



Ministry of Housing,  
Communities &  
Local Government

Mr Rob Asquith and Mr Richard Mears  
Savills  
Wessex House  
Priors Walk, East Borough  
Wimborne BH21 1PB

Our ref: APP/T3725/V/23/3332671  
Your ref: W/22/1577

23 July 2024

*Sent by email only*

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77**

**APPLICATION MADE BY ENSO GREEN HOLDINGS P LIMITED  
LAND TO THE WEST OF HONILEY ROAD (A4177), HONILEY, KENILWORTH  
APPLICATION REF: W/22/1577**

*This decision was made by the Minister of State, Matthew Pennycook, 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 Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC, who held a public local inquiry between 20 to 22 February 2024 into your client's application for planning permission for the installation of a solar farm and battery storage facility with associated infrastructure, in accordance with application Ref. W/22/1577, dated 30 September 2022.
2. On 6 November 2023, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act (TCPA) 1990, that your client's application be referred to her instead of being dealt with by the local planning authority.

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

3. The Inspector recommended that the application be approved.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. She has decided to approve the application. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report. A List of Core Documents seen at the inquiry was received separately and is attached at Annex B.

## **Matters arising since the close of the inquiry**

5. 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**

6. In reaching her 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.
7. In this case the development plan consists of the Warwick District Local Plan 2011-2029 adopted in 2017. The Secretary of State considers that relevant development plan policies include those set out at IR26.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as those other documents listed at IR27-32 and 39-44.
9. 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*

10. The emerging plan comprises the South Warwickshire Local Plan.
11. 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. Due to the very early stages of local plan preparation the Secretary of State considers little weight can be attached to the emerging plan.

## **Main issues**

### *Green Belt*

12. The Secretary of State agrees with the Inspector and parties that the proposal represents inappropriate development in the Green Belt (IR92).
13. For the reasons given in IR93-95, the Secretary of State agrees with the Inspector that the proposal would result in harm to the openness of the Green Belt in both visual and spatial terms (IR96).
14. For the reasons given at IR97-102 the Secretary of State agrees that the introduction of development onto the site would be harmful to the purpose of the Green Belt in (c) assisting in safeguarding the countryside from encroachment, although this would be

time limited harm given the ability to impose a condition on the overall lifetime of the proposed development (IR102).

15. In line with paragraph 153 of the Framework, the Secretary of State assigns substantial weight to the harm to the Green Belt.
16. Policy DS18 of the Local Plan refers to the need to demonstrate Very Special Circumstances (VSCs) to ensure compliance with government Green Belt policy. Paragraphs 152-153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs. VSCs will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Secretary of State has gone on to consider these matters. Her conclusion on whether VSCs exist, is set out at paragraph 39 below.

#### *Character and appearance, including landscape*

17. For the reasons given at IR104-110, the Secretary of State agrees with the Inspector at IR110 that whilst the proposal would alter the character and appearance of the area during the lifetime of the development, this would be reasonably mitigated through the use of landscaping that would be in-keeping with that found in the locality.
18. For the reasons given at IR111-115, she agrees at IR114 that not only would the existing hedging at and around the site benefit from the proposal – which would reinforce the historic field pattern – but even at a height of around three metres would not be uncharacteristic with other examples found in the local area.
19. Taking into account the Inspector's comments at IR3, IR116, IR228 and IR234, overall the Secretary of State agrees with the Inspector at IR116 that there would be limited adverse effects on the character and appearance of the area, including its landscape. She considers that these adverse effects should carry limited weight. She agrees with the Inspector at IR116-117 that the adverse effects can be reasonably and suitably mitigated and that the proposal would accord with Policies BE1, NE4 and CC2 of the LP, as well as paragraph 163(b) of the Framework.

#### *Heritage Assets*

20. The Secretary of State agrees with the Inspector and main parties that the only listed building setting affected by the proposal is the Grade II listed Wroxall Manor Farmhouse (IR120).
21. For the reasons set out at IR122-126 and IR130, the Secretary of State agrees with the Inspector that there would be less than substantial harm of a low magnitude to the setting of the Grade II Wroxall Manor Farmhouse (IR130). In line with paragraph 205 of the Framework, the Secretary of State considers that this harm carries great weight.
22. For the reasons set out at IR79-83, the Secretary of State agrees with the Inspector that the proposal is not likely to affect Wroxall Abbey as a Grade II Registered Park and Garden and therefore formal consultation with the Gardens Trust is not a statutory requirement in this instance (IR82). For the reasons set out at IR127-129, the Secretary of State agrees with the Inspector at IR129 and does not consider that the proposal result in harm to the setting of any other heritage assets including that of the Grade II Registered Park and Garden.

23. In line with the heritage balance set out at paragraph 208 of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the Grade II listed Wroxall Manor Farmhouse is outweighed by the benefits of the proposal. Her conclusion is set out at paragraph 38 below.

#### *Benefits of the scheme*

24. The Secretary of State has carefully considered the matters which have been put forward as weighing in favour of the proposal. She has taken into account the contribution of the project to meeting the need for renewable energy as set out at IR160-161; the benefits of generating electricity locally as set out at IR162-163; the contribution to reducing dependency on other electricity generating power sources as set out at IR164-165; and the contribution to increasing renewable energy capacity in this area as set out at IR201-203. She considers that these benefits associated with the provision of renewable energy should collectively carry substantial weight.
25. For the reasons set out at IR166-169, the Secretary of State agrees with the Inspector in affording substantial weight to the 135.9% BNG (IR169).
26. For the reasons set out at IR170-173, the Secretary of State agrees with the Inspector that the proposal would allow the continued grazing of the land for sheep and pasture, and the benefits to soil health, and that this factor should be afforded moderate weight (IR172). Furthermore, she agrees that the opportunity to reduce the speed and volume of surface water runoff should be afforded limited weight (IR173).
27. For the reasons set out at IR174, the Secretary of State agrees with the Inspector that the provision of two short stretches of permissive footpaths should be afforded limited weight.
28. The Secretary of State has noted, in line with Paragraph: 011 Reference ID: 21b-011-20140612 of the Guidance, that local taxation receipts are not 'local finance considerations' as defined in s.70(4) of the TCPA 1990. She considers that the payment of business rates in connection with this proposal is not necessary to make the scheme acceptable in planning terms and is not material to this decision (IR176-177). For the reasons set out at IR175, the Secretary of State considers that the provision of a secure income to a farming business through the rent of the land and the continued farming income will assist the local rural economy, and affords this limited weight.
29. For the reasons set out at IR179-183, the Secretary of State agrees with the Inspector that there exists a grid connection (Berkswell Substation) in this location which is available, and could be used quickly, and affords this moderate weight (IR183).
30. The Secretary of State notes the Inspector's comments at IR184-186 regarding the benefits of utilising bifacial single axis tracker solar panels, and has also taken into account the Rule 6 party's comments that decision-makers should expect a developer to use the latest technology. She further notes the Inspector's comments at IR187-191 regarding the use of poorer quality agricultural land for the proposal site, in line with the direction given in both the Framework and the Guidance. Overall she considers that the benefits of making efficient and effective use of land, as set out in IR184-191, collectively carry moderate weight.
31. The Secretary of State has taken into account the Inspector's comments on National Policy Statement EN-1 at IR192-198. She agrees with the Inspector at IR198 that EN-1 in

its totality is a material consideration in this case, and has taken it into account in reaching her decision. However, as the proposal does not fall within the scope of the Planning Act 2008 as Critical National Priority infrastructure, she does not attribute weight to EN-1 in this decision.

32. For the reasons set out at IR199-200, the Secretary of State agrees with the Inspector that the proposal would result in improvements to the hedgerows, trees and field patterns on the site and affords this limited weight.
33. The Secretary of State notes that a number of other matters have been raised by interested parties. For the reasons set out at IR134-153, the Secretary of State agrees with the Inspector that whether cumulatively or individually, these matters do not provide justification for the refusal of permission in this instance (IR153).

### **Planning conditions**

34. The Secretary of State had regard to the Inspector's analysis at IR208-213, 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. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex A should form part of her decision. Furthermore, for the reasons set out at IR209-212, the Secretary of State agrees with the Inspector's recommendation not to include Conditions 22A and 22B. Furthermore, for the reasons set out at IR213, the Secretary of State agrees with the Inspector's recommendation that Condition 23 not be applied.

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

35. For the reasons given above, the Secretary of State considers that the application is not in conflict with any development plan policies, and is in accordance with the development plan overall. She 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.
36. Weighing in favour of the proposal are the renewable energy benefits and BNG which each carry substantial weight; enabling recovery in soil carbon and soil health, use of existing grid capacity, and efficient and effective use of land which each carry moderate weight; and reduction of surface water runoff, provision of permissive footpaths, benefits to the rural economy and benefits to landscape elements, which each carry limited weight.
37. Weighing against the proposal is the impact on the Green Belt which carries substantial weight, heritage harm which carries great weight, and harm to landscape which carries limited weight.
38. The Secretary of State has considered paragraph 208 of the Framework. She considers that the public benefits of the proposal outweigh the less than substantial harm to the designated heritage assets and therefore, in her judgement, the Framework's heritage balance is favourable to the proposal.
39. The Secretary of State has considered paragraph 153 of the Framework. She considers that the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations, and therefore considers that VSCs exist.

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

41. The Secretary of State therefore concludes that planning permission should be granted.

### **Formal decision**

42. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby grants planning permission subject to the conditions set out in Annex A of this decision letter for the installation of a solar farm and battery storage facility with associated infrastructure, in accordance with application ref W/22/1577, dated 30 September 2022.

43. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

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

44. 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.

45. A copy of this letter has been sent to Warwick District Council and Beausale, Haseley, Honiley & Wroxall Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Emma Hopkins*

Decision officer

*This decision was made by the Minister of State, Matthew Pennycook, on behalf of the Secretary of State, and signed on her behalf*

## **Annex A - List of conditions**

### Time limit (commencement of development)

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to provide certainty.

### Development in accordance with approved plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing number BL-01-P01 (Site Location Plan)
- Drawing number BL-01-P02 Rev 01 (Proposed Site Plan)
- Drawing number BL-01-P03 (PV Elevations)
- Drawing number BL-01-P04 (Inverter/Transformer Stations)
- Drawing number BL-01-P05 (Internal Access Road Detail)
- Drawing number BL-01-P06 (Fence and Gate Elevations)
- Drawing number BL-01-P07 (Weather Station Detail)
- Drawing number BL-01-P08 (Substation Elevations)
- Drawing number BL-01-P09 (Control Room Elevations)
- Drawing number BL-01-P10 (Auxiliary Transformer)
- Drawing number BL-01-P11 (CCTV Elevations)
- Drawing number BL-01-P12 (Battery Container Elevations 40ft)
- Drawing number BL-01-P13 (Storage Container Elevations 40ft)
- Drawing number BL-01-P14 (Battery Fence and Gate Elevations)
- Drawing number BL-01-P16 (Indicative Cross Sections)

Reason: For the avoidance of doubt, to provide certainty, and to secure a satisfactory form of development in accordance with Policies BE1, CC2 and NE4 of the Warwick District Local Plan.

### Time limited permission

3. The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority, in accordance with condition 21.

Reason: To ensure that the identified adverse impacts on Green Belt, rural landscape character and visual amenity from the development only exist for the lifetime of the development and to accord with Policies BE1, CC2, DS18 and NE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Archaeology (pre-commencement condition)

4. No development shall take place until:
  - a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
  - b) The programme of archaeological evaluative fieldwork and associated postexcavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the Local Planning Authority.
  - c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This shall detail a strategy to mitigate the archaeological impact of the proposed development and shall be informed by the results of the archaeological evaluation. The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those approved documents.

Reason: In order to ensure any remains of archaeological importance within the site are preserved and protected, in accordance with Policy HE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Construction Environmental Management Plan (pre-commencement condition)

5. The development hereby permitted, including site clearance work, shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the following:
  - a) Measures to protect habitats within the site to be retained;
  - b) Measures to protect the potential Local Wildlife Sites adjacent to the site as identified within the submitted Ecological Assessment Report;
  - c) Pre-commencement checks for protected and notable species with subsequent mitigation and monitoring;
  - d) An assessment of the presence of Japanese Knotweed within the site, including a management plan for dealing with this species prior to and during construction, together with details of long-term periodic checking for any recurrence and remediation action as necessary;
  - e) Details of the location of the on-site compound area for the construction phase.

The approved CEMP shall thereafter be implemented in full.

Reason: To ensure that protected and notable species are not harmed by the development, in accordance with Policies NE2 and NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.



#### Revised LEMP (pre-commencement condition)

6. Notwithstanding the submitted details, a revised Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The LEMP shall include the following:
- a) Updated protected & notable species surveys (reflecting the species identified within the submitted Ecological Assessment Report) with updated recommendations for species and habitat enhancement measures as necessary;
  - b) Updated planting details, in accordance with condition 8 of this permission;
  - c) Full details of habitat enhancement and creation measures, including a scheme to enhance the on-site ponds as aquatic habitats;
  - d) Details of the monitoring of the proposed species and habitat enhancements;
  - e) A management plan for the lifetime of the development (including decommissioning phase);
  - f) Full details of the monitoring of the management plan
  - g) The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved revised LEMP shall thereafter be implemented in full.

Reason: To ensure a net biodiversity gain and to accord with Policy NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Skylark Mitigation Strategy (pre-commencement condition)

7. Prior to the commencement of development (including any vegetation clearance), a Skylark Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Skylark Mitigation Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed mitigation strategy;
  - b) Schedule of works, timings and a detailed compensation scheme;
  - c) Details of the management and monitoring of the compensation scheme. The Skylark Mitigation Strategy shall be implemented in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and to accord with Policies NE2 and NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Detailed planting scheme (pre-commencement condition)

8. Notwithstanding the submitted details, a detailed planting scheme shall be submitted to and approved in writing by the Local Planning Authority before development commences. The planting scheme shall be based on native species and shall be in line with the Warwickshire Landscape Guidelines. The development shall be provided

in accordance with the approved detailed planting scheme and shall thereafter be retained and maintained in accordance with the Landscape and Ecological Management Plan approved pursuant to condition 6 of this permission.

Reason: In the interests of visual amenity and biodiversity and to accord with Policies BE1, CC2, NE3 and NE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Tree protection (pre-commencement condition)

9. Prior to the commencement of the development hereby approved (including all preparatory work), a detailed Tree Protection Plan and a comprehensive Arboricultural Method Statement, together referred to as the scheme of protection, that will detail how the retained trees are to be protected from harm during the development shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved scheme of protection.

Reason: In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan.

Construction Management Plan (pre-commencement condition)

10. Notwithstanding the submitted information, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The CMP shall provide for:
- a) construction traffic routing to and from the site and measures to manage the arrival and departure of HGVs at the site;
  - b) the parking of vehicles of site operatives and visitors;
  - c) site working hours and delivery times;
  - d) the loading and unloading of plant and materials;
  - e) the storage of plant and materials used in constructing the development;
  - f) the erection and maintenance of a security hoarding including decorative displays;
  - g) wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the development site does not carry mud or deposit other materials onto the public highway;
  - h) measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and
  - i) a scheme for recycling / disposing of waste resulting from construction works.

The development hereby permitted shall only proceed in strict accordance with the approved CMP.

Reason: In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan.

Battery Energy Storage System (BESS) Safety Management Plan

11. Works to form the Battery Energy Storage System shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP shall prescribe measures to facilitate safety during the construction, operation and decommissioning of the battery storage system. The Battery Energy Storage System shall be operated in accordance with the approved BSMP at all times.

Reason: In the interests of the safe operation of the Battery Energy Storage System and to mitigate fire risks and environmental pollution.

#### Fire safety

12. The installation of the battery storage containers shall not be commenced until a scheme for the provision of adequate water supplies, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the battery storage units first become operational and shall be retained as such for the lifetime of the development.

Reason: In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.

#### Flood risk/drainage

13. The development shall be provided in accordance with the approved Flood Risk Assessment and Drainage Strategy (Report No. RMA-RC2256c Issue 1) and in particular the following mitigation measures detailed therein:

- a) Solar panels shall be elevated 0.8m above ground level.
- b) Drainage infrastructure shall be implemented allowing appropriate drainage to local receiving water bodies as per the plans illustrated in drawings DR-001 and DR-002 Surface Water Drainage Strategy.
- c) Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus 20% for climate change) critical rain storm to the QBar Greenfield runoff rate of 1.8l/s for the battery storage and sub-station compound. Discharge from the inverter stations shall be limited to 0.1l/s.

Reason: To prevent the increased risk of flooding, to improve and protect water quality and protect ecology. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Drainage verification report

14. Prior to the First Export Date of electricity from the development, a Drainage Verification Report shall be submitted to and approved in writing by the Local Planning Authority. Such report shall be produced by a suitably qualified, independent drainage engineer and shall demonstrate the surface water drainage system for the site has been installed correctly, based upon the approved Flood Risk Assessment. The details shall include:

- a) Any departure from the agreed design is in keeping with the approved principles;
- b) Any As-Built Drawings and accompanying photos
- c) Results of any Performance testing undertaken as a part of the application process (if required / necessary)
- d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- e) Confirmation that the system is free from defects, damage and foreign objects.

Reason: To ensure the development is implemented as approved and thereby safeguard long-term flood risk management. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Management and maintenance plan for surface water drainage infrastructure

15. Prior to the First Export Date of electricity from the development, a management and maintenance plan for the installed surface water drainage infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The surface water infrastructure shall be maintained in accordance with the approved management and maintenance plan for the lifetime of the development.

Reason: To ensure the approved drainage scheme operates effectively throughout the lifetime of the development in the interests of mitigating flood risk and to protect water quality and ecology. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Highway access

16. The vehicular accesses to the development site hereby approved shall not be brought into use until the public highway footway/verge crossings have been laid out and constructed in accordance with the standard specification of the Highway Authority and in accordance with drawing numbers 2103-015 SK01, 2103-015 SK02 and 2103-015 SK03. The accesses shall thereafter be retained as such.

Reason: In the interests of highway safety and to accord with Policy TR1 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Noise

17. Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.

Reason: To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Permissive paths

18. A layout and construction specification for the proposed permissive paths within the site shall be submitted to and approved in writing by the Local Planning Authority before the solar arrays are first installed on the site. The paths shall be provided in accordance with the approved details prior to the First Export Date of electricity from the development and the paths shall thereafter be kept open, free from obstruction and available for use by the public at all times.

Reason: To deliver the proposed permissive paths as a public benefit in the interests of highway safety and health and wellbeing. This is to accord with Policies DS18, TR1 and HS1 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### No external lighting

19. No external lighting shall be provided on the site at any time.

Reason: In order to minimise the visual impact of the development in this rural location and to safeguard the nature conservation value of the site in accordance with Policies BE1, CC2, DS18 and NE2 the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Cessation of electricity export during the permitted lifetime of the development

20. If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, the applicant/developer shall notify the Local Planning Authority in writing within 10 working days of the end of that twelve month period and a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of the site to agricultural use. The details shall include the following

- a) a programme of works;
- b) a method statement for the decommissioning, dismantling and removal of the solar farm and all associated above ground works/ surfacing and foundations below ground;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agriculture;
- e) timescale for the decommissioning, removal and reinstatement of the land; and
- f) a method statement for the disposal/recycling of redundant equipment/structures and any associated infrastructure.

The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.

Reason: To restore the openness of the Green Belt and the visual qualities of the landscape and to ensure that no environmental harm is caused during decommissioning. This is accord with Policies DS18, BE1, CC2, NE2, NE3 and NE4 of Warwick District Local Plan and Policy in the National Planning Policy Framework.

Scheme for decommissioning and restoration

21. No later than six months prior to the expiry of this planning permission, or within six months of the cessation of electricity generation by the solar farm, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority. The scheme of works shall include the following:

- a) a programme of works;
- b) a method statement for the decommissioning and dismantling of all equipment and hard surfacing on site;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agricultural use;
- e) timescale for the decommissioning, removal and reinstatement of the land;
- f) a method statement for the disposal/recycling of redundant equipment/structures.

The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.

Reason: To restore the openness of the Green Belt and the visual qualities of the landscape and to ensure that no environmental harm is caused during decommissioning. This is accord with Policies DS18, BE1, CC2, NE3 and NE4 of Warwick District Local Plan and Policy in the National Planning Policy Framework.

## Annex B - Core Documents List

### Honiley Road Solar Farm - Core Document List

No.	Document	Reference	Author	Date	Document / Drawing Superseded by
CD1	Application Documents and Plans as Submitted				
	Original Application Drawings				
CD1.1	Site Location Plan	BL-01-P01	Enso Energy	21/09/2022	
CD1.2	Proposed Site Plan	BL-01-P02	Enso Energy	30/08/2022	Proposed Site Plan Rev 01 (06/07/2023)
CD1.3	PV Tracker	BL-01-P03	Enso Energy	30/08/2022	
CD1.4	Inverter	BL-01-P04	Enso Energy	30/08/2022	
CD1.5	Access Road	BL-01-P05	Enso Energy	30/08/2022	
CD1.6	Access Gate	BL-01-P06	Enso Energy	30/08/2022	
CD1.7	Weather Station	BL-01-P07	Enso Energy	30/08/2022	
CD1.8	Substation	BL-01-P08	Enso Energy	30/08/2022	
CD1.9	Control Room	BL-01-P09	Enso Energy	30/08/2022	
CD1.10	Aux Transformer	BL-01-P10	Enso Energy	30/08/2022	
CD1.11	CCTV	BL-01-P11	Enso Energy	30/08/2022	
CD1.12	Battery Container	BL-01-P12	Enso Energy	30/08/2022	
CD1.13	Storage Container	BL-01-P13	Enso Energy	30/08/2022	
CD1.14	Battery Fence	BL-01-P14	Enso Energy	30/08/2022	
CD1.15	Existing Site Plan	661/12037/1A	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.16	Existing Site Plan	661/12037/1B	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.17	Existing Site Plan	661/12037/1C	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.18	Existing Site Plan	661/12037/1D	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.19	Existing Site Plan	661/12037/1E	Anthony Brookes Surveys Ltd	01/07/2021	

CD1.20	Existing Site Plan	661/12037/1F	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.21	Existing Site Plan	661/12037/1H	Anthony Brookes Surveys Ltd	01/07/2021	
CD1.22	Detailed Planting Plan	P21-0900_EN_101A	Pegasus Group	23/09/2022	
	Original Application Documents				
CD1.23a	Arboricultural Impact Assessment Part 1	4331	Barton Hyett Arboricultural Consultants	30/09/2022	
CD1.23b	Arboricultural Impact Assessment Part 2	4331	Barton Hyett Arboricultural Consultants	30/09/2022	
CD1.23c	Arboricultural Impact Assessment Part 3	4331	Barton Hyett Arboricultural Consultants	30/09/2022	
CD1.23d	Arboricultural Impact Assessment Part 4	4331	Barton Hyett Arboricultural Consultants	30/09/2022	
CD1.23e	Arboricultural Impact Assessment Part 5	4331	Barton Hyett Arboricultural Consultants	30/09/2022	
CD1.24	Agricultural Land Classification	P29-ALC	Amet Property	01/09/2022	
CD1.25	Application Form		Enso Energy	30/09/2022	
CD1.26	Community Infrastructure Levy (CIL) - Form 1: CIL Additional Information		Enso Energy	30/09/2022	
CD1.27	Covering Letter		Enso Energy	30/09/2022	
CD1.28	Construction Traffic Management Plan	P29-CTMP	Transport Planning Associates Limited	01/09/2022	
CD1.29	Design and Access Statement	P29-DAS	Enso Energy	01/09/2022	
CD1.30	Ecological Assessment Report		Avian Ecology Limited	16/09/2022	
CD1.31	Biodiversity Metric 3.1 v2		Avian Ecology Limited		Biodiversity Metric 4.0
CD1.32a	Flood Risk Assessment and Drainage Strategy	P29-FRA	RMA Environmental Limited	07/09/2022	
CD1.32b	Flood Risk Assessment and Drainage Strategy	P29-FRA	RMA Environmental Limited	07/09/2022	
CD1.32c	Flood Risk Assessment and Drainage Strategy	P29-FRA	RMA Environmental Limited	07/09/2022	
CD1.33	Geophysical Survey		Magnitude Surveys		
CD1.34	Glint and Glare	P29-G&G	Pager Power	04/10/2022	
CD1.35	Heritage Statement	P29-HS	Pegasus Group	01/08/2022	
CD1.36	Landscape and Ecological Management Plan	P21-0900.006A	Pegasus Group	01/09/2022	



CD1.37a	Landscape and Visual Assessment Part 1	P21-0900	Pegasus Group	23/09/2022	
CD1.37b	Landscape and Visual Assessment Part 2	P21-0901	Pegasus Group	23/09/2022	
CD1.37c	Landscape and Visual Assessment Part 3	P21-0902	Pegasus Group	23/09/2022	
CD1.38	Noise Impact Assessment	22-400	inAcoustic	15/09/2022	
CD1.39	Planning Statement	P29-PS	Enso Energy	01/09/2022	
CD1.40	Statement of Community Involvement - Update Note	P29-SCIU	Enso Energy	01/09/2022	
CD2	Post-Submission Documents				
	Revised Plans				
CD2.1	Proposed Site Plan	BL-01-P02 rev 1	Enso Energy	06/07/2023	
CD2.2	Cross Sections	BL-01-P16	Enso Energy	06/07/2023	
	Key Consultation Responses				
CD2.3	Beausale, Haseley, Honiley and Wroxall Parish Council (BHHW Parish Council)		BHHW Parish Council		
CD2.4	Environment Agency (EA)		EA	18/10/2022	
CD2.5	Environmental Health		Environmental Health	31/10/2022	
CD2.6	Forestry Commission		Forestry Commission	28/10/2022	
CD2.7	Historic England		Historic England	10/11/2022	
CD2.8	Kenilworth Town Council		Kenilworth Town Council		
CD2.9	WCC LFFA		WCC LFFA	02/11/2022	
CD2.10	Tree Officer		Tree Officer	02/11/2022	
CD2.11a	WCC Archaeological Officer		WCC Archaeological Officer	14/10/2022	
CD2.11b	WCC Archaeological Officer		WCC Archaeological Officer	14/10/2022	
CD2.11c	WCC Archaeological Officer		WCC Archaeological Officer	14/07/2023	
CD2.12a	WCC Ecology Officer		WCC Ecology Officer	01/11/2022	
CD2.12b	WCC Ecology Officer		WCC Ecology Officer	02/06/2023	

CD2.13	WCC Highways		WCC Highways	28/10/2022	
CD2.14a	WCC Landscape Team		WCC Landscape Team		
CD2.14b	WCC Landscape Team		WCC Landscape Team	25/04/2023	
CD2.15	WCC Rights of Way Team		WCC Rights of Way Team		
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CD3.2	Case Officer Letter	APP/T3725/V/23/3332671	PINS	13/11/2023	
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CD3.3	Biodiversity Metric 4.0		Avian Ecology Limited		
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CD3.4	Applicant Statement of Case		Savills (UK) Limited	01/01/2024	
CD3.5	Applicant Statement of Case - Map 1 - Green Belt V2		Savills (UK) Limited	01/01/2024	
CD3.6	Applicant Statement of Case - Map 2 - Environmental Constraints V1		Savills (UK) Limited	01/01/2024	
CD3.7	Applicant Statement of Case - Map 3 - Heritage Constraints V1		Savills (UK) Limited	01/01/2024	
CD3.8	Applicant Statement of Case - Map 4 - Flood Risk and ALC V2		Savills (UK) Limited	01/01/2024	
CD3.9	Applicant Statement of Case - Map 5 - Planning Constraints V2		Savills (UK) Limited	01/01/2024	
CD3.10	Applicant Statement of Case - Map 6 - All Constraints V3		Savills (UK) Limited	01/01/2024	
CD3.11	Applicant Statement of Case - Map 7a - Alternatives V2		Savills (UK) Limited	01/01/2024	

CD3.12	Applicant Statement of Case - Map 7b - Alternatives V2		Savills (UK) Limited	01/01/2024	
CD3.13	Applicant Statement of Case - Map 7c - Alternatives V2		Savills (UK) Limited	01/01/2024	
CD3.14	WDC Statement of Case		WDC	01/01/2024	
CD3.15	Rule 6 Party Statement of Case		Stansgate Planning Consultants Limited	01/01/2024	
CD3.16	Rule 6 Party Statement of Case Addendum		Stansgate Planning Consultants Limited	01/01/2024	
	Joint Authored Documents				
CD3.17	SoCG between LPA and Applicant		Savills (UK) Limited and WDC	01/01/2024	
CD3.18	Policy Relevance		Savills (UK) Limited, WDC and Rule 6 Party	01/01/2024	
CD3.19	Planning Conditions (Agreed between Applicant, LPA and Rule 6 Party)		Savills (UK) Limited and WDC	01/01/2024	
CD4	The Development Plan				
4.1	Warwick District Local Plan 2011 -2029		WDC	01/09/2017	
CD5	Other Local Policy Guidance				
CD5.1	Warwick District Council Climate Emergency Action Programme		WDC		
CD5.2a	Joint Green Belt Study Part 1		WDC		
CD5.2b	Joint Green Belt Study - Appendix 1 - Part 1		WDC		
CD5.2c	Joint Green Belt Study - Appendix 1 - Part 2		WDC		
CD5.3	Air Quality & Planning Supplementary Planning Document		WDC		
CD5.4	Parking Standards Supplementary Planning Document		WDC		
CD5.5	Climate Change Action Programme		WDC		
CD5.6	Low Carbon Action Plan		WDC		
CD5.7	Warwick District's Climate Emergency Declaration		WDC		
CD6	National Policy and Practice Documents				
CD6.1	National Planning Policy Framework		Department for Levelling Up, Housing and Communities	01/12/2023	
CD6.2	Planning Practice Guidance Climate Change		Department for Levelling Up, Housing and Communities	01/03/2019	

CD6.3	Planning Practice Guidance Green Belt		Department for Levelling Up, Housing and Communities	01/12/2023	
CD6.4	Planning Practice Guidance Renewable and Low Carbon Energy		Department for Levelling Up, Housing and Communities	01/08/2023	
CD6.5	Planning Practice Guidance Historic Environment		Department for Levelling Up, Housing and Communities	01/07/2019	
CD6.6	Climate Change Act (2050 target amendment) Order 2019		UK Parliament	26/06/2019	
CD6.7	The Sixth Carbon Budget (2020)		Climate Change Committee	01/12/2020	
CD6.8	The Clean Growth Strategy (October 2017)		HM Government	01/10/2017	
CD6.9	UK Parliament's declaration of an Environmental and Climate Change Emergency		UK Parliament	01/05/2019	
CD6.10	National Infrastructure Commission: Net Zero Opportunities for the Power Sector		National Infrastructure Commission	01/03/2020	
CD6.11	Energy White Paper: Powering our net zero future		Secretary of State for Business, Energy and Industrial Strategy	01/12/2020	
CD6.12	UK Government's press release to decarbonise UK power system by 2035		Secretary of State for Business, Energy and Industrial Strategy	01/10/2021	
CD6.13	Net Zero Strategy: Build Back Greener		HM Government	01/10/2021	
CD6.14	The Glasgow Climate Pact			01/12/2021	
CD6.15	British Energy Security Strategy		HM Government	01/04/2022	
CD6.16	Climate Change Committee (CCC) Progress in Reducing Emissions. June 2023 Report to Parliament		Climate Change Committee	01/06/2023	
CD6.17	Powering Up Britain: Energy Security Plan		HM Government	01/03/2023	
CD6.18	National Planning Policy Statement EN-1		Department for Energy Security and Net Zero	01/11/2023	
CD6.19	National Planning Policy Statement EN-3		Department for Energy Security and Net Zero	01/11/2023	
CD6.20	House of Commons Environmental Audit Committee - Accelerating the Transition from Fossil Fuels and Securing Energy Supplies		House of Commons Environmental Audit Committee	12/12/2022	
CD6.21	Environmental Audit Committee - Technological Innovations and Climate Change: Onshore Solar Energy		House of Commons Environmental Audit Committee	11/01/2023	
CD7	Relevant Appeal Decisions and Judgements				
CD7.1	R (Basildon District Council) v First Secretary of State and Temple [2004] EWHC (Admin) 2759	CO/1799/2004		08/11/2004	
CD7.2	R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3.			05/02/2020	

CD7.3	R. (on the application of William Corbett) Respondent v Cornwall Council [2020] EWCA Civ 508)	CO/7605/2012		12/12/2013	
CD7.4	Barnwell Manor Wind Energy Ltd v (1) East Northamptonshire DC & Others [2014] EWCA Civ 137. para. 24	C1/2013/0843		18/02/2014	
CD7.5	Jones v Mordue [2015] EWCA Civ 1243	C1/2015/1067		03/12/2015	
CD7.6	Catesby Estates Ltd. V. Steer [2018] EWCA Civ 1697, para. 25 and 26	C1/2017/1840 and C1/2017/1934		18/07/2018	
CD7.7	EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council	CO/9953/2012		26/07/2013	
CD7.8	R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)	CO/735/2013 and CO/16932/2013		12/06/2014	
CD7.9	Palmer v Herefordshire Council & Anor [2016] EWCA Civ 1061	C1/2015/3383		04/11/2016	
CD7.10	Kay, R (on the application of) v Secretary of State for Housing Communities and Local Government & Anor [2020] EWHC 2292 (Admin)	CO/16/2020		21/08/2020	
CD7.11	City & Country Bramshill Ltd v Secretary of State for Housing, Communities [2019] EWHC 3437			09/03/2021	
CD7.12	Land at Little Snodworth Farm, Snodworth Road, Langho, Lancashire	APP/T2350/W/16/3147854		22/12/2016	
CD7.13	Little Heath Lane, Little Heath, Berkhamstead	APP/A1910/W/23/3317818		14/11/2023	
CD7.14	Land at Elm Farm, Bristol Road, Bristol	APP/P0119/W/22/3294810		13/11/2023	
CD7.15	Land South of Banner Hill Farm, Banner Hill and Rouncil Lane, Kenilworth CV8 1NN,	APP/T3725/W/23/3319320		08/12/2023	
CD7.16	Land north of Halloughton, Southwell, Nottinghamshire	APP/B3030/W/21/3279533		18/02/2022	
CD7.17	Land east & west of A130 and north & south Of Canon Barns Road, East Hanningfield, Chelmsford, Essex CM3 8BD	APP/W1525/W/22/3300222		06/02/2023	
CD7.18	Minchens Lane, Bramley, Hampshire	APP/H1705/W/22/3304561		13/02/2023	
CD7.19	Land At Land West Of New Works Lane, Telford, Shropshire	APP/C3240/W/22/3293667		27/03/2023	
CD7.20	Wellington, Telford Solar Farm	APP/C3240/W/22/3308481		09/05/2023	
CD7.21	Land south of Leeming Substation, west of the village of Scruton, bordering Fence Dike Lane, part of Low Street and Feltham Lane, DL7 0RG	APP/G2713/W/23/3315877		27/06/2023	
CD7.22	Land at Bishop's Itchington, Stratford on Avon	AP/J3720/W/22/3292589		01/12/2022	
CD7.23	Land at Halse Road, south of Greatworth, Northamptonshire NN13 6EB	APP/W2845/W/23/3315771		14/11/2023	

CD7.24	Land at Crays Hall Farm, Church Lane, Crays Hill, Essex CM11 2UN	APP/V1505/W/23/3318171		30/08/2023	
CD7.25	Land to the west of the A46, Sherbourne, Warwick, CV35 8AH	APP/T3725/W/23/3317247		25/09/2023	
CD7.26	Park Farm, Dunton Road, Herongate CM13 3SG	APP/V1505/W/22/3301454		05/04/2023	
CD7.27	Land near to Middle Road Farm, Middle Road, Harbury, Warwickshire, CV33 9JN	APP/J3720/W/23/3321095		13/09/2023	
CD7.28	Land east of Langford Mill and Tye Farm, Langford, Devon	APP/Y1138/W/22/3293104		05/09/2022	
CD7.29	Land West of Wolverhampton West Primary Substation, South Staffordshire Railway Walk, Wolverhampton, WV4 4XX	APP/C3430/W/22/3292837		01/08/2022	
CD7.30	Land South of Monk Fryston Substation, Rawfield Lane, Monk Fryston, Selby	APP/N2739/W/22/3290256		07/07/2022	
CD7.31	Rawfield Lane, Fairburn, Selby	APP/N2739/W/22/330623		01/12/2022	
CD7.32	Cleve Hill Solar Park Examining Authority's Report of Findings and Conclusions	EN010085		28/02/2020	
CD7.33	Little Crow Solar Park - Decision	EN010101		05/04/2022	
CD8	Other Relevant Information				
CD8.1	Guidelines for Landscape and Visual Impact Assessment - Third Edition		Landscape Institute and Institute of Environmental Management and Assessment	01/04/2017	
CD8.2	An Approach to Landscape Character Assessment		Natural England	01/10/2014	
CD8.3	An Approach to Landscape Sensitivity Assessment		Natural England	01/06/2019	
CD8.4	Technical Guidance Note - Visual Representation of Development Proposals		Landscape Institute	01/09/2019	
CD8.5	Technical Guidance Note - Reviewing Landscape and Visual Impact Assessments (LVIAs) and Landscape and Visual Appraisals (LVAs)		Landscape Institute	01/01/2020	
CD8.6	Technical Guidance Note - Assessing Landscape Value Outside National Designations		Landscape Institute	01/02/2021	
CD8.7	National Character Area Profile 97: Arden		Natural England	06/07/1905	
CD8.8	Warwickshire Landscapes Guidelines		WCC	01/11/1993	
CD8.9	Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66(1) and Section 72 (1)		HM Government	01/02/1991	
CD8.10	Managing Significance in Decision-Taking in the Historic Environment Historic England Good Practice in Planning: 2		Historic England	01/03/2015	
CD8.11	The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3		Historic England	01/12/2017	
CD8.12	Statements of Heritage Significance: Analysing Significance in Heritage Assets Historic England Advice Note 12		Historic England	01/10/2019	
CD8.13	Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment		Historic England	01/04/2008	

CD8.14	Copernicus: 2023 is the hottest year on record, with global temperatures close to the 1.5°C limit		Copernicus		
CD8.15	2023 Shatters Climate Records, with Major Impacts		World Meteorological Organization	30/11/2023	
CD8.16	Stratford-on-Avon District Renewable Energy Landscape Sensitivity Study	ED.4.11.4	White consultants, for Stratford-on-Avon District Council	01/07/2014	
CD8.17	Defra: Biodiversity 2020: A strategy for England's wildlife and ecosystem services. Indicators		Department for Environment, Food and Rural Affairs	19/01/2024	
CD8.18	Biodiversity in the UK: Bloom or Bust		House of Commons Environmental Audit Committee	01/06/2021	
CD8.19	Section 8 - Environment Act 2021		HM Government	01/11/2021	
CD8.20	UNSG COP 27 Opening Remarks			07/11/2022	
CD8.21	IPCC Report The Physical Science Base Summary for Policymakers		Intergovernmental Panel on Climate Change	01/08/2021	
CD8.22	A Green Future Our 25 Year Plan to Improve the Environment		HM Government	01/01/2018	
CD8.23	Environmental Improvement Plan		HM Government	01/02/2023	
CD8.24	Connections Action Plan - Speeding up connections to the electricity network across Great Britain		Department for Energy Security and Net Zero and Ofgem	01/11/2023	
CD8.25	Solihull Metropolitan Borough Council Decision Notice	PL/2021/02992/PPFL	Solihull Metropolitan Borough Council	09/02/2022	
CD8.26	Regional Renewable Electricity in 2022		Department for Energy Security and Net Zero	28/09/2023	
CD8.26a	Renewable Energy Statistics at Local Authority Level		Department for Energy Security and Net Zero	28/09/2023	
CD8.27	Case Management Conference Note		Planning Inspectorate	08/01/2023	
CD8.28	Agriculture after Brexit		Dieter Helm	25/01/2022	
CD8.29	Natural Capital Best Practice Guidance		Solar Energy UK	14/07/1905	
CD8.30	Local authority green belt: England 2022-23 - statistical release		Department for Levelling Up, Housing and Communities	12/10/2023	
CD8.31	Everything You Need to Know About Solar Farm Requirements		Mr R Burdett-Gardiner	26/07/2023	
CD8.32	What Is the Carbon Footprint of a Solar Panel? Overview and Emissions		Ms Autumn Spanne	16/06/2022	



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# **Report to the Secretary of State for Levelling Up, Housing & Communities**

**by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC**  
an Inspector appointed by the Secretary of State

**Date: 24 April 2024**

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## **Town and Country Planning Act 1990**

### **Warwick District Council**

### **Application by Enso Green Holdings P Limited**

### **Beausale, Haseley, Honiley & Wroxall Parish Council (Rule 6)**

Case Management Conference Held on 5 January 2024

Inquiry Held on 20 to 22 February 2024

Land west of Honiley Road (A4177), Honiley, Kenilworth Easting 423150 Northing 271356

File Ref:

APP/T3725/V/23/3332671

<https://www.gov.uk/planning-inspectorate>



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## Images

Image 1: Excerpt of Proposed Site Plan Drwg No BL-01-P02 Rev 01 dated 06/07/2023

Image 2: Excerpt from Appendix 2, Map 1 Green Belt V2 from the Applicant's Proof

Image 3: Designated heritage assets near to application site, from Heritage Statement September 2022, page 62 of 75

## ABBREVIATIONS

ALC	Agricultural Land Classification
Applicant	Enso Green Holdings P Limited
BMVAL	Best and Most Versatile Agricultural Land
Council / Local Planning Authority (LPA)	Warwick District Council
CNP	Critical National Priority
Framework	The National Planning Policy Framework (Dec 2023)
Guidance	The national Planning Practice Guidance
LVIA	Land Visual Impact Assessment
LP	Warwick District Local Plan 2011-2029
MW	MegaWatt
Parish Council / Rule 6	Beausale, Haseley, Honiley & Wroxall Parish Council (BHHW)
PLBCAA	Planning (Listed Buildings and Conservation Areas) Act 1990, as amended
SOCG	Statement of Common Ground
VSC	Very Special Circumstances

**File Ref: APP/T3725/V/23/3332671**

**Site Address: Land west of Honiley Road (A4177), Honiley, Kenilworth**

**Easting 423150 Northing 271356**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, as amended, on 6 November 2023.
- The application is made by Enso Green Holdings P Limited to Warwick District Council.
- The application Ref W/22/1577 is dated 30 September 2022.
- The development proposed is described as *'Installation of a solar farm and battery storage facility with associated infrastructure'*.
- The reason given for making the direction was: *'...in his opinion, that the application should be called-in. In light of his policy, the Secretary of State has decided to call-in this application.'*
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  - (a) *The extent to which the proposed development is consistent with Government Policies for protecting Green Belt land in the National Planning Policy Framework ("NPPF" – Chapter 13);*
  - (b) *The extent to which the proposed development is consistent with Government Policies for Meeting the challenge of climate change, flooding and coastal change in the NPPF (Chapter 14);*
  - (c) *The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment in the NPPF (Chapter 14);*
  - (d) *The extent to which the proposed development is consistent with the development plan for the area; and*
  - (e) *Any other matters the Inspector considers relevant.*

**Summary of Recommendation: To grant permission, subject to conditions.**

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## **Preliminary Matters**

### **Reason for granting permission**

1. At its heart, the case here is straightforward. The overall thrust of government policy and national strategies are focussed on the creation of sustainable renewable sources of energy which are secure. The proposal in this case would not result in harm or adverse impacts to a number of considerations including, but not limited to, the historic environment, the character and appearance of the area and landscape, traffic or highway safety impacts, or any significant loss of Best and Most Versatile Agricultural Land (BMVAL) for example, which could otherwise be addressed through mitigation secured by condition.
2. On the matter of Green Belt, the proposal would result in harm which should be afforded substantial weight. However, the magnitude of harm arising in respect of the Green Belt is limited; not only by the mitigation proposed, but by the fact that the proposal is time limited itself. Accordingly, I afford the magnitude of this harm, which I give substantial weight in the overall balance, no greater than a moderate level.
3. There would be some adverse impacts arising from the proposal. In addition to the aforementioned Green Belt harm. This includes moderate landscape and minor visual harm, and minor heritage harm to the setting of a nearby Grade II listed building.

4. Set against these harms are the 'Very Special Circumstances' cited in favour of the proposal. I afford these factors various weights – to the extent that I have found that the wider environmental benefits associated with increased production of energy from renewable sources are sufficient in themselves in this case to justify the proposal (in accordance with Paragraph 156 of the Framework).
5. Moreover, when considered together with other considerations arising from the proposal including the biodiversity and character and appearance benefits, I have found that the Very Special Circumstances in this case justify the harm to the Green Belt arising from the proposal representing inappropriate development as defined by the Framework. Amongst other reasons set out in this report, this is because I have found that the proposal would accord with the adopted development plan for the area when read as a whole.
6. I therefore recommend to the Secretary of State that the proposed development sought here should be granted planning permission subject to conditions.

### **Determination of the appeal**

7. The Secretary of State has directed that, in exercise of his powers under Section 79 and paragraph 3 of Schedule 6 of the *Town and Country Planning Act 1990*, as amended, that he shall determine the appeal as it involves proposals for significant development in the Green Belt, as referred to in the letter dated 6 November 2023 sent to the main parties by the Planning Inspectorate.

### **Environmental Impact Assessment**

8. The application has been screened by the Environmental Services Team at the Planning Inspectorate on behalf of the Secretary of State on 7 February 2024. This was under Regulation 5(6)(a) of the *Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017)*. The result of this screening is that the '*Secretary of State hereby directs that this development is not Environmental Impact Assessment (EIA) development*'. Nothing arose either during the Inquiry or Report writing stage that leads me to disagree with this Direction.

### **Site inspections**

9. On Tuesday 9 January 2024, I made an unaccompanied visit to the site and the surrounding area. I made further unaccompanied site visits to and around the site<sup>1</sup> on 20, 21 and 22 February 2024. No requests were made by the main parties for any further site inspections.

### **The Inquiry**

10. The Inquiry opened on Tuesday 20 February 2024. It sat for three days, being adjourned late afternoon on Thursday 22 February 2024. As agreed at the Inquiry, Closings were made in writing by the Council and the Rule 6 Party, and then by the Applicant. The Inquiry closed in writing on Monday 26 February 2024.
11. At the Inquiry oral evidence was given by the three main parties and also a number of interested parties. I have considered and incorporated this evidence in the writing of this Report and in informing its recommendation.

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<sup>1</sup> Under Rule 16 of the Inquiry Rules 1624/2000

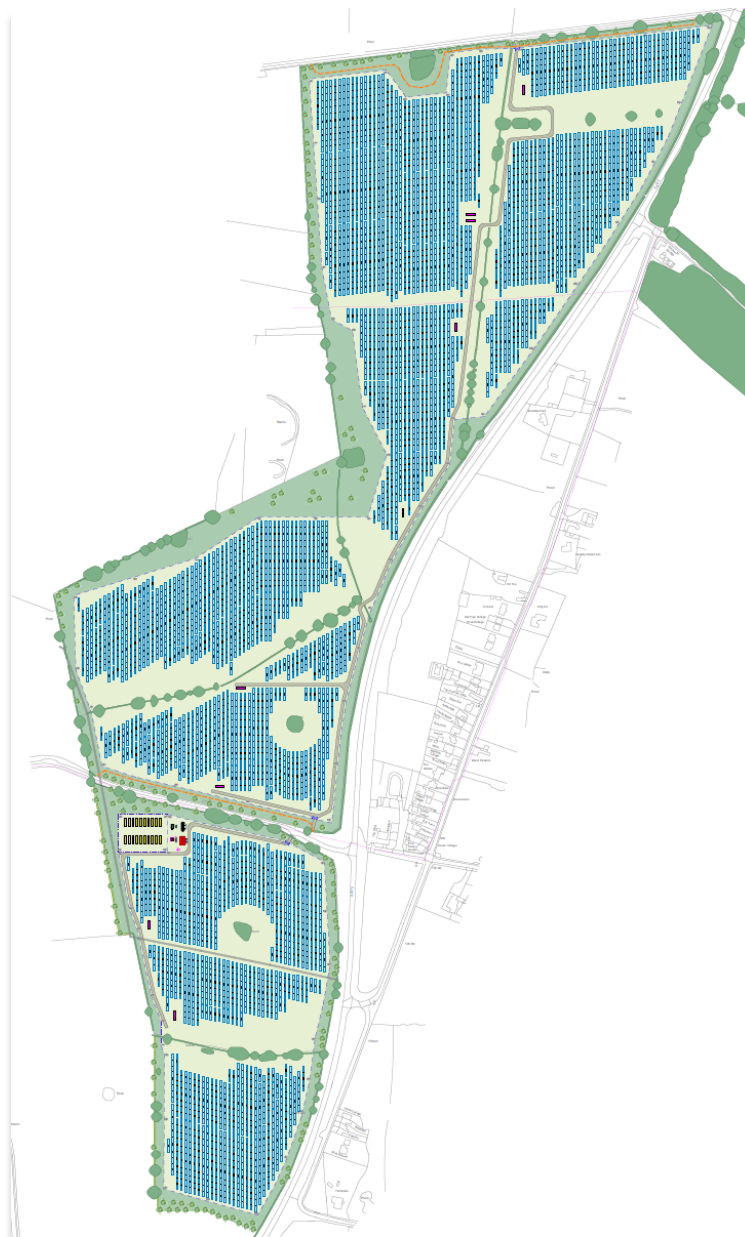
12. To assist both the Inquiry and the decision-maker, the Core Documents can be found on the Council's website at:

<https://planningdocuments.warwickdc.gov.uk/online-applications>

and by searching the site address 'Land west of Honiley Road' or the Council's planning case reference of W/22/1577.

## The Proposals

13. A description of the proposal is given in the agreed *Statement of Common Ground* (SOCG). The proposed development is for the construction, operation, maintenance and decommissioning of a ground-mounted solar farm which will generate electricity for distribution to the National Grid. The proposed development would operate for a temporary period of 40 years.



**Image 1: Excerpt of Proposed Site Plan Drwg No BL-01-P02 Rev 01 dated 06/07/2023**

14. Image 1 above shows the site area, with the A4177 located to the east. The blue coloured areas show the proposed solar arrays and associated infrastructure, with various shades of green showing landscaping including hedging proposed and/or existing, and trees.
15. The connection to the grid will be made at the National Grid Berkswell Substation, located approximately 4.9 km north of the application site. The cable would run below ground from the boundary of the site directly to National Grid owned land at the substation. The proposal would generate around 23.1MW of solar energy at any one time and have 57MW of battery storage. The battery storage infrastructure is shown on Image 1 towards the lower third of the site, represented by vertical yellow coloured shapes, just below Drum Lane.

## **The Site and Surroundings**

16. The proposed Honiley Road Solar Farm is located on land west of Honiley Road (A4177), Honiley, Kenilworth, Warwickshire. The site comprises land totalling approximately 54.6 hectares (ha) and would be connected via an underground cable route to the Point of Connection (POC) at Berkswell Substation where the energy generated will be exported to the wider electricity grid and network.
17. The Site is rural in character; with the field network in the site characterised by fields of varying irregular shapes with a mixture of hedgerow boundaries with some trees. The submitted Agricultural Land Classification Report indicates that the quality of the agricultural land across the site comprises roughly 1.5% as Grade 2 BMVAL and 98.5% as Grade 3b. Land graded as 3b, 4 or 5 is not defined as BMVAL.
18. The settlement of Haseley Knob lies to the east, on the other side of the A4177. The surrounding area comprises scattered farms and villages with minor roads that intersect the area. The Dogs Trust Kenilworth and Warwickshire Park Hotel are to the north. The settlement of Kenilworth lies approximately 4 km to the east and Warwick approximately 5.7 km southeast.
19. The site is accessed via existing access points from Drum Lane and Manor Lane. There are no public rights of way (PROW) within the site.
20. At the time of the Inquiry in February 2024, I saw that parts of the site and other fields surrounding it were being used for pastoral or sheep farming. It is intended that some form of sheep grazing continues on the land and an agreed proposed condition to that end has been suggested by the main parties.
21. The application site is not covered by any statutory or non-statutory designations or assets that relate to biodiversity, landscape and cultural heritage. It is, however, located within the Arden National Character Area. The River Blythe Site of Special Scientific Interest lies approximately 4.7 km to the northwest.
22. The Environment Agency's Flood Map for Planning indicates that the site is on Flood Zone 1 land (forming land having a less than 1 in 1,000 annual probability of river or sea flooding). There are a number of small ponds on the site and within adjacent fields.
23. The nearest heritage assets to site are Manor Farm, Manor Lane (Grade II) and Cheney's Farmhouse (Grade II) south of Haseley Knob. The Wroxall Abbey

Registered Park and Garden (Grade II), with associated Grade I, Grade II and Grade II\* listed buildings and St Leonard's Priory Scheduled Monument within its grounds lies approximately 250 m west and south of the Site. Wroxall Village School and School House (Grade II) are located approximately 330m to the west of the Site.

## Planning History

24. As set out in the agreed Statement of Common Ground (SOCG) between the Applicant and the LPA, the planning history of the application site is limited to Application reference W/21/2080, which was submitted by the applicant on 12 November 2021. This sought planning permission for the '*Installation of a solar farm and battery storage facility with associated infrastructure.*'<sup>2</sup>
25. It included not only the fields on the western side of the A4177 as shown on Image 1 above, but also six further fields on the eastern side of the A4177. The application site in this case differs by only relating to the six fields on the western side of the A4177. The 2021 application was withdrawn (and was not therefore determined) on 20 October 2022.

## Planning Policy

### **Local Policy and/or guidance**

26. The adopted development plan for the application site is the *Warwick District Local Plan 2011-2029* (adopted 2017). Whilst the plan as a whole should be taken into account, the most relevant policies from the local plan in this case are:

#### **Warwick District Local Plan 2011-2029 (adopted 2017) (LP)**

*DS5 Presumption in favour of sustainable development* – this indicates that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

*DS18 Green Belt* – this sets out that the extent of Green Belt is defined on the policies map and that the Council will apply national planning policy to proposals within the Green Belt.

*NE4 Landscape* – this sets out that new development will be permitted that positively contributes to landscape character. It requires that development proposals demonstrate that they meet a list of criteria including consider its landscape context and identify likely visual impacts on the local landscape and its immediate setting and undertakes appropriate landscaping to reduce these impacts.

*CC2 Planning for Renewable Energy and Low Carbon Generation* – this policy sets out that proposals for renewable energy technologies (including associated infrastructure) will be supported in principle subject to specified criteria being met. That criteria includes the proposal has been designed, in terms of its location and scale, to minimise any adverse impacts on adjacent land uses and local residential amenity, and to minimise the impact (including any cumulative impacts) on the

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<sup>2</sup> January 2024 Statement of Common Ground, Section 3



natural environment in terms of landscape, and ecology and visual impact. A criterion also sets out that the design will ensure that heritage assets are conserved in a manner appropriate for their significance.

BE1 *Layout and design* – this policy requires that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals will be expected to demonstrate, amongst other criteria, that they harmonise with or enhance the existing settlement in terms of physical form and land use, and relate well to local topography and landscape features (see policy NE4).

**Warwickshire Landscapes Guidelines - Arden dated November 1993<sup>3</sup>**

27. The *Warwickshire Landscapes Guidelines 1993* (WLG) is guidance written in 1993 following an assessment of the character and special features of landscapes within the county of Warwickshire.
28. Submissions were made by the Rule 6 Party and the Applicant in terms of its applicability given its age. Nonetheless, it is a material consideration before the decision-maker which should be taken into account.
29. In particular, printed page 34<sup>4</sup> indicates that *'The general condition of hedgerows in Arden is very variable. Roadside hedges are usually well maintained, but many field hedgerows are closely trimmed or gappy, and would benefit from being managed more positively as landscape features. This would include allowing them to grow thicker and taller (up to two metres in height) and replanting those that are gappy.... Where possible management should avoid excessively tidy low cut hedges, and should favour trimming at three yearly intervals to improve wildlife interest.'*

**Joint Green Belt Study - Stage 1 Report Prepared by LUC June 2015<sup>5</sup>**

30. The report was written by LUC who were appointed by six West Midlands councils to undertake a comprehensive assessment of Green Belt land within Coventry City Council, North Warwickshire Borough Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council, Stratford-on-Avon District Council and Warwick District Council areas.
31. The Study assessed the Green Belt against the five purposes of Green Belts, as set out in the Framework. Its purpose was not to identify land for removal from or addition to the Green Belt. The Green Belt study was meant to complement other studies on other issues, such as housing capacity, biodiversity and landscape, cultural heritage and employment and infrastructure needs. And the Study indicated that *'Together, these studies will provide a comprehensive evidence base to appraise and arrive at the most sustainable pattern of development.'*<sup>6</sup>
32. It was confirmed at the Inquiry by the main parties that these further studies indicated in 2015 have not yet been produced or published.

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<sup>3</sup> Core Document 8.8

<sup>4</sup> Page 20 of 28 of the pdf version. This measurement of up to two metres can be found elsewhere in the document.

<sup>5</sup> Core Documents 5.2A, 5.2B and 5.2C

<sup>6</sup> Core Document 5.2A, para. 1.3



## **National Policy and Guidance**

### **The National Planning Policy Framework (the Framework)**

33. The Government's planning policies for England in relation to planning applications are set out in the Framework. The document as a whole is a material consideration. Nonetheless, the following areas are of particular note in relation to this case:

#### Chapter 13. Protecting Green Belt Land

34. Notably, Paragraph 156 which states:

*'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.'*

#### Chapter 14. Meeting the challenge of climate change, flooding and coastal change

35. Notably, Paragraphs 163 which states:

*'When determining planning applications for renewable and low carbon development, local planning authorities should:*

*a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;*

*b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and...'*

#### Chapter 15. Conserving and enhancing the natural environment

36. Notably, Paragraph 180 which states:

*'Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*

*b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;...'*

### **The national Planning Practice Guidance (the Guidance)**

37. National guidance on Renewable and low carbon energy is provided at [www.gov.uk/guidance/renewable-and-low-carbon-energy](https://www.gov.uk/guidance/renewable-and-low-carbon-energy) . This was published on 18 June 2015 and last updated on 14 August 2023. Specifically the sections on

'Climate Change'<sup>7</sup>, 'Particular planning considerations for hydropower, active solar technology, solar farms and wind turbines', 'Battery Energy Storage Systems'<sup>8</sup> and 'Green Belt'<sup>9</sup> should be taken into account.

38. The Guidance sets out that:

*'Why is planning for renewable and low carbon energy important?*

*Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.'*<sup>10</sup>

### **Other national policy**

#### **Overarching National Policy Statement for Energy (EN-1)<sup>11</sup>**

39. The Department for Energy Security & Net Zero *Overarching National Policy Statement for Energy (EN-1)* Presented to the Houses of Parliament pursuant to section 9(8) of the *Planning Act 2008* and designated in January 2024. In particular, Paragraph 4.2.17 states:

*'This means that the Secretary of State will take as a starting point that CNP Infrastructure will meet the following, non-exhaustive, list of tests:*

- where development within a Green Belt requires very special circumstances to justify development;*
- where development within or outside a Site of Special Scientific Interest (SSSI) requires the benefits (including need) of the development in the location proposed to clearly outweigh both the likely impact on features of the site that make it a SSSI, and any broader impacts on the national network of SSSIs.*
- where development in nationally designated landscapes requires exceptional circumstances to be demonstrated; and*
- where substantial harm to or loss of significance to heritage assets should be exceptional or wholly exceptional.'*

40. At the Inquiry, the Rule 6 Party drew my attention specifically to Section 5 Generic Impacts, which includes *'This Part considers generic impacts that arise from the development of all of the types of energy infrastructure covered by the energy NPSs (such as landscape and visual impacts)...*'

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<sup>7</sup> Core Document 6.2

<sup>8</sup> Core Document 6.4

<sup>9</sup> Core Document 6.3

<sup>10</sup> Planning Practice Guidance, section [Renewable and low carbon energy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/renewable-and-low-carbon-energy) Paragraph: 001 Reference ID: 5-001-20140306, Revision date: 06 03 2014

<sup>11</sup> Core Document 6.18

41. It should be noted that the application here is **not** Critical National Priority (CNP) infrastructure as defined in EN-1<sup>12</sup> nor does the size of this application mean that it falls to be determined under the *Planning Act 2008* as a nationally significant infrastructure project (NSIP).
42. Nonetheless, EN-1 is clear in that it has a role in the wider planning system<sup>13</sup> and may be a material consideration in decision making on applications that fall under the *Town and Country Planning Act 1990* (as amended). This is agreed between the main parties, and I see no reason to not concur. NPS EN-1 should be considered as a material consideration in this instance.

### ***National Policy Statement for Renewable Energy Infrastructure (EN-3)***

43. The Department for Energy Security & Net Zero *National Policy Statement for Renewable Energy Infrastructure (EN-3)* Presented to the Houses of Parliament pursuant to section 9(8) of the *Planning Act 2008*, was designated in January 2024. Similar to EN-1, it sets out national policy in respect of renewable energy and states that '*There is an urgent need for new electricity generating capacity to meet our energy objectives.*' Given the nature of the proposal, for renewable energy infrastructure, it should be considered as a material consideration in this instance.

### ***Other material considerations***

44. The decision-maker should also be aware of other documents or information which may be material to their determination. This includes (this is list is not exhaustive):
- the UK's Parliament's declaration of a climate emergency on 1 May 2019<sup>14</sup>,
  - *The Sixth Carbon Budget – The UK's path to Net Zero* December 2020<sup>15</sup>,
  - *Net Zero Strategy: Build Back Greener* October 2021<sup>16</sup>,
  - the Government's press release to decarbonise UK power system by 2035 published by the Department for Business, Energy and Industrial Strategy on 7 October 2021<sup>17</sup>,
  - *British Energy Security Strategy* April 2022<sup>18</sup>,
  - *Powering Up Britain – Energy Security Plan* March 2023<sup>19</sup>, and;
  - Climate Change Committee (CCC) *Progress in Reducing Emissions* June 2023 Report to Parliament<sup>20</sup>.

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<sup>12</sup> Core Document 6.18. The Glossary to EN1 states that CNP is: *A policy set out at Section 4.2 of EN-1 which applies a policy presumption that, subject to any legal requirements (including under section 104 of the Planning Act 2008), the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. CNP Infrastructure is defined as nationally significant low carbon.*

<sup>13</sup> See page 6, Paras. 1.2.1 and 1.2.2

<sup>14</sup> Core Document 6.9

<sup>15</sup> Core Document 6.7

<sup>16</sup> Core Document 6.13

<sup>17</sup> Core Document 6.12

<sup>18</sup> Core Document 6.15

<sup>19</sup> Core Document 6.17

<sup>20</sup> Core Document 6.16

## **The Case for the Main Parties**

45. The cases of the main parties are set out within their Closing Submissions. To avoid repetition I have not sought to replicate such matters here in any great detail, though to assist the SoS I have provided brief summaries of the main points. The full closing submissions of all three main parties have been taken into account in reaching a recommendation and are available on the file.

### ***The Case for the Applicant***

46. The Applicant sets out the context of the energy supply and security matters in the United Kingdom. This includes at a local level the declaration of a climate change emergency by Warwick District Council in June 2019. In the Applicant's view, we are in an environmental and climate change emergency. There is an identified '*urgent*' need for renewable energy, which the proposal would make a contribution towards.

47. Whilst the Rule 6 Party disagrees, the Applicant points out that they nonetheless consider the important positives of the scheme, which include the substantial benefit to the climate of the delivery of 23.1MW of clean energy and 57MW of battery storage, significant benefits in terms of domestic energy security, and further significant benefits of a biodiversity net gain (reaching 135.9% in habitat units).

48. It is accepted that there would be some adverse impacts arising to; the Green Belt at the low end of the spectrum, moderate landscape and minor visual harm, and minor heritage harm to one Grade II heritage asset. However, given their localised and limited nature, this is a scheme where the residual impacts can be made acceptable. Accordingly, applying Paragraph 163(b) of the Framework, permission should be granted without delay.

49. The Applicant concludes their case by setting out that this is a scheme where the impacts are acceptable and clearly outweighed by the stark and urgently needed environmental benefits. All conditions are agreed between the parties, and the Applicant is content with the imposition of those conditions that are 'pre-commencement'. In light of all the evidence heard at the Inquiry, the Inspector is asked to recommend, and the Secretary of State asked to grant permission.

### ***The Case for Local Planning Authority***

50. The Council note the harm to the Green Belt arising from it representing inappropriate development and the adverse effect on openness. Substantial harm to the openness of the Green Belt would arise and substantial weight is given to this harm in the Green Belt balance.

51. The Council also consider that there would be a harmful impact on landscape character, although the extent of this would be localised.

52. There would be 'less than substantial harm' to the significance of the Grade II listed Manor Farmhouse that lies about 300m to the west of the site.

53. The Council attaches very substantial weight to the environmental benefits associated with the development, specifically in terms of the generation of renewable energy. The Local Planning Authority also give positive weight to the

availability of grid connection in the locality. The substantial increase in biodiversity net gain (BNG) resulting from the development is of particular merit and is a consideration that contributes to very special circumstances.

54. The Council give substantial weight to the totality of Green Belt harms. These comprise definitional harm by reason of inappropriateness and substantial harm to the openness of the Green Belt and the purpose of safeguarding the countryside from encroachment. Less than substantial harm is also identified to the setting of a designated heritage asset. The scheme would cause moderate visual harm and moderate harm to landscape character. The loss of a very small amount of BMV land is attributed very minor harm in the planning balance.
55. The Council considers these harms are clearly outweighed by other considerations, the most important of which is the environmental benefit of renewable energy generation to which very substantial positive weight is given. Having regard to s38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, the Council does not consider that material considerations indicate that permission should not be granted therefore the Secretary of State is respectfully invited to grant planning permission for the proposed development.

### ***The Case against (By the Rule 6 Party, BHHW Parish Council)***

56. The Rule 6 Party considers that the proposal would conflict with Local Plan Policies CC2 (Part b causes conflict with CC2 as a whole), BE1 (the first sentence and parts a and b), NE4, DS18 (this is because the Very Special Circumstances (VSC) does not exist), DS5 (because the proposal conflicts with key policies in the Local Plan, it does not constitute sustainable development and so there is also conflict with Policy DS5).
57. In addition, the Rule 6 Party considers that the proposal conflicts with Policies contained within the Framework. This includes that the proposal conflicts with Framework Paragraph 180, which states '*Planning policies and decisions should contribute to and enhance the natural and local environment by: b) recognising the intrinsic character and beauty of the countryside.*' It also conflicts with Framework Paragraph 163 b), insofar as the application [for renewable and low carbon development] cannot be made acceptable.
58. In terms of visual amenity, BHHW disagrees with Mr Cook that there will be a 'high degree of visual containment'. The proposed development, spread across a large area (54 ha) and clearly visible from many places in the public domain, causes a major change to views. The affected parts represent significant lengths of public road popular with walkers, riders and cyclists. In all, the proposal is significantly harmful in respect of landscape character and visual amenity.
59. Whilst the site has only a limited impact on a heritage asset (in the form of Manor Farmhouse) and notwithstanding the public benefits, this harmful effect is an 'other harm' to be taken into account in the Framework Paragraph 153 VSC balance.
60. With regard to Green Belt, pursuant to Framework Paragraph 156, BHHW takes into account all the relevant 'wider environmental benefits' before concluding 'very special circumstances' do not exist because the harm by reason of inappropriateness, and other harm resulting from the proposal, is not clearly outweighed by other considerations (pursuant to NPPF para 153). This is not a flat balance of harm vs benefit.

61. In terms of the 15 alleged benefits suggested, some of these were suggested to be wider environmental benefits. However, many of these alleged benefits advanced by the Applicant are exaggerated or double counted<sup>21</sup>. Taking account of Framework Paragraphs 156 and 153, BHHW concludes that the VSC are not achieved.
62. The Rule 6 Party conclude that, the committee report was right to recommend refusal and therefore BHHW recommends to the Secretary of State that the planning application is refused.

### **Written and Oral Representations**

63. Over 150 representations were made at the initial notification stage. A further 120+ representations have been submitted providing comments on the proposal at the Inquiry stage. These include representations both against and in favour of the proposal – although an overwhelming majority were against the proposal. To assist decision-making, I have summarised the main themes arising from these here.
64. In addition, at the Inquiry, oral representations were made. Where a written copy has been provided, these are listed in the Inquiry Documents section of this Report. All representations have been taken into account in forming the recommendations of this Report.

### **Objections**

65. Comments from objectors included:
66. The loss of Green Belt land which should be sacred, the loss of Green Belt is not justified by the greed of large corporations, saddened that productive agricultural land will be lost forever, commercial and residential rooftops should be used instead, no local benefit to residents from electricity generated by proposal, increase on transport on local roads, effect on wildlife, noise during construction.
67. The abuse of the current planning process and using fear and politicized tag lines 'climate emergency' to green wash the financial motivation, trampling of Green Belt policy which would set a local and national precedent, no special circumstances that justify this development, hedge planting would be harmful to the area and offer no mitigation.
68. The planning committee who approved proposal are inexperienced and there was a strong bias in favour of the proposal from the Chairperson, and none of the committee members visited the site ahead of the meeting on 18 July 2023, little consideration has been given to fire safety/integrity, no weight should be given to the argument that there are no alternate sites.
69. There is potential harm to human health from electromagnetic field, the proposal is contrary to the objectives of the NPPF, alternative site available at WW2 airfield at Honiley/Fen End, it would be an eyesore, production of photovoltaic panels require minerals like copper, nickel and cadmium which can involve very polluting extraction methods and toxic waste.

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<sup>21</sup> Rule 6 Party Closings, page 6



70. The period of 40 years is not temporary, the drawings at consultation stage were misleading, site will never return back to agricultural use, the longer cabling costs for sites further than 5km from Berkswell grid connection should not be taken into account, land should instead be used on the wasted land surrounding HS2 tracks, harm to local businesses including a guest house.
71. There are no other such solar developments in the area, and it would fundamentally change the character of the dispersed settlement pattern of the villages into a major industrial site, the Contracts for Difference (CfD) regime. These contracts provide additional, guaranteed revenue to developers during operation to offset the costs for renewable projects that may otherwise make them commercially unviable, no consideration was given to other Points Of Connection (POC).
72. The impact on the Arden landscape, our countryside must be protected, the proposal is directly under the flight path for Birmingham International Airport and the impact on systems such as Very High Frequency Omni Directional Range (VOR) have not been addressed adequately.
73. The constituency Member of Parliament for Kenilworth and Southam, the Right Honourable Sir Jeremy Wright KC MP, made written comments before the Inquiry and also delivered a statement verbally to the Inquiry objecting to the proposal. He indicated that is not just that this proposed development would be undesirable at the intended location, but also that the decision made by the Warwick District Council (WDC) Planning Committee to grant the application in this case could create a precedent that substantial inappropriate development in the Green Belt, in this area and beyond, should be approved as a matter of routine where renewable energy generation is the purpose of that development.
74. Sir Jeremy's submissions included that:
- 'There is a high standard for the applicant to meet to demonstrate that there are 'very special circumstances' to justify inappropriate development in the Green Belt. It cannot be sufficient to demonstrate 'very special circumstances' by setting out the benefits of renewable energy alone, something more is required. The applicant in this case has not met that high standard, nor have they been able to demonstrate, to the standard required, that their application has such exceptional merit that it should be allowed.'*<sup>22</sup>
75. CPRE Warwickshire – Opposes. Concerns over proximity to Wroxall Abbey, harm to the farming landscape and setting of Wroxall Abbey, including Registered Park and Garden.
76. I should also bring to the attention of the SoS that the Warwickshire County Council Landscape Officer objected to the proposal<sup>23</sup>. This was on the basis that:
- 'The site and its surroundings have a strong rural character with no urbanising features. In addition to this, the site abuts an area of Ancient Arden – a small-scale, intricate and tranquil landscape which has been largely undisturbed. I therefore maintain that the site does have special qualities which makes it more than "commonplace countryside". As I have said in my previous comments, the*

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<sup>22</sup> ID7

<sup>23</sup> CD2.14A and CD2.14B and noted on Page 3 of the Closings of the Rule 6 Party

*proposed development would not harmonise with this rural setting and the introduction of large-scale infrastructure, spanning a number of fields, would appear out of keeping with this landscape. A large-scale solar farm immediately abutting the Ancient Arden landscape would be an incongruous feature and would not form an appropriate setting.'*

77. This objection from one part of the County Council (and not the Local Planning Authority) remains extant. It is good practice to take into account representations made by specialist advisers to the LPA. I have therefore specifically drawn this representation to the attention of the decision-maker.
78. At the same time, it should also be approached cautiously. This is because not only does it take a different approach to that of the locally elected Councillors of the Local Planning Authority (which in turn does not endorse the objection and supports the proposal), but no opportunity was given to the Applicant, nor indeed myself, to test this view offered by the County Council's landscape officer or to understand beyond a few paragraphs of their professional position on this matter<sup>24</sup>. This is because the County Council did not attend the Inquiry or submit any statement to further elucidate any position it may have had on this point. I would therefore caution against attributing it much weight in considerations.
79. CPRE Warwickshire also raised the matter as to whether The Gardens Trust (the Garden History Society in statute) should have been consulted in this case.
80. Having carefully considered this last point, I do not consider that the proposal is one that is likely to affect any garden or park of special historic interest which is registered in accordance with s8C of the *Historic Buildings and Ancient Monuments Act 1953* (register of gardens) as set out in Schedule 4, Table 4, part (s) of *The Town and Country Planning (Development Management Procedure) (England) Order 2015* (SI 2015 No. 595).
81. This is a position that is reflected in the comments of the government's adviser on the historic environment, Historic England, the evidence of Mrs Stoten to the Inquiry (as the only heritage expert called), and the comments of the main parties who did not consider that the proposal would result in any harm to the significance of Wroxall Abbey as a Grade II Registered Park and Garden (RPG).
82. Given the distance between the RPG and the application site, and the lack of specific or detailed historical connection between them, and exercising my planning judgment as an architectural historian, I find that in this case the proposal is not likely to affect the RPG and therefore formal consultation with the Gardens Trust is not a statutory requirement in this instance.
83. It is, of course, open to the SoS to seek the views of the Gardens Trust should they consider that the proposal is likely to affect any garden or park of special historic interest, or indeed to consult them as a matter of courtesy.
84. The organisation, Archaeological Information and Advice, provided advice on 14 October 2022 indicating a stance of 'customer made comments neither objecting

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<sup>24</sup> In comparison, the evidence of Mr Cook (C&A, Landscape for the Applicant) was tested at the Inquiry and myself and all main parties were able to discharge the inquisitorial burden in respect of Mr Cook's Landscape evidence.



to or supporting the planning application.’ It is understood that this organisation provides archaeological advice and services for the County of Warwickshire.

85. However, the representation made by the Senior Historic Environment Officer indicated that the *‘Whilst little evidence for pre-medieval activity has been identified from within the proposed development site this may well be a reflection of a lack of previous investigations across this area, rather than providing any evidence of a lack of archaeological remains.’* It goes on to recommend that trial trenching is undertaken prior to determination.
86. However, geophysical surveying has taken place on the site and there is little evidence that there are any buried remains of greater than local significance, if any, relating to farming of the land. Accordingly, I would endorse the approach of the main parties that an archaeological condition would be a proportionate approach in this case.

### **Support**

87. There were a limited number of representations in support of the proposal. The reasons include:
88. It enables the shift to renewable away from fossil fuels and there are no commercial scale wind farms in WDC boundary (or Warwickshire County). Solar park development should be allowed, so the local economy can generate renewable power, intensive arable farming would be replaced by non-intensive sheep farming, will not spoil in any way the appearance of what is drab flat land bordered by two busy roads and the site is not overlooked.

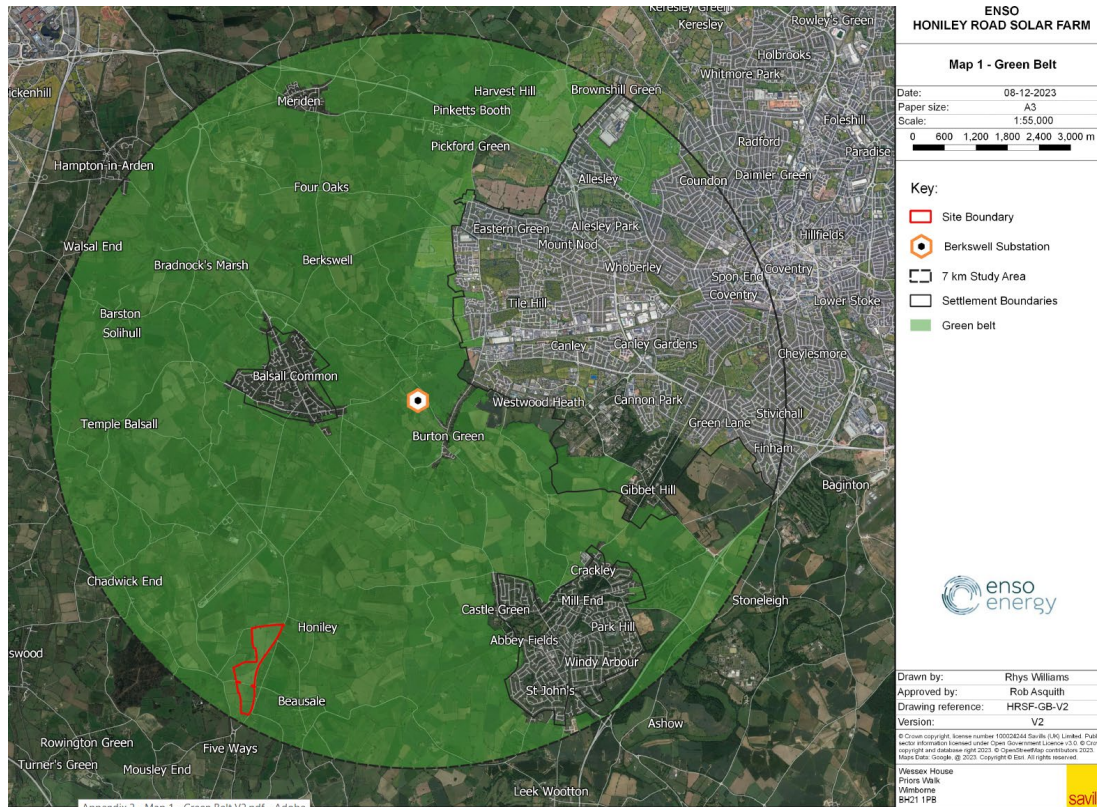
### **No comments / no objections**

89. Other parties provided no comments or no objections to the proposal. This included some statutory consultees. I have included and summarised some of the principal ones here:
- Environment Agency – no comments.
  - Warwickshire County Council, PROWs – no objections.
  - Warwickshire County Council, Local Lead Flood Authority – no objection subject to conditions.
  - Warwickshire County Council, Highways – no objection subject to conditions.
  - Warwickshire County Council, Ecology – no objection, though suggests conditions and further ecological advice.
  - Warwick District Council, Conservation Officer – no objection.
  - Warwick District Council, Environmental Health – no objection subject to conditions.
  - Tree Officer (for WDC) – No objections subject to conditions.
  - Historic England – Not offering advice in this case.
  - Forestry Commission - As a Non Ministerial Government Department, provide no opinion supporting or objecting to an application.

## Inspector's Conclusions

### *Whether inappropriate development and effect on openness*

90. The application site is located within the Green Belt (Image 2).



**Image 2: Excerpt from Appendix 2, Map 1 Green Belt V2 from the Applicant's Proof**

91. The government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt.
92. Exceptions to this, and some other limited forms of development, are provided in Paragraphs 154 and 155 of the Framework<sup>25</sup>. All parties agree that the proposal here does not fall within any of these exceptions. I concur. Accordingly, the proposal would represent inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
93. In terms of openness, this can take the form in either visual or spatial terms. In visual terms, the proposal would likely be visible from the public realm at very limited points along the A4177, Manor Lane and Drum Lane. This would be especially so in the early stages of the development, whilst gaps in existing hedges are reinforced by planting. This would result in some extremely time limited loss of

<sup>25</sup> It is noted that Local Planning Policy on Green Belts is set out in DS18 of the LP, and essentially this seeks to rely on national policy on Green Belts.

openness from these viewpoints, and as such result in harm the openness of the Green Belt.

94. Whilst the land would continue to be farmed for pastoral agriculture, there would also be some loss of openness in terms of its spatial aspect. Whereas the six fields are currently uncovered with an absence of built form on them, the proposal would introduce rows of pole mounted solar panels, which would track the sun's path, and associated infrastructure such as battery storage units, service vehicle tracks, and deer proof / security fencing (with the latter also providing a dual use to keep sheep within the site).
95. Whilst noting the hedging would in effect screen these, the spatial concept of openness means that even if you cannot see it (the solar panels for example) they would still erode the openness of the Green Belt through their presence in a physical form on the site. In this respect, the proposal would result in harm to the openness of the Green Belt in spatial terms.
96. In accordance with Paragraph 153 of the Framework, I give substantial weight to the harm to the Green Belt; both in terms of it being defined as inappropriate development and because of the harm arising to the openness of the Green Belt in both visual and spatial terms.

### ***Effect on Green Belt purposes***

97. Green Belt serves five purposes, as set out in Paragraph 143 of the Framework. These are:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

98. The Council and the Applicant considered the only relevant purpose in this instance is c). The Rule 6 Party considered that purposes a), b) and c) are infringed by the proposal. No party indicated that parts d) or e) were relevant in this instance. I agree and do not consider that these last two purposes are of specific relevance here.
99. In terms of purposes a) and b) Mr Murphy put forward the argument at the Inquiry that the proposal would result in unrestricted sprawl from the creation of a new built-up area in a location that is currently not built-up. The Rule 6 Party also suggested that allowing the proposal would result in the merging of Warwick, Kenilworth and Coventry.
100. However, neither of these purposes would, in my view, be infringed by the proposal. It would not result in the unrestricted sprawl of large built-up areas nor the merging of towns, as the nearest settlements are Kenilworth, Warwick or beyond these Coventry and these are well over 5 km or more away from the site to the East, Northeast or Southeast. The site does not lie between these

settlements. There is not only no intervisibility between the application site and these large built-up areas but the facts on the ground are that travelling on the roads near to the site including the A4177, visitors are unlikely to consider that they have entered into these three large built-up areas or their environs. Almost all road users or visitors will consider that they are travelling through the countryside; as they do now.

101. Even if one was to consider an argument that Haseley Knob, on the other side of the A4177 and centred on the highway called Greenacres, and Wroxall (principally a tiny cluster of dwellings on the corner of Manor Lane and School Lane) to the west, were large built-up areas or neighbouring towns, the proposal would leave large areas of undeveloped land to the edges and around the site. I do not accept this premise, but in any case, as before, it would not appear to people travelling through the area that those settlements had merged as a result of the proposal or sprawled.
102. It is agreed between the main parties that there would be harm to the Green Belt in the form of purpose c). This is because the proposal would result in encroachment into the countryside. I concur and find that the proposal would result in harm to the Green Belt through the harm arising to this purpose of the Green Belt. Though it should be noted that this would be time limited harm given the ability to impose a condition on the overall lifetime of the proposed development.
103. I do not, however, find that there would be any conflict with purposes a) or b) as suggested by the Rule 6 Party.

### ***Character and appearance; including landscape***

104. The originally submitted Landscape and Visual Impact Assessment<sup>26</sup> identified that the proposal would, due to the change from undeveloped arable fields to a solar farm, give rise to moderate long term adverse effects upon the landscape character of the site and immediate surroundings. It goes on to indicate that the longer terms effects would reduce to moderate to minor adverse levels of effect due to enhancements such as tree, hedgerow and woodland planting. With regard to landscape features, there would be limited adverse effects to local landform and topography and the potential for some benefits to local watercourses and drainage features.
105. The assessment concludes that any notable effects on landscape character or visual receptors would be confined to surrounding local areas with visual effects reduced by the retention of the existing vegetation, the proposed vegetation and the context of surrounding developments. Overall the total extent of the landscape and visual effects would be localised and limited in nature<sup>27</sup>.
106. This is broadly consistent with the evidence of Mr Cook (for the Applicant) who found that although there would be *'some limited adverse effects on landscape character and visual amenity, these would be localised'*<sup>28</sup>. Having visited the

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<sup>26</sup> Landscape and Visual Assessment September 2022, P21-0900-0005B, page 21, Paragraphs 8.1 to 8.10

<sup>27</sup> Ibid, Paragraphs 8.9 and 8.10

<sup>28</sup> Landscape Proof of Evidence, Mr A Cook, Page 62, Paragraph 11.26



application site myself and the wider area a number of times, and in the context of the submitted drawings and proposed landscaping – both of which could be secured by planning conditions – I concur with the views of Mr Cook.

107. I acknowledge that parts of the site would be visible from extremely short sections of Drum Lane and Manor Lane, which are mainly narrow single lane country lanes. This visibility will diminish as the existing and proposed hedgerows on or near to the site become established. Furthermore large stretches of these lanes will be screened from the proposed development by the hedgerows, which are an established and important part of the local landscape.
108. The site would also be visible from parts of the A4177 to the east of the site. However, given the kinetic experience along this 50mph single carriageway and the intervening landscaping formed by hedges, most users will not perceive there to be a solar farm of the scale proposed.
109. Furthermore, it should be noted that no Public Rights Of Way or bridleways either cross or are located near to the site. Nor were any identified at the Inquiry by interested parties. Any recreational use of the countryside that derives from the application site is principally visual from people using the public highway by foot, bicycle and/or motorised vehicle looking at, in the main, the hedges that line fields in agricultural use.
110. The Rule 6 Party BHHW disagrees with Mr Cook. They consider that the proposal would be clearly visible from many places in the public domain and therefore causes a major change to views. This includes significant lengths of public road popular with walkers, riders and cyclists. In all, the Rule 6 Party suggests that the proposal is significantly harmful in respect of landscape character and visual amenity. Respectfully I disagree. Whilst the proposal would alter the character and appearance of the area during the lifetime of the development, this would be reasonably mitigated through the use of landscaping that would be in-keeping with that found in the locality.
111. At the Inquiry and in their written evidence, the Rule 6 Party directed me to the Warwickshire Landscape Guidelines<sup>29</sup> dating from 1993. In particular, my attention was drawn to the guidelines indicating that to manage hedgerows more positively, hedges should be allowed to grow thicker and taller being 'up to two metres in height'. A height of three metres or above is proposed within the submitted Landscape and Ecological Management Plan and LVIA<sup>30</sup>.
112. The Rule 6 Party therefore felt that the proposal would introduce an uncharacteristic feature into the landscape in the form of overly tall hedges. However, I saw that hedges within the vicinity of the site (in various directions from it) have a range of heights and thicknesses.
113. Furthermore, Mr Cook explained at the Inquiry that the height of around three metres allows the planting of indigenous hedges and the implementation of practical maintenance regime for managing them. It would also allow the

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<sup>29</sup> Core Document 8.8

<sup>30</sup> Cited in the Proof of Evidence of Ms J Gee, Page 6, Paragraph 4.10. LEMP Paragraph 3.55 and LVIA Paragraph 5.6.

proposed hedges to establish and provide a habitat for nesting and foraging birds and other animals.

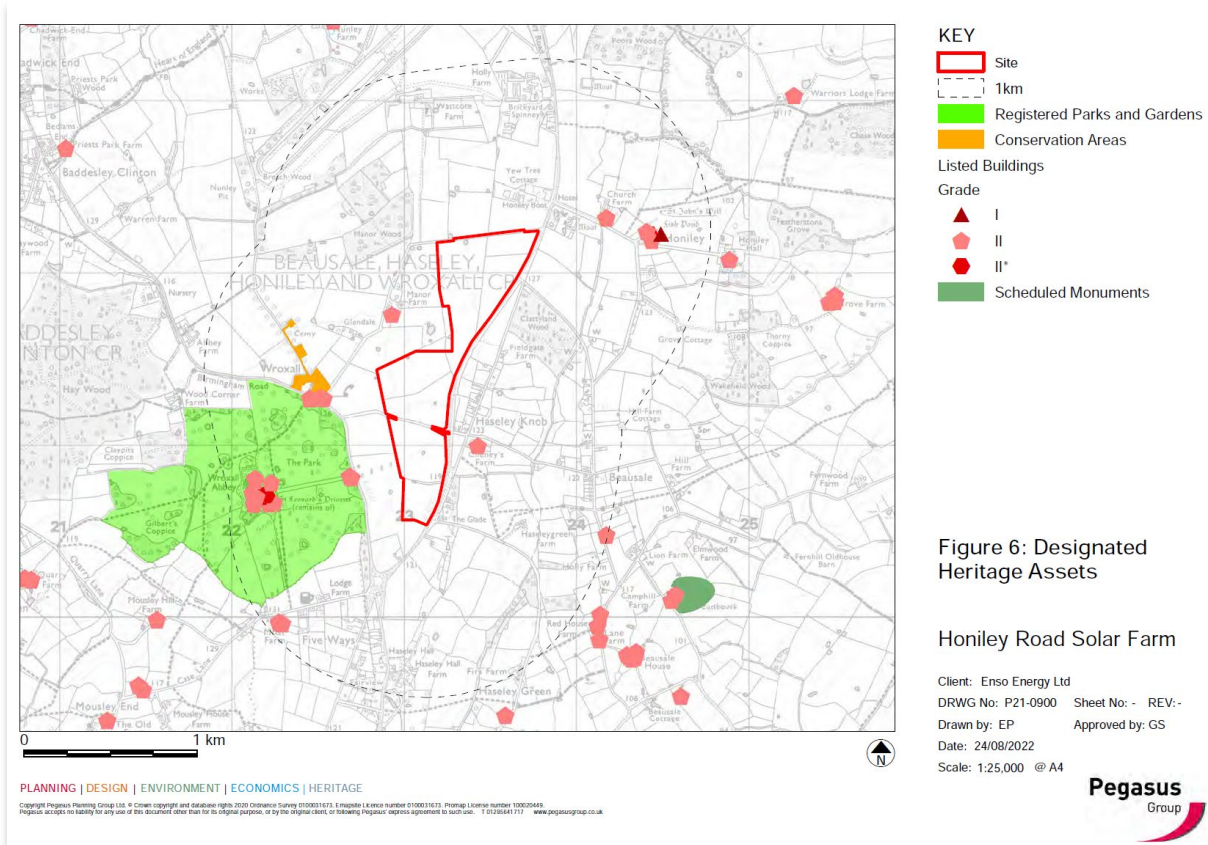
114. Taken in the round, I consider that not only would the existing hedging at and around the site benefit from the proposal – which would reinforce the historic field pattern – but even at a height of around three metres would not be uncharacteristic with other examples found in the local area.
115. Whilst noting the points about the ‘up to two metres’ provided for in the guidelines, I would note that this is guidance from around thirty years ago and set according to hedge maintenance standards at that time. Furthermore, the overall thrust of the guidance is to avoid the removal of hedgerows given that these are ‘historic features in their own right’ and ‘important wildlife corridors’<sup>31</sup>. The reinforcing of existing hedgerows would contribute towards these underlying aims.
116. I therefore conclude on this matter, that whilst there would be limited adverse effects on the character and appearance of the area, including its landscape, these are adverse effects which can be reasonably and suitably mitigated. As such, I find that the proposal would accord with Policies BE1, NE4 and CC2 of the LP which require developments to enhance landscape features and proposals are designed to minimise the impact on the natural environment including landscape, ecology and visual impact.
117. I also find that it would also comply with Paragraph 163 b) of the Framework on this matter, given that the impacts are (or can be made) acceptable.

### ***Heritage Assets***

118. There are no known heritage assets contained within the application site. There are, however, a number of statutory designated heritage assets within the vicinity of the application site. These are shown in Image 3 below. They include a Registered Park and Garden (at Wroxall Abbey), a scheduled monument, a conservation area (around the small cluster of buildings at Wroxall), and a number of Listed Buildings (most of which are Grade II listed).
119. The settings of listed buildings are afforded a statutory duty to preserve under s66(1) of the PLBCAA. As designated heritage assets, the other types of heritage assets identified above are afforded specific consideration in planning policy terms under the Framework, Chapter 16.
120. The main parties agree that the only listed building whose setting is affected by the proposal is Manor Farmhouse (listed as Wroxall Manor Farmhouse). This is shown as a peach-coloured pentagon on Image 3 overleaf: to the west of the application site labelled as Manor Farm on the underlying OS map.

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<sup>31</sup> Core Document 8.8, Page 34 (19 of 28 pdf version) for example.



**Image 3: Designated heritage assets near to application site, from Heritage Statement September 2022, page 62 of 75**

121. Given that this building has some connection to the application site; being part of the landholding or farmed area historically, I agree with the main parties that it is this heritage asset of which the setting may be affected. I provide further reasoning below.
122. The heritage evidence of Ms Stoten before the inquiry indicates that Manor Farmhouse is of late 17<sup>th</sup> Century origin with 19<sup>th</sup> Century alterations. The evidence of this witness states that:
123. *'Its significance is derived principally from its architectural and historic interest as a post-medieval farmhouse of some status (evidenced by its scale and design). Elements of its setting contribute to its significance but to a lesser degree than the intrinsic interest of its built form and fabric...'*
124. *The fields to the east and south of the farm complex, which form part of the historic landholding of the asset and are visible in views from its secondary and rear elevations. This includes parts of the site...<sup>32</sup>*
125. The heritage evidence goes on to conclude that: *'The proposed development of the Site will change the agricultural landscape character of the site. The solar arrays and associated elements will be partially visible from the rear and side elevations of the asset, although largely screened by buildings and vegetation*

<sup>32</sup> Proof of Evidence: Heritage January 2024, Page 20, paragraph 3.22 and 3.23

*and set beyond the curtilage of the asset and intervening agricultural land. The proposed development is anticipated to result in a small degree of harm to the significance of Manor Farmhouse. This would be less than substantial and at the low end of the spectrum. Following development, there will be no physical change to the asset itself, nor its outbuildings, drive and grounds, position in relation to Manor Lane, views west from the principal façade nor closest agricultural land beyond its curtilage in other directions.*<sup>33</sup>

126. Taking into account the heritage evidence in this case, I find, as do the main parties, that the proposal would result in no greater than less than substantial harm as defined by the Framework. Moreover, for similar reasons to those found by Ms Stoten, in articulating the extent of this harm<sup>34</sup>, I find that this harm is low in magnitude.
127. With regard to the Registered Park and Graden (RPG) at Wroxall Abbey (shown on Image 3 as a light green) whilst I note the points raised by the Campaign to Protect Rural England (CPRE) Warwickshire branch, I note that there is a clear and distinct separation between the application site and the RPG. Indeed, the heritage assessment undertaken is clear in that 'the site is not contiguous with the parkland, but rather separated from it by intervening agricultural land.'<sup>35</sup> As found by the heritage witness before the Inquiry, I also find that the proposal would not result in any harm to this designated heritage asset.
128. For similar reasons, and in accordance with the assessment and evidence of Ms Stoten<sup>36</sup>, I do not find that the proposal would result in any harm to the settings of the listed buildings identified by CPRE in the form of Eastern Lodge and Gate Piers.
129. With regard to other heritage assets within the surrounding area, as seen in Image 3, there are significant distances between them and the application site. Furthermore, there was little evidence was before the Inquiry indicating that the application site made any contribution to their significance through setting or any other associated link. As such, I do not consider that the proposal would fail to preserve the setting of these other heritage assets; whether in statutory duty or policy terms.
130. Nonetheless, less than substantial harm of a low magnitude to the setting of a Grade II listed building has been found. Paragraph 208 of the Framework indicates that in such situations, the less than substantial harm should be weighed against the public benefits of the proposal.
131. A large part of the Applicant's case in setting out Very Special Circumstances includes benefits arising from the proposal. Therefore, to not unnecessarily overcomplicate matters, I conclude on this matter within the overall planning balance section of the Report. However, to provide clarity at this stage, I find that the public benefits cited in this case (which I come onto shortly) outweigh the less than substantial harm in respect of heritage assets in this case [161].

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<sup>33</sup> Ibid, page 21, Paragraph 3.27

<sup>34</sup> As indicated in the PPG at Paragraph: 018 Reference ID: 18a-018-20190723

Revision date: 23 07 2019

<sup>35</sup> Proof of Evidence: Heritage January 2024, page 30, Paragraph 3.50

<sup>36</sup> Ibid, pages 30 to 32, Paragraphs 3.51 to 3.64



This is a similar position to the three main parties in terms of heritage harm arising.

132. WCC Archaeology initially advised that the archaeological implications of the proposal could not be adequately assessed based on the available information and recommended that further archaeological evaluation was undertaken prior to determining the application. It was envisaged that this would comprise a programme of trial trenching.
133. Nevertheless, following discussions between the applicant, WCC Archaeology and WDC a consensus view was reached whereby it was agreed that archaeological matters could be adequately addressed through appropriately worded pre-commencement planning conditions. This would allow for trial trenching to take place and, subject to the findings of the archaeological investigation, provide a scheme of mitigation. This is considered to be a proportionate approach in this case.<sup>37</sup> I see no reason to disagree, and concur with this approach and assessment in this instance.

### **Other matters**

134. A number of other matters have been raised by interested parties. To assist the SoS, I now consider most of these matters here, where not already addressed elsewhere in this Report.
135. With regard to Green Belt matters, these are considered in detail elsewhere in this Report, so I do not seek to reiterate the concerns raised again here.
136. I note that within its Closings, the Local Planning Authority consider that '*The loss of a very small amount of BMV land is attributed very minor harm in the planning balance*'.<sup>38</sup> However, it is unclear as to the policy basis for this attribution. The proposal would not lead to the significant development of agricultural land of a higher quality given that 98.5% of the site is assessed as not within the classification of BMVAL. Furthermore, the land would not be lost but instead used for a dual purpose for pastoral and solar farming during the life of the proposal. I do not, therefore, find that the proposal would result in the very minor harm suggested by the Council. What is more, I would suggest that this does not form a justification for the refusal of permission.
137. With regard to the use of commercial and residential rooftops, whilst noted, there is no explicit planning policy basis for refusing permission on this basis. Clearly rooftops are part of the solution in dealing with the need to move to a low carbon future. However, the creation of renewable energy in locations such as that proposed here which are located within a reasonable distance of a point of connection into the grid will also contribute positively to the government's clear aims to create renewable energy from sources such as solar farms.
138. Moreover, it is the overall scale of larger solar farms (which the scheme in this case is relatively small being around 23.1MW) which are likely to provide the greatest and quickest gains in terms of solar energy. Nonetheless, every MW of

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<sup>37</sup> Officers Committee Report, page 26

<sup>38</sup> LPA Closings, paragraph 7.1, as set out in the Proof of Evidence of Mr Walker, Paragraph 5.6

energy generated by solar development is one less MW generated by carbon-based generation such as burning gas.

139. In terms of there being no direct local benefits to residents, this is to take a narrow view of this point. Firstly, there is little evidence that local residents directly benefit from the use of the land for agricultural purposes – there was no evidence that the sheep currently grazing on the land or arable crops grown there directly feed the local community. Secondly, the nature of the electrical network is such that it is very difficult to directly link a single solar panel energy creation to a specific local building unless it is on a closed network. Rather, the approach is that the renewable energy created at the solar farm is managed through systems such as Battery Energy Storage Systems (BESS) and inverters, and then feed into the national power network. This electricity is then distributed onto a number of users which include residential dwellings, businesses, schools and hospitals, for example.
140. In this respect, there will be a direct wider public benefit to the community as a whole through powering these services and/or buildings. There would also be an indirect benefit in that the greater use of renewable energy should help address the critical and urgent challenges of climate change by reducing the use of fossil fuels. This factor does not, therefore, provide justification for the refusal of permission in this case.
141. With regard to highway safety, after the initial construction period visits to the site would be infrequent for maintenance of the panels and associated equipment, and for pastoral farming. With a limited number of residential properties in close proximity to the application site, and the fact that planning conditions can be used to control traffic during the construction phase, I do not find that this forms a reason for the refusal of permission.
142. In terms of noise, the local Environmental Health team do not raise an objection to the proposal. They have suggested a condition, which the main parties agree could be imposed. Similarly, in terms harm to human health from electromagnetic field, there is little detailed evidence that suggests that the proposal would give rise to such effects – either from the Environmental Health team or the local NHS providers. Given the distances between the application site and residential dwellings, and the intervening vegetation and highways (including the A4177), I concur with the views of the local Environmental Health team and do not suggest that either matter provides justification for the refusal of permission.
143. Concerns have been raised in terms of ‘green-washing’ and the use of copper, nickel and cadmium whose extraction and processing processes can be very polluting. However, the Applicant has made clear that the solar farm and battery store will use equipment which, as a minimum, is licensed appropriately for supply and use in the UK.<sup>39</sup> With little evidence to the contrary, this does not form a basis for the refusal of planning permission.
144. With regard to the proposal creating a precedent; planning law and practice is clear in that each and every proposal is considered on its own merits. Granting

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<sup>39</sup> Planning Proof of Evidence, Appendix 4 – Applicant Response to Public Comments, page 4 of 7

permission in this case does not mean that a proposal elsewhere in the Green Belt would be acceptable. This is because there are likely to be different factors before the decision maker in each case. Similarly, the refusal of permission in this instance does not mean that a proposal elsewhere in the Green Belt would not be acceptable. Each case turns on its own facts, and it would be an error to attribute the argument of precedent setting any weight in considerations in this case.

145. With regard to alternate sites at WW2 airfield at Honiley /Fens End or adjacent to the High Speed 2 (HS2) tracks, the Applicant has submitted information, including on alternative sites<sup>40</sup>. However, most of these alternate sites either lie within the Green Belt, but also have topographical issues in land levels or proximity to heritage assets. Once those considerations are taken into account, this limits their availability and/or practicality. In terms of sites adjacent to the HS2 tracks, I was not supplied with details of the specific locations of these. Moreover, it is unclear as to whether these would result in a similar level of renewable energy creation to that proposed on the application site. The latter of which has a nearby connection point and has been designed to take into account various planning requirements.
146. Whilst areas adjacent to the HS2 rail link may well come forward, providing further opportunities to meet the urgent need for renewable energy creation and security, that is not justification in itself to refuse permission for a considered and detailed scheme such as that proposed here.
147. In terms of 40 years not being a temporary period, it is clear that planning conditions can and are used to secure the removal of solar developments at the end of their intended lifespan. The agricultural land underneath and around the panels will stay. The harm to the Green Belt would, with the removal of the proposed development at the end of the 40 years, reversed. The ecological and biodiversity benefits on the site would remain even with the removal of the solar development from the site at the end of the 40 years. Therefore, whilst 40 years is a period of around half a lifetime, it is still temporary compared to other developments or uses of the land such as housing or planting an oak forest on it.
148. I note the suggested harm to local business, including a guest house. However, given my reasoning on character and appearance, and the landscape and visual evidence before the Inquiry, I do not consider that the proposal would likely lead to any discernible decrease in the number of visitors to the local area.
149. In terms of the effect on wildlife and hedge planting, some interested parties suggest that this would be harmful to the area and no mitigation is offered. However, there are clear-cut biodiversity gains on the site which can be secured by conditions. I do not, therefore, find that this justifies the refusal of permission.
150. With regard to the planning committee being biased, there was little evidence before the Inquiry that supported this assertion. Councillors on the planning committee, whom are elected by their local communities, appear to have considered the case officers report – which appears to have been fairly

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<sup>40</sup> Planning Proof of Evidence, Appendix 2, Map 7a, 7b and 7c Alternatives V2

comprehensive – and also took into account the numerous representations made by interested parties. The planning committee then resolved to grant planning permission. Whilst this was contrary to the officer recommendation, the resolution itself and the planning reasoning for it appears to have been rational and took into account planning policy. The apparent bias of the planning committee or any of its members is, strictly speaking, not a planning matter. But for the avoidance of doubt, this does not provide a reason for the refusal of permission.

151. In terms of fire safety, such matters could be addressed via a condition requiring a detailed Battery Safety Management Plan. This is not uncommon on planning applications for solar farms that have battery storage.
152. With regard to being on the flight path of Birmingham International Airport and impact on systems such as Very High Frequency Omni Directional Range (VOR) at the Inquiry my attention was drawn to Bournemouth and Stansted airports. The former has a solar farm to the north, and the latter has permission for solar panels nearby. In both instances, the proposals were granted with this not being an issue. In the proposal here, the development is farther away from nearby airports. With little evidence to suggest the proposal would result in any adverse impacts in this respect, I do not find that this factor provides justification for the refusal of permission in this case.
153. Whether cumulatively or individually, I do not find that these matters raised by interested parties provide justification for the refusal of permission in this instance.

### ***Other appeal or planning decisions or recommendations***

154. Around 30 Inspector appeal decisions or recommendations were put before the Inquiry. These are listed within Core Documents 7.1 to 7.33 respectively. They are material considerations in the consideration of the application here.
155. At the same time, the SoS will be aware that the decision-maker in each case will make a decision on the basis of the evidence before them in that situation. The nature of these other schemes vary in size and geographical location across England (for example sites in Cornwall to Essex, whereas this site is in Warwickshire) where both the site and local policy context can differ.
156. In their Closings, the Applicant is the party who draws attention to many of these decisions, and it is mainly the underlying reasoning given by the decision-maker which the attention of the Inquiry is directed towards. For succinctness, I have sought to incorporate similar reasoning within drawing my conclusions on the proposal here. Likewise, the SoS in exercising their planning judgement will do the same.

### ***Consideration of potential Very Special Circumstances (VSC)***

157. Put simply, both local and national development plan policy require that proposals that amount to 'inappropriate development' in the Green Belt should be refused in the absence of clearly demonstrated very special circumstances (VSC).
158. I also acknowledge that the Rule 6 Party suggests only that a factor is only a benefit or other consideration if there are wider environmental benefits in line

with Paragraph 156 of the Framework. However, I would suggest that the correct interpretation of this does not preclude other considerations which may also contribute towards the VSC needed to be demonstrated<sup>41</sup>. I have therefore reflected on the considerations suggested by the Applicant in this instance.

159. In the Proof of Evidence of Mr Asquith, the Applicant sets out 13 benefits and other material considerations that they consider weigh in favour of the project<sup>42</sup>. I consider each in turn below:

**i) *The contribution of the project to meeting renewable energy and low carbon policy and targets and addressing the challenge of climate change by reducing carbon emissions including reducing 6,000t/ year carbon emissions***

160. The Applicant sets out that the need for renewable energy is urgent and compelling. A large amount of large-scale solar must come forward to realise the Government's ambitions<sup>43</sup>. This is expressed in a variety of national policy and guidance. This is a compelling policy position which supports the urgent and current need for renewable solar energy to contribute to the nation's energy and environmental needs. An urgent need that all proposals, including those smaller than the thresholds for NSIP/CNP schemes, can make positive contributions towards. In such circumstances, I concur with the substantial weight afforded to this factor found by the Rule 6 Party and the Applicant.

161. Furthermore, I find that this factor is a public benefit which is sufficient in itself to outweigh the less than substantial harm found to the setting of the Grade II listed building known as Manor Farm.

**ii) *Generating electricity locally reducing the UK's reliance on imported energy and hence increasing the UK's energy security***

162. It is recognised that solar generated energy also has an important role in delivering the government's goals for greater energy independence<sup>44</sup>. The risk of severe cold weather in the UK winter time is a real and immediate issue as seen during weather events such as the 'Beast from the East'. Added to this are recent escalations and conflict in both the Middle East and Europe which has affected shipping of LNG to Western Europe.
163. In this context, the proposed development would supply the equivalent of 6,000 homes with zero carbon electricity made from sunlight. Moreover, this is the equivalence of supply and with the current set up of the power network, this can also be energy that is used or distributed to schools, hospitals and businesses as much as residential dwellings. In this respect, it would assist easing the UK's energy security problems. Accordingly, I agree with both the Applicant and Rule 6 Party in that significant weight should be afforded to this factor.

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<sup>41</sup> Closing Submissions for the Applicant, page 9, paragraph 21

<sup>42</sup> POE Mr Asquith, pages 51 to 59, paragraphs

<sup>43</sup> Applicant's Closings, page 17, paragraph 51

<sup>44</sup> CD6.19, EN-3, Paragraph 2.10.10

**iii) *By using a freely available source of energy to convert to electricity for consumers, reducing the strength of the link between power prices UK consumers pay and global gas prices, hence reducing the scope of geo-political activities such as conflicts involving major gas producing nations to inflate UK energy prices***

164. The Applicant sets out that 'electricity prices have eased since last winter but the Government is no longer subsidising them so consumer pain remains around the same level. Sunlight is free and the cost of converting it to electricity relates to the cost of installing and operating the infrastructure to do so. These costs are generally lower, more predictable, and uncorrelated to global gas or oil prices. As more and more renewable electricity generation and storage capacity becomes available so the prices consumers pay will de-couple from global gas prices, reducing the influence of energy in geo-politics and reducing costs to consumers. The proposals will contribute to that trend'<sup>45</sup>.
165. The Applicant suggests that this factor should be afforded significant weight. The Rule 6 Party suggests that this should be afforded no weight and it is not a wider environmental benefit<sup>46</sup>. Given the scale and quantum of energy created it is unlikely that the proposal would result in a significant contribution to reducing energy prices. That said, it is recognised that solar energy is a relatively cheap form of energy to produce with the source material harvested not restricted by logistical chains in the way that gas for example is. Even a scheme producing energy equivalent to powering around 6'000 homes makes an important contribution to reducing dependency on other electricity generating power sources, which typically cost more. As such, I would suggest that this factor is afforded moderate weight in favour of the proposal.

**iv) *The Biodiversity Net Gain is significant at 135.9%***

166. The statutory requirement for Biodiversity Net Gain (BNG) is 10%. It should be noted that applications made before 12 February 2024 are not subject to mandatory BNG. Nonetheless, the Applicant has submitted a Biodiversity Metric which demonstrates that the proposal could achieve a BNG of around 135.9%<sup>47</sup> and a 10.6% in hedgerow units<sup>48</sup>.
167. In terms of weight they suggest should be attributed to BNG, the Rule 6 Party's position is unclear on this matter<sup>49</sup>. They point to the fact that there is a low ecological baseline on this site, which in turns results in a high percentage increase compared to a site with a higher starting point. They also point to other avenues for BNG to be achieved, such as DEFRA's Environmental Land Management Scheme (ELMS). To the contrary, the Applicant points out that there is no evidence that the ELMS is either available for the application site or that if it were, that it could achieve the BNG of a solar farm.

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<sup>45</sup> POE of Mr Asquith, page 53

<sup>46</sup> Rule 6 Party BHHW Closings, page 7

<sup>47</sup> CD 3.3 *Biodiversity Metric 4.0*

<sup>48</sup> Applicant's Closings, page 22, paragraph 65

<sup>49</sup> Rule 6 Party BHHW Closings, page 7. Whilst the Rule 6 Party provide commentary on the Applicant's position, they do not provide a clear indication of the weight that should, in their view, be afforded to this factor.



168. In any case, there can be a number of schemes and ways in which biodiversity can be improved or increased on land. The difference in this case is that the proposal has been demonstrated to achieve these values as a result of the proposal and its associated enhancements. These are positive ecological and biodiversity benefits which have a realistic possibility of being delivered on site. They would therefore make an important contribution to addressing the ongoing ecological emergency<sup>50</sup>. Such benefits could reasonably be secured by planning condition.
169. Taken in the round, whilst noting the mathematical difference between percentage increases and absolute increases, I nonetheless find, that the proposal would result in a significant BNG. These are biodiversity gains which I consider should be attributed substantial weight. This is because, as the Rule 6 Party point out, the biodiversity baseline of the site is low and the proposal would result in a biodiversity net gain of well over 100%. This would be a significant gain for biodiversity in the context of the application site.
- v) *Enabling recovery in soil carbon and soil health generally, increasing the carbon benefits of the project, reducing speed and volume of surface water runoff and improving runoff water quality***
170. The Applicant suggests that this factor should be afforded moderate weight as a benefit of the proposal. The Rule 6 Party suggests that this factor should only be attributed 'limited' weight. This is due to the fact that the land is greenfield, it is not contaminated, there is no evidence of flooding, it is a working arable/sheep farm – which points to a healthy soil quality, there is no evidence that the farm cannot produce food for the next 40 years and there is no chemical analysis of the soil against which any soil quality can be judged.
171. It is common ground between the main parties that the 98.5% of the application site is not classified as 'Best and Most Versatile Agricultural Land' (BMVAL). It is also common ground that agriculture would continue on the site as a result of grazing sheep. It should be noted that sheep grazing already takes place on parts of the site – a fact not disputed by the main parties. It is, therefore, clear that the site has and will continue to make a positive contribution to agriculture.
172. Indeed, to that end, I suggest that the site would continue in a dual use for both agriculture and solar farming. These are benefits which can be achieved inclusive of each other, and in that way provide a more efficient and effective use of the land than solely being used for sheep grazing. There was little evidence before the Inquiry that disputed the fact that allowing the land to 'rest' for a period of 40 years will be beneficial to soil health more generally. In light of the benefits of dual use, that the proposal would allow the continued grazing of the land for sheep and pasture, and the benefits to soil health, I find that this factor should be afforded moderate weight in favour of the proposal.
173. In terms of surface water run-off and flooding, I saw during my various site inspections that the site and local area were subject to large puddles or pools of standing water. This included within the application site itself. Admittedly, this was during a period of heavy rain preceding some of my visits – especially during

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<sup>50</sup> As explained by Mr Murphy in cross-examination / questioning

the week of the Inquiry – which may not be representative of the situation for most of the year. Nonetheless, the opportunity to reduce the speed and volume of surface water runoff should be afforded limited weight in favour of the proposal, as any improvements in this respect, whilst related directly to the development and its needs, will have associated passive benefits for the wider area.

**vi) Providing two new stretches of permissive footpath**

174. The provision of two short stretches of permissive footpaths are attributed limited weight by the main parties. Given their proposed limited length, I concur with the suggested weight afforded by the main parties on this factor.

**vii) The proposals will assist the local rural economy by providing secure income to a farming business through rent. They will also assist Warwick District Council more generally as business rates, which are not payable by conventional farming businesses, will be paid.**

175. The Applicant affords this factor moderate weight. The Rule 6 Party affords this limited weight. Limited information was given on the specific details of the level of income in comparison to the application site being used solely for agriculture. This is typically a private matter between the landowner and other involved parties. Nonetheless, there is no dispute between the main parties, nor nothing before the Inquiry, which suggests that the proposal would not provide a secure income for the farming business through the rent of the land. Similarly, as indicated elsewhere, the land can continue to be used for agriculture, so there would continue to be farming income from those activities.
176. In terms of business rates, at the Inquiry, the Applicant provided calculations showing that the annual rate payable would be around £75,955.20 per year<sup>51</sup>. This would amount to approximately £3,038,208 over forty years<sup>52</sup> (as a flat calculation without any changes in the rates or inflation). This compares to the fact that agricultural land and buildings do not normally attract business rates.<sup>53</sup> Clearly, nearly £76k per annum is not an insignificant amount.
177. At the same time, there is no comparable opportunity cost calculations provided – for example what the rateable or council tax return would be if the land was instead used for housing (suspending momentarily other planning considerations such as Green Belt policy). Indeed the only comparator is that between the agricultural use of the land which provides no business rate, and a solar development providing around £76k per annum.
178. Pulling all of these elements together in respect of this factor, I concur with the suggestion of the Rule 6 Party that this factor should be attributed no more than limited weight in this instance.

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<sup>51</sup> ID6

<sup>52</sup> £75955.20\*40 = 3038208

<sup>53</sup> For further information see for example: <https://www.gov.uk/apply-for-business-rate-relief/exempt-buildings>



**viii) The proposals make use of the opportunity presented at the site to connect to the National Grid and to use capacity that exists at Berkswell Substation to increase the amount of renewable power that the grid transmits and distributes. There is no alternative site offering the benefits of that proposed that would cause no or less harm to the Green Belt.**

179. The Rule 6 Party consider this factor should be afforded no weight. The Applicant suggests substantial weight should be attributed to it.
180. It is an established fact that there is capacity at the Berkswell Substation to accommodate further energy transmission and distribution. At the same time there are limited locations for any renewable or low carbon within a radius of 7km from the substation. This can be seen on Image 2, where nearly all the land surrounding the substation is subject to Green Belt designation or part of an established urban area such as Kenilworth or Balsall Common. This is before one takes in to account further policy considerations such as heritage assets and/or the grade of agricultural land.
181. Pragmatically, given the pressing need for making sure the UK has a secure energy supply, to reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses<sup>54</sup>, connections such as that found at Berkswell Substation need to be utilised. Such utilisation will assist in the UK achieving these aims. The Guidance goes on to indicate that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
182. I note the argument put forward by interested parties in that there are potentially thousands of grid connections across the UK. Interested parties have also pointed out that subsidies exist in the form of the Contracts for Difference (CfD) scheme which could be used to connect solar developments located further than 5km from a connection point. Nonetheless, in both instances there is little objective study of what planning restrictions may affect other such grid connections – for example landscape designations such as Areas of Outstanding Natural Beauty (AONB) or ecological considerations such as protected species or Sites of Special Scientific Interests (SSSIs) – which do not arise in this instance.
183. The facts in this case are that there exists a grid connection in this location which is available and could be used quickly. Accordingly, I afford this factor moderate weight in favour of the proposal.

**ix) The proposals make use of the opportunity presented at this largely flat site to utilise bifacial single axis tracker solar panels, which produce more electricity overall and particularly during times of peak demand.**

184. The national Planning Practice Guidance sets out that particular factors a local planning authority will need to consider include the energy generating potential,

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<sup>54</sup> Planning Practice Guidance: *Planning for renewable and low carbon energy: introduction, Why is planning for renewable and low carbon energy important?* Paragraph: 001 Reference ID: 5-001-20140306 Revision date: 06 03 2014 <https://www.gov.uk/guidance/renewable-and-low-carbon-energy#particular-planning-considerations-for-hydropower-active-solar-technology-solar-farms-and-wind-turbines>

which can vary for a number of reasons including, latitude and aspect<sup>55</sup>. The proposal here would utilise Single Axis Tracker (SAT) technology and panels. This means that through the day, the panels would track the sun's path through the sky in order to maximise energy generation. I heard at the Inquiry that this technology is not possible to be used 'everywhere'<sup>56</sup>. However, it is possible to use it for the application site.

185. The Rule 6 Party considers that this is not a benefit as decision-makers should expect a developer to use the latest technology without crediting it a standalone benefit<sup>57</sup>. The Applicant considers that this factor should be a significant benefit in favour of the proposal.
186. Making the most efficient and effective use of land is a central tenet of land use planning. In this respect, the proposal's use of efficient technology is a positive factor in favour of the proposal as it is likely to require less land use than fixed panel arrays whilst also producing more energy overall. As such, this factor is afforded substantial weight in favour of the proposal.
- x) 98.5% of the proposed site is not Best and Most Versatile agricultural land, unlike much of the rest of the area within similar proximity to Berkswell Substation.**
187. The Applicant considers this benefit to be of limited weight. The Rule 6 Party suggests that this is a 'no benefit' factor. This is because it is predicated on the fact that other solar farms might be constructed on land with more BMVAL<sup>58</sup>.
188. In different ways, I disagree with both parties. Firstly, I should make it clear that this is not a case where it is argued that there is a policy conflict with the significant development of BMVAL taking place. Moreso, this is a case where one has to determine the weight to be attributed to this factor in the context of a Green Belt harm versus Very Special Circumstances balance.
189. Secondly, there is a benefit in using agricultural land of poorer quality. Indeed that is the clear direction given in both the Framework<sup>59</sup> and the Guidance<sup>60</sup> in respect of using areas of poorer quality over those of a higher quality. In agricultural terms, the proposal would be using land of poorer quality (as it is not within the parameters of the BMVAL as defined by the Agricultural Land Classification assessment).
190. Thirdly, in practical terms, the use of poorer agricultural land such as the application site means that there is less demand to use areas of BMVAL or to create significant developments on such land.

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<sup>55</sup> Planning Practice Guidance: *Planning for renewable and low carbon energy: introduction, What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?* Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 03 2015

<sup>56</sup> Oral evidence of Mr Asquith

<sup>57</sup> Rule 6 Party Closings, page 9

<sup>58</sup> Rule 6 Party Closings, page 9

<sup>59</sup> Footnote 62

<sup>60</sup> Planning Practice Guidance: *Planning for renewable and low carbon energy: introduction, What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?* Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 03 2015

191. Taking these factors into account, I consider that this is a positive factor in favour of the proposal. Moreover, it is one that should be afforded moderate weight in favour of the proposal for the aforesaid reasons<sup>61</sup>.

**xi) *National Policy Statement EN-1 (CD6.18) provides that solar projects determined under the Planning Act 2008, being Critical National Priority infrastructure, pass the test of very special circumstances required for development to be acceptable in Green Belts.***

192. It is common ground between the main parties that this application is not for a Critical National Priority (CNP) project as defined in the NPSs, nor is it an energy development which is nationally significant infrastructure project (NSIP) under the *Planning Act 2008*. Nonetheless, EN-1 may be a material consideration for applications under the *Town and Country Planning Act 1990* (as amended)<sup>62</sup>. Whether policies in EN-1 are material and to what extent should be judged on a case-by-case basis<sup>63</sup>.

193. In this case, the proposal is for a renewable energy solar farm creating up to 23.1MW of energy. It therefore falls below the current threshold for NSIP; but it is of a type that, were it to exceed 50MW, be subject to the Policies of EN-1 and EN-3. If it had that amount of generating capacity, it would also be classed as a CNP.

194. Why is this important? The relevance here is that for CNP EN-1 indicates that:

*'Where residual non-HRA or non-MCZ impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of infrastructure. Therefore, in all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of these residual impacts...*

*As a result, the Secretary of State will take as the starting point for decision-making that such infrastructure is to be treated as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances.*

*This means that the Secretary of State will take as a starting point that CNP Infrastructure will meet the following, non-exhaustive, list of tests:*

- *where development within a Green Belt requires very special circumstances to justify development;...*<sup>64</sup>

195. Put another way, as suggested at the Inquiry by Mr Asquith<sup>65</sup>, for CNP there has been a 'remarkable' policy shift. Once mitigation has been applied – which for example could be through mitigation such as the proposed landscaping – any

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<sup>61</sup> To be clear, even were I to attribute 'limited' weight as suggested by the Applicant, or even 'no weight' as inferred by the Rule 6 Party, this would not tip the Green Belt balance sufficiently in the other direction.

<sup>62</sup> CD6.18, page 6, paragraph 1.2.1

<sup>63</sup> CD6.18, page 6, paragraph 1.2.2

<sup>64</sup> CD6.18, page 55, paragraphs 4.2.15 to 4.2.17

<sup>65</sup> In oral evidence. See also Mr Asquith's Proof at Paragraph 7.47 and Applicant's Closings at page 10, paragraph 23.

residual impacts; for example the harm to Green Belt, the starting point is that the development would meet the requirement for VSC to justify development.

196. However, the starting point in this instance is that the proposal is not a NSIP or CNP so strictly speaking this policy and approach does not apply here. Indeed, the Applicant does not pursue this point in terms of applicability. Instead, they point to the fact that EN-1 is an important material consideration<sup>66</sup>.
197. In my view, it would be odd if EN-1 has no materiality in this case given the nature of the proposal here – especially as there are few other documents where government specific energy policy is explained in such detail as provided within the NPS documents. At the same time, it is not directly applicable and would be an error to transpose the policy onto a non-NSIP scheme such as this.
198. Nevertheless, I consider that EN-1 in its totality is a material consideration in this case. Furthermore, the 'remarkable' shift and clear policy steer that it gives in relation to Green Belt and solar developments is pertinent in this case. In this respect, and as a matter of planning judgement, I consider that it is a factor which should be afforded moderate weight in favour of the proposal in this case.

**xii) Beneficial effects to landscape elements**

199. The Rule 6 Party indicates that this should be considered 'no benefit'<sup>67</sup>. The Applicant suggests that the improvements to the landscape should be afforded limited weight. They also acknowledge that there would also be some moderate landscape and minor visual harm, which Mr Asquith affords limited weight<sup>68</sup>.
200. In terms of landscape, the proposal would result in improvements to the hedgerows, trees and field patterns on the site. These are benefits which should be afforded limited weight in favour of the proposal.

**xiii) *Warwick District Council's Climate Change Action Programme (CD5.1) , part of a joint South Warwickshire initiative with Stratford-on-Avon District Council, commits to an increase from 131.4MW of renewable energy capacity across the two council areas at the end of 2022 to 730MW by 2030. Warwick's share of this has conservatively been estimated above at an additional 122MW of solar PV. The Councils are working together to make South Warwickshire as close to carbon neutral as possible by 2030. The Council's detailed plan to achieve this additional solar generation includes encouraging large scale solar generation within the forthcoming South Warwickshire Local Plan with policies that support renewable energy generation infrastructure.***

201. The Applicant affords this factor substantial weight as a positive benefit in favour of the proposal.
202. The Rule 6 Party consider that there is no programme set out to achieve this locally, nor does the adopted development plan advocate the use of Green Belt for renewable energy. However, it is important to note that the development

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<sup>66</sup> Applicant's Closings, page 10, paragraph 24

<sup>67</sup> BHHW Closings, page 10

<sup>68</sup> Applicant's Closings, page 23, paragraph 67 and page 24, paragraph 71

plan for the area does not provide a specific positive strategy for energy from renewable and low carbon energy and heat, nor identify suitable areas for renewable and low carbon energy sources, and supporting infrastructure, as required by Paragraph 160 of the Framework.

203. The fact that the proposal would contribute towards the target for a specifically defined initiative which itself seeks to increase renewable energy capacity in this area should be afforded substantial weight in favour of the proposal. I note the point made by the Rule 6 Party that this would, in effect, be 'double counting' with factor i) above. However, I do not find that this prevents it from being a specific factor that weighs positively in favour of the proposal in its own right. Point i) is about the contribution to broader aims of reducing carbon emissions and so forth, whereas this factor (xiii) is about how it aligns with local aspirations that have been adopted by the local authority for this area.

### ***Conclusion on whether Very Special Circumstances outweigh harm***

204. The SoS will be aware that Paragraphs 152 and 153 of the Framework do not require a particular mathematical exercise to be undertaken in assessing harm and very special circumstances in Green Belt-related development. Rather, it requires a single exercise of judgement to assess whether there are very special circumstances which justify the grant of permission notwithstanding the particular importance of the Green Belt.
205. This point is relevant here as the main parties broadly agree that there is 'substantial' harm arising from the proposal by way of inappropriateness, but there is also agreed to be 'substantial' positive weight to the renewable energy generation arising from the proposal.
206. As a matter of planning judgement, and taking into account all the factors cited above and within this Report, I find that the other considerations in this case clearly outweigh the harm to Green Belt I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

## **Conditions**

207. A number of conditions have been suggested and agreed between the main parties were the SoS minded to grant planning permission. The reasons for the imposition of each condition was given
208. Having considered the suggested conditions (from Condition 1 to 21) against Paragraph 56 of the Framework, I find that these conditions would all meet the tests set out in this Paragraph and would conform with the Guidance. Were the Secretary of State minded to agree with the recommendation of this Report to grant planning permission, it is recommended that the 21 suggested conditions listed in Annex A are imposed for the reasons set out in the Annex. For the avoidance of doubt, the relevant planning condition itself is preceded by the condition number and ends before the word 'REASON' for each condition.

### ***Grazing management plan condition(s)***

209. At the Inquiry, there was discussion of the use of a grazing management plan condition. The use of such condition was suggested to address concerns of the

Rule 6 Party, who questioned whether sheep grazing would take place on the application site if the proposal was granted. (Bearing in mind that sheep grazing already takes place on parts of the site). There were two different example conditions suggested from other appeal decisions on this matter, which I have included in Annex A as Condition 22 (a) and Condition 22 (b).

210. The Guidance sets out that rigorous application of the six tests can reduce the need for conditions and it is good practice to keep the number of conditions to a minimum wherever possible<sup>69</sup>. The first test sets out that a condition should be necessary. Given that any other agricultural use of the land would not typically require planning permission, and the applicant is clear in terms of the existing and proposed agricultural use of the land for sheep grazing, it is not necessary to impose such a condition.
211. Moreover, it would be onerous and unreasonable to expect the removal of the entire solar farm and associated infrastructure were sheep not grazed during a period of 12 months. There may be a number of reasons why sheep are not grazed on the land for a period of 12 months – for example if restrictions are brought in for health reasons during a disease outbreak, or the landowner or farmer decides that they wish to graze different animals on the land such as goats or cattle. To require the removal of the proposed infrastructure would be unreasonable in such circumstances. Accordingly, I do not consider that the suggested condition(s) would meet the sixth test set out in Paragraph 55 of the Framework in terms of being reasonable in all other respects.
212. Nonetheless, should the SoS be minded to grant permission, then they will need to consider whether or not to impose such a condition. I have therefore included the necessary text in the Conditions section should the SoS deem that such a condition meets the six tests of Paragraph 56 of the Framework.

#### *Soil Management condition*

213. A condition has been suggested in respect of ensuring that the soil could be used for arable crop production farming at the end of the proposed development's life cycle. Given that no soil is to be removed from the site, I am unconvinced that such a condition is necessary in this instance. Nonetheless, should the SoS be minded to grant permission, this condition is provided at number 23.

#### **The Planning Balance**

214. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
215. The Rule 6 Party considers that the proposal would be contrary to LP Policies CC2 b), BE1 a) and b), NE4, DS18, DS5. As such, when considered against the plan as a whole, the proposal would not be in accordance with it. They also considered that the failure to demonstrate that the VSC justify the proposed

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<sup>69</sup> Paragraph: 018 Reference ID: 21a-018-20190723 Revision date: 23 07 2019



development in the Green Belt meant that the proposal would be contrary to Policies within the Framework (which is a material consideration).

216. The proposal would also result in other harms – that being less than substantial harm to the setting of the Grade II listed building, Manor Farm at the lower end of the scale [126]. However, similar to the main parties, I find that this less than substantial harm is outweighed by the public benefits arising from the proposal in this case.
217. There is also harm identified to the character and appearance including landscape [116].
218. I note that the Local Planning Authority consider that there would be some harm arising from the loss of BMVAL [54]. Respectfully I disagree, for the reasons given at [136, 169, 187-191].
219. In terms of development plan policies, the proposal would not conflict with Policy CC2 given that the proposal has been designed to minimise any adverse impacts on the natural environment. The requirements of Policy BE1 are met in that the proposal would harmonise with the existing land use, local topography, landscape features, and the field pattern through the reinforcing of existing hedgerows.
220. Similarly, whilst there would be an adverse effect on landscape this would be for a temporary period and severely localised. The use of landscaping, continued pastoral farming on the land and reinforcement of existing or historic landscape features such as field patterns and hedging would mean that the proposal accords with Policy NE4.
221. With regard to Policy DS18, substantial weight is given to the harm arising to the Green Belt through the development being defined as inappropriate development, the effect on openness of the Green Belt and the conflict with one of the purposes of Green Belt. However, as I have found that the VSC justify the proposal in this case, the proposal would accord with Policy DS18 [200-202].
222. In terms of Policy DS5 this is a general policy which sets out the Council will take a supportive approach to the grant of permission, reflecting the presumption in favour of sustainable development set out in the Framework. Whilst I have found that harm arises in this case, it is possible to either mitigate or address this harm, or that VSC justify the proposal in this case. Accordingly, it follows that the development proposed here should be considered as a sustainable development.
223. I therefore find that, when considered as a whole, the proposal would accord with the adopted development plan and the planning balance in terms of the LP for the area is that permission should be granted without delay.
224. There are also material considerations which weigh in favour of the proposal, these include those set out in the Framework including Paragraph 156, where the wider environmental benefits associated with increased production of energy from renewable sources may be part of the very special circumstances that justify the project to proceed.
225. There are also a number of other material considerations which weigh in favour of the proposal, including the National Policy Statements designated in January 2024 such as EN-1.

226. Whilst acknowledging the harms arising in this case, including to the Green Belt, when considered as a whole, I find that the planning balance of both national and local planning policy point clearly towards the grant of permission in this case.

## **Matters the SoS wished to be informed of**

### ***The extent to which the proposed development is consistent with Government Policies for protecting Green Belt land in the National Planning Policy Framework ("NPPF" – Chapter 13);***

227. Mr Asquith, for the Applicant, concludes that applying the relevant methodology, including at Paragraph 156 of the Framework, which allows for the purpose of renewable projects to be taken into account as part of a VSC argument, the proposals are highly consistent with the approach to protecting Green Belt land in the Framework – this is a case where the harms are clearly outweighed.
228. Given my reasoning in this Report, I find that whilst the proposal would result in harms to the Green Belt, to the setting of a nearby Grade II listed building and to the character and appearance of the area, these are harms which are towards the low end of the scale in effect – though I give substantial weight to the fact that there is this harm. When considered in light of either the VSC arising or the public benefits arising respectively, and also taking into account the mitigation proposed, I find that the VSC and the public benefits outweigh the harm in this case.
229. Accordingly, the proposal is considered to be consistent with the Green Belt Policies set out in the Framework.

### ***The extent to which the proposed development is consistent with Government Policies for Meeting the challenge of climate change, flooding and coastal change in the NPPF (Chapter 14);***

230. The project is clearly consistent with broader Government policy on climate change: it reduces emissions, which is an indirect positive for flooding and coastal change via sea level rise, and also directly improves runoff from the site.
231. In particular, Paragraphs 157, 159 and 163 of the Framework are relevant. The proposed development delivers against them well, for example the '*radical reduction in greenhouse gases*' the Framework seeks to achieve including by '*support(ing) renewable energy and associated infrastructure*' at Paragraph 157; being development that '*can help to reduce greenhouse gas emissions*' as set out in Paragraph 159; and by way of the recognition at Paragraph 163 that '*even small-scale projects provide a valuable contribution to significant[ly] cutting greenhouse gas emissions*' and that planning permissions should be granted if '*impacts are or can be made acceptable*'. Furthermore, it should be noted that unless schemes, such as that proposed in this case come forward, there is a high likelihood that the identified urgent and pressing need for renewable energy will not be realised.
232. Accordingly, the proposal is considered to be consistent with the Policies set out in the Framework dealing with climate change, flooding and coastal change.



***The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment in the NPPF (Chapter 14);***

233. The proposals would provide 135.9% BNG which would comply with Paragraph 186 of the Framework. It would also protect and enhance soils as sought by Paragraph 180(a) of the Framework. It should be noted that it is not suggested that any soil would be removed from the site.
234. Whilst there would be some very limited landscape harm, this would reduce over time as a landscaping scheme (which would reinforce the existing landscaping and reflect that found locally) becomes established. This mitigation would reduce this limited harm to the landscape and to the general character and appearance of the area – neither of which are identified as being anything more than general countryside<sup>70</sup>. Furthermore, the application site contains around 1.5% BMVAL, meaning that it would comply with Paragraph 180 (b) of the Framework by recognising the economic and other benefits of BMVAL.

***The extent to which the proposed development is consistent with the development plan for the area;***

235. The Applicant and the Council agree the proposals comply with the development plan read as a whole<sup>71</sup>.
236. The Rule 6 Party considers that the proposal would conflict with LP Policies CC2, BE1, NE4, DS18, and because the proposal conflicts with key policies in the Local Plan, it does not constitute sustainable development and so there is also conflict with Policy DS5. In summary, the Rule 6 Party and some interested parties consider that the conflict with these development plan policies means that the proposal would conflict with the development plan as a whole.
237. I have considered the consistency with the development plan for the area within the Planning Balance section of this Report. I have found that whilst there would be some limited harm arising (though I give substantial weight to the harm arising to the Green Belt) these are either justified by the VSC put forward, and are outweighed by the public benefits arising, and/or it is possible to reasonably use planning conditions to mitigate the harm.
238. Whilst less than substantial harm to the setting of the Grade II listed building has been found, it is common ground between the main parties that the public benefits arising in this case outweigh this harm.
239. I therefore find, when the proposal is considered in its entirety it would be consistent with the development plan when read as a whole.

***Any other matters the Inspector considers relevant.***

240. These have been addressed within this Report.

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<sup>70</sup> For example, no part of the site is designated or within an Area of Outstanding Natural Beauty (AONB) or even any local protected landscape designation.

<sup>71</sup> Applicant's Closings, page 26

## Recommendations

### *Inspector's recommendation*

241. I recommend that the application be **Granted** planning permission subject to conditions set out in Annexe A of this Report.
242. This is principally because the VSC required to justify the harm to the Green Belt arising from the proposal being inappropriate development, the adverse effect on the openness of the Green Belt for a period of 40 years and the conflict with one of the purposes of Green Belt are, as a matter of planning judgement, outweigh this harm in this case.

### *An alternative decision*

243. However, the Secretary of State may find that the other considerations suggested by the Applicant do not amount to the VSC required justifying inappropriate development in the Green Belt. If such a conclusion were found, then the SoS would find that the VSC do not exist to outweigh the harm to the Green Belt identified.
244. In such circumstances the overall planning balance would be that these harms identified are not outweighed by the benefits arising which include the creation of renewable energy for which there is an urgent need, the contribution to energy security, and the biodiversity net gains that the proposal can secure.
245. In such circumstances, I would advise that the SoS set out clearly and precisely the weight attributed to both the benefits and the adverse impacts arising, so as to avoid any ambiguity in how the overall planning balance has been struck in that decision.

*C Parker*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ross Chambers	Solicitor
<i>He called</i>	
Adam Walker, BSc, MSc	Principal Planner, WDC

### **FOR THE APPLICANT:**

Thea Osmund- Smith	Barrister, No5 Chambers
Odette Chalaby	Barrister, No5 Chambers
<i>She called</i>	
Andrew Cook BA (Hons), MLD, CMLI, MIEMA, CEnv	Landscape and visual amenity
Gail Stoten BA(Hons), MIfA, FSA	Heritage matters
Robert Asquith MA, DipUP, MRTPI, MCIWM	Planning matters

### **RULE 6 PARTY (BHHW PARISH COUNCIL):**

Andrew Murphy BA(Hons), MSc, MRTPI	Director Stansgate Planning (Planning matters)
Janet Gee	Chair of BHHW Parish Council (Landscape and visual amenity matters)

### **INTERESTED PERSONS:**

The Rt Hon Sir Jeremy Wright, KC MP	Constituency Member of Parliament
Councillor Richard Hales	District Councillor
Sheila Cooper	Local resident
Richard Holdgate	Friends of the Greenbelt (FROG)
David Clapp	Local resident and member of the Parish Council
Mrs Jennifer Slatem	Local resident (given by Chris Bird)
Phil Coathup	Local resident and member of Solar Campaign Alliance
Mark Sullivan	CPRE Warwickshire branch

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

ID1	Detailed planting plan with field references 1 to 6
ID2	Applicants Openings
ID3	LPA Openings
ID4	Statement of Richard Holdgate
ID5	Statement of Phil Coathup
ID6	Calculations of annual rate payable
ID6 A	Statement of Sheila Cooper
ID7	Statement of Sir Jeremy Wright, KC MP
ID8	Suggested additional conditions on grazing management plan and soil management

## Annexe A: Suggested Conditions

### Time limit (commencement of development)

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

**Reason:** In order to comply with Section 91 of the *Town and Country Planning Act 1990* (as amended) and to provide certainty.

### Development in accordance with approved plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing number BL-01-P01 (Site Location Plan)
- Drawing number BL-01-P02 Rev 01 (Proposed Site Plan)
- Drawing number BL-01-P03 (PV Elevations)
- Drawing number BL-01-P04 (Inverter/Transformer Stations)
- Drawing number BL-01-P05 (Internal Access Road Detail)
- Drawing number BL-01-P06 (Fence and Gate Elevations)
- Drawing number BL-01-P07 (Weather Station Detail)
- Drawing number BL-01-P08 (Substation Elevations)
- Drawing number BL-01-P09 (Control Room Elevations)
- Drawing number BL-01-P10 (Auxiliary Transformer)
- Drawing number BL-01-P11 (CCTV Elevations)
- Drawing number BL-01-P12 (Battery Container Elevations 40ft)
- Drawing number BL-01-P13 (Storage Container Elevations 40ft)
- Drawing number BL-01-P14 (Battery Fence and Gate Elevations)
- Drawing number BL-01-P16 (Indicative Cross Sections)

**Reason:** For the avoidance of doubt, to provide certainty, and to secure a satisfactory form of development in accordance with Policies BE1, CC2 and NE4 of the Warwick District Local Plan.

### Time limited permission

3. The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use in accordance with details that shall have been previously submitted to and

approved in writing by the Local Planning Authority, in accordance with condition 21.

**Reason:** To ensure that the identified adverse impacts on Green Belt, rural landscape character and visual amenity from the development only exist for the lifetime of the development and to accord with Policies BE1, CC2, DS18 and NE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Archaeology (pre-commencement condition)

4. No development shall take place until:

- a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
- b) The programme of archaeological evaluative fieldwork and associated postexcavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the Local Planning Authority.
- c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This shall detail a strategy to mitigate the archaeological impact of the proposed development and shall be informed by the results of the archaeological evaluation. The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those approved documents.

**Reason:** In order to ensure any remains of archaeological importance within the site are preserved and protected, in accordance with Policy HE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Construction Environmental Management Plan (pre-commencement condition)

5. The development hereby permitted, including site clearance work, shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the following:
  - Measures to protect habitats within the site to be retained;
  - Measures to protect the potential Local Wildlife Sites adjacent to the site as identified within the submitted Ecological Assessment Report;
  - Pre-commencement checks for protected and notable species with subsequent mitigation and monitoring;
  - An assessment of the presence of Japanese Knotweed within the site, including a management plan for dealing with this species prior to and during construction, together with details of long-term periodic checking for any recurrence and remediation action as necessary;

- Details of the location of the on-site compound area for the construction phase.

The approved CEMP shall thereafter be implemented in full.

**Reason:** To ensure that protected and notable species are not harmed by the development, in accordance with Policies NE2 and NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Revised LEMP (pre-commencement condition)

6. Notwithstanding the submitted details, a revised Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The LEMP shall include the following:

- Updated protected & notable species surveys (reflecting the species identified within the submitted Ecological Assessment Report) with updated recommendations for species and habitat enhancement measures as necessary;
- Updated planting details, in accordance with condition 8 of this permission;
- Full details of habitat enhancement and creation measures, including a scheme to enhance the on-site ponds as aquatic habitats;
- Details of the monitoring of the proposed species and habitat enhancements;
- A management plan for the lifetime of the development (including decommissioning phase);
- Full details of the monitoring of the management plan
- The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved revised LEMP shall thereafter be implemented in full.

**Reason:** To ensure a net biodiversity gain and to accord with Policy NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Skylark Mitigation Strategy (pre-commencement condition)

7. Prior to the commencement of development (including any vegetation clearance), a Skylark Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Skylark Mitigation Strategy shall include the following:

- Purpose and conservation objectives for the proposed mitigation strategy;
- Schedule of works, timings and a detailed compensation scheme;
- Details of the management and monitoring of the compensation scheme. The Skylark Mitigation Strategy shall be implemented in accordance with the approved details.

**Reason:** To conserve and enhance protected and Priority species and to accord with Policies NE2 and NE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Detailed planting scheme (pre-commencement condition)

8. Notwithstanding the submitted details, a detailed planting scheme shall be submitted to and approved in writing by the Local Planning Authority before development commences. The planting scheme shall be based on native species and shall be in line with the Warwickshire Landscape Guidelines. The development shall be provided in accordance with the approved detailed planting scheme and shall thereafter be retained and maintained in accordance with the Landscape and Ecological Management Plan approved pursuant to condition 6 of this permission.

**Reason:** In the interests of visual amenity and biodiversity and to accord with Policies BE1, CC2, NE3 and NE4 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

Tree protection (pre-commencement condition)

9. Prior to the commencement of the development hereby approved (including all preparatory work), a detailed Tree Protection Plan and a comprehensive Arboricultural Method Statement, together referred to as the scheme of protection, that will detail how the retained trees are to be protected from harm during the development shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved scheme of protection.

**Reason:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan.

Construction Management Plan (pre-commencement condition)

10. Notwithstanding the submitted information, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The CMP shall provide for:
- construction traffic routing to and from the site and measures to manage the arrival and departure of HGVs at the site;
  - the parking of vehicles of site operatives and visitors;
  - site working hours and delivery times;
  - the loading and unloading of plant and materials;
  - the storage of plant and materials used in constructing the development;
  - the erection and maintenance of a security hoarding including decorative displays;
  - wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the development site does not carry mud or deposit other materials onto the public highway;



- measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and
- a scheme for recycling / disposing of waste resulting from construction works.

The development hereby permitted shall only proceed in strict accordance with the approved CMP.

**Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan.

#### Battery Energy Storage System (BESS) Safety Management Plan

11. Works to form the Battery Energy Storage System shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP shall prescribe measures to facilitate safety during the construction, operation and decommissioning of the battery storage system. The Battery Energy Storage System shall be operated in accordance with the approved BSMP at all times.

**Reason:** In the interests of the safe operation of the Battery Energy Storage System and to mitigate fire risks and environmental pollution.

#### Fire safety

12. The installation of the battery storage containers shall not be commenced until a scheme for the provision of adequate water supplies, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the battery storage units first become operational and shall be retained as such for the lifetime of the development.

**Reason:** In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.

#### Flood risk/drainage

13. The development shall be provided in accordance with the approved *Flood Risk Assessment and Drainage Strategy* (Report No. RMA-RC2256c Issue 1) and in particular the following mitigation measures detailed therein:

- Solar panels shall be elevated 0.8m above ground level.
- Drainage infrastructure shall be implemented allowing appropriate drainage to local receiving water bodies as per the plans illustrated in drawings DR-001 and DR-002 Surface Water Drainage Strategy.
- Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus 20% for climate change) critical rain storm to the QBar Greenfield runoff rate of 1.8l/s for the battery storage and sub-station compound. Discharge from the inverter stations shall be limited to 0.1l/s.

**Reason:** To prevent the increased risk of flooding, to improve and protect water quality and protect ecology. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

### Drainage verification report

14. Prior to the First Export Date of electricity from the development, a Drainage Verification Report shall be submitted to and approved in writing by the Local Planning Authority. Such report shall be produced by a suitably qualified, independent drainage engineer and shall demonstrate the surface water drainage system for the site has been installed correctly, based upon the approved Flood Risk Assessment. The details shall include:

- Any departure from the agreed design is in keeping with the approved principles
- Any As-Built Drawings and accompanying photos
- Results of any Performance testing undertaken as a part of the application process (if required / necessary)
- Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- Confirmation that the system is free from defects, damage and foreign objects

**Reason:** To ensure the development is implemented as approved and thereby safeguard long-term flood risk management. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

### Management and maintenance plan for surface water drainage infrastructure

15. Prior to the First Export Date of electricity from the development, a management and maintenance plan for the installed surface water drainage infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The surface water infrastructure shall be maintained in accordance with the approved management and maintenance plan for the lifetime of the development.

**Reason:** To ensure the approved drainage scheme operates effectively throughout the lifetime of the development in the interests of mitigating flood risk and to protect water quality and ecology. This is to accord with Policies FW1 and SC0 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

### Highway access

16. The vehicular accesses to the development site hereby approved shall not be brought into use until the public highway footway/verge crossings have been laid out and constructed in accordance with the standard specification of the Highway Authority and in accordance with drawing numbers 2103-015 SK01, 2103-015 SK02 and 2103-015 SK03. The accesses shall thereafter be retained as such.

**Reason:** In the interests of highway safety and to accord with Policy TR1 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

### Noise

17. Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive

premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.

**Reason:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Permissive paths

18.A layout and construction specification for the proposed permissive paths within the site shall be submitted to and approved in writing by the Local Planning Authority before the solar arrays are first installed on the site. The paths shall be provided in accordance with the approved details prior to the First Export Date of electricity from the development and the paths shall thereafter be kept open, free from obstruction and available for use by the public at all times.

**Reason:** To deliver the proposed permissive paths as a public benefit in the interests of highway safety and health and wellbeing. This is to accord with Policies DS18, TR1 and HS1 of the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### No external lighting

19.No external lighting shall be provided on the site at any time.

**Reason:** In order to minimise the visual impact of the development in this rural location and to safeguard the nature conservation value of the site in accordance with Policies BE1, CC2, DS18 and NE2 the Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Cessation of electricity export during the permitted lifetime of the development

20.If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, the applicant/developer shall notify the Local Planning Authority in writing within 10 working days of the end of that twelve month period and a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of the site to agricultural use. The details shall include the following:

- a) a programme of works;
- b) a method statement for the decommissioning, dismantling and removal of the solar farm and all associated above ground works/ surfacing and foundations below ground;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agriculture;
- e) timescale for the decommissioning, removal and reinstatement of the land;

f) a method statement for the disposal/recycling of redundant equipment/structures and any associated infrastructure.

The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.

**Reason:** To restore the openness of the Green Belt and the visual qualities of the landscape and to ensure that no environmental harm is caused during decommissioning. This is accord with Policies DS18, BE1, CC2, NE2, NE3 and NE4 of Warwick District Local Plan and Policy in the National Planning Policy Framework.

#### Scheme for decommissioning and restoration

21. No later than six months prior to the expiry of this planning permission, or within six months of the cessation of electricity generation by the solar farm, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority. The scheme of works shall include the following:

- a) a programme of works;
- b) a method statement for the decommissioning and dismantling of all equipment and hard surfacing on site;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agricultural use;
- e) timescale for the decommissioning, removal and reinstatement of the land;
- f) a method statement for the disposal/recycling of redundant equipment/structures.

The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.

**Reason:** To restore the openness of the Green Belt and the visual qualities of the landscape and to ensure that no environmental harm is caused during decommissioning. This is accord with Policies DS18, BE1, CC2, NE3 and NE4 of Warwick District Local Plan and Policy in the National Planning Policy Framework.

### ***Optional suggested conditions***

#### Grazing Management Plan

22 (a) *No development shall take place until a Solar Farm Grazing Management Plan (SFGMP) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall describe the methods by which grazing will be maintained by sheep throughout the period during which the development is operational. If for any reason grazing by sheep fails to occur for a period of more than 12 months then, unless otherwise agreed in writing with the Local Planning Authority, the solar panels and the*

*ancillary equipment relating to it shall be decommissioned and removed from the site in accordance with conditions 3 and 20 above.*

**Or**

*22 (b) The development shall be undertaken in accordance with the Solar Farm Grazing Management Plan (SFGMP) which has been submitted to and agreed in writing by the Local Planning Authority. If for any reason grazing by sheep fails to occur for a period of more than 12 months, the solar panels, battery storage facilities and the related ancillary equipment shall be decommissioned and removed from the site in accordance with Conditions 3 and 20 above.*

#### Soil Management Plan

23.No development or other operations (including site preparation and any groundworks) shall commence until a Soils Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan should set out the means to be used to protect soils during construction, operation, maintenance and decommissioning of the solar farm and battery storage such that the objectives of the Landscape and Ecological Management Plan required by Condition 6 are not compromised and crop growing agricultural operations may resume following the operational life of the solar farm and battery storage.

**\*\*\* END OF SUGGESTED CONDITIONS \*\*\***

**\*\*\* END OF REPORT \*\*\***



# Ministry of Housing, Communities & Local Government

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## 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, King's 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.