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## Appeal Decision

Inquiry held on 17 – 20 and 24 June 2025

Site visits made on 16 and 20 June 2025

**by Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> July 2025

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### **Appeal Ref: APP/X1925/W/25/3359065**

#### **Land north east of Wandon End, North Hertfordshire, LU2 8PS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by EPL 002 Limited against the decision of North Hertfordshire Council.
  - The application Ref is 22/03231/FP.
  - The development proposed is the construction, operation and decommissioning of a solar farm with the capability to export and import up to 49.9MW of electricity at any time, comprising the installation of ground mounted fixed solar panels, associated energy storage and ancillary development including customer and DNO substation, inverter and transformer stations, fencing, security cameras, landscape planting and associated works including grid connection.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the construction, operation and decommissioning of a solar farm with the capability to export and import up to 49.9MW of electricity at any time, comprising the installation of ground mounted fixed solar panels, associated energy storage and ancillary development including customer and DNO substation, inverter and transformer stations, fencing, security cameras, landscape planting and associated works including grid connection at land north east of Wandon End, North Hertfordshire, LU2 8PS in accordance with the terms of the application, Ref 22/03231/FP, subject to the conditions in the Annex A.

### **Procedural Matters**

2. The appellant voluntarily submitted an Environmental Statement with the application. However, the Council confirmed (March 2023) that an Environmental Impact Assessment was not required. There is no reason to disagree.
3. The grid connection route, which would be underground following the local road network, extends into the administrative boundary of Luton Borough Council. The planning application was submitted jointly to both Councils. Planning permission was granted by Luton Borough Council on 28 March 2024.
4. At appeal stage the appellant submitted an Enhanced Mitigation Strategy which proposes additional mitigation and enhanced planting along a number of field boundaries and around Tankards farm. This was subject to a public consultation and so I consider nobody would be prejudice by my determining the appeal on the basis of this plan.

## Main Issues

5. The main issues in the appeal are:

- Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework);
- The effect of the proposal on the openness and purposes of the Green Belt;
- The effect of the proposal on the character and appearance of the site and the surrounding area, including the visual effect on users of the Public Rights of Way (PRoW) network; and
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## Reasons

### The site, the surrounding area and the proposal

6. The appeal site comprises a number of fields that are currently used for growing a variety of arable crops, and which total around 106 ha. Apart from the land required for the grid connection, the site lies in the Green Belt. Both externally, and particularly internally, field boundaries are limited but where they exist, they comprise a mixture of hedges, trees, grass mounds, grass verges and the rear gardens of properties. Darley Wood to the southeast lies between the site and the hamlet of Darley Hall. A number of PRoW cross the site and link to others in the wider area. Tankards Farm, which consists of a farmhouse and a collection of small agricultural buildings, one of which has been converted to a separate dwelling, lies in the centre of the site.
7. The surrounding area is currently largely agricultural in character punctuated with areas of woodland. The hamlet of Tea Green lies immediately to the west of the site, with Mill Way and Darley Hall being immediately to the East and southeast respectively. To the south of the site lies an agricultural machinery business and other small commercial units occupy Wandon End farmstead. Approximately 300m to the south lies the built-up edge of Luton, with the airport, whose runway and taxi-ways are visible from much of the site, being approximately 1km to the south.
8. The proposal would comprise ground mounted solar arrays arranged in rows, a number of battery energy storage systems dispersed across the site, along with essential electricity generation infrastructure, internal access tracks, security fencing, CCTV cameras and landscaping. The solar panels and associated infrastructure would utilise around 45ha of the site, with biodiversity enhancements and landscape planting, which would include an area of permissive parkland for community use, being provided on 57ha.

### Planning Policy Context

9. The development plan as far as relevant to the appeal comprises the *North Hertfordshire Local Plan 2011-2031 (adopted November 2022)* (LP). The main

policies that are relevant to the appeal proposal are set out in Appendix 2 to the Overarching Statement of Common Ground (SoCG).

10. The Framework, the *Planning Practice Guidance* (PPG), the *National Policy Statement on Energy* (EN-1) and the *National Policy Statement on Renewable Energy Infrastructure* (EN-3) are all material considerations.

Whether inappropriate development

11. Policy SP5 of the LP indicates that development proposals in the Green Belt will only be permitted where they would not result in inappropriate development or where very special circumstances have been demonstrated. Paragraphs 154 and 155 of the Framework set out the forms of development that are considered to not be inappropriate in the Green Belt.
12. At the time the planning application was determined it was agreed that the proposed development would be inappropriate development in the Green Belt. Subsequent to this, in December 2024, a revised version of the Framework was published. This introduced the concept of Grey Belt land which is defined in its glossary, where subject to meeting various criteria in paragraph 155 and where appropriate paragraph 156, development may not be inappropriate. Further advice on whether land may be considered to be Grey Belt was provided in an update to the Green Belt section of the PPG published in February 2025. It is disputed between the parties as to whether the appeal site is Grey Belt land.
13. The glossary defines Grey Belt as "...land in the Green Belt comprising previously developed land (PDL) and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
14. In this case it is agreed in the Green Belt SoCG that the appeal site is not previously developed land and that the site does not strongly contribute to purpose (b) or (d). From what I have seen, heard, and read, I agree with this position. However, it is disputed whether or not it strongly contributes to purpose (a) and whether in determining if the land is Grey Belt consideration should only be given to the land itself or the land together with the form of development proposed upon it.
15. The PPG gives advice on features that can assist in determining the level of contribution an area might make to the various purposes. For purpose (a) – to check the unrestricted sprawl of large built up areas it indicates that assessment areas that strongly contribute to the purpose "...are likely to be free of existing development, and lack physical feature(s) in reasonable proximity that could restrict and contain development. They are also likely to include all of the following features: be adjacent or near to a large built up area; if developed, result in an incongruous pattern of development (such as an extended "finger" of development into the Green Belt)".
16. For a moderate contribution it indicates that assessment areas "...are likely to be adjacent or near to a large built up area, but include one or more features that weaken the land's contribution to this purpose a, such as (but not limited to): having physical feature(s) in reasonable proximity that could restrict or restrain

development; be partially enclosed by existing development, such that new development would not result in any incongruous pattern of development; contain existing development; being subject to other urbanising influences.

17. The evidence base for the LP included an assessment of how different parcels of land within the Green Belt contributed to the various purposes. Within this the site lies within parcel 2 and more specifically within parcel 2f. Both the original assessment in 2016 and the update in 2018 conclude that both parcel 2 and parcel 2f make a significant contribution to purpose (a) and preventing the eastwards sprawl of Luton.
18. However, these reviews were undertaken to guide decisions as the LP was being developed and in particular to review the current boundaries of the Green Belt and assess potential development sites as it was recognised that the level of growth needed in the district would be unlikely to be accommodated on non-Green Belt land. Given their age, they were not giving consideration to whether land was Grey Belt or not and their assessment of the contribution of land to the purposes was not informed by the criteria set out in the PPG for this purpose. As such I give little weight to their findings.
19. Turning to the criteria in the PPG, the only existing development within the appeal site is Tankards farmstead, This consists of a farmhouse, and a collection of small and medium sized agricultural storage buildings and structures, as well as a barn that has been converted to a dwelling. Given their limited size and number and the area they occupy in comparison to the size of the site, I consider the site to be largely free of existing development.
20. To three sides the site is largely bordered by roads, rear gardens of properties, and Darley Wood. In addition, the northern boundary of the site is marked by a distinct change in the topography as the land falls away relatively sharply towards Lilley Bottom Road, as well as a row of mature trees. Irrespective of the width of the surrounding roads, these are all distinct, visible, physical features that can restrict and contain development. I note that similar features were considered acceptable in creating a defensible boundary to the Green Belt following the removal of the land from the Green Belt for the East of Luton allocation in the LP. Whilst the East of Luton site allocation policy SP19 requires structural planting along the eastern boundary with Stony Lane I note this is to reinforce rather than create a long-term defensible boundary. The fact that Wandon End Road cuts across the site in the south-western corner does not in my mind mean that these rural roads are not capable of forming a defensible boundary that can restrict and contain development. The PPG indicates that the features should be capable of containing and restricting development not that they have to.
21. Although not adjacent to the built up area of Luton, it is agreed by the parties that the site is near to it, and from my own observations I agree with this conclusion. Nonetheless, the site is physically and visually discrete from the built-up area of Luton.
22. The final feature the PPG indicates should be considered is whether, if developed, it would result in an incongruous pattern of development. Although there are three small hamlets around the site the surrounding area is predominantly agricultural land. The limited size of the hamlets mean they do not provide any sense of enclosure to the site. As such, irrespective of the form of development on the site,

any development would be surrounded largely by open fields on all sides, Therefore, I consider it would result in a “finger” of development into the Green Belt. If it is considered appropriate to consider the form of development, the degree of incongruity may be less for a solar farm in comparison to some other forms of development, but it would nevertheless still exist.

23. The development of the east of Luton allocation might reduce the impact in this regard to some extent, but when this might come forward is not currently known and the impact of the structural landscaping required along its eastern boundary would need to be taken into account. As a result, it would not be appropriate to take this potential development into my consideration on this matter at this point of time.
24. Bringing these points together, whilst the site is largely free of existing development, is near to a large built-up area and if developed would result in an incongruous pattern of development, it has physical features around its boundary that can restrict and contain development. In line with the advice in the PPG, I therefore conclude that the site makes a moderate, rather than a strong, contribution to purpose (a).
25. As I have been able to reach this conclusion with reference to the site alone, I do not consider it necessary to determine whether or not the appellant’s view that the form of development should also been taken into account is correct.
26. Based on this conclusion with regard to purpose (a), and the fact that I agree with the main parties that the site does not strongly contribute to either purpose (b) or (d), the site falls to be considered as Grey Belt. For the proposal to not be considered inappropriate development it needs to satisfy all the criteria in paragraph 155 of the Framework. The parties agree this is the case, and nothing I have seen, read or heard leads me to conclude otherwise. Consequently, the proposed development would not be inappropriate development in the Green Belt. As such there would be no conflict with LP Policy SP5.
27. Having regard to the Framework and the Court of Appeal judgement<sup>1</sup>, as the effect of the development on openness and the purposes of including land within the Green Belt are not expressly stated as determinative factors in gauging the inappropriateness of the development, there is no requirement for me to separately assess the impact of the development on the openness of the Green Belt, or the purposes of including land within it.
28. The appellant requested that even if I consider the land is Grey Belt, that I still consider whether the proposal would be acceptable if I had concluded otherwise, and that very special circumstances would be required to be demonstrated. However, I do not consider it is necessary for me to do this.

### Character and appearance

#### *Landscape Character*

29. Policy NE2 of the LP requires that developments should respect the sensitivities of, and not cause unacceptable harm to, the landscape character area in which they are located. Policy NE12 indicates that proposals for solar farms involving the

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<sup>1</sup> Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404



best and most versatile (BMV) agricultural land should be determined in accordance with national policy. The Framework indicates that developments should recognise the intrinsic character and beauty of the countryside.

30. At the time of the planning application the site was within a 'candidate area' for an extension to the Chilterns National Landscape. However, in May 2025 Natural England announced that the boundary extension review was cancelled and so there is now no prospect that the site could be included in the National Landscape for the foreseeable future.
31. At a national level the appeal site lies within National Character Area 110: Chilterns. Key characteristics of this area are set out in the Appendix LM01 of the proof of evidence of the appellant's landscape witness. At the regional level the site largely falls within the Woodland Plateau Farmlands Landscape Character area which for the most part is described as "...a settled, early enclosed landscape with frequent ancient woods, associated with a rolling, in places undulating glacial plateau, dissected by numerous shallow valleys".
32. As set out in the North Hertfordshire Landscape Study (NHLS), the majority of the site lies in the Breachwood Green Ridge Landscape Character Area, with a small part of the northwestern corner of the site being within the Lilley Bottom Landscape Character Area. The area within Lilley Bottom would remain as an open field with infill hedging and additional trees along the field boundaries and various biodiversity enhancements.
33. Key characteristics of the Breachwood Green Ridge Landscape Character Area are: a gently rolling plateau landform; large scale arable fields with scattered farmsteads and dwellings; a mixture of ancient deciduous woodland and recent mixed plantations; and narrow sunken lanes with passing places. The water tower at Tea Green is highlighted as a distinctive feature in the area. It also notes that the field pattern is degraded with many hedgerows having been removed, especially where intensive arable production dominates. I observed many of these characteristic features during my site visit.
34. The NHLS considers that the landscape condition is poor, and the overall landscape strategy is to "improve and restore". Landscape actions include: promoting management of ancient woodlands; creation of buffer zones between intensive arable production and semi-natural habitat and the creation of links between habitat areas; promoting hedgerow restoration along the lines of historic field boundaries; promoting the diversity of hedgerow species and planting of standard hedgerow trees; and maintaining and extending the PRow network.
35. The application was accompanied by a Landscape and Visual Impact Assessment (LVIA) which was updated during the determination period to take account of amendments made to the proposal. At the time this was reviewed by an independent landscape expert on behalf of the Council. The LVIA has been reviewed by both the Council's and the appellant's landscape witnesses, who also undertook their own analysis of the effect of the proposal on the landscape. These differ in part from the LVIA and from each other. Given the diverging views in the evidence before me, whilst I have taken into account the various evidence presented to me, I have come to my own conclusions based on this and what I observed on my visits to the site.

36. The site and immediately surrounding area is not covered by any national or local landscape designations. Although it is clearly highly valued by local people, with reference to paragraph 187 of the Framework, I do not consider it is a “valued landscape”.
37. Whilst typical of the character area, the site and immediate environs are not particularly notable or rare in landscape character terms and I agree with the NHLS that as a result of the degraded field pattern in particular, it is in a poor condition. The loss of traditional field boundaries often results in panoramic views from the PRoW network, although in some areas the undulating topography and the blocks of woodlands create a greater sense of enclosure and curtail views. Nonetheless, in views southwards some airport infrastructure is visible from the area and the noise associated with the frequent arrival and departure of aircraft draws the eye to this and significantly affects, what would otherwise be quite a tranquil landscape. However, I consider that to people living in the area, the familiarity with this noise would lessen its impact. Whilst not something I was able to observe due to the time of year I visited the site, I note that the NHLS also highlights that the airport is also a source of light pollution.
38. Whilst the PRoWs that cross the site are well used, only the Chilterns Way long distance route that runs to the south of the site is a nationally recognised route. Although I note some of them form part of walks promoted by the CPRE and Parish Council, the routes appear to be primarily of local recreational value and are unlikely to attract people from any significant distance.
39. In comparison to the hamlets dotted around the edge of the site, the proposal would cover a larger area. However, the character and appearance of a solar farm is fundamentally different to that of a settlement, and so it would not “swamp”, or be unsympathetic in scale to, the settlements in the way a housing development of the same size would.
40. Overall, using the methodology and scales provided in the original LVIA<sup>2</sup>, I consider that the landscape in the area has a medium to low value and a medium to low susceptibility to the proposed change. Therefore, it has a medium to low sensitivity to change.
41. Whilst the Council highlighted that the appeal scheme would extend across the whole of the Landscape Character Area and so would effectively sever it, the adjacent East of Luton allocation which formed part of the same character area also did the same. Moreover, unlike the solar farm, the East of Luton development would be permanent.
42. The degree of activity and disturbance would be most notable during the construction period. This is estimated to be between 6-9 months, and so would be short term and temporary. There would be no material change to the landform and the majority of existing trees and hedges would be retained.
43. Despite the limited height of the panels and most of the associated supporting infrastructure, the straight rows of panels and the horizontal emphasis of the scheme, to the extent that it would be perceived, would appear out of place in this rural landscape. Whilst 40 years is a significant period of time, the panels and associated infrastructure are fully reversible.

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<sup>2</sup> Figures 6.1 to 66.6 of Core Document 1.17

44. Moreover, through the grazing of sheep the agricultural use of the land would continue. Whilst this would result in the fields being used for pasture (alongside the panels) rather than arable, and result in the loss of the current seasonal changes associated with arable farming, such a change in agricultural use could take place at any point in time without the need for planning permission.
45. In addition, the proposed development would be contained within the existing field layout and the proposed planting of new species rich hedgerows and trees, including the reinstatement of hedges along historic field boundaries would be beneficial to the landscape character. Whilst field boundaries are generally only marked by a single hedgerow, given the PRowS that cross the site, it is likely that in the past there may well have been hedgerows to both sides of these routes to delineated them from the fields.
46. Overall, I consider the magnitude of change would be greatest during the construction phase, where it would be medium to large adverse, but whilst operational would be medium adverse. Taking this into account along with the sensitivity of the landscape, leads me to conclude the proposal would result in a moderate to substantial adverse effect on the landscape character of the site and surrounding area during construction, that would reduce to moderate adverse during the operational period. Following decommissioning, as a result of the hedgerow planting and other proposed planting that would improve and restore the landscape, it would have a moderate beneficial effect.
47. The site forms a relatively small part of the wider Breachwood Green Ridge Landscape Character Area, and the development would accord with a number of the actions in the 'improve and restore' strategy for the character area. So, I consider the impact of the proposal on the wider Landscape Character Area would be slight to moderate adverse during construction reducing to slight when operational and negligible once the proposed planting is mature. Following decommissioning the retained planting would have a slight beneficial effect.
48. The East of Luton allocation forms part of the same Landscape Character Area and so there is potential for cumulative landscape character effects with this proposal. Given the size of this adjacent development it maybe some time before development commences, and it is likely to come forward in phases. It could therefore be many years before any development takes place in the vicinity of the appeal site. For the time the two schemes co-exist I consider there would be moderate adverse cumulative effects on the landscape character in the vicinity of the site.
49. The airport lies in a different landscape character area. Whilst some of the off-site mitigation landscaping works will take place on the southern part of the site, the physical building works are well away from the site. As a consequence, I agree with the Council that there would be no cumulative impacts on landscape character resulting from the airport expansion.

### *Visual Effects*

50. The extent of visibility would vary from season to season but the Zone of Theoretical Visibility (ZTV) mapping shows that visibility of the proposal from the surrounding area would be limited as intervening vegetation and topography often restrict views. There are no points where the entire proposal can be seen. Outside the site potential visibility is limited to between 10-50% of the site at worst, and to



within 1km of the site. I observed that in such views the proposal would generally be a small component of a wider panorama. It is not disputed that the proposal would have a negligible adverse impact on users of the Chiltern National Landscape – a conclusion I agree with.

51. In considering the visual effects on various groups of users below I have again, used the methodology scales set out in the LVIA, and using these, as the site and surrounding area is an undesignated landscape, the value of the landscape is low.

*(i) Road Users*

52. From the surrounding road network, the roadside vegetation and/or intervening vegetation often limit views of the site. Nonetheless, there are some places where there are views into parts of the site. Drivers would primarily be paying due care and attention to other road users and hazards, so would only take in limited glimpses of the development. Even for passengers, views would only be fleeting. Whilst the views would be less fleeting for pedestrians, the absence of footways and street lighting means these are not attractive or particularly safe routes for pedestrians. As such, the susceptibility of road users is low and so I consider their sensitivity to change is low.
53. The mitigation planting, when established, would reduce the ability to see the proposal from the local roads where views are currently possible, and given that roadside hedges are relatively common in the vicinity such planting would not appear incongruous. Given the fleeting nature of views and the limited number of places where they would be available, the magnitude of change for road users would be small.
54. Overall, I consider the proposal would result in a slight adverse visual effect on road users that would reduce to negligible when the mitigation planting is established.

*(ii) Residents*

55. Properties at Tea Green and along Mill Way back onto the site and so, depending on the nature and height of their rear boundary treatments and/or vegetation overlook the site from the windows in their rear elevations and their rear gardens. Views of the site are also possible from Crouchmoor Cottage, the two properties at Tankards farmstead and the upper floors of Greenacres. I am aware that the personal circumstances of some adjacent residents makes them particularly sensitive to changes, however, it has to be borne in mind that these are private rather than public views. Nevertheless, overall, I consider the susceptibility to change of residents is high, and so the sensitivity is medium/high.
56. The land closest to all the surrounding properties would not be used for the siting of panels but left as open land managed for biodiversity and in the case of field 13 as a permissive parkland for community use. The proposed planting between properties and the nearest panels would help screen the development from view as it matures. Whilst for some residents this would alter their current views, such planting could be introduced at any time by the landowner without recourse to the planning system. Moreover, whilst their view may change, the distance maintained to the panels from houses would be sufficient to ensure the proposal would not unacceptably alter the outlook from them.

57. Nonetheless, there would be medium magnitude of change reducing to medium/small as the vegetation matures. Thus overall, the proposal would have a moderate adverse effect.
58. Views of the site are possible from properties further away from the site such as some of the dwellings on Brownings Lane. However, due to the distance and the proposed planting around the site, views of the proposal would be limited and not have an adverse effect.

*(iii) Users of the Chilterns Way long distance route*

59. The Chilterns Way does not cross the site itself, but a short stretch of it lies to the south of the site. Views across some of the southern part of the site come and go from the route on the approach to Darley Road. As users of the national long distance footpath, they would have a high susceptibility and so their sensitivity would be medium/high. However, given the partial nature of the views, and the limited stretch of the route they are visible from, the magnitude of change would be small.
60. Moreover, the reinforcement of existing hedging and the proposed new hedge and tree planting within and around fields 3 – 5 in particular would largely restrict what views are possible from this route as it matures. So overall the proposal would have a moderate/slight adverse effect on users.

*(iv) Users of other PRowS*

61. The appeal site and area around it contains an extensive network of footpaths that are clearly well used and highly valued. The proposal would not result in the loss or diversion of any of these and would create a new permissive path within field 18 that would connect to existing PRowS and so prevent users having to walk along Stony Lane. The existing footpaths are generally narrow and unsurfaced. On the whole they are open in nature, allowing open views but there are places where they are bordered by hedges or short stretches of fencing. Views are restricted by these as well as by the woodlands and trees found in the site and wider area.
62. As the PRowS are local routes rather than part of a long distance recreation route, I consider the susceptibility of users is medium and so their sensitivity is also medium.
63. The proposed landscaping would introduce new native hedging to define field boundaries where none exist at present and reinforce existing hedging along these routes. It was confirmed that the distance between the hedges would be a minimum of 7m making the paths much wider than at present and enabling people to walk alongside each other and cross more easily. Hedgerows and belts of trees are not uncommon in the surrounding area, so the planting would not appear and incongruous feature, even if those familiar with the routes would notice the change.
64. As the planting matures the current panoramic views that are possible from a number of these routes, together with some of the views of the water tower, the windmill and Tankards farmstead would be lost, and the sense of openness they provide would be curtailed. Whilst such impacts are very localised, the loss of views and openness would be very noticeable to those familiar with the routes, albeit this would diminish with time. However, it needs to be borne in mind that the

landowner could introduce similar planting along these routes without any recourse to the planning system.

65. Whilst on some of the routes the planting to either side would limit views to directly in front and behind, the width of the paths would be sufficient to ensure they would not create an oppressive tunnelling effect. Although the intensive arable farming undertaken in the area has resulted in many of the local footpaths in the area being open, across the country PROWs enclosed on either side by hedges, many of which are much less than 7m in width, are relatively common. These still make attractive, well used and safe routes.
66. Whilst the screening effect of the planting would be greater in summer than winter, the density of the hedging would ensure it still helped to screen views in winter. Generally, once the proposed planting has matured, clear views of the solar farm would largely be limited to where field access points are adjacent to a route. Such views would be brief and so this would limit the negative experience the proposal may cause to users.
67. Given the number of footpaths that cross the site and the considerable alteration to the views, I consider the magnitude of change brought about by the proposal to users of these routes would be large during construction, but this would reduce to medium as the planting matures. Therefore, the proposal would have a substantial adverse effect at construction that would reduce to moderate adverse after the planting has matured.
68. For footpaths in the wider area, the magnitude of change would be smaller as views would generally be longer distance, that would often come and go, and where the site formed part of a wider panorama. So, the proposal would generally only have a slight adverse effect, although for footpath 23 to the north-west this would be slightly higher due to the elevated views possible of the site.

*(v) Cumulative Effects*

69. Within the immediate vicinity the expansion of the airport and the “East of Luton” allocation have the potential to result in cumulative visual effects. From a number of residential properties and footpaths where the airport is visible, there is the potential for in combination visual effects. However, hedgerow restoration would take place as part of the off-site mitigation measures for the airport expansion. This would complement that proposed for the appeal proposal. When mature I am satisfied that this would prevent any significant cumulative effects with this scheme.
70. Tea Green prevents intervisibility between much of the site and the proposed “East of Luton” allocation, however there would be some intervisibility in the vicinity of the access road to Tankards Farm. The proposed solar farm would have a very different character to the housing and other development proposed as part of this allocation. In addition, the policy that allocates the land for this development indicates that structural planting will be required along the boundary with Stony Lane. This together with the proposed planting along the access road on the site, and the very different character of the two schemes would reduce the potential for cumulative effects. In any case, the strategic masterplan and planning application(s) for this scheme would have to take account and address any potential cumulative impact with the solar farm. As a result, I consider there would not be any significant cumulative effects with this proposal either.

### *Conclusion on visual effects*

71. Whilst the visual impact on road users would be limited and there would be no significant cumulative visual impact, the visual impact on residents and users of the Chiltern Way would be moderate adverse, whilst for users of the network of PRoWs that cross the site it would be substantial reducing to moderate adverse as the vegetation matures.

### *Conclusion on character and appearance*

72. I have found that when operational the proposal would have a moderate adverse impact on landscape character and, even when the vegetation is mature, it would have a moderate adverse visual impact. Whilst the reinstatement of hedges would have a moderate beneficial impact on landscape character after decommissioning, for the 40 years it is operational it would have an adverse impact on the character and appearance of the area. Consequently, it would conflict with the policies set out above.

### *Benefits arising from the proposal*

#### *Renewable Energy Generation and Energy Security*

73. The proposal would be able to export up to 49.9MW at any one time which is estimated to provide the equivalent energy to power 18,500 households. The site benefits from a grid connection at Luton Airport Primary Substation for 35MW, to which it could be connected within 2 years. The remaining capacity is expected to be used to supply renewable energy to the airport, a major local employer with high energy demands.
74. In 2019 the Government declared an Environmental and Climate Change Emergency. Various recent government publications have highlighted the need to significantly increase generation from onshore wind and solar energy production, as it seeks to ensure that by 2035 all our electricity will come from low carbon sources.
75. The most recent publication, the Clean Power Action Plan 2030 published in December 2024, reiterates the need for a rapid deployment of new clean energy setting an ambitious target of 45-47GW of solar power to be achieved by 2030. This will require an additional 28-30GW of solar generation to be connected in the next 5 years. To achieve these targets, it is clear that considerable growth in large scale solar farms will be necessary, more than 100MW per week, and this cannot be achieved solely by the use of brownfield land or roof top installations.
76. Detailed advice from the National Energy System operator, which has been accepted by the government, is that, even assuming that all projects that have an accepted grid connection offer come forward, there is a significant undersupply in solar to meet the 2030 target.
77. The Council also passed a climate emergency motion in 2019, and its current Climate Change Strategy indicates that it seeks to be carbon neutral in its own operations by 2030 and a carbon neutral district by 2040. Whilst the Climate Change Strategy does not specifically set targets for renewable energy generation, to become a carbon neutral district by 2040 would require 6-8 projects of this size to meet current electricity demand, even without taking into account the fact that demand is likely to increase significantly before 2040.

78. Whilst I note the concerns raised about the efficiency of solar farms and their ability to produce power when it is most needed, and the suggestion that off-shore wind is far more efficient, the government clearly identifies solar energy as a form of renewable energy in which they want to see significant growth. Moreover, the efficiency of the panels has improved markedly in recent years.
79. As well as helping to address climate change, the British Energy Security Strategy (April 2022) indicates that renewable energy has a key role to play in providing greater energy security for the country and reducing our need to import energy. This is also highlighted in EN-3.
80. The proposed development would make a valuable contribution to achieving these local and national targets. I therefore consider that the proposal's potential for a rapid contribution to renewable energy generation and addressing climate change, as well as towards improving energy security and resilience, are distinct benefits that both must be given substantial weight.
81. The Updated Alternative Site Selection Assessment, whose findings and methodology have not been contested by the Council, show that the appeal site is the only site that could make use of the available capacity at the Luton Airport Primary Substation. Given the well documented issues with grid capacity, the ability to make use of this existing grid capacity is a factor to which I give significant weight.
82. It has been highlighted by residents that the threshold for solar farms being for Nationally Strategic Infrastructure Projects is going to be increased from 50 to 100MW. However, I do not consider this in any way diminishes the benefits arising from this proposal but is just a procedural change to enable more schemes to be able to progress through the quicker planning regime.

#### *Battery storage*

83. The Energy White Paper 2020 is one of a number of recent government publications that highlight the pressing need for battery storage to support the growth in renewable energy. EN-1 sets out that storage is needed to increase the reliability and security of the energy system by providing the ability to store surplus electricity in times of low demand and/or high production and releasing it when demand is high. Recognising the crucial role battery storage has in meeting the growth of electricity demand and maintaining a secure energy supply, the Clean Power Action Plan 2030 sets a target of achieving 23-27 GW of battery capacity by 2030, which represents a 400-500% increase over 5 years.
84. Battery Energy Storage Systems (BESS) are a separate and distinct facility. Whilst they are sometimes provided as part of a solar farm, they can, and often are, standalone development. In being co-located with the proposed solar farm the proposed BESS would make efficient use of land and would enable the energy produced to be used effectively as well as providing flexibility for the grid. I consider this is a separate element of the proposal and the benefit it provides should be given significant weight.

#### *Biodiversity Net Gain and ecology*

85. The Council declared an ecology emergency in 2023. The Environmental Statement and the Ecological Impact Assessment that accompanied the



application assessed the current ecological resources and the potential effects on these. They concluded that there would be no significant adverse impacts on species or habitats present in the site or area. In the absence of any evidence to the contrary I see no reason to disagree with this conclusion.

86. The proposal would provide a range of measures that would benefit biodiversity on 57ha of land within the site. These include new and improved native hedging, native tree planting, skylark plots and insect hotels, which would more than mitigate any loss of habitats. This land would also provide opportunities for wildlife to be able to move across the site, and in contrast to the current agricultural fields would be managed in ways that benefit wildlife. The Biodiversity Net Gain Metric indicates the proposal would deliver biodiversity net gain of 165% for habitat units, 142% for hedgerow units and 58% for river units.
87. The improvements to existing tree and hedgerow planting and the reinstatement of historic hedgerows within the fields would be retained after decommissioning and so would be a permanent ecological benefit of the proposal. Overall, I give significant weight to the biodiversity benefits of the proposal.

### *Economic*

88. The proposed development would represent a significant financial investment and would give rise to short term construction jobs, albeit the economic benefits would reduce significantly once the development was operational. It would also result in additional business rates over its 40 year lifespan and has the potential to supply lower cost renewable energy to a major local employer.
89. It was also suggested that the proposal would assist in the stability and ongoing viability on the rural business operated by the landowner. Whilst the proposal would provide secure rental payments from these fields no evidence was provided to show the need of the business in this regard over and above what is secured from the current agricultural use.
90. It was suggested that the proposal could result in some harm to local businesses that rely on the use of the PRow network. The effect on the PRow network has been considered above. Whilst I have concluded that the proposal would cause some harm to the users of the network, I am not persuaded that this would lead to the loss of viability of any existing businesses.
91. Overall, I give the economic benefits of the scheme moderate weight.

### **Other Matters**

#### *Use of BMV land*

92. The national Agricultural Land Classification map indicates that the site is Grade 3 land. As this is indicative of the type of land in the area rather than providing an assessment of any particular field, the appellant submitted an Agricultural Land Classification and Soils Assessment for the site. This concluded that 53.6ha of the site was Grade 3a and 46.6ha was Grade 3b, with the remaining 5.6ha being non-agricultural land. It also highlighted that soil stoniness, an attribute clearly visible on my site visits, limited the land quality in places. Nevertheless, its findings are that around half the site is BMV land. The methodology and findings of this report are not disputed by the Council.

93. However, a partial survey of the 51 ha in the central part of the site, undertaken on behalf of an interested party concluded that this area comprised a mix of Grade 2, Grade 3a and Grade 3b land. As a result, this concluded that around 79% of the site was BMV land.
94. This second survey is only a partial survey and, as highlighted by the appellant, the methodology used does not accord with the standard Agricultural Land Classification methodology in a number of ways. As a result, I consider that the findings of the appellant's assessment are more likely to be reliable. Nevertheless, whichever survey is used, the site includes a significant amount of BMV land, some of which would be under solar panels.
95. Policy NE12 of the LP indicates that proposals for solar farms on BMV land should be determined in accordance with national policy. The Framework indicates that the economic and other benefits of BMV land should be recognised, and whilst in relation to a paragraph on plan making it indicates that where it is necessary to allocate land that involves significant amounts of agricultural land, areas of poorer quality land should be preferred to those of higher quality. Therefore, whilst the use of BMV land needs careful consideration, there is nothing that indicates the use, or loss of such land is prohibited.
96. The proposal would change the use of the land for 40 years. Whilst this is a significant period of time it is not permanent. Furthermore, during the operational period the land around the panels would be used for the grazing of sheep and this can be controlled by a condition. Given this, the land would still be used for some agricultural purpose during the operation of the solar farm, and it is the intention the land would be fully returned to agricultural use after decommissioning.
97. Although resting the land from intensive arable use would not alter the agricultural land quality, it would be likely to improve soil health by improving the soil structure and increasing the organic matter content. In addition, the agricultural land quality, soil texture and soil characteristics would not be affected by the non-application of fertiliser.
98. The proposed Soil Management condition would ensure the construction process was undertaken in a way that would not be harmful to the soil, and that the small areas where soil would need to be moved to create bases for infrastructure and tracks would be capable of restoration. Therefore, I am satisfied that the proposal would not result in a loss of soil or agricultural land quality.
99. Whilst third parties suggested that food security is at risk by repurposing agricultural land, there are no national or local policies that relate to food security and production. The Written Ministerial Statement "Solar and Protecting our Food Security and Best and Most Versatile Land" (15 May 2024) indicates that whilst food security is an essential part of national security, even under the most ambitious scenarios for the growth of solar farms, they would only occupy less than 1% of agricultural land in the country. Whilst anecdotal evidence suggests yields from the land are good, even taking the higher estimate for the amount of BMV land, the impact of the loss of this land for arable production would be negligible at a national scale.

## *Heritage*

100. Although heritage was not a reason for refusal, there are a number of Listed Buildings both within and in the vicinity of the site. The Heritage Proofs of Evidence from both the Council and appellant set out in detail the significance of the heritage assets, the contribution the setting makes to their significance and the impact of the proposal on this.

### *(i) Tankards Farm complex*

101. Tankards Farmhouse, the East Barn and the Stable and Adjoining Barn are Grade II Listed Buildings, that form part of the Tankards Farm complex located within the site. The East Barn has been renovated, extended and is now a dwelling. Their significance lies largely in their physical fabric which has architectural and historic interest, and they have group value.

102. The appeal site forms part of the setting of the buildings as it forms part of their immediate agricultural surroundings. In addition, at points along a number of the PRoWs that cross the site the architectural and historic interest of the buildings can be appreciated, although given the distance of many of these views this is only to a limited degree. Nonetheless, the site makes a small contribution to the significance of the assets.

103. The proposal would not result in any change to the approach to the farm complex as to either side of this the fields would not contain panels, nor to the physical fabric of the buildings themselves. However, it would reduce the ability to appreciate the buildings from the wider area and to appreciate the rural surroundings of the farmstead.

104. It is agreed by the main parties that the proposal would result in less than substantial harm to these assets and that this would be in the middle of the scale. This is a conclusion I agree with.

### *(ii) The Windmill*

105. The windmill situated just beyond the northeast corner of the site is also a Grade II Listed Building. Although now converted to a dwelling it provides evidence of the historic agricultural economy of the area. Its significance lies largely in its built form that has historic and architectural interest. The immediate agricultural setting of the windmill, which includes the northern part of the appeal site, makes a small contribution to the significance of the asset as it shows the historic agricultural context and the relative isolation of the windmill.

106. The appeal scheme would reinstate some of the historic hedgerows in the vicinity of the windmill and would not result in any harm to its built form or its immediate setting. However, it would result in some change to a small part of the wider agricultural setting. This would result in less than substantial harm to the asset and given most of this wider agricultural setting would remain unaltered I consider this is at the lower end of the scale.

### *(iii) Crouchmoor Farmhouse and The Smithy*

107. Crouchmoor Farmhouse is also a Grade II Listed Building, whilst The Smithy is a non-designated heritage asset, that both lie to the southwest of the site. The farmhouse lies on the far side of the road and is surrounded by a high brick wall

and vegetation along the roadside boundary, with little visibility from the public realm. Its significance lies in its architectural interest as an example of a 16th century farmhouse and its historic interest due to possible links with the Sowerby Estate.

108. The immediate surroundings of the house and its associated farm complex together with surrounding agricultural land from where it can be seen and with which it has a current or historic association are elements of the setting that contribute to the significance. Whilst the proposal would change part of the farmhouse's wider agricultural setting as there is little visibility of the building from the site and no evidence before me showing historic or current association between the farmhouse and the site, I am satisfied it would not cause harm to the significance of this asset.
109. The Smithy is located opposite Crouchmoor Farmhouse at the junction of Lower Road/ Stony Lane and Wandon End Road. As a surviving 19<sup>th</sup> century Smithy it has some historic interest and has potential links to Crouchmoor Farm. There is no known historic association between the site and the building. Historic hedgerows would be reinstated in the vicinity of the building and would help to screen the proposal from view. As a result, I consider the proposed development would not cause any harm to the significance of this building.

*iv) other heritage assets*

110. Local residents highlighted that there are a number of other Grade II Listed Buildings in the wider area. The Council has not suggested that the appeal scheme would have any impact on the significance of these assets. Nothing I have seen, read or heard, leads me to a different conclusion.
111. It has been highlighted that a Listed Building in Breachwood Green had an application for solar panels on its garage roof rejected due to the impact on the setting of the Listed Building. However, the scale and nature of this is so different to the appeal scheme that it does not represent a direct parallel with the proposal. Neither is there any evidence before me to show that the appeal site forms part of the setting that contributes to the significance of this asset.

*v) Heritage conclusion*

112. The proposal would cause less than substantial harm in the middle of the scale to the three Listed Buildings in the Tankards Farm complex and at the lower end of the scale to the Windmill. In accordance with the Framework, I shall weigh this harm against the public benefits later in my decision.

*Fire safety*

113. Concerns have been raised by residents regarding the fire risks associated with the development, and in particular associated with the BESS. The appellant's evidence states that as of January 2025 there were 121 BESS sites in the country, with 8 having been decommissioned and a further 90 under construction. Compared to the number of operating hours of these, the number of BESS fires is very small, and they have not resulted in any damage to third party property or any fatalities. The Hertfordshire Fire and Rescue Service were consulted on the application and raised no objection to it.

114. The proposed development would have to accord with the relevant fire safety guidance, including guidance from the National Fire Chiefs Council and international standards. Two water tanks would be located on the site whose volumes would exceed that required in guidance. Bunds would be used to contain any firewater within the BESS enclosure so that it can be treated before being released. A condition would require the submission of a detailed Battery Safety Management Plan that would ensure the development would accord with all the latest safety codes, guidance and standards for BESSs.
115. Reference was made to a wildfire in 2022 that spread rapidly across a number of fields that form part of the appeal site, and which was understandably a very frightening and traumatic experience for local residents. However, the presence of the solar farm would not alter the propensity for wildfires to occur.

#### *Glint and glare*

116. The application was accompanied by a Glint and Glare Assessment that considered the potential effect on users of both the road and PRow network and residential occupiers and represents a worst-case scenario as it does not take account of amendments to the scheme that reduced the number of fields containing panels. The methodology and findings of this assessment were not disputed by the Council and there are no objections to the proposal from the airport or the Civil Aviation Authority, who were also consulted on the revised scheme.
117. Solar panels are designed to absorb rather than reflect as much light as possible. The assessment found that a small number of residential receptors could experience some glint effect, with the modelling showing this would be at most 1.8% of daylight hours when taking no account of existing and proposed screening. These effects, together with the short stretches of local roads where there is potential for glint to occur, would be mitigated through the existing and proposed planting in and around the site. The report also explains why significant impacts from glint and glare are not possible for users of the PRow network. As a result, it concludes it would not have any unacceptable impact on road or pedestrian safety, nor on the living conditions of local residents.
118. The assessment of glint and glare is a technical and complex process. Given this, and in the absence of any substantive evidence to the contrary, I accept the conclusions of this assessment that the proposal would not have an unacceptable impact in this regard.

#### *Highways*

119. Although, once operational trips to the site would be infrequent, more traffic would be generated during the construction and decommissioning phases. A temporary construction compound would be created that would be accessed from Wandon End Road. This is largely a single track road with passing places. The entrance to the compound would be close to where a PRow crosses the road, and to an agricultural equipment and machinery business that generates both HGV and other vehicular traffic movements. Whilst the proposal would, for a temporary period, increase the number of HGV movements, the latter shows that the proposed route to the construction compound can be used by HGVs without causing highway safety issues.



120. The application was accompanied by a Transport Statement and later addendums and a Construction Traffic Management Plan. These were reviewed by the highway authority both in terms of the highway and the PRow network, who raised no objections to the proposal. In the light of this, and in the absence of any substantive evidence to the contrary, I am satisfied that, subject to conditions, the proposal would not be detrimental to highway safety.
121. During the construction phase vehicles would need to cross PRows but ensuring this is done safely would be controlled by the condition requiring the submission of a Construction Environmental Management Plan. In the light of this I consider the proposal would not be detrimental to pedestrian safety either.

### *Flooding*

122. The appeal site lies in Flood Zone 1 which is the lowest risk of flooding. Nonetheless it was highlighted by local residents that flooding occurs in the dip in Darley Road adjacent to the site and the wider area. The application was accompanied by a Flood Risk assessment, which was updated to take account of revisions to the scheme. The proposal would only marginally change the amount of impenetrable ground on the site and a system of linear swales and filter drains are proposed to manage surface water. These are intended to reduce the current unrestricted flow of water from the site and so the flood risk from the site would be likely to be reduced not increased by the proposal. The final design of the drainage system would be subject to a condition to ensure this remains the case.

### *Crime and disorder*

123. It was suggested that the creation of hedging and fencing along footpaths would discourage the use of them due to an increased risk of crime resulting from the visual and physical containment. The proposed fencing would not immediately abut any footpath but would be set back behind the hedges and the PRows would be a minimum of 7m wide, so an overly "industrial" or enclosed character would not be created. Moreover, the relatively straight nature of most of the footpaths ensures good forward visibility.
124. Across the country, it is not uncommon for footpaths, which are often much narrower than 7m, to have hedges to either side and such characteristics do not appear to deter the use of them. Consequently, I am not persuaded that the proposed landscaping along the PRow would create an intimidating enclosed space that would make them unpleasant or unsafe routes to use.
125. Concern was raised that the CCTV cameras could result in a loss of privacy. However, a condition can be used to restrict viewing angles to prevent this.

### *Noise and Light Pollution*

126. Whilst noting the comments from residents about the potential for noise disturbance from the operation of the solar farm, the appellant's noise assessment considered this, and concluded that there is a low likelihood of an adverse impact at the nearest residential properties. This assessment was reviewed by Council officers who raised no objections to the proposal. In the absence of any evidence to the contrary I have no reason to doubt the conclusion of the assessment and so I am satisfied the proposal would not have any unacceptable impact in this regard.

127. The acoustic assessment identified that the main noise associated with the solar farm would be linked to the electrical infrastructure: the inverters, DC converter and battery containers. These are largely set some distance from the PRow network. The assessment was considering the impact on the nearest residential properties rather than the PRowS. However, given its findings, and in the absence of any substantive evidence to the contrary, I am satisfied the noise created would not have a detrimental impact on users of the network.

128. Any noise and disruption during the construction period would be temporary and within normal working hours. The Construction Environmental Management Plan would control the hours of operation on, and deliveries to, the site as well as outlining other measures to mitigate the impact of the construction phase. Other than security lighting needed in emergencies, there is not proposed to be any external lighting and so the proposal would not cause light pollution.

### *Community Consultation*

129. Whilst the Framework encourages early consultation with the community, there is no requirement for developers of solar farms of this size to do so. The appellant has set out the pre-application consultation they undertook which was in addition to the Council's own consultation on the application. This included leaflets being delivered to homes and businesses and a public exhibition. Although local residents may not have been happy with how this consultation carried out, I am satisfied people have had adequate opportunity to comment and this is reflected in the responses made by local residents to both the application and the appeal.

130. I note the various comments made by third parties regarding potential community benefits offered by the developer. However, these are not part of the planning system and so are not a matter which I have considered.

### *Property Prices*

131. Although it has been argued that the scheme would result in a loss of property prices the PPG states that "[the courts] have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations<sup>3</sup>."

### *Other*

132. It has been suggested that the proposal would set a precedent for more solar farm developments. However, the Alternative Site Assessment shows that within North Hertfordshire there is no available grid capacity and so the development of other solar farms would be impractical. Furthermore, there is no substantive evidence that the operation of solar farms result in the emission of radiation that can be harmful to public health.

## **Planning Balance and Conclusion**

133. I have concluded that the appeal site constitutes Grey Belt land and that it would accord with the provisions of paragraph 155 of the Framework. It would therefore not be inappropriate development in the Green Belt. However, the proposal would

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<sup>3</sup> Paragraph Reference ID 21b-008-20140306

have a moderate adverse impact on both local landscape character and in terms of its visual effect and would be contrary to LP Policy NE2. I give moderate weight to these harms. In addition, the proposal would cause less than substantial harm to the setting of four Listed Buildings.

134. The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future. The appeal scheme would make a significant contribution to this, and I give substantial weight to the contribution the proposal makes to renewable energy generation, addressing climate change and to improving energy resilience and security.
135. In addition, I give significant weight to the provision of a BESS and to the proposals use of available grid connection which means it would be able to start delivering energy within a short period of time. I also give significant weight to the biodiversity enhancements the scheme would provide and moderate weight to the economic benefits.
136. The Framework requires that where a proposal causes less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. I attribute great weight to the potential harm to the Listed Buildings within the Tankards Farm complex and to the Windmill. However, I consider the contribution the scheme would make to the generation of clean and secure energy is a substantial public benefit, and together with the other benefits outlined above, would outweigh the less than substantial harm to the designated heritage assets.
137. I have identified that the proposal would conflict with policies in the LP and so would not comply with the development plan as a whole. However, I consider that the benefits of the proposal are material considerations of sufficient weight to outweigh the harms I have identified. Consequently, in this instance, this justifies allowing the appeal other than in accordance with the development plan.
138. For this reason, I therefore conclude the appeal should be allowed.

### **Conditions**

139. The main parties agreed a set of suggested conditions that were discussed at the inquiry. This discussion led to a number of them being revised. I have considered these in the light of paragraph 57 of the Framework. The conditions include a number of pre-commencement conditions that the appellant has confirmed in writing are acceptable.
140. In addition to the standard implementation condition (condition 1), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 2). Conditions 3 and 22 are reasonable and necessary to limit the period of the permission and to ensure the site is decommissioned either at the end of the permission or when energy generation ceases.
141. In the interest of the character and appearance of the area and to accord with LP Policies NE2, NE12, D1 and SP12, conditions 4, 10, 12, 14 and 15 are necessary. Conditions 10 and 14 need to be pre-commencement conditions: the former because it relates to work that needs to take place as part of the construction; and

the latter as it relates to works that need to be in place before construction starts to ensure the protection of existing trees and hedges.

142. To protect the living conditions of nearby residents and to accord with LP Policy D3, condition 5 is required. For the same reason and also in the interests of highway safety and to accord with policies D4, T1 and NE12 condition 6 is necessary. For reasons of highway and pedestrian safety, conditions 18, 19 and 20 are necessary. Conditions 6 and 18 need to be pre-commencement conditions: the former because it controls how construction works are carried out and the latter because it relates to the provision of the access that will be used during the construction period.
143. In the interests of biodiversity and to accord with LP Policies NE4, NE12 and SP12, conditions 7 and 11 are necessary. Condition 7 needs to be a pre-commencement condition as it controls how construction works are carried out. To prevent the risk of pollution, and in accordance with LP Policy NE11, condition 8 is necessary.
144. To protect and record any potential archaeological remains on the site and in accordance with LP Policies HE4 and NE12, condition 9 is necessary. It needs to be a pre-commencement condition as it relates to work that needs to be done before any construction work commences.
145. Condition 13 is needed to give effect to the intention of the proposal to retain an element of agricultural use. To protect soil quality and to accord with LP Policy NE12 condition 16 is required. This needs to be a pre-commencement condition as it affects how the construction is undertaken.
146. Condition 17 is required to ensure the site is properly drained and does not increase the risk of flooding and to accord with LP Policy NE8. This needs to be a pre-commencement condition as it relates to work that needs to be done before any construction work commences. To minimise the risk of fire and to accord with Policies D3 and NE12 of the LP, condition 21 is necessary.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Thea Osmond-Smith and Anna Stein Counsel instructed by EPL 002 Ltd

They called:

Mr Lee Morris BSc(Hons) PGDipLA MA PIEMA CMLI BwN Assessor	Managing Director and Co-Owner Tir Collective
Mr Matthew Sharpe BA(Hons) DipTP MRTPI	Senior Director Quod Planning Consultancy

### FOR THE LOCAL PLANNING AUTHORITY:

Caroline Daly Counsel instructed by North Hertfordshire District Council

She called:

Mr Paul Reynolds BA(Hons) PGDip MA CMLI UDGRP FRSA	Director and Co-Founder Tapestry Urbanism Ltd
Mr Phillip Hughes BA(Hons) Dip Man MRTPI FRGS FRSA MCIM	Director PHD Chartered Town Planners

### INTERESTED PARTIES:

Cllr Joe Graziano	Ward Councillor North Hertfordshire District Council
Mr Owen Connolly	Stop Wandon End Solar Action Group
Ms Victoria Chamberlain	Stop Wandon End Solar Action Group
Mr Tony Cross	Stop Wandon End Solar Action Group
Mr John Humphreys	Stop Wandon End Solar Action Group
Ms Danielle Swain	Stop Wandon End Solar Action Group
Mr Roger Lovegrove	Decarbonising Letchworth

## INQUIRY DOCUMENTS

- INQ1 Updated Tables 1-3 from Appendix A of the appellant's Landscape Rebuttal  
Proof of Evidence
- INQ2 Opening Statement by Council
- INQ3 Opening Statement by Appellant



- INQ4 Appellant's response to points raised in the Stop Wandon End Solar Action Group presentation
- INQ5 Errata to Mr Hughes Proof of Evidence
- INQ6 Copy of statement made by Cllr Graziano
- INQ7 Copy of statement made by Mr Lovegrove
- INQ8 Copy of Stop Wandon End Solar Action Group presentation notes
- INQ9 Information on Dane Street Solar Farm from Stop Wandon End Solar Action Group
- INQ10 Agreed Landscape Assessment of Effects Comparison Tables
- INQ11 Comments from Stop Wandon End Solar Action Group on suggested conditions
- INQ12 Closing Statement by the Council
- INQ13 Closing Statement by the Appellant

### **CORE DOCUMENTS**

Can be accessed using the following link:

[Public inquiry for land north east of Wandon End | North Herts Council](https://www.gov.uk/planning-inspectorate/public-inquiry-for-land-north-east-of-wandon-end-north-herts-council)

## Annex A

### Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Save to the extent any further details approved pursuant to Conditions [4 (External appearance), 10 (Detailed Landscape scheme), 17 (Surface Water Drainage Scheme), and 21 (Battery Safety Management Plan)], the development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans/drawings:
  - Site Boundary Plan (Ref: 262702/008), dated August 2023
  - Cable Route Boundary (Ref: 275304/007 Rev A) dated September 2023
  - Planning Layout Plan (Ref: 167-02-04), dated April 2024
  - Planting Plan (Ref: TOR-XX-XX-DR-L001 Rev L), dated April 2024
  - Biodiversity and Landscaping Plan (Ref: 167-02-05), dated April 2024
  - Enhanced Mitigation Plan (Ref: TC.100 v3) dated January 2025
  - Construction Compound Access Arrangements (Ref: 01-PHL-101) Rev D, dated February 2024
  - Preliminary Access Arrangements – Substation (Ref: 01-PHL-102) Rev B, dated February 2024
  - Access Route Plan (Ref: 167-01-12), dated February 2024
  - CCTV Detail (Ref: 167-02-11)
  - Security Fencing Detail (Ref: 167-02-13)
  - Inverter Station Detail (Ref: 167-02-15)
  - DC-DC Converter Detail (Ref: 167-02-16)
  - Framing Detail Panelled (Ref: 167-02-17A)
  - Framing Detail (Ref: 167-02-17B)
  - Framing Cross Section Plan (Ref: 167-02-17C)
  - Framing Details panelled (Ref: 167-02-17D)
  - Framing Detail – unpanelled (Ref: 167-02-17E)
  - Trench Details (Ref: 167-02-18)
  - Battery Container Detail (Ref: 167-02-20)
  - Spares Storage Container (Ref: 167-02-21)
  - DNO Switchgear (Ref: 167-02-40)
  - Inverter BESS Area (Ref: 167-02-40), dated April 2024
  - June 2023 Private Switch Gear (Ref: 167-02-14)
  - Water Storage Tank (April 2024) (Ref: 167-02-50)
  - Tree Protection Plan (Ref: GM12228-001 Rev F), dated February 2024
  - Tree location and constraints plan cable route (Ref: GM12228-008 rev A)
- 3) The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported to the electricity grid (the First Export Date). Written notification of the First Export Date shall be given to the local planning authority within 30 days of it happening.
- 4) Prior to their erection on site, details of the scale, layout, materials, colour and finish of the following shall be submitted to, and approved in writing by, the local planning authority:
  - BESS, inverters, and associated infrastructure
  - Solar panels and frames

CCTV poles and cameras

Ancillary buildings, equipment, and enclosures

The details shall be in general accordance with the Planning Layout Plan (April 2024) (Ref: 167-02-04). The development shall be carried out in accordance with the approved details and maintained as such for the lifetime of the development hereby permitted.

- 5) Prior to the installation of any CCTV cameras, details of measures to restrict the camera movements around the boundary of the application site to prevent viewing towards residential properties located in Tea Green, The Heath (including Mill Way), Greenacres and Darley Road shall be submitted to, and approved in writing by, the local planning authority. Thereafter, the CCTV cameras shall be installed and retained in perpetuity in accordance with the approved details.
- 6) No development (including ground and site preparation works, stockpiling, construction, and vehicle movements) shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority.

The CEMP must include, as a minimum, details of the following:

- a) A timetable for construction works;
- b) Parking provision for site operatives and visitor vehicles;
- c) The location(s) for the loading and unloading of plant and materials;
- d) Proposed access routes for construction traffic and how such traffic will be managed;
- e) The location(s) for the storage of all construction plant, equipment, and materials;
- f) Wheel washing facilities and any other cleaning measures to prevent the transfer of mud and debris being brought onto the public highway;
- g) Contractors' compounds and storage arrangements for cranes, plant, equipment, and related temporary infrastructure;
- h) The enclosure of the parts of the site and the erection and maintenance of any security hoarding;
- i) Signage (types and location) for directing construction traffic;
- j) Access/egress by emergency vehicles;
- k) Swept path for construction and operational vehicles;
- l) Measures to manage and minimise noise emissions;
- m) A scheme for recycling/disposing of waste resulting from demolition and construction works;
- n) Details of construction hours and timings of deliveries; and
- o) Measures to protect Public Rights of Way and their users during the construction period.

All demolition, engineering, and construction works must be undertaken in accordance with the approved CEMP, which must be fully implemented and adhered to throughout the construction phase of the development.

- 7) No development shall commence (including ground and enabling works, and vegetation clearance) until a Biodiversity Construction Environmental Management Plan (Biodiversity CEMP) has been submitted to, and approved in writing by, the local planning authority.

The Biodiversity CEMP shall incorporate measures identified in Chapter 7 of the Environmental Statement by Terence O'Rourke Ltd dated December 2022 and shall, as a minimum, include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'biodiversity protection zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including protection from dust and debris;
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- h) Use of protective fences to protect retained habitats, exclusion barriers, and warning signs;
- i) Details of artificial lighting during construction;
- j) Details of the location for all storage of materials and parking and manoeuvring of vehicles during works;
- k) Details of how the site will be remediated and built without affecting surrounding habitats;
- l) Programme of pre-commencement checking surveys, including nesting birds, badger, barn owls, and updating aerial tree inspections for bats; and
- m) Measures to protect common amphibians, reptiles, and nesting birds, as well as badgers and hedgehogs.

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

- 8) Any contamination encountered during the development of this site shall be brought to the attention of the local planning authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to, and agreed in writing by, the local planning authority and subsequently fully implemented prior to the First Export Date.
- 9) No development shall commence until an Archaeological Written Scheme of Investigation (WSI) has been submitted to, and approved in writing by, the local planning authority. The WSI shall include
  - a) The statement of significance and research objectives;
  - b) The programme and methodology of site investigation and recording;
  - c) The programme and timetable for post investigation assessment;
  - d) Provision to be made for analysis of the site investigation and recording;
  - e) Provision to be made for publication and dissemination of the analysis and records of the site investigation; and
  - f) Provision to be made for archive deposition of the analysis and records of the site investigation.

The WSI will be prepared and implemented by a suitably qualified professionally accredited archaeological practice.

The development shall take place in accordance with the programme of archaeological works set out in the approved WSI.

- 10) No development shall commence until a landscaping scheme has been submitted to, and approved in writing by, the local planning authority. The submitted scheme should be in accordance with the details illustrated on the Enhanced Mitigation Strategy Drawing TC.100 v3 and shall include detailed planting proposals, planting locations and dimensions, species, densities, sizes, mixes and protection for new planting areas, hard surfacing materials and a timetable for implementation.

The landscaping of the site shall take place in accordance with the approved details and implementation programme.

Any planting which within a period of five years of planting dies, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 11) No development shall commence until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include:
- a) Description and evaluation of features to be managed;
  - b) Ecological trends and constraints on site that might influence management;
  - c) Proposals for ecological enhancements for habitats and species;
  - d) Aims and objectives of management;
  - e) Appropriate management options for achieving aims and objectives;
  - f) Prescriptions for management actions;
  - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - h) Details of the body or organisation responsible for the implementation of the plan;
  - i) Ongoing monitoring and adaptive management measures; and
  - j) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The Development shall be implemented in accordance with the approved details and the management prescriptions shall be implemented across the site for a period to be agreed in the LEMP.

- 12) Prior to the First Export Date, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows shall be submitted to, and approved in writing by, the local planning authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting and grassland implemented as part of the development. All vegetation within the site shall



be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.

- 13) Prior to the First Export Date, a Grazing Management Plan (GMP) shall be submitted to the local planning authority for approval in writing. The GMP shall confirm which parts of the site can be used for the grazing of livestock, during which months of the year, what livestock are to be grazed there, and it shall set out details of how the grazing is to be managed. Within three years of the First Export Date, the grazing of livestock shall be implemented on the site in accordance with the GMP. Any changes to the GMP during the lifetime of the permission shall be first submitted to the local planning authority for approval in writing prior to implementation on site and shall thereafter be carried out in accordance with the approved revised GMP.

- 14) No development shall take place until an arboricultural method statement has been submitted to, and approved in writing by, the local planning authority. The details shall include details of tree and hedge protection (in line with BS 5837:2012) identifying measures to protect trees and hedges to be retained during site preparation, construction, and landscaping works.

The Development shall be implemented in accordance with the approved details and the agreed measures shall be kept in place during the entire course of the construction phase.

- 15) None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the local planning authority. Any tree felled, lopped, topped, uprooted, removed or otherwise destroyed or killed contrary to the provisions of the tree retention condition shall be replaced during the same or next planting season with another tree of a size and species as agreed in writing with the local planning authority, unless the authority agrees in writing to dispense with this requirement.

- 16) No development shall take place until a Soil Management Plan has been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved details. The soil management plan shall include:

- a) Measures to protect soils during development with reference to the guidance found in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites;
- b) A works programme showing how all soil handling and trafficking operations will be undertaken and which makes allowance for poor weather/ ground conditions stoppages;
- c) Details of how construction activities will be managed across the site to minimise impact on soils;
- d) Details of appropriate equipment and methods for stockpiling, re-spreading and ameliorating of soil compaction in accordance with good practice techniques to minimise the risk of soil compaction; and
- e) Confirmation that any PV array cleaning methods would not harm the soil quality.

- 17) No development shall commence until construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms and a construction method statement have been submitted to, and agreed in writing by, the local planning authority. This shall

be based on the Flood Risk Assessment and Drainage Strategy (Wardell Armstrong November 2023).

The Development shall be implemented in accordance with the approved details prior to the First Export Date and be retained as such for the lifetime of the development hereby permitted.

- 18) No development shall commence (other than works directly required for the delivery of the accesses referenced by this condition) until the vehicular access(es) have been provided and thereafter retained for the entire construction period at the position(s) shown on the approved plan(s) drawing numbers 01-PHL-101 Rev D and 01-PHL-102 Rev B. Surface water drainage shall be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

The accesses shall include provision to prevent surface water from discharging onto the existing highway in accordance with details previously approved in writing by the local planning authority and shall be constructed and thereafter maintained to prevent discharges before the accesses are brought into use.

Prior to the First Export Date the temporary construction sites access points at Wandon End Road shall be removed.

- 19) Prior to the accesses approved under condition 18 being brought into use visibility splay(s) shall be provided in full accordance with the details indicated on the approved plan numbers 01-PHL-101 Rev D and 01-PHL-102 Rev B. The splay(s) shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
- 20) Notwithstanding the details indicated on the submitted drawings, no development other than ground preparation works shall commence until a Permissive Path and Public Rights of Way Improvement Plan for the on-site Rights of Way improvement works (and works access during the construction phase) has been submitted to and approved in writing by the Local Planning Authority.

Within 3 months of the First Export Date the Rights of Way Improvement Plan works (including any associated highway works) referred to the first paragraph of this condition shall be completed to the written satisfaction of the local planning authority and retained as such thereafter.

- 21) Works to form the Battery Energy Storage infrastructure 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 will include details of battery management, fire suppression systems, fire hydrant provision, water supply, maintenance and emergency access to ensure any fire risk is minimised. The BSMP will demonstrate consideration of the National Fire Chiefs Council guidance in accordance with National Planning Policy Guidance and any relevant Fire Protection Association guidance. An Emergency Response Plan will also be provided to Hertfordshire Fire and Rescue Service and the Local Planning Authority that summarises the installed battery system characteristics, layout, and electrical isolation procedures.

The Development shall be implemented in accordance with the approved details prior to the Battery Energy Storage Infrastructure being brought into use and retained as such thereafter.

- 22) Within 3 months of the development ceasing to generate electricity for a period of 12 months (other than for operational reasons outside the operator's control), or within a period of 39 years following the First Export Date, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, shall be submitted to the local planning authority for its written approval. The scheme shall include, but not be limited to the following:
- a) a programme for the completion of the decommissioning and restoration works;
  - b) details of the removal of the solar panels and associated above ground infrastructure approved under this permission;
  - c) the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period;
  - d) an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and
  - e) details of site restoration measures.

The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved Scheme and timescales set out therein.