage, which is not late 19<sup>th</sup> century<sup>37</sup>.

**The effect on the surrounding landscape and its status having regard to: the proximity of the National Landscape and the 'Additional Project Area' (as a valued landscape), and the effects on users of public rights of way crossing or in the vicinity of the site**

39. The inquiry has heard a great deal of landscape evidence and from two witnesses of great distinction: from Ms Bolger, whose reputation precedes her, and who advised the LPA prior to determination of the application and from Ms Farmer, who has been familiar with the receiving landscape for over 10 years. She is heavily involved with advising on the designation of national landscapes across the UK, but observed that, whenever she comes back to Bentley, she immediately remarks upon the special qualities of its landscape. She was clear to note that the work done assessing parts of the APA for possible designation as additional AONB, marked out a substantial area in the "northern part" of Bentley as being of high landscape quality, but that, in practical terms, it was simply too detached from the existing AONB to be a candidate for an extension of the NL.

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<sup>36</sup> Proof para.4.93

<sup>37</sup> Cf her para.4.97

40. Mr Mason had visited the site once in April 2025 before he wrote his landscape proof in December. This seems scarcely possible, given the issues at stake in this case, but this rather mirrors the dis-engaged approach taken by his consultancy in the LVIA, which managed to overlook completely Policy LP18(3) of the JLP and the consequential requirement to address the Valued Landscape Assessment as it applies to the appeal site - a very serious omission, which must have influenced the Appellant's misguided approach to this site. After a defect as embarrassing as that, the Appellant has tried to brazen it out, but the error is, in my submission, fundamental and the credibility of this part of the Appellant's case is in tatters. As if matters were not bad enough already, Mr Burrell in his planning proof, still managed to omit consideration of, or even reference to, Policy LP18 (3). The Nelsonian approach is plainly contagious in the Appellant's expert team. However, this oversight more or less obliges the Appellant to argue that the site is not within a VL.

41. The site lies within the SC&H AONB APA. If one looks at the map of SE Suffolk and N Essex<sup>38</sup>, it can be seen that, more or less alone in this part of East Anglia, we are in a location where the landscape is highly designated. The SCH AONB runs along the coast and the DV AONB sits just to the west, focused on EB & Dedham with their strong Constable connections – which extend to Bentley, where the artist's brother Golding was Steward to the Tollemache Woodlands<sup>39</sup>. The APA lies in a narrow cleft in this highly designated landscape. It is notable that there are no large scale solar

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<sup>38</sup> Mason Proof, p.8, Figure 1

<sup>39</sup> F11, p.98/153

developments in the APA and that the only one to have been proposed (at nearby Tattingsstone) was refused on appeal by Inspector Elizabeth Ord principally on landscape grounds<sup>40</sup>. Inspector Ord also attached weight to the then extant Dodnash SLA which overlaps with the sweep of Valued Landscape considered below.

42. Although the appeal site is not within the NL, its boundary is very close by: to the south within Bentley village and to the east just north of Coxhall Road in Tattingsstone. There is a continuum in the Shotley Peninsula NL which means that expectations are high as you pass across and around the landscape - by no means always aware of designation boundaries, but conscious that the landscape is special.

43. The VLA 2020<sup>41</sup>, which should have been the focus of the Appellant's attention when it submitted this application, but which was completely overlooked, provides as follows:

*Special Qualities:*

- Hall/church complexes along with ancient woodland and rural lanes reflect patterns of the medieval landscape.
- Remnant areas of parkland and notable veteran trees throughout area impart an established character.
- Sinuuous lanes and patterns created by wavey edges to ancient woodland, rural winding lanes and old park boundaries and enclosure patterns.

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<sup>40</sup> H39

<sup>41</sup> G9

- Wooded skylines defined by ancient woodlands and highly valued for biodiversity.
- Attractive open views across rural farmland to individual or clusters of vernacular buildings.

*These qualities are particularly well expressed in the following geographical areas:*

- Around Bentley Hall and Church

44. I note that this assessment and these qualities were all identified in 2020, long before the appeal proposals were conceived and in an entirely neutral context. As a matter of fact, these features have now been subject to another layer of data collection and analysis over the past years, so that the VLA is now supplemented by the CAAMP, the evidence of Mr Martin & Ms Farmer and the Veteran Tree Survey.

45. The appeal site and its immediate environs have the above-mentioned qualities in spades. Mr Mason admitted as much in XX. We have a classic Hall/Church complex just to the north. We have ancient woodland to the north and west, with a sinuous edge to it: in fact, the remarkable survival of the 1630s hand drawn survey reveals that Engry or Ingry Wood has exactly the same form and profile today that it had 400 years ago. The name Ingry Wood is referenced explicitly in a Charter executed under the Great Seal of Henry VIII (see CAMP<sup>42</sup>), as well as an even earlier deed of 1427<sup>43</sup>. The site is surrounded by notable veteran trees (recorded in AF App 5). We have rural winding lanes. We have wooded skylines defined by ancient woodlands: the views

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<sup>42</sup> F11, p.14/153

<sup>43</sup> C18C, p.4

north from Potash Lane are especially attractive for this reason: Engry Wood itself and the Way to Ingreywoode both have a long unbroken southerly aspect and so, from the south on Potash Lane and from the E and W, the sun - moving in its long arc E to W - falls on the wooded edges for most of the day, illuminating the variations in the species, shape and maturity of those trees. These are views of great beauty: see, for example, L Alston, AF App 4, p.32, Fig 39 or the photographs of Mr Henson C28B.

46. Ms Bolger, a witness of very considerable experience, has reviewed this landscape against the latest guidelines and criteria and is of no doubt that it meets the tests. She went so far as to say in XinC that this was one of the most convincing examples of a VL that she had seen in her career: “There is more evidence of VL than on any other site I have ever looked at. I have never come across a site with this wealth of evidence to support it”.

47. Contrast this with Mr Mason’s tabular exercise in his Apps JM1 & JM2. These are flawed in many of their judgments, but there is surely a question mark over this entire exercise, as Mr Mason plainly did not seem to recognise that the landscape which he was supposed to be appraising in these tables was a 1km radius from the appeal site and not simply “the face” of the appeal site. When I put this to him in XX, he challenged my interpretation, but, when obliged to check the structure and format of the exercise he was supposed to be undertaking, he agreed that I was correct and that his earlier answer was in error. This confusion must surely cast real doubt over the reliability and credibility of this exercise. This seems to be yet another example of work done at the last minute, ill-considered and incomplete. And we need to

remember that Mr Mason had only been to site once in April before he signed off his proof and *Appendices* JM1 and JM2 in December.

48. Ms Bolger considered that the solar development proposed would be “very jarring” and that “with a solar farm there, there is no way that this would be a VL”: XinC. She considered the site integral to the area around the Church/Hall.

49. And so we come to what is the bedrock of the Appellant’s landscape case, which proceeds on this basis:

- i. the landscape of the appeal site is a “void” and “heavily degraded” (as per Mr Mason XX’d) because its trees and hedgerows were allegedly ripped out by farmers in the 1950s<sup>44</sup>;
- ii. the solar development, essentially because it would be deeply unattractive in this location, would require the planting of very extensive new hedgerows and blocks of woodland to hide the infrastructure;
- iii. this planting, once mature, would restore the previous landscape of enclosed fields and thereby provide a long-term enhancement to the landscape.

50. I fully acknowledge that there will be many landscapes where this approach would be sound. However the appeal site is categorically not one of them. Here, it is a superficially convenient sticking plaster which the Appellant has tried to apply -

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<sup>44</sup> Mason Proof, para,4.2.2

without doing due diligence and on the basis of assertions which simply do not work for this site. It is very disappointing and has wasted a great deal of everyone's time.

51. So what does the evidence *actually* reveal:

- i. The entire appeal site was part of the manorial lands already described. This land has been held in that tenure since time immemorial, probably Domesday.
- ii. It has been in a single unit of ownership since the 1540s. There has been no process of encroachment or enclosure; no Enclosure Acts were exhibited.
- iii. It is good arable land. Every single parcel is expressly identified in the 1838 tithe apportionment as "Ara" (arable).
- iv. Unlike pasture, arable land self-evidently does not benefit from enclosure by hedgerows, which are an ongoing maintenance burden, especially prior to the mechanization of hedge-cutting.
- v. The field parcels even in 1613 were of a large size: see AF Fig 5.
- vi. Wadmell**went** is an ancient field name denoting a part of an open field system.
- vii. The 1945 RAF aerial photograph reveals a largely open landscape with multiple different crops in evidence as part of an arable rotation, but no hedged boundaries.
- viii. This is in sharp contrast to some of the other field parcels visible on the photograph to the south, where hedges can be seen.
- ix. There is a handful of trees scattered across the site, some on the alignment of the parcel boundaries, which were doubt very useful for some noonday shade for farm workers and horses, but that is all.
- x. This was in the period before subsidy was provided by central government for the removal of hedges (first promoted in the Agriculture Act 1947) and before Dutch elm disease denuded the landscape of elm trees

- xii. Mr Mason could provide no evidence at all to support the assertion of the removal of hedges in the 1950s or at an earlier stage, nor any rationale for doing so.
- xiii. LIDAR in the CAAMP<sup>45</sup> contains no evidence of ditch and hedge boundaries other than the current N/S division
- xiv. The absolute highpoint of Mr Maon's case is the 1884 OS Map which shows some field parcel boundaries, but that is not the issue. In fact, the scattering of trees in 1945 matches those shown in the 1884 OS.

52. Why does this matter? It matters because the special qualities of the VL which I rehearsed above depend so much here on views across open fields to ancient woodland and lanes. And the evidence is, overwhelmingly, as Mr Edward Martin put it, that these views have been enjoyed in Bentley for centuries. Accordingly, the “heavily degraded landscape” narrative goes up in a puff of smoke.

53. This VL will not be preserved or enhanced contrary to NPPF and the development plan. On the contrary it will be materially harmed. Indeed, the existing landscape which has existed for centuries will be lost for ever: and a new landscape structure with no historic precedent superimposed upon the VL. The open views to ancient woods and veteran trees will disappear and the landscape will become completely enclosed, probably for the first time in 500 years. As Ms Farmer put it in XX, “the legacy will not enhance the valued characteristics of the landscape”.

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<sup>45</sup> p.109

### **Effects on users of PRow**

54. This is probably a topic in its own right, but I will take it quickly as you have seen these lovely walking routes and the views from them and heard from witnesses such as Rev Mehen, Mr Hallows, and Mrs Bamford: routes include those from the village, moving to and fro its Church and its Churchyard to tend graves and remember the departed, through the riders doing their circuits with the young horses and then the recreational walkers with three separate routes north from the 20th century village towards those much loved circuits, utilising the designated Quiet Lanes, which are also shortly to have weight restrictions imposed on them to protect them further.
55. Against that backdrop we have a very intensive programme of construction, with a very large number HGVs bringing the 64,000 modules, laying 2km of roads, boring under the mainline, constructing the two substations, erecting 3.5km of security fencing etc. This will be imposed onto the PRowS and their users, but there has been very little thought given to how these impacts would be absorbed. This has all been “delegated” to a Construction Management Plan: pushed off to another day. But there is no draft of this CMP available and no attempt to set out the principles clearly and transparently for those who will be affected. At the A137 end, there is no alternative but to load traffic onto a narrow and sinuous single carriageway lane, with high banks, where traffic already frequently has to reverse.

### **The effect on the living conditions of local residents having regard to noise, glint, glare and visual impact**

56. The Rule 6 party accepts that this is not a RfR on the DN. However, the unavoidable fact is that the appeal site is very close to residential properties – 25 within 200m. This in sharp contrast to many solar developments which are much more remote or on land which is already degraded: the A14 at Levington, Parham Airfield and Foxearth all come to mind. This site and the routes around it are part of the daily lives of many families. And people whom come to live in Bentley tend to stay: you have heard from Mr & Mrs Pink, who have lived in their home at Red Cottages for 43 years, Mrs Owen for 30 years at Pond Hall Cottages and Uplands, Mrs Barlow for 55 years, the Nuttalls, whose son spoke for them, for 47 years at Little Bush.

57. As noted above, this proposal stretches across the whole of the central part of the parish. For many, it will be unavoidable wherever they go. Mr Burrell accepted in XX that the concept of residential amenity extends to the enjoyment of one's house, one's garden and the final approach to one's home. For many, this experience will be damaged - and damaged unacceptably - by the wholesale change which will be wrought on their environment by the full catalogue of what is proposed.

58. Noise is difficult issue to assess, but solar farms are definitely not silent and, an early summer's morning, when they should be fully functioning, is precisely when background noise levels fall to their lowest. The noise levels chosen by the Appellant to represent the background noise levels for this period (which are median figures) plainly do not apply to the times when background noise levels fall well below that level - as they clearly do. At those times, the noise will be heard (and with a 5dB tonal

correction) will have the potential to cause adverse impacts at Church Farm<sup>46</sup> and potentially elsewhere. As already mentioned, if the transformers were benign in noise terms, they would not need a 3.4 m solid acoustic screen around them.

59. “Glint and glare” is another difficult issue, as one consultancy is responsible for all the reports relied upon by solar developers and also the only available guidance. In this case, the Rule 6 Party’s concerns have been voiced repeatedly (in its original reps on the application, again in its Statement of Case<sup>47</sup> and again via Mr & Mrs Gladwell’s evidence). But response there has been none.

60. It remains the case that there is no assessment of the G&G impacts upon the many users of the public highways which surround the site to the east, south and west – be they in cars, on horses, bikes or on foot. This is notwithstanding the orientation of 64,000 solar modules towards those users.

61. Then there is the mystery of dwelling house 132. This house is directly exposed to G&G impacts for more than 60 mins a day for more than 4 months of the year – according to the Appellant’s own Report<sup>48</sup>. This exceeds the criterion for significant impacts. And yet this is brushed aside on the basis of existing vegetation screening the property. In fact, this house has multiple windows looking over the west field on both ground and upper floors. There is no intervening vegetation. Again, the Rule 6 party

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<sup>46</sup> A14, p.61/107

<sup>47</sup> R6 SoC, pp.45 & 46/106

<sup>48</sup> A18, p.40/41

has flagged this up repeatedly with no response. It is obvious that the Pager Power report is a desk-based study and we consider that they have never followed up on these points, never been to the site and never addressed the vulnerability of this property, relying instead upon a distant satellite image which is not fit for purpose.

62. In relation to visual impacts upon residents, this is of course a very subjective matter. But it is still vitally important. No one has a “right to a view”, but where there is wholesale change and the industrialization of a rural landscape, it is necessary to consider whether the existing views will be replaced by something so unattractive that the impact is harmful in the town and country planning sense. Here, there are obviously differing degrees of impact. Little Bush is a small bungalow right on the edge of the appeal site, but inevitably depends upon the land to its south and west for its setting and amenity. Despite being continually overlooked by the Appellant, Uplands (which features in Pevsner) was built with a south facing aspect in mind and its current expansive views across a shallow valley to the rising form of Wades Hill will be replaced with serried ranks of the backs of solar panels topped by a substation. Even Mr Burrell accepted in XX that this would be “unattractive”. Church Farm likewise will have its outlook greatly affected and rural views across open fields will be replaced with the backs of solar panels, transformers, security fencing and CCTV masts.

63. Mr Burrell had never been to *any* of the residential properties in question when he wrote his proof and opined that “the visual impact of the scheme would be

satisfactory and in accordance with the relevant LP and NP policies”<sup>49</sup>: XX’d. In my submission, this is a very questionable way to form such a categorical professional opinion.

64. Looked at in the round, there is a real and tangible impact on residential amenity here which must, in my submission, surely weigh in the balance on the negative side in the final reckoning.

#### **The effect on Best and Most Versatile Land (BMV)**

65. The appeal site is predominantly BMVL (approximately 2/3). This is very sizeable proportion of the site and its high status should come as no surprise, given that generations of farmers over many centuries have considered it to be good arable land and well worth the effort of farming.

66. The 2/3 proportion is the result of a downgrade of the appeal site from its provisional Grade 2 status. However, when reviewed with Mr Kernon in XX, the only factor which has motivated this downgrade was the “droughtiness” of part of the land. This is taken at face value, but it can of course be cured by water from the farm’s bore. The availability of water is a factor which must be excluded in the ALC process, but as a matter of fact, it affects the “farmability” of the land and addresses directly the only factor which caused the land to be marked down.

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<sup>49</sup> Proof, para.10.14

67. The report showing that taking this 116 acres out of arable production for 40 years would not, on its own, affect *national* food security is risible, given that a similar conclusion could no doubt be advanced in respect of any solar farm proposal, however large – and, of course, that is precisely what Mr Kernon has been saying up and down the country for all his solar developer clients.
68. The fact remains, however uncomfortable it may be for the Appellant, that national policy seeks to protect BMVL and that the use of predominantly BMVL in this proposal must weigh against it.
69. The prospect of grazing some sheep on the grass which has been sun and rain starved on these “droughty” soils and under 64,000 solar modules is prayed in aid and a partial agricultural use of the land. However, there is no detailed assessment of this exercise (no numbers; no information on whether this is just some winter grazing for someone else’s peripatetic sheep), the role it would play in farm profitability or whether it is a reliable long-term proposition. It is another barely evidenced part of the Appellant’s case.
70. In summary, the sterilization of 116 acres of arable land (of which 2/3 is BMVL) for 40 years must, in my submission, also weigh on the negative side of the balance.

**Whether the public benefits (which will need identifying and weighting) arising from the proposed development would outweigh the harms identified in respect of the above matters either individually or cumulatively.**

**The need for solar development**

71. Normally, this factor would be acknowledged and attract significant or substantial weight to be balanced against adverse impacts associated with a solar proposal.

72. At its highest level, that remains the case, of course. However, as I said in Opening, we have entered new territory. After years of solar proposals being promoted and consented in an *ad hoc* way up and down the country with no central coordination (700 hundred consents alone last year), we have been left with a vast array of potential capacity (210GW) to meet a government target of less than a quarter that (47GW) and huge questions about which projects are going to be connected in to scarce grid capacity, when and where? And it is critically important to recognise that it is not only solar developments which need access to that grid capacity; in East Anglia, the offshore wind fields in the North Sea and nuclear at Sizewell are now - and will be increasingly be - major users of available capacity.

73. At long last, the new statutory body (NESO) charged with getting to grips with the grid and plugging in the power sources which are coming forward has reviewed the list of projects and made its allocations of capacity. 21 GW of solar is already deployed and NESO has prioritized an additional 60GW in two tranches: Phase 1 to

2030 and Phase 2 to 2035<sup>50</sup>. As Mr Burrell accepted, this gives substantial “headroom”, if any currently prioritized projects do not deliver on time.

74. What is also highly significant is that, at the same time as publishing these lists, NESO has published “Capacity” tables showing that any remaining grid capacity for solar schemes nationwide for the next 10 years is infinitesimal – indeed there may be none as the deployed figure is at 21GW, rather than the 16GW assumed by NESO.

75. Despite the Appellants making a Gate 2 application last year, this project is not on either Gate 2 list, notwithstanding that Mr Burrell asserts (albeit without evidence) that some projects have been given Gate 2 status without pp; well, plainly not this one. Instead, this scheme has been placed in Gate 1, with no priority at all. And that without the Appellant having explained to NESO that it has no legal agreement to bore under the East Anglian Main Line, which at the very least would surely be a relevant consideration when prioritization is being determined.

76. The evidence came to rest with the agreement that, IF the project gained planning permission, then it could reapply for Gate 2 status and, IF it obtained such status, then it would go to the back of the queue with the expectation of a connection by 2035, nearly 10 years away. The para 3(a) provisions are interesting if only because they emphasise that a scheme such as this would allowed to join the very back of the queue

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<sup>50</sup> See Ian Poole Rebuttal

- not because it is needed to meet a Government target, but because NESO feels obliged to do something to try to squeeze it in.

77. What does that mean in planning terms? As a matter of logic, it must mean that, at the time of the determination of this appeal, the weight to be attached to this proposal is substantially diminished. As currently advised by NESO:

- i. There is no present need for further projects to meet the government's targets, including CP2030; They have the pipeline under control and this scheme isn't in it; and
- ii. There is actually no (or virtually no) capacity left in the grid anyway for further solar schemes before 2035. Mr Burrell agreed with this analysis in XX.

78. I accept that we are to some extent pioneers at this inquiry, but we fail to see what purpose allowing yet another *ad hoc* scheme would serve, just at the moment when NESO seem to have got on top of the chaos.

**“Other benefits”**

**Alleged biodiversity gains**

79. There are two elements to this issue. In relation to BNG, the Appellant relies essentially on a mathematical model, which based upon multipliers and “before and after” habitat scenarios<sup>51</sup>. The Rule 6 party has challenged some of these assumptions from the beginning and repeated them in its Statement of Case<sup>52</sup>, but with no answer

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<sup>51</sup> See: CD A21.

<sup>52</sup> R6 SoC 62/106

forthcoming. The main criticism has been: how can the Appellant justify a 100% increase in the multiplier for the habitat value of the grass it is proposing to grow under the solar panels, when compared with grass established on the site as part of the arable rotation. Answer there has been none, and now it is too late.

80. The second element has been to challenge the proposition that a large solar development *must be better for bio-diversity* than a well-run farm lying a wonderfully ecologically diverse area, rich in habitats, as we are at Bentley. We have grass meadows, parkland, land under CSS schemes, the old and new churchyards, old orchards, ancient and more recently established woodlands, veteran trees, hedgerows, ponds and watercourses which run all year. Mrs Owen has catalogued just some of the myriad species - of all shapes and sizes - that are present on or immediately next to the appeal site. In fact, the large open arable field has its own ecology which is valuable in its own way in contributing to our local biodiversity: the skylarks, the yellow wagtails and brown hares. These are all present now, but the solar proposal will disrupt them and these birds will not breed in the solar farm. So the loss of a breeding habitat for ground nesting birds will constitute a *negative* impact on biodiversity. Birds on the Red List will lose a habitat that they use now. By contrast, the Appellant can only assert that bio-diversity will experience a gain. They have not identified a single new species which will be seen which is not already present in the area. And no alternative breeding sites for skylarks and yellow wagtails have been identified and secured in perpetuity, notwithstanding the terms of policy LP16.

81. These points simply question the appropriateness of “swallowing whole” the notion that super-imposing a very extensive power plant onto the appeal site for 40 years will automatically result in biodiversity gains to which substantial weight must be attached. “Biodiversity” is a shortened form of “biological diversity” and means “the variety of species and of habitats”. In fact, under the appeal proposals, we would lose habitat supporting breeding Red List bird species. This factor is not reflected in the “BNG calculator”. We leave you to judge in the round what weight to attach to this factor, but suggest that alleged biodiversity gains should play a modest role in the final reckoning.

#### **Alleged Economic Benefits**

82. These are also very poorly evidenced. In one breath the Appellant asserts that traffic movements during the operational phase would comprise 2 transit vans month; in the next we are asked to accept that it will support 5 FTE jobs for 40 years, with absolutely nothing of substance to explain this save a borrowed multiplier. This is completely counter-intuitive and unevidenced. It should attract limited weight.

83. At the same time, there are businesses which depend upon the availability of an attractive environment at Bentley to thrive and which are genuinely concerned that the imposition of 116 acres of solar and power infrastructure development at the heart of the parish will greatly diminish the attraction of the place: Mr & Mrs Ackers are a case in point.

### **Farm diversification**

84. This also needs care and is poorly evidenced. There can be no doubt that the solar development will deliver a large cheque to the landowner. The offers in Mr Poole's Rebuttal Appendices suggest £5m, based upon £1100 p.a over 116 acres for 40 years. But how that money would be used is another matter altogether: it could be reinvested in the farm, but it could also be given away, frittered away or spent in any number of other ways, unless it is ringfenced to the farm and utilised as part of a long-term business plan, which we have not seen. Its role also needs to be viewed alongside other sources of income for the farm (rental properties, other developments and diversifications). I am not saying that such a business plan *must* be produced in a case such as this, but for a planning decision-maker to accord weight to the income stream generated by a large solar development as a *public* rather than a *private* benefit, then there would, in my submission, need to be far more clarity as to the long-term business plan for the farm. Ms Garcia told me that all bar 10% of the Falstaff Manor holding had been sold, but had no detail as to what, why or to whom. The land on which the solar farm sits could be "sold on" post any permission and there would be nothing to prevent this.

85. I want to emphasise that the Rule 6 party case is not anti-farmers or anti-farming, but it must be correct that a very large private financial gain to a farming landowner cannot sensibly weigh in the balance as a *public* benefit unless there is a very clear farm business plan which demonstrates how that money will be reinvested in - and support - the farming business over the long term and not used for extraneous purposes which are nothing to do with farming. This is no different to "enabling

development” in a heritage context, where it needs to be demonstrated that a development gain is ring-fenced for a purpose which is accepted to be in the public interest, such as the restoration of a damaged or deteriorating heritage asset. I think Mr Burrell recognised that he was on thin ice here, by according limited weight to this consideration.

### **Alternative Sites**

86. I will not duplicate the submissions which I anticipate will be made by the Council on this matter, but LP25(3) cannot be avoided in the circumstances of this case, especially where the solar development is to be located entirely within a Conservation Area and where the Appellant accepts that there will be harm to designated heritage assets.

87. The Rule 6 Party is particularly concerned that the full range of power lines in Babergh District has not been explored, even though it supplied a plan of them with its earliest representations. These lines include many far removed from the NL and APA and outside CAs. Once the “grid connection” excuse has evaporated, there is, it is submitted, no reason for not exploring the options available in the District. The submitted ASA falls down on this point.

88. The other point with which we profoundly disagree is the sieving out of all land with a provisional Grade 2 ALC. This includes vast swathes of land. It artificially narrows the area of search dramatically and is completely counter-intuitive, especially where the provisional survey is described by Mr Kernon for the Appellant as “completely

unreliable” and “not worth the paper it was written on”. The fact that solar developers do not use ALC as an initial sieve only reinforces our objection to the approach adopted in the ASA.

89. Quite irrespective of LP25, the Rule 6 Party considers that alternative sites should be considered in this case, as the concept of placing 116 acres of solar development into a Conservation Area is both unprecedented and plainly wholly undesirable, such that a requirement to consider alternative options arises in any event as per *Trusthouse Forte and Stonehenge*<sup>53</sup>. However, it is not reasonable to expect a Parish Council to undertake this exercise. We note that an ASA has been prepared by this Appellant which has generated various (albeit limited) options. So the exercise is capable of being undertaken. The scope of the exercise is simply far too narrow and artificially constrained.

### **Development Plan**

90. For the reasons given by Mr Poole in his main proof, this development is in conflict with a host of different development plan policies – in both the B&MS JLP 2023 and the Bentley NP 2022. Section 66 and 72 duties are also engaged and great weight must attach to the harm which would arise to the heritage assets affected, especially the Bentley CA, the fabric of which would subject to major interference and be fundamentally disrupted, such that it is difficult to see how the CA could continue to exist without very major revisions. There is further direct conflict with NPPF policies protecting Valued Landscapes and NDHAs.

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<sup>53</sup> *R(Save Stonehenge World Heritage Site Limited) v SST* [2021] EWHC 2161 (Admin)

91. On the other side of the scales, there is the heavily caveated contribution to renewable energy needs – if and when the project ever makes it into the queue and then forward from the very back of the queue towards connection. This would need to weighed alongside any other benefits discussed above and in the evidence.

### **Conclusion**

92. In my submission, there really are no circumstances when, on the evidence before this inquiry, it would be appropriate to allow this appeal. The harmful impacts have been so compellingly presented in the evidence of the Council, Rule 6 party, and numerous third parties, that the Appellant has been left with an evidential mountain which it seems to me to be impossible to climb. This is all the more so where its case has been so characterised by errors, omissions and where - to rub salt in the wounds - the grid connection issue metamorphosed last year from being its main weapon of attack to its Achilles' heel.

93. Accordingly, on behalf of Bentley Parish Council and the long list of residents who oppose this development, I respectfully request that you dismiss this appeal.

**THOMAS HILL KC**

**19<sup>th</sup> February, 2026**