



Department for Levelling Up,  
Housing & Communities

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Our ref: APP/X1925/V/23/3323321

Your ref: 21/03380/FP

11 March 2024

*By email only*  
Philliprod@axis.co.uk

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY AGR 4 SOLAR LTD  
LAND AT GRAVELEY LANE AND TO THE EAST OF GREAT WYMONDLEY,  
HERTFORDSHIRE.  
APPLICATION REF: 21/03380/FP**

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

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI who held a public local inquiry which sat for 7 days between 12 to 22 September 2023 into your clients' planning application for the following development: Proposed solar array with associated battery storage containers and ancillary development including means of access and grid connection cable on land at Graveley Lane and to the east of Great Wymondley, Hertfordshire, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.
2. On 26 May 2023, this application was called in for decision by the Secretary of State by a direction, made under Section 77 of the Town and County Planning Act (TCPA) 1990.

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

3. The Inspector recommended that the application be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with his recommendation. He has decided to grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to the IR.

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

4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. At the same time the updated versions of National Policy Statements (NPS) EN-1 and EN-3 were referenced back for parties to comment on. A list of representations received in response to this letter is at Annex A. These representations,

and responses to them, were circulated to the main parties. The responses covered a range of issues, including, among other matters, the increased emphasis on the requirement for renewable energy, and that this policy statement referred to Nationally Significant Infrastructure Projects (NSIPs) of 50MW or more, which this application is not, and the amendments in relation to Best and Most Versatile (BMV) agricultural land. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

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 his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the North Hertfordshire Local Plan (2011-2031), the Wymondley Parish Neighbourhood Plan (2015-2031) and the Hertfordshire Minerals Local Plan Review (2002-2016). The Secretary of State agrees with the Inspector at IR5.1 that the Hertfordshire Waste Core Strategy and Development Management Policies Document, and Hertfordshire Waste Site Allocations Document are not relevant to the application proposal. The Secretary of State considers that relevant development plan policies include those set out at IR5.2-5.8.
8. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), plus the other publications listed at IR5.9.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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 Hertfordshire Mineral and Waste Local Plan 2040 is at consultation stage. The Local Planning Authority (LPA) has consulted upon a draft version of the Plan and are currently reviewing those comments.
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. As the emerging plan is at an early stage, the Secretary of State affords it very limited weight in the determination of this application.

## **Main issues**

12. The Secretary of State agrees that the main issues are those set out by the Inspector at IR 12.1.

### *Green Belt*

13. The Secretary of State agrees with the Inspector and parties that the proposal represents inappropriate development in the Green Belt (IR12.2).

14. For the reasons given in IR12.3-12.4, the Secretary of State agrees with the Inspector that the proposal would have an adverse impact insofar as the spatial aspect of openness is concerned (IR12.3), and would result in a significant loss of openness, both spatially and visually, in the Green Belt (IR12.4).

15. For the reasons given at IR12.6-12.9 the Secretary of State agrees that the introduction of development onto the site, would be harmful to purposes of the Green Belt (a) to check the unrestricted sprawl of large built-up areas, (b) to prevent neighbouring towns merging into one another, (c) assisting in safeguarding the countryside from encroachment and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

16. Policies SP5 of the Local Plan and GB1 of the Neighbourhood Plan refer to the need to demonstrate Very Special Circumstances (VSCs), and to ensure compliance with Government Green Belt policy respectively. Paragraphs 152-153 (formerly 147-148) 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. His conclusion on whether VSCs exist, and therefore on whether the application complies with Policies SP5 and GB1 is set out at paragraph 39 below.

### *Climate Change and Energy Security*

17. As a renewable energy scheme, the Secretary of State finds that the proposal accords with Local Plan policy SP11(a). The Secretary of State notes that the proposal would have a 49.995MW export capacity during peak operation (IR4.1) representing an important contribution to the Government's expectation of a five-fold increase in solar deployment by 2035 (IR12.13), and that the District and County Councils both declared a Climate Emergency in 2019 (IR12.14). He further notes that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015 (IR12.15). Local Plan Policy SP1 looks to ensure sustainable development in North Hertfordshire, and specifically refers to providing the necessary infrastructure required to support an increasing population. Like the Inspector in IR5.5, the Secretary of State concludes that Policy SP1 lends support to the application proposals.

18. With regard to the weight to be attached to the development's contribution towards renewable energy targets, the Secretary of State disagrees with the Inspector's conclusion at IR12.16 that these carry significant weight (IR12.16). Rather, he considers that, for the reasons given in paragraph 17 of this letter, plus the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District (IR12.15), and the significance of that contribution towards moving away from reliance on fossil fuel sources of energy, that substantial weight should be afforded to this benefit. .

### *Character and Appearance*

19. The Secretary of State agrees that although the site is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity, its open views would be sensitive to the introduction of further urbanising features (IR12.18). He further agrees that there would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change (IR12.19). For the reasons given at IR12.19 the Secretary of State agrees that there would be a moderate adverse impact on the landscape character area, both following construction (year 0) and when planting had become established (year 10).
20. The Secretary of State agrees that additional planting would be a positive contribution to the character of the site and its environs (IR12.21). He further agrees that the replacement of large arable fields would represent a major and adverse change to the landscape of the site and given the scale of development, planting would not materially lessen the impact on the local landscape (IR12.21). He agrees that the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley. For the reasons given at IR12.22 the Secretary of State agrees that the proposed development would not adversely affect the setting of the Chilterns National Landscape approximately 5.3km to the west.
21. For the reasons given at IR12.23 the Secretary of State agrees that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane. For the reasons given in IR12.24, the Secretary of State agrees that when planting becomes established it would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. For the reasons given in IR12.25-12.28, the Secretary of State agrees with the Inspector that the sensitivity of users of the A1(M) is low (IR12.25). Further to this, he agrees that from Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further and that from western edge of Graveley, the development would have a negligible effect (IR12.27). He also agrees that planting reduces levels of harm to minor for the footpaths described in IR12.26. Like the Inspector, he considers that the proposed development would have a damaging effect on the character and appearance of the area, and it would therefore be contrary to Local Plan Policies SP12, NE2 (IR12.29) and D1, which requires proposals to respond positively to their local context (IR12.64).

### *Habitats and Biodiversity*

22. For the reasons given at IR12.30-12.34, the Secretary of State finds concern with the certainty over the mitigation proposed for displaced skylarks and agrees with the Inspector's conclusion that this carries moderate weight against the proposal (IR12.38).
23. The Secretary of State finds the delivery of BNG of 205.96% in habitat units and 102.29% in hedgerow units (IR12.37) would be a significant positive contribution resulting from the development. He therefore agrees with the Inspector's conclusion at IR12.38 that this carries significant weight.

### *Heritage Assets*

24. For the reasons given at IR12.40-12.45, the Secretary of State agrees with the Inspector at IR12.45 that the proposal would detract from the setting of Great Wymondley Conservation Area (GWCA) and the scheduled monument of Great Wymondley Castle,

with the harm to the GWCA at the upper end of the less than substantial harm spectrum and to the castle at the lower end.

25. The Secretary of State has carefully considered the reasons given at IR12.46-IR12.49 in relation to the grade I listed Wymondley Priory, however he disagrees with the Inspector's assessment at IR12.49 that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the grade I listed priory and the grade II\* listed nearby tithe barn, and less than substantial harm to the contribution which setting makes to their significance. As set out at IR12.48 the intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. The Secretary of State considers that the proposed development retains visual separation between the priory complex and the farmland setting would remain as a result of the proposed development, as would the ability to appreciate the contribution of that setting to the significance of the priory complex. He therefore concludes that there would be a moderate level of harm to the setting of the scheduled monument. Like the Inspector concludes at IR12.48, the Secretary of State agrees concern does not extend to the conduit head due to its concealment by existing trees and whose relationship with the main complex across open farmland would remain distinct.
26. For the reasons given at IR12.50-12.51, the Secretary of State agrees with the Inspector that the proposed development would not materially affect the setting of the grade II\* listed St. Mary's Church and the grade II listed buildings at Graveley Hall Farm.
27. As per paragraph 205 (formerly 199) of the framework, at IR12.89 the Inspector assigns great weight to the collective harm to all the Heritage Assets and concludes the proposal would conflict with Local and Neighbourhood Plan policies. The Secretary of State notes out of the four groups of heritage assets, the Inspector finds no material effect to two groups. The Secretary of State notes the Inspector's analysis of paragraph 208 of the Framework (formerly paragraph 202) and the Inspector's assessment of the public benefits of the scheme at IR12.87-88. The Inspector does not find conflict with Local Plan policies HE3 and HE4, relating to heritage, with which the Secretary of State agrees. Local Plan policy SP13 explains that, when considering the impact of development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the management of its setting. Local Plan policy HE1 requires less than substantial harm to the significance of a designated heritage asset to be assessed against the public benefits of the development proposed, mirroring the heritage test set out in paragraph 208 (formerly paragraph 202) of the Framework. He has returned to this matter at paragraph 38 below.

#### *Agricultural Land*

28. For the reasons given at IR12.55-12.61 the Secretary of State agrees that the proposed development would be consistent with the provisions of paragraph 180(b) (formerly 174) of the Framework. Like the Inspector, the Secretary of State agrees the proposal would enable agricultural use of the land to continue through grazing.
29. Footnote 62 of the Framework, concerning the importance of the availability of agricultural land used for food production has been given further consideration in relation to this application. The Secretary of State upholds his opinion that the proposed development would be consistent with paragraph 180(b) (formerly 174) of the Framework and finds the updated Footnote 62 to have limited bearing on the application.

#### *Site Selection*

30. The Secretary of State notes the Inspector's concerns set out at IR12.77 and his conclusion that the site selection exercise does not provide clear support for the development of the solar farm on the application site. He has carefully considered the assessment of six extra-high voltage substations, and six 132kV substations, plus the applicant's evidence at IR7.1 and 7.2 concerning engagement with other potential sites to the west and south. He disagrees with the Inspector's conclusions in this regard and in his judgement, he considers that the selection of the application site followed a robust and reasonable approach to site selection.
31. Further to this, the Secretary of State agrees with the Inspector for the reasons given at IR12.79 and IR12.88 that the scheme's availability and deliverability and the urgency of addressing the climate crisis, are matters which lend significant support to the proposal, and he considers these matters attract significant weight.

*Other benefits or disbenefits to be weighed in the planning balance*

32. The Secretary of State agrees that the economic benefits arising from employment (IR12.86) and the reversibility of the development (IR12.88) should be taken into account and considers they should hold limited weight.
33. Furthermore, the Secretary of State agrees that the reduction in flood risk (IR12.68) and the provision of permissive paths (IR12.85) should carry moderate weight.

**Planning conditions**

34. The Secretary of State had regard to the Inspector's analysis at IR12.87, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

**Planning balance and overall conclusion**

35. For the reasons given above, the Secretary of State has found that the application is in conflict with Local Plan policies SP12, NE2 and D1 in relation to impact on landscape and character. With regard to heritage, the Secretary of State, like the Inspector finds that there is compliance with Policy HE3 and HE4, however given his findings with regard to the heritage balance set out at para 38 below, he also finds, unlike the Inspector, that the proposals are compliant with policies SP13 and HE1. He also finds the application to be compliant with local policies relating to biodiversity, BMV land and flooding. The Secretary of State also finds that the proposal is in accordance with Policy SP5 and NP Policy GB1 given that he deems (in para 39 below) that there are VSCs which outweigh the harm to the Green Belt. Given his findings in respect of Green Belt and heritage matters above, and his overall conclusions in respect of the scheme, the Secretary of state also concludes that the scheme complies with Local Plan policies SP11(a) and SP1. Taking into account his conclusions set out above, the Secretary of State has concluded that overall, the application is in broad compliance with the development plan taken as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
36. Weighing in favour of the proposal is the production of renewable energy which the Secretary of State considers carries substantial weight, including the wider environmental

benefits associated with increased production of energy from renewable sources, as set out in paragraph 156 (formerly 151) of the Framework and the contribution which the proposals make to the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District; the BNG contribution which carries significant weight, and the deliverability of the scheme which is afforded significant weight. Further to this are the positive benefits arising from the reduction in flood risk and contribution to permissive footpaths, to which moderate weight is afforded and from the reversibility of development and economic benefits from employment, which carry limited weight.

37. Weighing against the proposal is harm to the Green Belt which carries substantial weight, harm to heritage which carries great weight and uncertainty about mitigation for displaced Skylarks which carries moderate weight. Further to this, harm is found to the impact on views from Graveley Lane and the Hertfordshire Way which carries considerable weight, to the landscape of the site and its immediate surroundings which carries significant weight and to the effect on landscape character area which carries moderate weight.
38. The Secretary of State has considered paragraph 208 (formerly paragraph 202) of the Framework. He considers that the public benefits of the proposal do outweigh the less than substantial harm to the designated heritage assets and therefore, in his judgement, the Framework's heritage balance is favourable to the proposal.
39. The Secretary of State has considered paragraph 153 (formerly paragraph 148) of the Framework. He 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 for the application should be granted.

### **Formal decision**

42. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby grants planning permission for a solar array with associated battery storage containers and ancillary development including means of access and grid connection cable, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.

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

43. 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.
44. A copy of this letter has been sent to North Hertfordshire Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*L. Thomas*

Decision officer

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

## **Annex A Schedule of representations**

### **Representations received in response to the Secretary of State's reference back letter of**

<b>Party</b>	<b>Date</b>
Joint Objector's Group – Jed Griffiths	28 January 2024
Axis (on behalf of the applicant)	31 January 2024

### **Representations received in response to the Secretary of State's recirculation letter of**

<b>Party</b>	<b>Date</b>
North Hertfordshire Council	7 February 2024
Joint Objector's Group – Jed Griffiths	12 February 2024

## **Annex B List of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
  - i) Drawing No. 3004-01-001 Rev B – location plan
  - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
  - iii) Drawing No. 3004-01-003 Rev F – general arrangement (site plan)
  - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
  - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
  - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
  - vii) Drawing No. 3004-01-006 – storage building
  - viii) Drawing No. 3004-01-007 – control building
  - ix) Drawing No. 3004-01-008 – switchgear building
  - x) Drawing No. 3004-01-009 – battery storage container
  - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
  - xii) Drawing No. 3004-01-011 – typical cable trench
  - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
  - xiv) Drawing No. 3004-01-D05- forward visibility splays
  - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
  - xvi) Drawing No. 3004-01-ATR01 Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
  - i) solar panels and frames.
  - ii) CCTV columns.

iii) Satellite communication dish and column.

iv) Location of ancillary buildings, and details of equipment and enclosures

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

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of the following:
- i) A timetable for the construction works.
  - ii) The control and management of noise and dust during the construction phase.
  - iii) On-site waste management.
  - iv) A risk assessment of potentially damaging construction activities.

- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:
  - i) Construction vehicle numbers, type and routeing.
  - ii) Access arrangements onto the site.
  - iii) Traffic management measures.

- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place 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 the following:
- i) Description and evaluation of features to be managed.
  - ii) Ecological trends and constraints on the site that might influence management.
  - iii) The aims and objectives of management.
  - iv) Appropriate management options for achieving aims and objectives.
  - v) Prescriptions for management action.
  - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
  - vii) Details of the organisation responsible for implementation of the plan.
  - viii) Ongoing monitoring and remedial measures.
  - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0 and stated and marked on plans.
  - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
  - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
  - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

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

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP

shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:

- i) A timetable for implementation of the scheme.
- ii) External hard surfacing materials.
- iii) Means of enclosure.
- iv) Proposed and existing services above and below ground.
- v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
- vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:

- i) The programme and methodology of site investigation and recording.
- ii) Identification of the no-dig areas.

- iii) The programme for post investigation assessment.
- iv) Arrangements for analysis of the site investigation and recording.
- v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
- vi) Arrangements for archive deposition of the analysis and records of the site investigation.
- vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

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

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

14)No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

15)During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

16)No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

17)No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.

- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.
- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in

accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.

- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.
- iv) The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years

from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.

- iv) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.



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

**by Richard Clegg BA(Hons) DMS MRTPI**

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

**Date 11 December 2023**

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## **TOWN AND COUNTRY PLANNING ACT 1990 NORTH HERTFORDSHIRE DISTRICT COUNCIL**

### **APPLICATION BY AGR 4 SOLAR LTD**

Inquiry opened on 12 September 2023

Land at Graveley Lane and to the east of Great Wymondley

File Ref: APP/X1925/V/23/3323321

**File Ref: APP/X1925/V/23/3323321**

**Land at Graveley Lane and to the east of Great Wymondley, Hertfordshire.**

- 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, on 26 May 2023.
- The application is made by AGR 4 Solar Ltd to North Hertfordshire District Council.
- The application Ref 21/03380/FP is dated 6 December 2021.
- The development proposed is described as 'a photovoltaic solar array on land at Priory Farm to the east of Great Wymondley, North Hertfordshire'.
- The reason given for making the direction was that the Secretary of State decided, in the light of his policy on calling in planning applications, that the application should be called in.
- 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 as set out 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 as set out 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 as set out in the NPPF (Chapter 15);
  - 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.
- The inquiry sat for seven days: 12-15, 19, 20 & 22 September 2023.
- Site visits took place on 21 & 22 September 2023.

**Summary of Recommendation: That planning permission be refused.**

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**1. Procedural Matters**

- 1.1 The Joint Objectors Group (JOG), comprising Great Wymondley Village Association and Wymondley Parish Council, served a statement of case in accordance with Rule 6(6) of the Town and Country Planning (Inquiries procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry. Together with the Applicant and the Local Planning Authority (LPA) it is a main party in the consideration of this application.
- 1.2 A case management conference was held on 18 July 2023 to consider the ongoing management of the case and arrangements for the inquiry. There was no discussion of the merits of any parties' cases at the conference. A note of the meeting (core document 139 (CD139)) was posted on the website for the inquiry, which can be accessed via the following link: [Solar Farm Public Inquiry North Herts Council \(north-herts.gov.uk\)](https://www.north-herts.gov.uk/solar-farm-public-inquiry). The website includes all core documents.
- 1.3 On the application form, the location of the site is given as *Priory Farm, Graveley Lane, Great Wymondley*. At the case management conference, it was agreed that the site should be referred to as *Land at Graveley Lane and to the east of Great Wymondley*, and I have identified it accordingly in the application details above.
- 1.4 It was also agreed at the case management conference that the proposal should be described as *a solar array with associated battery storage containers, and*

*ancillary development including means of access and grid connection cable, and I have considered the application on this basis.*

- 1.5 The statement of common ground between the Applicant and the LPA (CD140) identifies the plans which were considered by the LPA. The location plan (CD13) only shows a short section of the cable route, whereas it is clear from the planning and design & access statement<sup>1</sup> and the statutory plan (CD14) that the full length of the cable route to Wymondley sub-station forms part of the application site. The submitted plan of the construction phase swept paths at the site accesses from Graveley Lane (CD28) had not been updated with the revised access configuration on the north side of the road, as shown on the site plan (CD16) and the plan of the revised northern access arrangements (CD27). Revised plans were submitted during the inquiry by the Applicant to address these discrepancies (CDs 208 & 217): there was no dispute from other parties that the revised plans correctly show the proposed scheme. I am satisfied that no prejudice would be caused to any party by taking the revised plans into account in considering the application, and I have proceeded accordingly.
- 1.6 The site plan (CD16) shows two surface water attenuation basins, whereas in evidence to the inquiry, the Applicant's flood risk witness proposed three such basins (CD163, para 4.32). It is suggested by the main parties that, should planning permission be granted, a surface water drainage scheme would be required by means of a condition. That scheme would include details of attenuation basins. Moreover the main parties, including the JOG, had the opportunity to discuss the proposed surface water drainage arrangements at the inquiry. I do not consider that the proposed change would materially alter the proposal nor that any prejudice would be caused by taking it into account in my consideration of the proposed development.
- 1.7 On drawing ref 3004-01-D04 (CD25), the plan which shows the southern access junction visibility splays includes a note which incorrectly refers to the 2.4m x 105m splay envelope as being to the east of the junction. It is clear from the plan that this splay envelope is on the west side of the junction.
- 1.8 On 5 September 2023, shortly before the inquiry was due to open, the Government issued a revised version of the NPPF (CD56). The revised NPPF was drawn to the attention of the main parties, and it is this version which I have taken into account in my consideration of the application.
- 1.9 The Chilterns Area of Outstanding Natural Beauty (AONB) has been referred to in documents for this case and was mentioned at the inquiry. On 22 November 2023, all AONBs became known as national landscapes. Consequently, I have referred to The Chilterns AONB as The Chilterns National Landscape in this report. The policy status of the area is unchanged
- 1.10 The matters on which the Secretary of State particularly wishes to be informed refer to Chapter 14 of the NPPF. The content of this chapter concerning coastal change is not relevant to the application, and I have framed my main considerations accordingly (below, para 12.1).

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<sup>1</sup> CD14, para 2.1.1.

- 1.11 This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Sections 7 - 10 set out the material points of the parties' cases, and do not form part of the conclusions. Lists of possible conditions, appearances and inquiry documents are appended.

## **2. The Site and Surroundings**

- 2.1 The main part of the site comprises two large parcels of land to the north and south of Graveley Lane, a minor road which runs between Great Wymondley and Graveley. On the east side of this land is the A1(M) motorway, and Priory Lane leads south from the western end of Graveley Lane to Little Wymondley.
- 2.2 The site lies in an area of countryside between the towns of Letchworth Garden City, Hitchin and Stevenage, where the two large parcels form part of a more extensive area of gently undulating agricultural land, including fields in arable use. The small settlements of Great Wymondley and Graveley are nearby: Great Wymondley is a short distance to the west of the main part of the application site, whilst Graveley is situated on the east side of the A1(M). Little Wymondley is about 600m to the south-west of the southern parcel of the site, and the cable route passes along roads through this settlement to the sub-station at Wymondley Transforming Station which is further to the south-west. The transforming station is contained by Wymondley Transforming Station Local Wildlife Site (LWS)<sup>2</sup>. The Chilterns National Landscape is about 5.3km to the west<sup>3</sup>.
- 2.3 There are a large number of heritage assets in the vicinity of the site<sup>4</sup>. Great Wymondley Conservation Area includes several listed buildings, and to the south is the main part of the scheduled monument of Wymondley Priory: a detached part of the monument – the Conduit Head – is situated within a field about 70m to the west of the southern parcel of the application site. There is evidence of a Roman settlement between Great Wymondley and the site<sup>5</sup>, and archaeological remains have been found on and around the land.
- 2.4 The application site amounts to about 88ha, the majority of which (84.7ha) is contained in the parcels of land to the north and south of Graveley Lane. This land slopes down in a westerly and south-westerly direction from about 110m above Ordnance Datum (AOD) to about 90m AOD<sup>6</sup>. It is currently cultivated as arable fields, with hedgerows and groups of trees on field boundaries. In terms of land quality, 32.2% is grade 2 and 67.8% is sub-grade 3a<sup>7</sup>, categories which are recognised in the NPPF as being included in the best and most versatile (BMV) agricultural land. The Applicant has submitted an extract from Natural England's Likelihood of BMV maps, which also identifies much of the land in the surrounding area as having a high likelihood of falling within the BMV category<sup>8</sup>.

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<sup>2</sup> CD7, paras 4.2.5 & 4.2.6.

<sup>3</sup> CD140, para 2.1.5. The location of the AONB is shown on the maps at CDs 211 & 212.

<sup>4</sup> CD5 -Heritage Impact Assessment – see plans at figures 2-5 and site gazetteer at appendix 2.

<sup>5</sup> CD2, para 2.1.13.

<sup>6</sup> CD140, para 2.1.7.

<sup>7</sup> CD169, para 3.4.

<sup>8</sup> CD169, para 3.2 and insert 2.

A long-distance footpath – the Hertfordshire Way – runs along the northern and north-eastern boundaries of the northern parcel of farmland. The site also includes the cable route along roads through Little Wymondley to the sub-station, and two strips of land along field boundaries to the west of the southern parcel. With the exception of about 700m of the cable route along Stevenage Road which is in flood zone 3, the site is in flood zone 1<sup>9</sup>.

### **3. Planning History**

- 3.1 My attention has not been drawn to any previous relevant planning applications on the appeal site.

### **4. The Proposal**

- 4.1 The proposed development is described in the statement of common ground and shown on the submitted plans<sup>10</sup>. It would have the capacity to export up to 49.995MW of electricity to the National Grid during peak operation<sup>11</sup>. Solar panels would extend in arrays across the large fields which comprise the north and south parcels of the site. A geophysical survey identified three concentrations of anomalies of archaeological origin<sup>12</sup>. These have been used to define archaeologically sensitive areas where the panels would be installed using a no-dig method<sup>13</sup>. Elsewhere the panels would be mounted on posts driven into the ground.
- 4.2 A number of inverter/ transformer stations and battery storage containers would be located alongside access tracks within the two parcels, and a control building, a storage building, and a switchgear building would be positioned close to the access to the northern parcel. Access to both parcels would be taken directly from Graveley Lane: to the southern parcel by an upgraded field access, whilst a new access would be formed to the northern parcel. Tree and hedgerow planting would be undertaken within and around the site, and a 12m buffer would be established around the perimeter of the fields to encourage an increase in biodiversity. Planting would also take place on the two strips of land to the west of the southern parcel. Stock fencing to a height of 2.1m would be erected around the arrays and set back from the buffer strips and boundary planting, and close circuit television cameras (CCTV) would be mounted on 4m high posts on this part of the site.
- 4.3 The drainage scheme proposed for the site includes three surface water attenuation basins and three surface water detention basins to hold water from the access tracks and hardstandings and from the panelled part of the site respectively. At the inquiry, the Applicant's flood risk witness confirmed that, notwithstanding their differing names, all the basins were intended to attenuate surface water flow.

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<sup>9</sup> CD6, section 4.2 and figure 5.

<sup>10</sup> CD140, section 3. The submitted plans are listed in table 3.1, with amendments to the location and northern access swept path plans as referred to in para 1.5 of this report.

<sup>11</sup> CD156, para 2.3.3.

<sup>12</sup> CD167, paras 4.4-4.6.

<sup>13</sup> The no-dig areas are shown on both the general arrangement and landscape plans (CDs 16 & 24). An example of the installation of solar panels without ground penetration is shown in CD213.

- 4.4 The output from the solar panels would be connected to the grid at Wymondley GSP sub-station by a cable running underneath Graveley Lane, Priory Lane, Stevenage Road, Blakemore End Road and Sperberry Hill.
- 4.5 The application seeks permission for an operational life for the development of 40 years, following which it would be decommissioned and the site restored<sup>14</sup>. During operation of the solar farm, the land within the stock fence would be used for the grazing of sheep, and a condition was suggested by the Applicant to secure this intention<sup>15</sup>.
- 4.6 Permissive footpaths would be provided as part of the scheme. On the northern parcel, a path would be formed along the western and southern boundaries, with the latter extending across land at the eastern end of the site to join the Hertfordshire Way. In addition a footpath would be provided on the southern side of Graveley Lane from its junction with Priory Lane and Graveley Road to a point opposite the south-west corner of the northern parcel.

## **5. Planning Policies and Guidance**

### ***The Development Plan***

- 5.1 The Development Plan comprises the North Hertfordshire Local Plan 2011-2031 (CD39a, adopted 2022), Wymondley Parish Neighbourhood Plan 2015-2031 (CD40, adopted 2018), Hertfordshire Minerals Local Plan Review (CD241, adopted 2007), Hertfordshire Waste Core Strategy and Development Management Policies Document (adopted 2012), and Hertfordshire Waste Site Allocations Document (2014)<sup>16</sup>. The two waste development plan documents are not relevant to the appeal proposal.

### ***The Local Plan***

- 5.2 With the exception of a short length of the cable route in Little Wymondley, the application site is in the Green Belt<sup>17</sup>. Policy SP5 makes clear that development proposals within the Green Belt should only be permitted where very special circumstances have been demonstrated. Natural resources and sustainability are the subject of Policy SP11 which, amongst other provisions, supports proposals for renewable and low carbon energy developments in appropriate locations. The solar arrays would be installed on BMV agricultural land (above, para 2.4): Policy NE12 says that proposals for solar farms on such land are to be determined in accordance with national policy.
- 5.3 Policy SP12 includes a commitment to respect landscape character, scenic beauty, and locally sensitive features, particularly in relation to The Chilterns AONB (National Landscape). Other parts of the policy concern the protection of designated nature conservation sites, with priority given to international and national sites ahead of local sites, and seeking to ensure measurable net gains for biodiversity. Proposals should not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area (Policy NE2), and permission should only be granted for proposals affecting the setting

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<sup>14</sup> CD140, para 3.1.2.

<sup>15</sup> CD218, suggested condition 22.

<sup>16</sup> CD140, para 5.1.1.

<sup>17</sup> See the Local Plan Policies Map for Hitchin, Letchworth Garden City and Baldock, CD39d.

of the AONB (National Landscape) if they at least conserve its special qualities, distinctive character and biodiversity, amongst other considerations. Policy NE4 reiterates the requirement for all development to deliver measurable net gains for biodiversity.

- 5.4 A series of policies concerns the historic environment. Strategic Policy SP13 explains that, when considering the impact of development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the management of its setting. In accordance with Policy HE1, proposals affecting designated assets or their settings will be permitted where, amongst other considerations, they lead to less than substantial harm to the asset's significance and this harm is outweighed by the public benefits of the development. Where harm would be caused to a non-designated asset, permission should only be granted if a balanced judgement has been made which assesses the scale of harm or loss of significance (Policy HE3). Archaeology is addressed by Policy HE4: proposals should demonstrate how archaeological remains will be preserved and incorporated into the layout if in situ preservation is considered preferable.
- 5.5 Other policies of relevance include SP1, SP6, D1, and NE7. Policy SP1 supports proposals which provide the infrastructure required to support an increasing population, and Policy SP6, which is concerned with sustainable transport, requires, amongst other measures, applicants to demonstrate the safety of their proposals. Policy D1 requires proposals to respond positively to their local context, and Policy NE7 stipulates that development is located outside flood zones 2 and 3 where possible and is designed to ensure that the risk of flooding is reduced and not increased elsewhere.

### ***The Neighbourhood Plan***

- 5.6 The Neighbourhood Plan includes a number of policies of relevance to the proposed development. Policy GB1 concerns the Green Belt: proposals should comply with Government policy and not impact negatively in terms of visual impact on the openness of the Green Belt landscape. Where appropriate, applications should be accompanied by an assessment of their impact on landscape character (Policy NHE1).
- 5.7 Policy NHE2 requires that, where appropriate, proposals are supported by measures to ensure net gains in biodiversity, and Policy NHE3 stipulates that proposals affecting designated sites should comply with the relevant European, national and local policy requirements. Under Policy NHE8, appropriate native species are expected to be used in landscaping schemes. Proposals affecting heritage assets and their settings must comply with national planning policy and the Development Plan (Policy NHE9). Policy FR1 is concerned with flood risk, and makes clear that proposals which would result in an increase in risk will not be supported.

### ***The Minerals Local Plan Review***

- 5.8 A large part of the site falls within a minerals safeguarding area for sand and gravel shown on the policies map for the emerging Hertfordshire Minerals and Waste Local Plan 2040. Minerals Policy 5 is concerned to prevent mineral sterilisation. Extraction is encouraged prior to other development where any significant mineral resources would otherwise be sterilised, and development

proposals will be resisted within areas of potential mineral resource which would prevent future extraction unless certain circumstances apply.

### ***National planning policy and guidance***

5.9 I have had regard to national planning policy and guidance contained in the NPPF and Planning Practice Guidance (PPG). The National Policy Statement (NPS) for Energy (CD57) and that for Renewable Energy Infrastructure (CD58) are of relevance to the proposal, and, whilst their weight is limited, I have also taken into account the draft NPSs on these subjects (CDs 59 & 60). The British Energy Security Strategy (BESS) expects a fivefold increase in the deployment of solar capacity from 14 gigawatts (GW) in 2022 (to 70GW) by 2035<sup>18</sup>.

## **6. Agreed Matters**

6.1 A signed statement of common ground (CD140) between the Applicant and the LPA sets out matters agreed by those parties. Matters agreed include the following:

- The farmland within the site is a mixture of grade 2 and grade 3a land.
- The site is not covered by any statutory landscape or ecological designation, and it does not constitute a valued landscape as referred to in paragraph 174(a) of the NPPF.
- Field boundaries are defined by established hedgerows which limits visibility from Great Wymondley, sections of the Hertfordshire Way and sections of Graveley Lane.
- The proposal would cause less than substantial harm, at the lower end of the spectrum, to the significance of the following designated heritage assets, through development within their settings:
  - i) Graveley Hall, grade II listed building
  - ii) St Mary's Church, Little Wymondley, grade II\* listed building
  - iii) Wymondley Priory, scheduled monument
  - iv) The Priory, grade I listed building
  - v) Tithebarn at Wymondley Priory, grade II\* listed building
  - vi) Barn and stable at Priory Farm, grade II listed building
  - vii) Garden walls at The Priory, grade II listed building
  - viii) Conduit Head, grade II listed building
  - ix) Wymondley Castle, scheduled monument
  - x) Castle Cottage, grade II listed building
  - xi) Wymondley Hall, grade II\* listed building
  - xii) Great Wymondley Conservation Area

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<sup>18</sup> CD46, page 19.

- Construction work would take place between 0800 and 1800 from Monday to Friday and between 0800 and 1300 on Saturday. Piling would be undertaken between 0900 and 1700 from Monday to Friday.
- Those Development Plan policies considered relevant.
- North Hertfordshire District Council and Hertfordshire County Council have both declared a climate change emergency.
- The LPA has not granted planning permission for a commercial renewable energy generation scheme since 2015.
- The capacity of the development (49.995MW, above para 4.1) would meet the needs of about 17,756 homes, which is about 31% of the homes in North Hertfordshire and would provide for a reduction of about 20,289 cubic tonnes of CO<sub>2</sub> emissions annually.
- The proposal would produce a biodiversity net gain of over 205% in habitat units and 102% in hedgerow units.
- The harm to the Green Belt and any other harm is clearly outweighed by other considerations, including the wider environmental benefits of the scheme, and very special circumstances exist in this case.

## **7. The Case for the Applicant**

### ***Introduction***

- 7.1 Wymondley GSP is considered to be the only substation into which this scheme can connect. Site identification takes account of the availability of substations which would not be constrained by solar curtailment, that is action by National Grid to reduce the output of solar energy generation to balance energy supply. Six extra high voltage (EHV) substations were identified in areas of low-moderate curtailment and where there may potentially be Grid capacity. However each is subject to constraints in terms of the physical size and capacity of the substation itself (as opposed to the grid), and/or the limitations imposed by an urban location, the level of disruption likely to be involved in establishing a connection, and the cost of the cable route<sup>19</sup>. Details relating to the technical capacity of substations are set out in the supplementary table for Grid connection and site identification submitted at CD233.
- 7.2 It is potentially possible to connect to National Grid 132kV substations, of which six were identified<sup>20</sup>. The reason for connecting at Wymondley GSP rather than other substations is the type and viability of the connection. It is likely that all other connections would have resulted in a 132kV connection, which is substantially more expensive, and is generally only viable for connections above 50MW<sup>21</sup>. Four kilometres is considered to be the maximum distance radially from the point of connection to a site, and the area of search was set at that dimension<sup>22</sup>. Beyond that, the evidence was of an exponential increase in costs

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<sup>19</sup> The substations are shown on figure 5.2, and details of the constraints are set out in para 5.4.76 of CD2 and para 1.9 of CD232.

<sup>20</sup> CD2, para 5.4.73.

<sup>21</sup> CD232, 2.4 & 2.5.

<sup>22</sup> CD232, para 3.1.

and complexity and the scheme would not be built. A number of landowners were interested in engaging with the project. Some were further to the west and closer to the National Landscape. A site to the south was the subject of discussions with another operator who has now secured consent for a battery energy storage system. A connection offer for Wymondley has been secured, and, if planning permission is granted, it is expected that the solar farm could be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months<sup>23</sup>. As a result, the application site was chosen because it was available, deliverable, unconstrained at a high-level appraisal and viable. There are no non-Green Belt alternatives for the proposed development.

- 7.3 There is an immediate and pressing need for deployment of renewable energy generating infrastructure across the UK, which is intrinsically linked to the legally binding obligations to reach net zero by 2050. The proposed development would make a material contribution to meeting the amended Climate Change 2008 targets. Central Government has emphasised through national policy that continued deployment of solar farms is a key part of the UK's transition to achieving a low carbon economy, switching to carbon free energy generation by 2035, as set out as a commitment in the Net Zero Strategy of 2021<sup>24</sup>, and tackling climate change.

### **Green Belt**

- 7.4 It is acknowledged that all solar farms are 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. The solar arrays would introduce substantial development in terms of ground cover due to the quantity of arrays within the scheme. Furthermore, the associated access track, substation, inverter stations, fencing and CCTV facilities would result in additional built form that would further diminish the openness of the Green Belt spatially. Nevertheless, the solar arrays would be relatively modest in mass and footprint, and would be spaced out at regular intervals, reducing the overall scale of the development. Furthermore, the scheme would be in place for a temporary 40 years period. It would then be fully demounted, and the land returned to its former condition. Therefore, the impact on the openness of the Green Belt would be reduced, with the site ultimately reinstated to its former open character. Consequently, both spatially and visually, the proposed development would result in limited and temporary harm to the openness of the Green Belt.
- 7.5 The proposal would accord with the first two purposes for including land within the Green Belt<sup>25</sup>, and the last two are not relevant to the application. The development would introduce built development to a countryside location. However, the site adjoins the A1(M) and thus is in an area which is already degraded by urbanising influences. The proposed development would be of a low height and would sit within the landscape framework, such that once the proposed mitigation planting was established it would not be intrusive. Harm in terms of encroachment would be limited.

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<sup>23</sup> Connection times were given in oral evidence by Mr Collier.

<sup>24</sup> CD44, page 94.

<sup>25</sup> The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF.

### ***Landscape and visual harm***

- 7.6 The proposal would increase the influence of built development across the site, resulting in a moderate adverse effect. However, the pattern of vegetation cover in the landscape is such that tree belts and hedgerows would provide considerable screening, greatly reducing the overall extent over which the proposed development would be perceived as a new landscape characteristic. The effect on landscape character would not be substantial beyond the site boundary, with a moderate to minor adverse effect, which would not be significant, and landscape harm would be limited.
- 7.7 There would be limited visibility of the proposed development due to its low height, existing screening, and the influence of landform. In the short-term, major to moderate adverse visual effects would occur from parts of the Hertfordshire Way along the northern boundary of the site and from part of Graveley Lane. From these routes the adverse visual effects relate to gaps in the existing boundary vegetation. In the long-term, once the proposed mitigation planting has established, the visual effects would reduce, and would be no greater than moderate adverse from a limited number of locations in close proximity to the site.

### ***Heritage***

- 7.8 The Heritage Impact Assessment identified a high potential for remains of prehistoric, Roman and medieval date within the site<sup>26</sup>. A subsequent geophysical survey identified three concentrations of anomalies of archaeological origin<sup>27</sup>. The design of the development within the archaeologically sensitive areas would be achieved by a no dig solution which would be secured by condition<sup>28</sup>, and which would avoid a requirement to bury cables below ground. Where unknown remains are concerned, the provision detailed in the written scheme of investigation (WSI) for a 3% evaluation outside the three archaeologically sensitive areas would provide a means of recording or ensuring preservation of any significant buried remains in place.
- 7.9 Insofar as designated heritage assets are concerned, visibility of the proposed development would be limited across the landscape and specifically from the majority of designated assets located within 2km of the site<sup>29</sup>. The zone of theoretical visibility which takes account of existing features demonstrates limited visibility from Great Wymondley Conservation Area. The Conservation Area Character Statement for Great Wymondley (CD 93) identifies key views and character photographs, none of which would be adversely affected by the proposed development. There would be only limited visibility of the proposed development from the churchyard of the grade II\* listed St Mary's Church at Little Wymondley. Similarly, there would be limited visibility from the grounds of Wymondley Priory. The historic landholding relationships between the site and surrounding designated assets were also considered. This resulted in identification of less than substantial harm to the Graveley Farm assets and Great Wymondley Conservation Area.

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<sup>26</sup> CD5, paras 5.2.7, 5.3.8, 5.4.7.

<sup>27</sup> See figures 23,29, 30 &32 in CD32.

<sup>28</sup> The intended no dig areas are shown on the general arrangement plan, CD16.

<sup>29</sup> CD107 zone of theoretical visibility and designated heritage assets, figure 2.

## **Ecology**

- 7.10 Subject to the imposition of appropriate conditions, no nature-focused consultee or organisation has objected to the application or raised substantive concerns. The current ecological value of the site is almost exclusively in its hedgerows, woodland and managed field margins. The open fields offer little by the way of refuge or food for wildlife, and are intensively managed for food production, including the use of agricultural chemicals.
- 7.11 Field survey data was used to aid the design of the proposed development with the resultant layout avoiding hedgerows and woodland and incorporating 12m field margins. The scheme would include substantial areas of habitat creation and enhancement, in particular new areas of grassland, native species woodland and hedgerows. These habitats would increase the ecological value of the application site for a large number of species and further strengthen ecological connectivity with the wider countryside.
- 7.12 There would be impacts on some species. Largely these would be limited to the construction phase; however standard good-practice measures secured by planning conditions would ensure legislative and policy compliance and minimise effects. Once construction is completed, populations of these temporarily impacted species would recover and with the habitat creation implemented, can be expected to strengthen. Inevitably, those few bird species which rely on open fields would be unable to persist within the application site. Skylark is a ground-nesting species which prefers open habitats, and the breeding bird survey had estimated 15 territories or pairs of skylarks within the application site<sup>30</sup>. There is little evidence of nesting by skylark occurring within solar farms, and the development would potentially displace this activity<sup>31</sup>. Such species are, though, entirely dependent on the cropping regime in any one year, and can be lost where markets dictate other priorities. Moreover, the Applicant has agreed to a condition requiring the delivery of a skylark mitigation plan<sup>32</sup> which would ensure that the local population of this species is secured for at least the next 30 years.
- 7.13 With regard to bats, the boundary habitat, hedgerows and linear planting, which provide support for these species would be maintained and improved. Gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site<sup>33</sup>.
- 7.14 The proposed development would not adversely affect any statutory designated sites for nature conservation. Temporary impacts on the Wymondley Local Wildlife Site could not be avoided as the substation connection is entirely within the LWS; however, these will be limited to the digging of a temporary trench with subsequent reinstatement.
- 7.15 The application includes a biodiversity net gain (BNG) calculation, using the recently developed Metric Version 4.0 system (CD237). The BNG calculations show a substantial BNG increase, 205.96% in habitat units and 102.29% in

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<sup>30</sup> Paragraph 3.5.2 of the Ecological Assessment Report (CD7) refers to 19 pairs of skylarks. The Applicant's ecology witness explained that this figure included four pairs within the wider survey area which extended beyond the application site – see figure 6 of CD7.

<sup>31</sup> Oral evidence by the Applicant's ecology witness.

<sup>32</sup> See possible condition No 21 in CD218 and the illustrative skylarks plots plan at CD 219.

<sup>33</sup> CD7, para 4.7.21.

hedgerow units, which would be substantially above the forthcoming 10% requirement under the Environment Act 2021<sup>34</sup>. The proposed development accords with the requirement in Policy NE4 of the Local Plan to deliver a measurable biodiversity gain and contribute to ecological networks, and with paragraphs 174 and 179 of the NPPF.

### **Transport**

- 7.16 Construction is the most onerous phase for a solar farm in traffic terms and would last around 36 weeks. In the first 4 weeks there would be 40 two-way heavy goods vehicle (HGV) and 120 two-way light vehicle (staff) movements per day<sup>35</sup>. Volumetrically, that is equal to one additional vehicle movement every 4 minutes or so, on average, and would be imperceptible. In the following 32 weeks there would be 8 two-way HGV and up to 120 two-way light vehicle (staff) movements per day. In the operational phase there are likely to be in the order of 1 to 2 visits per week in a light vehicle by a maintenance engineer, on average. The decommissioning phase would mirror the construction phase but with traffic more evenly spread out. All deliveries and HGV movements to the site would be routed via the A1(M) Junction 9, the A505, the B197 and Graveley Lane. This route would avoid sensitive receptors in local settlements and congested areas.
- 7.17 Perhaps most disruption would be experienced during the installation of the cable route. However, the roadworks would be phased, and each phase would be shorter than construction on the main site, perhaps one to two weeks in length. They would be agreed as part of a separate consenting regime (a section 50 licence) with the Local Highway Authority, and diversions and traffic management measures would be in place.

### **Agricultural land**

- 7.18 The proposal is a temporary form of development and the majority of the land beneath the solar panels would remain in agricultural use, through sheep grazing, for the 40 years operational life of the solar farm. After this, it would be returned to full agricultural use following decommissioning. Removing land from intensive agricultural use for the life of the development would improve soil health by increasing the organic matter in the soil and improving soil structure and drainage, a consideration acknowledged in a recent appeal decision for a solar farm which included the use of arable land<sup>36</sup>.
- 7.19 Whilst there may be limited harm associated with the temporary loss of versatility and function of the farmland, there would be long-term benefits to soil health, soil structure and carbon sequestration. Overall, there would be no harm to the best and most versatile land.
- 7.20 There is no planning policy to require land to be used for food production; there is no food security crisis or concern; the Government funds arable land conversions to grassland, and is not seeking increased food production as a consequence; the actual implications of retaining the site for food production would be modest (119 tonnes per annum from a national production of 24

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<sup>34</sup> CD237, page 7, headline results.

<sup>35</sup> CD10 Transport Statement, tables 4.2 & 4.3.

<sup>36</sup> CD121, para 21.

million tonnes of cereals<sup>37</sup>), whereas the benefits in terms of carbon sequestration, organic matter, reduced erosion, reduced compaction and improved biodiversity would be substantial.

### **Flood risk**

- 7.21 The main part of the site has a low - very low risk of surface water flooding. The flood risk assessment indicated the potential presence of four overland flow pathways across the site<sup>38</sup>. Detailed hydraulic modelling indicates that the maximum depth of flooding for all pathways and events would be less than 100mm even during the 1 in 100 year event (plus climate change)<sup>39</sup>. The panels, inverter/transformer containers, storage building, control building and battery storage containers would all be raised above ground. The switchgear building would not be raised, but it would not be located on a defined overland flow pathway. As such overland flow pathways would be unobstructed. In the no dig areas, concrete sleds which run perpendicular to the panels would not impede flow.
- 7.22 A 700m length of the cable route along Stevenage Road is located in land indicated to be at a high risk of flooding from Ash Brook (flood zone 3). The cable installation works would not increase flood risk elsewhere because the cables would be laid within narrow trenches located in the highway and relatively short lengths of trenches<sup>40</sup> would be excavated with re-instatement generally occurring within one week. It is agreed that no spoil would be stored adjacent to Stevenage Road or on Priory Lane<sup>41</sup>, and that a requirement to this effect should be included in a condition concerning a construction management plan.
- 7.23 Little Wymondley has a history of flooding, with reports of incidents between 1926 and 1956, in 1968, 1993, 2000-01, 2013, 2014, 2016, 2019 and 2020<sup>42</sup>. The principal source of flooding is Ash Brook, and the main part of the site falls within the catchment of this watercourse. The site is currently bare earth for a significant part of the year, whilst the panelled site will comprise grassland. This is expected to significantly reduce peak runoff rates. Moreover six basins would store surface water, which would be released at a controlled rate. Peak run-off from the site would be reduced by 14.3% for the present-day 1 in 30 year event, and 3.6-4.8% for larger events, assuming that the site comprises grassland both prior to and after development<sup>43</sup>. The actual betterment is expected to be greater because the site is bare earth for part of the year. The proposal would reduce the peak runoff rates from the main site, thereby reducing peak flood flows in the Priory Lane Stream, along Priory Lane and hence in Little Wymondley.

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<sup>37</sup> CD169, paras 6.18 & 6.19.

<sup>38</sup> CD6, section 4.3 and figures 6 & 7.

<sup>39</sup> CD31, para 14.

<sup>40</sup> 50-100m, Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process, para 17 (CD216).

<sup>41</sup> CD216, paras 29 & 30.

<sup>42</sup> CD40 Neighbourhood Plan, para 8.6; CD87 Flood investigation Report – Little Wymondley – Hertfordshire CC, section 2.

<sup>43</sup> CD163 Dr Tilford's proof, tables 1 & 2.

## **Benefits**

7.24 Other considerations relied on to outweigh the harm caused by inappropriateness and any other harm are:

- i) The significant national need to reduce carbon emissions and address the global challenge of climate change.
- ii) The urgent national need for renewable energy generation to achieve net zero by 2050 and a net zero electricity system by 2035.
- iii) The significant local need to deliver on North Hertfordshire's declaration of a climate emergency and commitment to achieve a net zero District by 2040<sup>44</sup>.
- iv) The significant constraint posed by the extent of the existing Green Belt and AONB (National Landscape) designations within North Hertfordshire.
- v) The wider environmental benefits associated with the landscape proposals which would deliver a biodiversity net gain well above the emerging national target of 10%; would reduce carbon emissions by taking the land out of intensive arable agricultural use; and would increase carbon sequestration in the soils and proposed vegetation.
- vi) The reversibility of the proposed development, such that the land could be easily returned to its current use.
- vii) The availability of the grid connection at Wymondley, and the deliverability of the development in the context that North Hertfordshire has not consented a commercial scale renewable energy generation scheme since 2015.

## **Consistency with policies on climate change and flooding**

7.25 Chapter 14 of the NPPF supports the development of renewable and low carbon energy and associated infrastructure, such as the proposal. Paragraph 155 of the NPPF sets out that the planning system should help increase the use and supply of renewable and low carbon energy such as the proposed development. There is no requirement to demonstrate a need for the proposed development. However, the significant shortfall in delivery of solar generation capacity in the context of the 70GW 2035 target in the BESS should be given substantial weight in the planning balance. The proposed development is in accordance with Chapter 14 in respect of directing development away from areas at risk of flooding and ensuring that flood risk is not increased elsewhere.

## **Consistency with policies for conserving and enhancing the natural environment**

7.26 The proposed development would not have any significant effects on any valued landscape or on the setting of The Chiltern Hills National Landscape. In addition, landscape and visual effects would be localised, and in the case of visual effects could be mitigated effectively within 5-10 years. Following decommissioning, there would be beneficial effects associated with the retention of hedgerow and

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<sup>44</sup> CD65A, page 11.

woodland planting. Overall, the landscape and visual effects should be given moderate weight in the planning balance.

- 7.27 There would be no significant harm to nature conservation as a result of the proposed development, but there would be significant positive biodiversity gains during the operational life of the solar farm and beyond. As such, the proposed development would not conflict with Chapter 15 of the NPPF.

### ***Consistency with the Development Plan***

- 7.28 The solar farm would not lead to permanent loss of BMV land, and the proposed development accords with Policy NE12. Policy SP11 of the Local Plan supports proposals for renewable and low carbon energy development in appropriate locations, and the suitability of the location of the proposed development has been demonstrated. A landscape and visual impact assessment has demonstrated compliance with criteria in Policy NE2 of the Local Plan. The impact of the proposal on landscape character has been assessed in accordance with Policy NHE1 of the Neighbourhood Plan, and the proposed development would respect landscape character, scenic beauty and locally sensitive features and would comply with Policy SP12 of the Local Plan. Any harm to heritage would be outweighed by the wider benefits of the scheme, and there would be compliance with Policies HE1, HE2<sup>45</sup>, HE3 and HE4 of the Local Plan and Policy NHE9 of the Neighbourhood Plan. There would be significant biodiversity net gain and the development would comply with Policy NE4 of the Local Plan and Policies NHE2 and NHE3 of the Neighbourhood Plan. Highway safety issues have been addressed to the satisfaction of the Local Highway Authority, and the proposed development accords with Local Plan Policy SP6. Drawing all of the policy strands together very special circumstances would exist and Policy SP5 of the Local Plan concerning the Green Belt would be satisfied. The proposed development accords with Green Belt policy and as a result, accords with the Development Plan when read as a whole.

### ***Conclusions***

- 7.29 The point of connection to the grid has to be at Wymondley GSP, and there are no suitable non-Green Belt alternative locations for the development. The harm would be clearly outweighed by other considerations, and the proposal would comply with Green Belt policies in the Development Plan and the NPPF. Action is required now to dramatically alter the current path of future greenhouse gas emissions within the District and nationally. The proposed development would be built. It is requested that a recommendation be made for planning permission to be granted.

## **8. The Case for the Local Planning Authority**

### ***Green Belt***

- 8.1 The proposal would be inappropriate development in the Green Belt, and it would give rise to significant harm to openness in both spatial and visual terms. The introduction of development into an area of land where currently there is none would diminish the openness of the Green Belt. However the extent of the

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<sup>45</sup> Policy HE2 is concerned with heritage assets at risk. It is not referred to in the statement of common ground (CD140) as a relevant Development Plan policy.

spatial effect would be moderated to some extent by the open areas between and under the solar panels and the various landscape buffer zones. In relation to the visual impact on openness, this adverse impact would relate principally to an intermittent range of views around the site but, in accordance with the analysis undertaken by the Applicant's Landscape and Visual Impact Assessment (LVIA, CD4) and the LPA's consultants, this impact would in time be mitigated by the proposed planting. The LPA recognises the lengthy operational period, and this is why it gives little weight to the temporary nature of the proposal.

- 8.2 A review of the Green Belt in 2016 (CD143) considered the contribution that specific parcels of land made to the purposes of the Green Belt. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Both these sub-parcels were assessed as making a significant contribution to the purposes of the Green Belt<sup>46</sup>.
- 8.3 The impact of the proposal in relation to the purposes of the Green Belt is judged to constitute limited harm to purposes (a) (to check the unrestricted sprawl of large built-up areas) and (b) (to prevent neighbouring towns merging into one another), as well as significant harm to purpose (c) (to assist in safeguarding the countryside from encroachment). As the LPA considers that the very special circumstances test is made out, it does not consider that the proposal conflicts with NPPF Green Belt policy or Local Plan Policy SP5. It does however consider that there would be some conflict with Wymondley Neighbourhood Plan Policy GB1, which defers to national policy but further states that development proposals should not impact negatively on Wymondley Parish, particularly in terms of visual impact on the openness of the Green Belt landscape.
- 8.4 There has been a net gain in Green Belt in North Hertfordshire following the adoption of the Local Plan of approximately 4,000 hectares, resulting in the Green Belt coverage of the district rising from about 38% to about 47%. This is due to the substantial area of new Green Belt around Offley and Whitwell added through Policy SP5(b).

### ***The challenge of climate change***

- 8.5 The draft NPS EN-3 is a material consideration in the determination of this application and an articulation of the most up-to-date Government thinking on issues relating to solar development. It confirms the Government's commitment to sustained growth in solar capacity to ensure that progress is made to meeting net zero emissions<sup>47</sup>. It describes solar as being a key part of the Government's strategy for low-cost decarbonisation of the energy sector<sup>48</sup>, aligning with the Energy White Paper's (December 2020, CD136) description of solar as one of the key building blocks of the future generation mix<sup>49</sup>. The draft NPS also recognises the important role that solar has to play in delivering the

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<sup>46</sup> CD143, table 3.1. An update to the Review was produced in 2018 to take explicit account of the effect of proposed development on the visual dimension of openness in addition to the spatial dimension. The assessment that sub-parcels 10c and 14f make a significant overall contribution to the purposes of the Green Belt was unchanged (CD135, table 2).

<sup>47</sup> CD60, para 3.10.1.

<sup>48</sup> CD60, para 3.10.1.

<sup>49</sup> CD136, page 45.

Government's goals for greater energy independence and it expresses support for solar development that is, as here, co-located with other functions such as agriculture to maximise the efficiency of land use<sup>50</sup>. The draft NPS refers to the BESS objective that the Government expects a five-fold increase in solar deployment by 2035 with the current approximate capacity being 14GW.

- 8.6 Having regard to the assessment that the solar farm would meet the equivalent of the electricity demand from approximately 31% of the homes within North Hertfordshire (above, para 6.1), the LPA considers that this development would make a very significant contribution to providing energy from a renewable source. The proposal is strongly supported by national and local policy regarding the deployment of renewable energy, and very substantial and substantial positive weight should be accorded to its contribution towards renewable energy generation at a national level and meeting local needs respectively.
- 8.7 The absence of the site's allocation in a development plan for solar or other renewable energy development is not an impediment to permission being granted. It is usual for local planning authorities to consider and approve proposals for development that have not been specifically allocated in a development plan. There is an imperative at a national level for the speedy delivery of renewable energy and no requirement that it only be delivered on allocated land.

### ***The character and appearance of the area***

- 8.8 There would be significant landscape harm in that the proposal would result in moderate to major adverse impacts at the site and at a local scale in landscape character terms, but improvements to the landscape character area would be achieved following decommissioning due to landscape mitigation measures. There would be some significant adverse effects in respect of views from parts of the Hertfordshire Way in the early years of the operation of the development, but these would be effectively mitigated through planting such that the medium to long term effects would not be significant. The adverse landscape character and visual impacts of the proposal should be given moderate negative weight in the planning balance. Although the proposal is not in landscape terms unacceptable overall, the harm gives rise to an element of conflict with Policy NE2 of the Local Plan, specifically criterion (b).

### ***Habitats and biodiversity***

- 8.9 There has been no objection to the proposal from any nature conservation organisation or consultee. Following the submission of a revised biodiversity net gain assessment based on the updated metric, Hertfordshire Landscape, Ecology, Archaeology, Design & Sustainability (LEADS) service has confirmed its advice that it has no ecological objections subject to the imposition of conditions (CD220). The LPA accepts its advice that the *predicted biodiversity net gain is ambitious but, in principle can be achieved*, and that a BNG well in excess of the Government's proposed minimum requirement of 10% would be delivered and that impacts on biodiversity do not represent a fundamental constraint on the proposed development. The matters about which the JOG is concerned are

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<sup>50</sup> CD60, para 3.10.2.

appropriately addressed by conditions, which would require further details to be submitted and agreed by the LPA in due course.

### ***Heritage assets***

- 8.10 The LPA's, the Applicant's and Historic England's views<sup>51</sup> as to the heritage impact of the proposal are in broad alignment. It is agreed between these parties that the proposal would give rise to less than substantial harm at the lower end of the scale to a number of local designated heritage assets through development within their setting. The position of the JOG's witness that there would be substantial harm to a large number of assets is an outlier, and very limited weight should be afforded to this evidence, in contrast to the views of the other main parties and Historic England.
- 8.11 The potential archaeological significance of the site is not in dispute. It is recognised, in the light of the conclusions of the Applicant's geophysical survey and the advice received from the Hertfordshire County Council Archaeological advisor, that the site has high potential for significant archaeological remains. The LPA, on the advice of the County's archaeological advisor, is satisfied that the mitigation strategy put forward by the Applicant to be secured by condition, which includes substantial no dig areas in the locations of high potential and trial trenching across 3% of the remainder of the site, is appropriate and accords with relevant national and local policy<sup>52</sup>.

### ***Agricultural land***

- 8.12 The most recent government thinking on best and most versatile agricultural land is that expressed in draft NPS EN-3, which states that land type should not be a predominating factor in solar site selection. It also states that where possible, brownfield, contaminated and industrial land should be used and that poorer quality land should be preferred over higher quality land, avoiding the use of BMV land where possible<sup>53</sup>. Although the Written Ministerial Statement from 2015 refers to compelling evidence being required for solar farms to be located on BMV land, this is now rather aged and a number of documents have been produced by the Government since then, including several revisions of the NPPF and the draft NPS EN-3, which do not prohibit solar development on good quality agricultural land.
- 8.13 The Applicant's agricultural witness explained that grade 2 and 3a land is not rare in the local area. Importantly, this proposal would not result in loss of BMV land given that a proposed condition would secure sheep grazing during the operation of the development. The LPA does consider that negative weight should be attributed to the loss of productivity and flexibility in terms of agricultural production, but does not consider that the proposal is inconsistent with policy or guidance on the use of BMV land. However, this matter should only attract limited negative weight in the light of the Applicant's evidence regarding the scale of contribution to cereal production in a national context presently made by the site (above, para 7.20).

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<sup>51</sup> Historic England's consultation response is summarised in the LPA's report (CD35a) at para 3.9.

<sup>52</sup> CD35a, para s 3.23.1, 3.23.2, & 4.5.107-4.5.110. CD173, paras 9.9 & 9.10.

<sup>53</sup> CD60, para 3.10.14.

**Other matters**

- 8.14 As the Applicant's flood risk witness explained (above, para 7.23), given that the main part of the application site currently comprises bare earth for part of the year, the change to grassland in itself would be likely to reduce run off rates. Moreover, the scheme includes six basins for the storage areas for the storage of surface water, which would ensure a betterment in terms of the run-off from the site and a marginal betterment within Little Wymondley, having regard to the fact that the site is only a small contributing part to the catchment that causes flooding in the village. These measures would be secured by conditions. The LPA is also satisfied with the suggested conditions to manage flood risk in relation to the cable laying work<sup>54</sup>.
- 8.15 National policy and guidance does not set a sequential test whereby non-Green Belt land must be considered before Green Belt land for solar farms. The LPA's report on the application noted that constraints, such as access to the National Grid or capacity limitations, were likely to influence the site selection process<sup>55</sup>. This is consistent with the subsequently published draft NPS EN-3, which describes the capacity of the local grid network to accept the likely output as *critical to the technical and commercial feasibility of a development proposal*<sup>56</sup>. It also reflects the Applicant's site selection process which, due to network capacity, curtailment issues, and substation constraints, landed upon the connection to Wymondley Substation as the deliverable and achievable option within the area. The development would provide economic benefits through employment opportunities during construction, operation and decommissioning.

**The planning balance**

- 8.16 The proposal would cause harm to the Green Belt, an adverse landscape and visual impact, heritage harm and harm through the loss of flexibility/productivity of BMV agricultural land. In relation to benefits, very substantial and substantial positive weight should be attributed to the contribution made to renewable energy generation in general and in North Hertfordshire specifically, significant weight to the economic and energy security benefits of the proposal, moderate weight to biodiversity net gain, limited weight to the achievement of betterment to local drainage and flood risk, and minor weight to the introduction of new permissive footpaths for the duration of the operation of the development.
- 8.17 The public benefits are cumulatively of sufficient weight to outweigh the low level of less than substantial harm to designated heritage assets. The Green Belt harm, taken together with the other harms identified, is clearly outweighed by the public benefits taken as a whole, but with particular regard to the climate change context and the need to accelerate deployment of renewable generation at a national and local scale. The effect of this is that the very special circumstances test is satisfied.
- 8.18 The proposal gives rise to some conflict with Policy NE2 of the Local Plan and Neighbourhood Plan Policy GB1 in respect of landscape and Green Belt matters,

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<sup>54</sup> CD216, paras 29-33.

<sup>55</sup> CD35a, para 4.5.182.

<sup>56</sup> CD60, para 3.10.35.

but it otherwise accords with the relevant policies of the Development Plan. It is the LPA's view that the application should be approved.

## **9. The case for the Joint Objectors Group**

### ***Green Belt***

- 9.1 It is agreed that the proposed development would be inappropriate in the Green Belt. This application should not be approved unless very special circumstances exist. The proposed development would result in substantial harm to the Green Belt, which clearly outweighs the need for a solar array in this particular location.
- 9.2 The JOG is not opposed to renewable forms of energy, but the sheer size and scale of this proposal is not appropriate in this particular location. The visual impact of the development would be considerable, given the open nature of the site. It is clear that the bulk of the site would be covered by the solar panels and associated infrastructure.
- 9.3 The site lies within the Metropolitan Green Belt, and there would be some impact on purpose (a) to check the outward sprawl of Greater London into Hertfordshire. The key issue is the potential harm to Green Belt purposes (b) and (c). The Policies Map shows the open gap between Stevenage, Hitchin, and Letchworth, which the Local Plan seeks to protect. The proposed development would fill a large part of this gap, and there would be a significant adverse effect on purpose (b). The site consists of open fields, and there would be significant harm in terms of encroachment on the countryside. In the Green Belt Review 2016 the application site was divided between sub-parcels 10b and 14f. An assessment confirmed that both of these parcels make a significant contribution to Green Belt purposes. This reinforces the JOG's view that the development would make a fundamental difference to the integrity of the Green Belt in this part of North Hertfordshire.

### ***Temporary or permanent development***

- 9.4 The JOG considers that in view of its life of 40 years and scale of construction, the development should be viewed as permanent. This point was acknowledged in the decision by an Inspector on an application for a solar farm at Manuden in Uttlesford<sup>57</sup>, and in an appeal decision for ground mounted solar panels at Swadlincote, Derbyshire<sup>58</sup>.

### ***Site location***

- 9.5 It seems that too many criteria were adopted which led to limited outcomes in the search for a site. The 4km distance from a substation reduces options based on financial aspects to which the JOG was not a party. It is understood that some schemes can enter the network via an existing cable route and then operate with a longer distance to the substation. The search criteria did not seem to have shown any sensitivity to such matters as BMV agricultural land, Green Belt, openness, and heritage. If they had, a solution on a smaller scale, which would have been more appropriate, may have been selected.

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<sup>57</sup> CD144, para 18.

<sup>58</sup> CD188, para 48.

- 9.6 The JOG has questioned the amount of land required to provide the 49.955MW output, which appears greater than in other locations. As technology develops solar installations are becoming more efficient. For example, it is understood that bi-facial panels cost 10% more but are 20% more efficient, a consideration which could reduce the land used by 20%. It is understood that two other proposals in North Hertfordshire involve a 25MW array on 35ha and a 40MW array on 53ha. These would both achieve more MW per hectare than the application.
- 9.7 It seems that a robust brownfield investigation was not undertaken, nor that serious consideration was given to roof-top solar panels. The JOG also questions whether soil studies were undertaken on other sites. Renewable energy generation is an important criterion that should rightly carry weight as efforts are made to achieve the net zero target by 2050. It should not however disregard other matters and it must follow a rigorous path of investigation.

### ***Development plans***

- 9.8 The proposal is a major application that has no reference point in a relevant plan. The Council chose to declare a climate emergency with a view to achieving net zero by 2040 (7.24(iii)), but it is questioned whether that should be a driver rather than the Government's overriding plan to target 2050. There is time for a plan review with consultation and options.

### ***Landscape character***

- 9.9 The proposed development would have a harmful impact on the landscape and its character. The site is very open in nature and could not be screened completely. In the North Hertfordshire and Stevenage Landscape Character Assessment, the site falls within the Arlesley-Great Wymondley Landscape Character Area which refers to expansive views from higher ground creating a sense of space and openness<sup>59</sup>. This characteristic can be seen in photographs showing the application site<sup>60</sup>. The site is an essential part of the setting of Great Wymondley, which is washed over by the Green Belt. The development is contrary to Local Plan Policy NE2 which seeks to avoid unacceptable harm to landscape character and appearance.

### ***Heritage and archaeology***

- 9.10 Great Wymondley has a long history, linked to the landscape over two thousand years. In particular the field systems have shown glimpses of occupation from Roman times through to the medieval period, and the importance of the Roman road near to Graveley points to a trade route. Hence it is not surprising that the Applicant's geophysical survey suggests a possible ladder settlement<sup>61</sup>. Great Wymondley was important as a crossroads with a farming estate in Anglo Saxon times. The Augustine priory was built close to a spring, and there was a whole priory economy built around that valuable fresh water supply. In the later medieval period the motte and bailey fortress was erected. Great Wymondley is exceptional in its richness of heritage, and is inextricably linked to the lands around it.

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<sup>59</sup> CD71, pg 108.

<sup>60</sup> In CD184.

<sup>61</sup> CD32, paras 6.7-6.13 and figures 29 & 30.

- 9.11 The archaeological mitigation strategy proposed by the Applicant is considered to involve damage limitation. A no dig principle is intended on parts of the site which might aid understanding of the area's heritage. Elsewhere, trial trenches have raised concerns as to what would happen if significant finds are made.
- 9.12 Great Wymondley and the surrounding area are important in terms of built heritage: there are many listed buildings within 2km of the application site and several within Great Wymondley Conservation Area<sup>62</sup>. Their landscape setting is an important consideration. The Priory is a scheduled monument, and the proposal would harm its setting. Even if the proposal would cause less than substantial harm, this would carry more significant weight than suggested by the Applicant.

### ***Agriculture***

- 9.13 The site comprises BMV agricultural land. It is important to retain good quality land for food security. Versatile land enables flexibility to change crops in the future to meet changing needs. Little seems to have been done to establish if a location could be found comprising 3b land.

### ***Ecology and biodiversity***

- 9.14 Typically, the margins around solar arrays are used for vehicular access<sup>63</sup>. This can be expected to cause disturbance and displacement to birds which nest in hedges and forage on the ground alongside such edge habitats, including yellowhammer, which is listed as a rare and threatened species under section 41 of the Natural Environment and Rural Communities Act 2006<sup>64</sup>.
- 9.15 There is also concern about ground-nesting species, particularly skylark. No skylark nests have been found within a solar array, and compensation measures require detailed knowledge of the fields proposed for use<sup>65</sup>. It is not clear whether there has been any survey work on the proposed fields to ascertain the presence of existing skylark territories, or the suitability of the fields: no written evidence has been presented for management of the mitigation measures, and skylark measures are not certain to be successful.
- 9.16 The Ecological Assessment Report referred to records of seven species of bat<sup>66</sup>. The report also noted the presence of potential bat roosts as well as commuting and foraging habitat within the site and nearby, with good connectivity to higher value habitat, and concluded that the site provides moderate value bat foraging and commuting habitat. However no bat surveys had been carried out and the JOG is not aware of specific bat mitigation measures or lighting strategies for bat protection proposed by the Applicant.
- 9.17 It is not correct that the arable fields would be replaced with species-rich wildflower grassland: the majority of the area (78.15ha) comprising the land within the security/stock-proof fencing, would be sown with a grass mixture

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<sup>62</sup> CD5, paras 6.2.3 & 6.2.4 and figure 2.

<sup>63</sup> Reference was made to an aerial photograph showing this arrangement at a solar array in Gisburn, Lancashire; CD176, appendix B.

<sup>64</sup> CD7, para 3.5.2.

<sup>65</sup> See CD223, Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox.

<sup>66</sup> CD7, paras 3.5.6-3.5.9.

with two varieties of just one broadleaved species – white clover<sup>67</sup>. With much of the proposed grazed pasture under the panels, the effects of shade, significantly reduced temperatures and dryer conditions may impact on the successful establishment of this proposed sward.

### ***Flood risk and drainage***

9.18 There is a problem of flooding in Little Wymondley on Priory Lane and Stevenage Road. It is argued that the scheme will bring marginal benefits, but there are unknowns, including the impact of the major archaeological dig, the potential loss of land drains, and the general introduction of a built environment of roads and buildings. Such change would bring risk and uncertainty to the situation downstream. Whilst the LPA and the Applicant consider there would be no harm and minor benefit, the JOG adopts a more neutral position.

### ***Transport***

9.19 Laying the cable down Priory Lane and along Stevenage Road would cause problems. Disruption would be very damaging to local businesses and their financial viability. Working closely with property owners, diversions and the provision of steel plates to allow access would all be important elements of the solution.

### ***Noise and vibration***

9.20 There is concern that noise from the site, for example from inverters, would cause disturbance to people using nearby footpaths, the recreation ground and community orchard, potentially local residents, and wildlife. There would be significant noise during construction. In addition JOG is concerned that the panels would deflect noise from traffic on the A1(M).

### ***Fire risk***

9.21 There is concern about fire risk, particularly from the battery storage units. A condition is proposed to address this matter, and JOG would wish to be consulted on any details submitted in accordance with such a condition.

### ***Community harm***

9.22 Local residents benefit from peaceful enjoyment of the rural setting and use of the Hertfordshire Way. Views in the changing seasons and agricultural activity that are an intrinsic part of the experience of going into the countryside would be replaced by the monotony of a single unchanging vista of solar panels. This would have a negative effect upon people's mental health and wellbeing. The fencing and CCTV are also of concern.

9.23 Proposals would involve enclosing the pathways with hedging and trees to obscure the solar array. The feeling of enclosure would create a very frightening proposition for women who use the paths for running alone, and would adversely impact their safety and confidence. Additionally, there is concern about the prospect of theft from the solar farm and the consequent security implications.

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<sup>67</sup> CD2 Design and Access Statement, para 3.1.40 and table 2.1.

## **Conclusions**

- 9.24 The development would cause harm to productive agricultural land, harm to the Green Belt, harm to openness and visual amenity, harm to the setting of listed buildings, harm to Great Wymondley Conservation Area, harm to archaeology, harm to wildlife and the natural environment, harm to public rights of way, and harm to the community's safety and wellbeing, all to be weighed against the benefit of clean energy production and storage.
- 9.25 The community has had to accept the shrinking of the Green Belt in the Parish to potentially facilitate over 300 homes, doubling the size of Little Wymondley. In addition, the Parish is already home to a major substation and main north-south train and road links. That should not mean that it has to accommodate the solar arrays. The application should be turned down.

## **10. Written Representations**

### ***Responses to notification of call-in***

- 10.1 The CPRE Hertfordshire is concerned that the proposal would result in industrialisation of the landscape. Ground-mounted solar energy installations should not be permitted in protected areas such as Green Belt. Previously developed land is more suitable for such development, and roof-mounted installations are also an alternative to use of the open countryside. The proposal would represent definitional harm to the Green Belt, and would remove openness and harm visual amenity. The period of operation of forty years is not considered to be a temporary period. Other concerns relate to the effect on BMV farmland, harm to wildlife, noise and security fencing. The fencing would remove traditional pathways for animal movement. There are several other proposals for ground-mounted solar installations in Hertfordshire, and consideration should be given to the cumulative effect of these schemes. Very special circumstances to support inappropriate development in the Green Belt have not been demonstrated.
- 10.2 The Friends of The Hertfordshire Way refer to the loss of visual amenity from the proposal, which would have a significant impact on enjoyment when walking on the route. In addition, Green Belt land and good quality farmland should be maintained.
- 10.3 North Hertfordshire Archaeological Society resubmitted an earlier objection to the application in which it referred to an inadequate level of information, with particular mention made of the absence of a geophysical survey and trial trench evaluation reports<sup>68</sup>.
- 10.4 The principle of the development is supported by North Herts & Stevenage Green Party. The proposal would contribute to attaining net zero, would benefit the soil, and planting would mitigate the visual impact. Conditions should be imposed to ensure farming continues on the site, that the land remains available for agriculture when the solar farm is decommissioned, and to achieve a minimum 10% biodiversity net gain. There is concern about the extent of CCTV installations and that the development would place restrictions on the movement of wildlife.

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<sup>68</sup> The report of a geophysical survey was subsequently submitted in support of the application (CD32) (para 7.8).

- 10.5 Councillor Riches-Duit is a member of Wymondley Parish Council. She supports renewable energy and, whilst agriculture can cause damage to the land and wildlife, a solar farm has environmental benefits.
- 10.6 Fifteen individual objections were submitted at this stage. Objections refer to harm to the character and appearance of the area, the loss of openness in the Green Belt, noise, flood risk, the possibility of alternative arrangements for generating solar energy, traffic disruption caused by laying the cable, prematurity given improvements in efficiency of the technology, conflict with policies in the Local Plan and the Neighbourhood Plan, and the harmful effect on wildlife, archaeological remains, heritage assets, and agricultural land. Several objectors make the point that they do not object to the principle of renewable energy proposals. Should planning permission be granted, there is a suggestion that conditions should be imposed relating to working hours and requiring approval of work plans.

### ***Responses prior to call-in***

- 10.7 Representations submitted prior to call-in are summarised in the LPA's report on the planning application<sup>69</sup>. In addition to Wymondley Parish Council (which is part of the JOG), the CPRE Hertfordshire and the North Hertfordshire Archaeology Society, a number of other organisations submitted representations prior to call-in of the application. Graveley Parish Council expressed concern about traffic movement through the village. Following submission of the amended landscaping plan, the Herts & Middlesex Wildlife Trust raised no objection subject to a condition requiring a plan to achieve biodiversity net gain.
- 10.8 Initially the application generated 171 individual objections, a letter of objection with a list of 44 names, and a petition with 25 signatures. A further 20 objections were received following the submission of revised plans. The objections included similar concerns to the written representations put forward following call-in. Additionally, six representations were made in support of the application. These responses referred to the contribution of the development to achieving net zero and meeting future energy demand, and expressed the view that the site is relatively remote from housing and that it would be easily returned to farmland. Supporters also commented that there would be no effect on flooding, and no increased effect on wildlife.

## **11. Possible Conditions**

- 11.1 Possible conditions were discussed at the inquiry. A schedule, prepared by the Applicant in the light of earlier discussions, covers the following matters: final details of the scheme, duration and decommissioning, construction implications, ecology, fire safety, lighting, landscaping, archaeology, noise, drainage, trees, agricultural use, rights of way, and highway safety (CD218), and suggested conditions in relation to ecological matters were submitted during the inquiry by Hertfordshire LEADS (CD220).

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<sup>69</sup> CD35a, section 3.

## 12. Conclusions

References to earlier paragraphs in this report are in square brackets [].

### **Main considerations**

12.1 Having regard to the call-in direction and the representations submitted, I have identified the following main considerations in this case:

- (i) The effect of the proposed development on the Green Belt.
- (ii) The implications of the proposal for meeting the challenge of climate change.
- (iii) The effect of the proposal on the character and appearance of the area.
- (iv) The effect of the proposed development on habitats and biodiversity.
- (v) The effect of the proposal on heritage assets.
- (vi) Whether the proposal would be consistent with policies and guidance concerning the use of agricultural land.
- (vii) Whether the proposed development would be consistent with the Development Plan and other relevant policies.
- (viii) The effect of other considerations on the overall planning balance.

### **The Green Belt**

12.2 Both the Local Plan (Policy SP5) and the Neighbourhood Development Plan (Policy GB1) refer to national planning policy when considering proposals for development in the Green Belt. The proposal for the solar array with battery storage containers and associated development does not fall within any of the categories of development which are not inappropriate in the Green Belt, set out in paragraphs 149 and 150 of the NPFF. Paragraph 151 makes specific reference to renewable energy schemes, making it clear that elements of many such projects will comprise inappropriate development when located in the Green Belt. It is common ground between the main parties that the proposal would be inappropriate in the Green Belt [7.4, 8.1, 9.1], and I have no reason to take a different view.

12.3 The array would extend across the fields which comprise the greater part of the site (84.7ha of a total of 88ha), and the associated buildings would be positioned alongside and between blocks of panels [2.4, 4.1, 4.2]. Although the panels would be set in from field boundaries, and there would be space for access tracks, offsets in relation to a gas pipeline on the eastern part of the site, and some areas of landscaping, the proposal would result in the loss of the existing extensive open fields. Space between the rows and below the panels would effectively be contained within the blocks. The proposal would have an adverse impact insofar as the spatial aspect of openness is concerned.

12.4 The panels would be relatively low structures, with a maximum height of 3m. Most of the other structures would be a similar height or slightly lower, although the switchgear building would be about 3.9m tall. Hedgerows and tree cover around the northern and southern parcels of the site is not continuous, and following construction the solar development would be apparent from a number

of local viewpoints, particularly on The Hertfordshire Way which runs along the northern boundary, and from the western part of Graveley Lane which is at a similar level to the adjacent fields. It would also be visible, albeit fleetingly, from the A1(M) which runs close to the eastern site boundary [2.1]. As part of the proposal it is proposed to strengthen planting around the two parcels, and to establish two strips of cover to the west of the southern parcel [4.2]. Over time, the planting proposed would provide screening and limit views of the development. However planting would not prevent awareness of the presence of the development, particularly after leaf fall. There would be a visual impact on openness, and in this respect the proposal would conflict with Policy GB1 of the Neighbourhood Plan. I find that the introduction of the proposed development across these extensive fields would result in a significant loss of openness, both spatially and visually, in the Green Belt.

- 12.5 The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF. The LPA's reviews assessed the contribution which parcels and sub-parcels of land make to Green Belt purposes [8.2]. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Purpose (a) is to check the unrestricted sprawl of large built-up areas. Green Belt in Hertfordshire was originally designated as part of the Metropolitan Green Belt around London [9.3]; however sub-parcels 14f and 10c are within a tract of open land which lies between Hitchin, Letchworth Garden City and Stevenage, and the reviews consider the sub-parcels in relation to these towns. Given their relationship to these towns and the distance from London, I agree with this approach.
- 12.6 Whilst the land within the application site does not abut the built-up areas of any of the towns, it forms an integral part of sub-parcels which do adjoin Letchworth and Stevenage. Moreover the southern part of the site is only a short distance from the north-west edge of Stevenage. As such, the open fields to the north and south of Graveley Lane make an important contribution to checking the outward expansion of the nearby towns, and the proposed development would cause significant harm to this purpose of the Green Belt.
- 12.7 Between Hitchin and Stevenage the Green Belt is only about 2.4-3km wide, and is somewhat deeper between Letchworth and Stevenage. Development of the application site would weaken the Green Belt, with a reduction in the amount of open land between these towns. The Green Belt reviews refer to sub-parcel 14f as playing a critical role in the separation of Letchworth and Stevenage, and sub-parcel 10c as playing a critical role between Hitchin and Stevenage. I consider that this assessment is equally applicable to the fields of the application site, given their aggregate size and position between nearby towns in this part of the Green Belt. Consequently the proposal would result in significant harm to purpose (b), to prevent neighbouring towns merging into one another.
- 12.8 The installation of the solar array across the fields of the application site, notwithstanding the retention of certain open areas, would introduce a large development onto open land. The proposal would represent substantial encroachment into the countryside, contrary to purpose (c) in paragraph 138 of the NPPF. Whilst the intended landscaping would limit visibility, it would not lessen the extent of the physical encroachment.

- 12.9 I agree with the Applicant and the LPA that there would be no conflict with purpose (d) to preserve the setting and special character of historic towns. Great Wymondley is close to the site and has several heritage assets, but it is a small settlement, and is not covered by the ordinary meaning of a town. The site is sufficiently removed from the historic parts of nearby towns to have any adverse effect on their character and setting. Purpose (e) encourages the recycling of derelict and other urban land: most development proposals within the Green Belt would run counter to this purpose.
- 12.10 I conclude that the proposal would amount to inappropriate development in the Green Belt, that it would result in a significant loss of openness, and conflict with several of the purpose of including land in the Green Belt. The operational life of the development would be 40 years [4.5]. Although it is intended that the land would be returned to its former condition after that period, 40 years is a considerable length of time, and the fixed period does not diminish my concern about the harm to the Green Belt. In accordance with paragraph 148 of the NPPF, the harm to the Green Belt carries substantial weight.

### ***Climate change and energy security***

- 12.11 Paragraph 152 of the NPPF makes clear that the planning system should support the transition to a low carbon future in a changing climate. The Climate Change Act 2008 (as amended) imposes a statutory requirement for the level of greenhouse gas emissions in the UK to be reduced to net zero by 2050<sup>70</sup>. Subsequently, in its Net Zero Strategy and in response to the Sixth Carbon Budget, the Government has set out an indicative pathway to net zero which would involve a 78% reduction in emissions by 2035<sup>71</sup>. The Overarching National Policy Statement (NPS) for Energy (EN-1) refers to a commitment for the UK to receive 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020, and an ambition to largely decarbonise the power sector by 2030, pointing to the need for new renewable energy projects to come forward urgently in consequence<sup>72</sup>. Subsequently, the Net Zero Strategy of 2021 set out a commitment to achieve carbon free energy generation by 2035 [7.3], and the draft version of EN-1 reiterates the need to increase the supply of clean energy from renewables<sup>73</sup>.
- 12.12 The Government has also published an amended version of EN-3, the NPS for Renewable Energy Infrastructure. Whilst this is the latest version of EN-3, it is a draft NPS, and accordingly carries only limited weight. Nevertheless, it makes clear that solar generation is a key part of the Government's strategy for low-cost decarbonisation of the energy sector, and that it also has an important role in delivering goals for greater energy independence<sup>74</sup>.
- 12.13 Solar generation is also recognised as having a key role by the BESS of 2022, which aims to boost domestic sources of energy to achieve greater security. As part of the Strategy, a five-fold increase in solar deployment from 14GW to 70GW capacity is sought by 2035 [5.9]. The solar farm would make an

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<sup>70</sup> The Act was amended by The Climate Change Act (2050 Target Amendment) Order 2019, CD43.

<sup>71</sup> CD44, figure 12.

<sup>72</sup> CD57, para 3.4.5.

<sup>73</sup> CD59, para 2.3.6.

<sup>74</sup> CD60, paras 3.10.1 & 3.10.2.

important contribution to this additional capacity, with battery storage enabling electricity supply to the grid to reflect periods of higher and lower demand.

- 12.14 The Council declared a climate emergency in 2019. A climate change strategy seeks to achieve carbon neutrality for the Council's operations by 2030, and a net zero carbon district by 2040, amongst other objectives [7.24(iii)]. Hertfordshire County Council declared a climate emergency in the same year<sup>75</sup>. It is not clear that the proposed development would be of direct assistance in reducing the carbon footprints of the operations of the two local authorities, but it would undoubtedly make a significant contribution in progressing towards net zero emissions in both the District and the County.
- 12.15 Paragraph 158(a) of the NPPF explains that applicants should not be required to demonstrate the overall need for renewable energy. However, it is the undisputed evidence of the Applicant that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015<sup>76</sup>. At paragraph 158(a), the NPPF points out that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In this case, it is agreed between the Applicant and the LPA, and not disputed by the JOG, that the development east of Great Wymondley would generate sufficient electricity to meet the requirements of about 31% of the homes in the District [6.1]: that would be a significant contribution towards moving away from reliance on fossil fuel sources of energy.
- 12.16 There is an urgent need to generate electricity from renewable sources in order to meet national and local targets concerning carbon neutrality, and to contribute to addressing the global challenge of climate change. Solar energy is acknowledged by the Government as having a key role in achieving decarbonisation of the energy sector, and also in achieving greater security of supply. These are factors which carry significant weight in support of the application. Chapter 14 of the NPPF provides support for proposals which would assist in addressing the challenge of climate change, and paragraph 158(b) advises that applications for renewable development should be approved if their impacts would be acceptable.

### ***Character and appearance***

- 12.17 The North Herts Landscape Study (CD71) is based on the Hertfordshire Landscape Character Assessment (CD70), including additional content on sensitivity and capacity together with certain additional guidelines. As such, the more recent district level study provides the appropriate point of reference for landscape character.
- 12.18 The site lies within the Arlesley- Great Wymondley Landscape Character Area, which extends around much of Letchworth and to the south towards Stevenage. In the south of the character area, where the site is located, the key characteristic is identified as a rolling landscape of large-scale fields and with relatively few trees. Reference is made to the pressure of urban areas, electricity pylons and transport infrastructure, including the A1(M) and the

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<sup>75</sup> CD55, minutes 6.11 & 6.13.

<sup>76</sup> CD156, Mr Hoyle's proof of evidence, para 4.4.38.

railway, and to expansive views from higher ground. It is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity. I note, though, that the Assessment comments that the open views would be sensitive to the introduction of further urbanising features.

- 12.19 The parcels of land to the north and south of Graveley Lane reflect the character of the southern part of the landscape character area. There would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change. Nevertheless, the proposal would introduce built development across a substantial area, projecting through the open landscape. Planting would strengthen the field boundaries and provide some areas of additional cover. It would not, however, minimise the extent of the change to the landscape. I agree with the LPA's review that there would be a moderate adverse effect on the landscape character area, both following construction (year 0) and when planting had become established (year 10)<sup>77</sup>.
- 12.20 I have also considered the effect of the proposal on the landscape of the site and its immediate surroundings. This area of countryside does not benefit from any designation, nor has it been identified as a valued landscape in terms of paragraph 174(a) of the NPPF. That does not mean that it has no value, and it is clear from the written representations [10.6] and the evidence of the JOG at the inquiry [9.22] that members of the local community appreciate and make use of the countryside which includes the appeal site.
- 12.21 The strengthening and extension of existing hedgerows and the planting of additional trees would contribute positively to the character of the site and its environs. However this is a large site, extending across much of the open land between Great Wymondley and Graveley. The replacement of large arable fields, which are characteristic of the wider countryside would represent a major and adverse change to the landscape of the site, the influence of which would extend for some distance around it. As the planting around and within the site matured its beneficial effect would increase, but, given the scale of the development, that would not materially lessen the impact on the local landscape. Contrary to paragraph 174(b) of the NPPF, the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley.
- 12.22 The higher land of The Chilterns National Landscape is about 5.3km to the west [2.2], and is apparent from locations around the site, for instance viewpoints 3 and 9 in the Landscape & Visual Impact assessment (LVIA). At this distance, and taking into account the relatively low height of the panels and other structures, I do not consider that the proposed development would adversely affect the setting of the National Landscape.
- 12.23 I turn now to consider the visual effects of the appeal proposal. The Applicant acknowledges that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane [7.7]. Both of these routes adjoin the site, and they afford views of and over the large fields. At its eastern end, views from Graveley Lane are restricted as the road runs at a lower level than the adjoining land, and elsewhere and in places along the Hertfordshire Way, hedgerows and trees

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<sup>77</sup> CD86a, para 5.2.8.

provide some screening. This is limited in extent, though, and the expanse of open land encompassing the application site is readily apparent. It is clear that the Hertfordshire Way is a well-used recreational route, which provides the opportunity to view the site for some time when the large fields are passed at walking pace. Receptors on this route are appropriately identified as having high sensitivity in the LPA's review<sup>78</sup>.

- 12.24 Once the hedgerows and tree belts in the landscaping scheme became established, the impact of the development within the site would be reduced to an extent, but planting would not prevent awareness of the presence of the development, particularly after leaf fall. Moreover, the proposed planting would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. This is a harm to which I accord considerable weight. Accordingly, insofar as the effect on character and appearance of the area is concerned, I do not regard the retention of the proposed landscaping beyond the intended life of the solar farm as a benefit of the scheme.
- 12.25 Both the north and south parcels can be seen from the A1(M), although views of the latter are more restricted because of level differences. Traffic on this road is generally travelling at speed and in consequence only fleeting glimpses of the site are possible. In any event, I anticipate that users of this major road are principally concerned with their journey and not appreciation of the countryside. Accordingly their sensitivity to the development is low.
- 12.26 To the south-west, on the public footpath which runs between Priory Lane and Great Wymondley, arrays on the site would be distinct features beyond the fields of the foreground, as shown in the year 0 photomontage from viewpoint 7, and would have a major adverse effect. To the north, from the public footpath which descends to join the Hertfordshire Way at the north-east corner of the site (viewpoint 9), vegetation only permits a much more restricted and partial view of the arrays. To the extent that these features would encroach into a rural view there would be a moderate level of harm. In both cases, the planting proposed would provide effective screening without unduly curtailing views, and the level of harm would reduce to minor.
- 12.27 From Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further. From viewpoints 10 and 11 on the western edge of Graveley, the development would have a negligible effect due to the intervening landform and the presence of the motorway. In this gently rolling landscape, the development would not be prominent in views further from the site.
- 12.28 The development is intended to be reversible, with the various structures removed after 40 years, and the land returned to full agricultural use. Whilst I do not question the current intention of the Applicant, there is inevitably some uncertainty about the circumstances which will have a bearing on the future of the land in 40 years time. In any event, the removal of the solar farm after this period and restoration of the site does not alter my concern: harm to the character and appearance of the area would ensue for a prolonged period.

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<sup>78</sup> CD86a, para 5.3.2.

12.29 The proposed development would have a moderate - major adverse effect on the landscape, with the greatest harm to the landscape of the site and its immediate surroundings, harm to which I attach significant weight. There would also be harm to visual amenity; the adverse impact on views from the Hertfordshire Way and Graveley Lane merits considerable weight, even taking into account the establishment of planting. Some additional harm would also be caused to visual amenity, principally in the short-term, from certain viewpoints to the south-west and north of the site. I conclude that the proposed development would have a damaging effect on the character and appearance of the area, and that in this respect it would conflict with Policies SP12 and NE2 of the Local Plan, and paragraph 174(b) of the NPPF.

### ***Habitats and biodiversity***

12.30 The representations cover a number of species. It became apparent from the discussion at the inquiry that the principal areas of disagreement concern the effect of the proposal on ground nesting birds, particularly skylarks, and on bats.

12.31 The scheme includes a 12m buffer around the perimeter of the fields with the express intention of providing opportunities for wildlife and improving ecological connectivity [4.2]. However the loss of the open fields would affect skylarks which are ground nesting birds<sup>79</sup>. Whilst this species may use solar farms for foraging, it was acknowledged by the Applicant's ecology witness that there was little evidence of nesting occurring within solar farms, and that the development would potentially displace this activity [7.12]. The breeding bird survey had estimated 15 territories or pairs of skylarks within the application site [7.12].

12.32 In response, the Applicant has proposed mitigation in the form of skylark plots, to provide additional foraging opportunities in nearby fields, and to be secured by a condition [7.12]. It is clear from the material referred to at the inquiry that this form of mitigation may be successful for skylarks. Part of the area proposed for the provision of the plots was included in the breeding bird survey; however the remaining area was not and the overall extent of use by skylarks in the prospective receptor area is unknown. In the absence of additional survey work and an assessment of the capacity of the additional land, it is not clear that appropriate mitigation could be provided for skylarks within the vicinity of the application site. The Applicant suggested that bird species which require open fields could be affected if the cropping regime were to change [7.12]. There is no indication that the fields which constitute the site would be taken out of arable use if the proposed development were not to proceed, and the baseline position, recorded in the Ecological Assessment Report and against which the proposal should be assessed, includes the presence of the ground-nesting skylark.

12.33 The JOG expressed concern that no survey of bat activity had been undertaken, notwithstanding reference to potential bat roosts in the Ecological Assessment Report [9.16]. The report points to the use of hedgerows, trees, woodland and ditches in providing foraging and commuting habitat for bats, and, although the JOG's ecology witness referred to some species foraging across open arable land, she acknowledged that bats do use linear and wooded

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<sup>79</sup> CD228, page 1.

habitats. As part of the proposed development, linear features in the form of hedgerows and tree cover would be strengthened, which should support bat activity in the area. A condition is suggested which would require approval of any external lighting, to be designed taking into account advice in relation to bats. Given that the development would provide relatively broad buffer strips alongside strengthened field boundaries, I consider that the approach to bats is proportionate, and that the absence of a bat survey is not a shortcoming of the application.

- 12.34 The blocks of solar panels would be surrounded by security fencing. Concern has been expressed by the CPRE that this fencing would constitute a barrier to the movement of animals [10.1]. That consequence has been anticipated in the Ecological Assessment Report, which explains that gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site [7.13]. This measure could be included in a landscape and ecological management plan, which it is suggested should be the subject of a condition if planning permission were granted.
- 12.35 Wymondley Transforming Station is contained by the LWS, and would consequently be crossed by the cable route [2.2]. The LWS is a former gravel pit, the raised banks of which support coarse calcareous grassland with scrub invading slowly from the edges<sup>80</sup>. Access to the station requires the formation of a trench across the LWS: the trench would be approximately 0.9m wide and up to 1.5m deep. It would be backfilled, and no above ground infrastructure would be installed. The County Ecology Service has suggested a condition requiring a soil management plan; it is intended that this would ensure that layers of soil would be replaced in their previous position. Subject to the imposition of such a condition, no objections have been received from consultees to the effect of the development on the LWS, and I do not consider that the disturbance caused would amount to material harm.
- 12.36 There is no dispute between the Applicant and the JOG that the field margins are of greater ecological value than the arable fields overall. Species rich grassland buffers are proposed along field boundaries, hedgerows would be strengthened, and grassland would be established between and below the arrays. In addition, an area of species rich grassland is proposed at the south-west corner of the northern parcel and another on the eastern side of the northern parcel. The JOG points out that, although the Ecological Assessment Report refers to species rich grassland replacing the arable fields, this area would be sown with a mixture with two varieties of one broad-leaved species [9.17]. I note that the landscape proposals identify these areas as low maintenance pasture and not species rich grassland<sup>81</sup>.
- 12.37 Nevertheless, the proposal would result in a net gain in biodiversity across the site. Applying the latest version of the biodiversity calculator (CD237) gives an increase of 205.96% in habitat units and 102.29% in hedgerow units [7.13]. Whilst the County Council has commented that this level of gain is ambitious, it also acknowledges that in principle it could be achieved [8.9]. More importantly, the level of increase would be substantially above the forthcoming level of 10% which would be required under the Environment Act 2021.

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<sup>80</sup> CD7, Ecological Assessment Report, table 3.2.

<sup>81</sup> CD24, Landscape proposals plan.

12.38 I conclude that the proposal would enhance biodiversity, delivering a net gain, in accordance with Policy NE4 of the Local Plan. A landscape and ecological management plan would be instrumental in securing biodiversity net gain, and a condition could be imposed to this end. With this safeguard, the proposal would comply with Policy NHE2 of the Neighbourhood Plan. I am satisfied that the proposal would also be consistent with paragraph 180(d) of the NPPF, which makes clear that opportunities to improve biodiversity should be integrated into the design of developments. I give significant weight to the biodiversity net gain which the proposal is expected to deliver. Whilst the proposal would minimise the impact on Wymondley Transforming Station LWS in accordance with paragraph 174(d) of the NPPF, I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks. That is a negative feature of the proposal to which I accord moderate weight.

### ***Heritage assets***

12.39 The heritage impact assessment considered the proposal in relation to the setting of four groups of designated heritage assets: Great Wymondley Conservation Area and the designated assets within it, the scheduled monument of Wymondley Priory with its associated structures, St Mary's Church (grade II\*) at Little Wymondley, and Graveley Hall Farm (grade II) and its associated structures. I have adopted the same approach.

#### *Great Wymondley designated heritage assets*

12.40 The conservation area encompasses the small village of Great Wymondley, which is encircled by the surrounding open countryside. It extends along the roads which meet at the two junctions towards its northern end, and contains a number of listed buildings. In the quadrant between Arch Road and Graveley Road is the grade I listed church of St Mary the Virgin, which is a focal point of the settlement. The significance of the conservation area derives in part from the architectural and historic interest of the heritage assets within it and their interrelationships. As a rural settlement, the open landscape in which Great Wymondley is situated is also of importance. Historic maps included with the Applicant's Heritage Impact Assessment reveal changes in field boundaries within the site between the eighteenth century and the present-day<sup>82</sup>. However the fields remain in agricultural use, and, together with other nearby farmland, assist in the appreciation of Great Wymondley as a small rural settlement set in an open landscape. In this way, the setting of the conservation area makes an important contribution to the significance of this heritage asset.

12.41 The eastern point of the conservation area, at Milksey Cottages, is only about 150m from the northern parcel of the application site. Although the distance is short, hedgerows and tree cover along Graveley Road and elsewhere within the village restrict views of the fields within the application site. As additional planting became established, particularly on the western side of the northern parcel and within the strips to the west of the southern parcel, that position would be reinforced. However the role of the open landscape in contributing to the setting of the conservation area is not dependent upon views into or out of Great Wymondley, and I note that in Historic England's Good Practice Advice in

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<sup>82</sup> CD5, figures 6-8.

Planning Note 3, the surrounding landscape is listed as a separate attribute to views<sup>83</sup>.

- 12.42 The development would represent a major change to the setting of the conservation area, encroaching substantially into the open farmland to its east. Given the scale of the proposal, Great Wymondley would no longer be a village immersed in a rural landscape. That change would be apparent from Graveley Lane and Priory Lane and nearby footpaths. Whilst the planting of trees and the strengthening of hedgerows would, over time, lessen visibility of the solar arrays, the presence of the development would nevertheless be apparent in filtered views and gaps, such as that indicated in the year 10 photomontage from viewpoint 7 and at the site accesses. Moreover the curtailment of open views across the site due to planting (above, para 12.24) would in itself adversely affect the setting of the conservation area.
- 12.43 St Mary's Church, which dates from the 12<sup>th</sup> century, has a central position within the conservation area. It is well enclosed by tree cover, with only glimpses of the tower visible across the landscape. The immediate setting of the church is provided by the churchyard and nearby buildings, and its relationship with other heritage assets would be unchanged. I do not consider that the proposed development would have any material effect upon its setting. I have reached the same view in respect of the other listed buildings within Great Wymondley. Their settings are less extensive than that of the conservation area, and, in the case of these individual buildings, their separation from the application site and the presence of intervening cover are sufficient to avoid harm from the development outside the village.
- 12.44 I turn now to the scheduled monument of Great Wymondley Castle. The earthwork remains of this motte and bailey castle are situated on the eastern side of the conservation area on an elevated piece of ground. The Applicant's heritage consultant comments that it was likely designed to look over the surrounding landscape, and as a local stronghold I expect that it was intended to dominate the immediate locality. In view of that historic role, I consider that the setting of the castle extends onto the open land on the east side of the village. Despite the restricted intervisibility with the application site, the encroachment of the solar arrays onto the open land on this side of Great Wymondley would diminish the traditional relationship of the castle with the surrounding landscape, and thereby detract from the contribution which setting makes to its significance.
- 12.45 For the reasons given above, I conclude that the proposed development would detract from the setting of Great Wymondley Conservation Area and Great Wymondley Castle and would thereby conflict with Policy SP13(a) of the Local Plan and in consequence Policy NHE9 of the NDP. Having regard to paragraph 202 of the NPPF, this would represent less than substantial harm to the significance of these heritage assets. Insofar as the conservation area is concerned, given the significant change to its rural setting I place the harm towards the upper end of the spectrum. The castle is enclosed to the west by the village and is a relatively modest structure, and the harm caused would be towards the lower end of the scale of less than substantial harm.

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<sup>83</sup> CD91 page 11, Assessment Step 2 checklist.

### *Wymondley Priory*

- 12.46 Wymondley Priory is situated on Priory Lane, about 250m to the west of the southern parcel of fields within the application site. The priory was originally an Augustinian monastic establishment dating from the 13<sup>th</sup> century. Following dissolution, the priory church was converted to a manor house<sup>84</sup>. The house is a grade I listed building and the nearby tithe barn is a grade II\* listed building. These buildings are located within a moated precinct, beyond which are low earthworks marking components which were associated with the priory. Another barn and garden walls at the Priory are grade II listed buildings. To the east is the detached site of the conduit head, which was the source of the water supply for the priory, the remains of which are a grade II listed building. The site of the priory (including the conduit head) is a scheduled monument, but the manor, the above ground remains of the priory and most of the farm buildings (except the grade II\* barn) are excluded from the scheduling<sup>85</sup>.
- 12.47 The Applicant's heritage witness acknowledges that the spatial relationship between the priory and the outlying earthworks and the diversity of components present offer valuable insights into the religious and economic lifestyles of monastic communities. Land in the southern part of the application site lies within the historic landholding of the priory<sup>86</sup>, and the extent of the farmland to the east of the priory serves as a reminder of the functional link that existed between the priory complex and the application site. This land forms part of the setting of Wymondley Priory and makes an important contribution to the significance of this group of heritage assets, in particular to the scheduled monument itself, and to the listed priory and the listed tithe barn<sup>87</sup> as key components of the priory complex.
- 12.48 Intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. That said, the extent of the development on the southern parcel of the site would diminish the relationship between the priory complex and its farmland setting and the ability to appreciate the contribution of that setting to the significance of the priory complex. My concern does not extend to the detached conduit head which is almost entirely contained by trees, and whose relationship with the main complex across open farmland would remain distinct.
- 12.49 Notwithstanding my finding in respect of the conduit head, I conclude that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the listed priory and the listed tithe barn, and less than substantial harm to the contribution which setting makes to their significance. In consequence there would be conflict with Policy SP13(a) of the Local Plan and Policy NHE9 of the NDP.

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<sup>84</sup> CD98, The Priory official list entry.

<sup>85</sup> CD100, Wymondley Priory official list entry.

<sup>86</sup> CD5, para 6.2.17.

<sup>87</sup> The Heritage Impact Assessment (CD5) refers to the tithe barn as an early post-Dissolution barn (CD5, para 6.2.13). However, the official list entry (CD99) explains that the building was erected for the prior and community of Wymondley Priory.

### *St Mary's Church, Little Wymondley*

12.50 The church is a modest structure dating from the 12<sup>th</sup> century when it was associated with Wymondley Priory<sup>88</sup>. It is a grade II\* listed building, and, having regard to its connection with the Priory and the detailed list description, I agree with the Applicant's heritage witness that its significance lies primarily in its historic and architectural interest. The church stands in an elevated position in Little Wymondley, about 600m from the south-west corner of the southern parcel of the application site. There are only limited glimpses of the church from the eastern part of the site, and of the site from the church. Moreover, the church is positioned to the south of more modern buildings in Little Wymondley beyond which is a railway line. It does not have a strong relationship with the application site, and I conclude that the proposed development would not materially affect its setting.

### *Graveley Hall Farm*

12.51 Graveley Hall Farm is a grade II listed building within Graveley Conservation Area. Associated barns, farm buildings and a boundary wall are also grade II listed buildings. The Heritage Impact Assessment explains that, historically, much of the southern part of the application site was included within the holding of the farm, which was part of the Priory estate<sup>89</sup>. However the relationship with that land was substantially diminished by the construction of the A1(M) motorway which runs to the west of Graveley, and there is no intervisibility with the application site. Due to the presence of the motorway, the historical association of Graveley Hall Farm with the application site cannot be readily appreciated, and I conclude that the proposed development would not materially affect the setting of the listed buildings there.

### *Archaeological remains*

12.52 It is common ground between the main parties that there is a high potential for archaeological remains to be present within the site [7.8, 8.11, 9.10]. As expected by paragraph 194 of the NPPF, the Applicant has undertaken an appropriate assessment and evaluation of the site. The Heritage Impact Assessment refers specifically to the prospect of prehistoric, Roman and medieval remains [7.8]. A geophysical survey has identified three concentrations of anomalies of archaeological origin. In order to safeguard remains in these areas, it is proposed that panels would be installed employing a no-dig solution, being mounted on concrete sleepers with cable runs being above ground [7.8]. The JOG referred to the possibility of remains being adversely affected by compression, but there is no specific evidence to substantiate this concern.

12.53 Elsewhere a series of trial trenches would be dug, covering 3% of the site, and it is intended that a revised written scheme of investigation would specify the arrangements for this exercise, in addition to specifying the no-dig areas [7.8]. A condition is suggested which would require the submission of a revised written scheme of investigation and to prevent development of the solar farm until actions to protect archaeological interests have taken place. I am satisfied that

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<sup>88</sup> CD5, Heritage Impact Assessment, appendix B site 22.

<sup>89</sup> CD5, para 6.2.7.

with the safeguard of such a condition, the proposed development would not adversely affect archaeological interests in the parcels of land to the north and south of Graveley Lane. There would be no conflict with Policy HE4 of the Local Plan or Policy NHE9 of the NDP.

#### *Other heritage assets*

12.54 There are a number of other heritage assets, both designated and non-designated within the surrounding area<sup>90</sup>. None have a relationship to the application site such that their settings would be adversely affected by the proposed development.

#### **Agricultural land**

12.55 The fields where the solar arrays would be installed are recognised as being BMV agricultural land [2.4]. The Applicant argued that BMV land is not a rare resource, pointing to information from Natural England which estimates that it amounts to about 42% of farmland in England<sup>91</sup>.

12.56 Notwithstanding the proportion of farmland included in grades 1-3a, national planning policy requires that particular attention should be given to this higher quality land. Paragraph 174(b) of the NPPF explains that both planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other measures) recognising the economic and other benefits of BMV land. PPG on Renewable and low carbon energy includes specific reference to large scale solar farms: paragraph 5-013 encourages the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value. Where greenfield land is proposed for use, consideration should be given to whether the use of agricultural land is necessary, whether poorer quality land has been used in preference to land of higher quality, and whether the proposal allows for continuing agricultural use where applicable.

12.57 The application does not seek to replace the agricultural use of the site, but for agricultural use to continue alongside the solar farm. The land around and below the panels would be sown with grass and used for the grazing of sheep [7.18]. Although the presence of the panels would prevent rainfall from reaching the ground below, the Applicant's agricultural witness explained that water would travel laterally through the ground. There is nothing before me to indicate that grass cover would be unable to be established on the developed site, nor that the height and position of the solar panels would prevent the land being grazed by sheep. The Applicant had no objection to a condition requiring approval of a grazing management plan, which would set out arrangements for the continuing agricultural use of the land.

12.58 Grazing by sheep would occur around the solar arrays, and would be prevented by stock fencing from extending to the perimeter buffer strips and the areas in the northern parcel proposed to be planted as species-rich grassland. Some field margins are subject to a countryside stewardship scheme: the Ecological Assessment Report records these margins as 5-6m

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<sup>90</sup> The location of heritage assets is shown on the plans at figures 2-4 of the Heritage Impact Assessment, CD5.

<sup>91</sup> CD170, Appendix 2 to Mr Kernon's proof, Natural England Technical Information Note TIN049, page 2.

wide<sup>92</sup>, approximately half the width of the proposed perimeter buffer strips. The evidence before me indicates that the extent of the site which is not currently in agricultural use is somewhat smaller than that which would be taken out of agricultural use by the development. Consequently, whilst there would be a slight reduction in the area of BMV which would be farmed I do not consider that that would be sufficient to constitute material harm.

12.59 The LPA referred to lower productivity and flexibility from use of the fields for sheep grazing as opposed to arable farming [8.13]. However there is no policy support for this position. Accordingly a reduced level of food production and the associated issue of food security are not matters which count against the application to a significant degree. On the other hand the Applicant's evidence that the removal of land from intensive agricultural use for a period of time would improve soil health and structure was not disputed by any specific evidence.

12.60 My attention has been drawn to a decision dismissing an appeal for solar panels in Swadlincote, Derbyshire on a site of which almost half of 34ha was classified as BMV land (CD188). In that case the Inspector concluded that the appellant had failed to demonstrate that there was no land of a lesser agricultural quality available within the study area. The site assessment exercise was also criticised in a decision refusing planning permission for a solar farm at Manuden (CD144). I consider arguments relating to site selection in this case below (paras 12.75-12.78), but, although the JOG queried whether enough had been done to establish if a location could be found comprising 3b land [9.13], there is no substantive evidence to contradict that of the Applicant that there is a high likelihood that much of the land in the locality falls into the BMV category [2.4].

12.61 The proposal would enable agricultural use of the land to continue, and there is no evidence of sufficient non-agricultural land or land of lower quality being available. Any reduction in productivity of the application site is counterbalanced by the benefit to soil condition resulting from a break in intensive agricultural production. I conclude that, due to continuing agricultural use, the proposed development would be consistent with the provisions of paragraph 174(b) of the NPPF and paragraph 5-013 of PPG concerning BMV land: in consequence it would comply with Policy NE12 of the Local Plan.

## ***The Development Plan***

### *The Local Plan*

12.62 The proposal is inappropriate development in the Green Belt, and compliance with Policy SP5 is contingent upon such development being justified by very special circumstances. That is a matter which I consider in my overall conclusions.

12.63 As a renewable energy scheme, Policy SP11(a) provides support in principle for the development, as does Policy SP1 concerning the provision of infrastructure to support the population. The policy includes a caveat that such development should be in appropriate locations. Appropriate locations are not

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<sup>92</sup> CD7, para 3.4.3.

defined in the supporting text, but I have found that the development of the solar farm on the land at Graveley Lane would not only be inappropriate due to the Green Belt designation but would also cause harm to the character and appearance of the area and to the setting of Great Wymondley Conservation Area, Wymondley Castle and the scheduled monument, listed priory and listed tithe barn at Wymondley Priory. Whilst other considerations have to be considered against such harm in my conclusions, that harm itself indicates that in the first instance the application site is not an appropriate location for the development proposed.

- 12.64 The proposal would not have a material effect upon the setting of The Chilterns National Landscape. It would nevertheless cause harm to the character and appearance of the surrounding area, and in consequence there would be conflict with Policies SP12, NE2 and D1.
- 12.65 There is an extensive range of designated and non-designated heritage assets in the area. The development of the solar farm would not have a direct effect upon any designated assets and non-designated archaeological assets could be safeguarded by mitigation measures including no-dig areas and trial trenching. However harm would be caused to the setting of Great Wymondley Conservation Area, Wymondley Castle and designated heritage assets at Wymondley Priory. In accordance with Policy SP13 great weight should be given to the management of their setting, but compliance with Policy HE1 necessitates a balance between the less than substantial harm to the assets' significance and the public benefits of the development, a matter I consider below (paras 12.88 & 12.89). Measures are proposed to safeguard archaeological remains in accordance with Policy HE4, and there would no adverse effect on the setting of non-designated heritage assets, securing compliance with Policy HE3.
- 12.66 In accordance with Policy NE4, there would be a measurable net gain in biodiversity, and the effect on the LWS at Wymondley Transforming Station would not cause material harm. The proposal would also comply with Policy NE12 since it would be consistent with national policy in respect of its effect on BMV land. The scheme would satisfactorily address transport implications, and it would not result in a reduction in highway safety contrary to Policy SP6.
- 12.67 Part of the route of the cable run is in flood zone 3 on Stevenage Road [2.4]. It is common ground between the Applicant and the JOG that there is a history of flooding in Little Wymondley [7.23, 9.18]. Floodwater has entered properties and extended along parts of Priory Lane and Stevenage Road. As the cable would be buried beneath the road, the completed works would not increase flood risk. To avoid a potential obstruction to the movement of water from excavated material, it is intended that this would not be stored on either Priory Lane or adjacent to Stevenage Road [7.22]. The cable would be essential infrastructure, required in this location to connect the arrays to the grid. It would not give rise to any additional flood risk and the development overall would reduce flood risk elsewhere, and consequently it would comply with the exception test in paragraph 164 of the NPPF.
- 12.68 The fields where the solar arrays would be installed are at low risk of flooding, and their installation here would be consistent with part (a) of Policy NE7, and the sequential test set out in paragraph 162 of the NPPF. Most structures on the

site would be raised off the ground and would not impede overland movement of water, as required by part (g). The grassed surface would have a lower rate of run-off than the bare earth which is present for part of the year, and the scheme includes six attenuation basins which would restrict run-off from the site. Modelling indicates that the development would lead to a reduction in surface water run-off from the site. As the site is within the catchment of Ash Brook which is the principal source of flooding in Little Wymondley, a modest reduction in off-site flood risk is expected to result. No increase in flood risk should result from the development, in line with paragraph 167 of the NPPF. Conditions could be imposed to prevent the storage of excavated material on Priory Lane or adjacent to Stevenage Road, to secure the surface water drainage scheme, and a flood management plan as part of a more extensive construction environmental management plan. The proposal would comply with Policy NE7 and the approach to flood risk in Chapter 14 of the NPPF.

### *The Neighbourhood Plan*

12.69 The solar farm would erode the openness of the Green Belt, due not only to its physical presence but also to its visual impact. Policy GB1 also refers to compliance with national policy. The proposal would be inappropriate development in the Green Belt, and compliance with the NPPF, and therefore Policy GB1, is contingent upon such development being justified by very special circumstances. As mentioned above (para 12.62), that is a matter which I consider in my overall conclusions.

12.70 The application was accompanied by a landscape and visual impact assessment as required under Policy NHE1. Although I have found that there would be a harmful effect on the character and appearance of the area, that is not a matter which brings the proposal into conflict with the specific provisions of the policy.

12.71 Insofar as heritage assets are concerned, Policy NHE9 defers to the Development Plan and national policy. Compliance with Policy HE1 of the Local Plan necessitates a balance with the public benefits of the development, as prescribed in paragraph 202 of the NPPF, a matter I consider below (paras 12.88 & 12.89). Similarly, Policy NHE3 defers to local policy in respect of local wildlife sites, and I have found compliance with Policy NE4 of the Local Plan.

12.72 As there would be a net gain in biodiversity, a slight betterment with regard to flood risk, and the opportunity for native species to be used in landscaping, the scheme would comply with Policies NHE2, FR1, and NHE8.

### *The Minerals Local Plan Review*

12.73 Although part of the site falls within an area which has been identified for the safeguarding of sand and gravel reserves [5.8], this resource would not be sterilised since the proposal seeks permission for a temporary period of 40 years. Consequently there would be no conflict with Minerals Policy 5.

### *The Development Plan as a whole*

12.74 The proposal would not conflict with the relevant policy in the Minerals Local Plan Review, and it would comply with several policies in both the Local Plan and the Neighbourhood Plan. However, even though there is support in Policy SP11 of the Local Plan for the principle of renewable energy development, the

site is not an appropriate location, and there is also conflict with policies concerning the character and appearance of the area. Important policies concerning the Green Belt and heritage assets require consideration to be given to other matters. I deal with those balancing exercises in my overall conclusions where I also conclude on the Development Plan as a whole.

### ***Other considerations***

#### *i) Site selection*

12.75 The inquiry heard that an initial step in site selection is to avoid those areas with a high level of curtailment, where the export of electricity is susceptible to being prevented during periods of high generation. Six EHV sub-stations were identified as having the potential for connection on the basis of their association with areas of low to moderate curtailment [7.1]. Small size and capacity are limiting factors at most of these sub-stations, and difficulties due to an urban setting, disruption to residents, and the cost of the cable route are referred to in respect of four EHV substations [7.1].

12.76 Six 132kV substations were also identified, but only Wymondley GSP offers the type of connection sought [7.2]. The alternative 132kV connections elsewhere would be considerably more expensive, and it is the undisputed evidence of the Applicant that generally this arrangement is only viable for connections in excess of 50MW<sup>93</sup>. A site for the arrays was sought based on connection at Wymondley, within a maximum radial distance of 4km [7.2]. Virtually all of the land within this distance from Wymondley substation and outside the built-up areas of Hitchin and Stevenage lies within the Green Belt. The application site is within this search area and is technically unconstrained.

12.77 It is self-evident that costs will increase with distance from the point of connection, but whilst the Applicant refers to a maximum distance of 4km for projects of this size having regard to viability [7.2], there is no clear evidence to demonstrate that that is the case. Similarly, South Hitchin EHV substation is not included in the supplementary table which provides information on substation capacity [7.1], and there is no detailed information to substantiate concerns about constraints there. In the absence of more substantive evidence on these matters, it is not clear that the site selection exercise was so tightly constrained that there is no alternative location outside the Green Belt for the proposed development. My finding that the status of the application site as BVM land does not count against the proposal (above, paras 12.60 & 12.61) is insufficient to outweigh these considerations.

12.78 On the information before me, I conclude that the site selection exercise does not provide clear support for the development of the solar farm on the application site.

#### *ii) Deliverability*

12.79 The appeal site is available and deliverable. If planning permission is granted, it is expected that the solar farm would be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months [7.2]. An alternative scheme could, therefore, take up to two years

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<sup>93</sup> CD232, para 2.5.

longer to come on stream once a proposal had been prepared. Given the urgency of addressing the climate crisis, that is a matter which lends significant support to the proposal.

*iii) Noise*

12.80 The JOG expressed concern about noise from equipment on the site, and also the possibility that the panels would deflect traffic noise from the A1(M). The noise and vibration assessment reported on sound monitoring and predicted noise levels from the battery store, inverters, and transformers. It found that the noise from maximum site operations during both day and night time would be below the representative background sound level, and would have a low impact<sup>94</sup>.

12.81 In a consultation response addressing noise, the Council's Environmental Health Officer only identified a potential for noise nuisance to arise during the construction period, and recommended conditions to restrict working hours and require adherence to a construction phasing and environmental management programme (subsequently referred to as a construction environmental management plan) which would include measures to minimise noise. With these safeguards in place I do not consider that the proposal would harm the living conditions of local residents.

*iv) Transport implications*

12.82 Once operational, the solar farm would generate little traffic. The Applicant indicated that there would be 1-2 visits per week using a light vehicle, a matter which was not disputed by other parties. Traffic movement would be greater during the 36 weeks construction period, involving heavy goods vehicles in addition to lighter vehicles [7.16]. Even so the additional number of movements would be modest, and deliveries and HGVs would be routed from the motorway to the east [7.16], thereby avoiding the villages of Great Wymondley and Little Wymondley. The routing of construction traffic could be included within a construction traffic management plan, secured by condition. At a point on Graveley Lane where the carriageway is narrower a passing bay would be formed to avoid disruption to the free movement of traffic. Conditions could be imposed to secure both the formation of the passing bay, and its removal once construction had been completed.

12.83 The JOG referred to the potential for disruption on Priory Lane and Stevenage Road during works to lay the cable. It is expected that some temporary road closures and diversions would be necessary. The works within the carriageway and associated traffic management measures would be subject to a separate consenting regime and would require approval by the local highway authority [7.17]. They are not a reason to resist the grant of planning permission.

*v) Fire risk*

12.84 Hertfordshire Fire Service has advised that certain measures, including a perimeter road and an emergency water supply, should be included in the development (CD200). In response, a fire risk management plan is proposed, the implementation of which could be secured by means of a condition.

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<sup>94</sup> CD8, paras 7(iii) & 9(v).

*vi) Permissive footpaths*

12.85 The scheme proposes the creation of several lengths of permissive footpath, to remain in place for the duration of the development. There would be a footpath along the west and south sides of the northern parcel, with a short northwards spur at its eastern end. This footpath would link to the Hertfordshire Way at each end, providing the opportunity for a circular walk on the north side of Graveley Lane. A separate path on the south side of the road would provide a link from the junction at the eastern end of the village to the path around the northern parcel. The provision of these temporary paths would provide a benefit to local residents and other walkers in the countryside to which I ascribe moderate weight.

*vii) Economic considerations*

12.86 Employment opportunities would provide an economic benefit [8.15], but during the operational phase of the development there are only expected to be 1-2 visits per week by staff (above, para 12.82). Construction would involve more people but would only last for about 36 weeks, and decommissioning would similarly be relatively short compared to the 40 years operational life of the solar farm. Consequently I ascribe limited weight to this benefit.

**Conditions**

12.87 I have considered the suggested conditions (CD218) in the light of the advice in PPG and the discussion on conditions at the inquiry. In accordance with section 100ZA(5) of the Town & Country Planning Act 1990, the Applicant has agreed to those conditions which would be pre-commencement conditions (CD250). Those conditions which I consider would be necessary if planning permission were granted are listed in the annex to this report, together with the reasons for their imposition.

**Overall conclusions**

12.88 The proposal would lead to less than substantial harm to the significance of Great Wymondley Conservation Area, the scheduled monument of Wymondley Castle, and heritage assets at Wymondley Priory. Where that is the case, paragraph 202 of the NPPF requires that the harm should be weighed against the public benefits of the proposal. The urgent need to generate electricity from renewable sources, including solar installations, in order to meet national and local targets, and supported by paragraph 152 of the NPPF, is an important factor which carries significant weight in support of the application. The proposal would contribute to meeting that need, and is deliverable within a relatively short time-frame. That adds further significant weight to the case in favour of the proposed solar farm. I also give significant weight to the biodiversity gain which would be achieved as a result of the design of the scheme. Further public benefits, which merit moderate weight, arise from the limited reduction in flood risk and the provision of permissive footpaths on and leading to the site. The development would be reversible, and whilst the eventual return of the site to open countryside would be a benefit compared to a permanent permission, 40 years is a considerable period of time, and I give limited weight to this matter. I also give limited weight to the economic benefits arising from employment in connection with the proposal.

- 12.89 Whereas the harm occasioned to the significance of the castle would be towards the lower end of the spectrum of less than substantial harm, the harm in respect of Great Wymondley Conservation Area and the scheduled monument of Wymondley Priory, together with the listed priory and the listed tithe barn would be markedly greater. I am concerned that the development would cause serious harm to their settings, and in consequence the presence of the solar farm would damage the significance of these important assets for a prolonged period of time. Paragraph 199 of the NPPF makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I am in no doubt that the harm to designated heritage assets which I have identified outweighs the public benefits which the proposed development would produce. In consequence the proposal would fail to comply with Policy HE1 of the Local Plan and Policy NHE9 of the Neighbourhood Plan.
- 12.90 I turn now to the Green Belt balance. The proposal would amount to inappropriate development, it would result in a significant loss of openness over a considerable period of time, and it would conflict with several of the purposes of including land in the Green Belt. Harm to the Green Belt carries substantial weight. There would be serious harm to the setting of several important heritage assets. Additionally the development of a solar farm to the east of Great Wymondley would harm the character and appearance of the area. I attach significant weight to the adverse impact on the landscape of the site and its immediate surroundings, and moderate weight to the effect on the landscape character area of which the site forms part. Insofar as visual amenity is concerned, the adverse impact on views from The Hertfordshire Way and Graveley Lane merits considerable weight, and there would be some additional harm from viewpoints to the north and south-west. I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks, and I attach moderate weight to this aspect of the scheme.
- 12.91 There are no additional factors to the public benefits identified above (para 12.88) to weigh in favour of the proposal. I acknowledge that there would be some improvement to soil structure in the fields where the panels would be installed but this would be counterbalanced by the loss of productivity of the farmland. This part of Hertfordshire is constrained by the extent of the Green Belt and the presence of The Chilterns National Landscape. However the evidence submitted in respect of site selection is not sufficient to demonstrate that these constraints are such as to provide support for development of the proposal in this countryside location within the Green Belt and within the setting of a number of designated heritage assets.
- 12.92 I conclude that the harm to the Green Belt by reason of inappropriateness and the other harms identified would not be clearly outweighed by other considerations. Consequently very special circumstances to justify the development do not exist in this case: it would, therefore, conflict with Policy SP5 of the Local Plan, Policy GB1 of the Neighbourhood Plan, and paragraph 147 of the NPPF.
- 12.93 Bringing together my earlier findings on the Development Plan and my conclusions on the heritage and Green Belt balances, I conclude that the proposed development would conflict with the Development Plan considered as

a whole, and that the impacts of the development would not be acceptable, contrary to paragraph 158(b) of the NPPF.

### **13. Recommendation**

- 13.1 For the reasons given above, and having regard to all matters raised, I recommend that planning permission be refused. Should the Secretary of State reach a different conclusion on the merits of the application, I recommend that the conditions in the Annex to this report should be imposed on a grant of planning permission.

*Richard Clegg*

INSPECTOR

## **ANNEX**

### **SCHEDULE - SUGGESTED CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
  - i) Drawing No. 3004-01-001 Rev B – location plan
  - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
  - iii) Drawing No. 3004-01 003 Rev F – general arrangement (site plan)
  - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
  - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
  - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
  - vii) Drawing No. 3004-01-006 – storage building
  - viii) Drawing No. 3004-01-007 – control building
  - ix) Drawing No. 3004-01-008 – switchgear building
  - x) Drawing No. 3004-01-009 – battery storage container
  - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
  - xii) Drawing No. 3004-01-011 – typical cable trench
  - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
  - xiv) Drawing No. 3004-01-D05- forward visibility splays
  - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
  - xvi) Drawing No. 3004-01-ATR01Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
  - i) solar panels and frames.
  - ii) CCTV columns.

iii) Satellite communication dish and column.

iv) Location of ancillary buildings, and details of equipment and enclosures

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

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of the following:
- i) A timetable for the construction works.

- ii) The control and management of noise and dust during the construction phase.
- iii) On-site waste management.
- iv) A risk assessment of potentially damaging construction activities.
- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:
- i) Construction vehicle numbers, type and routeing.
  - ii) Access arrangements onto the site.
  - iii) Traffic management measures.

- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place 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 the following:
- i) Description and evaluation of features to be managed.
  - ii) Ecological trends and constraints on the site that might influence management.
  - iii) The aims and objectives of management.
  - iv) Appropriate management options for achieving aims and objectives.
  - v) Prescriptions for management action.
  - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
  - vii) Details of the organisation responsible for implementation of the plan.
  - viii) Ongoing monitoring and remedial measures.
  - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0, and stated and marked on plans.
  - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
  - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
  - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

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

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority.

The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:
- i) A timetable for implementation of the scheme.
  - ii) External hard surfacing materials.
  - iii) Means of enclosure.
  - iv) Proposed and existing services above and below ground.
  - v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
  - vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:
- i) The programme and methodology of site investigation and recording.
  - ii) Identification of the no-dig areas.
  - iii) The programme for post investigation assessment.
  - iv) Arrangements for analysis of the site investigation and recording.
  - v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
  - vi) Arrangements for archive deposition of the analysis and records of the site investigation.
  - vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

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

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

- 14) No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

- 15) During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 16) No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 17) No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.
- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.

- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

- 18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

- 19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.
- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.

The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.
- iv) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No

other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

- 27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

- 28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ms C Daly	Counsel for North Hertfordshire District Council
She called	
Mr M Robinson BA(Hons)	Planning consultant
DipTP MRTPI	

### FOR THE APPELLANT:

Mr D Hardy	Partner, CMS Cameron McKenna Nabarro Olswang LLP
He called	
Ms L Roy BA(Hons) MSc	Senior Project Manager, AOC Holdings Ltd
MCIfA FSA(Scot)	
Mr J Mason BSc(Hons)	Technical Director, Axis
DipLA CMLI	
Mr L Kendall BA(Hons)	Technical Director, Axis
MCIHT MTPS	
Dr K Tilford BSc MSc	Managing Director, Weetwood Services Ltd
PhD MBA C.WEM	
FCIWEM CEnv	
Mr A P Kernon	Principal, Kernon Countryside Consultants
BSc(Hons) MRAC MRICS	
FBIAC	
Mr A I Hoyle BSc(Hons)	Associate Director, Axis
MCD MRTPI	
Mr H Fearn MSc MCIEEM	Director, Avian Ecology Ltd
Mr J Collier MEng CFA	Investment Manager, AGR Renewables

### FOR THE JOINT OBJECTORS GROUP:

Mr P S Harding BSC FRICS	Resident of Great Wymondley and Member of Wymondley Parish Council
He gave evidence	
himself and called	
Mr D Jackson BA(Hons)	Resident of Great Wymondley and of the Great Wymondley Village Association
MBA	
Mrs J Simpson MBE	Resident of Great Wymondley
Mr J Griffiths MA DipTP	Planning consultant
FRTPI	
Mrs E Hamilton MA MSc	Trustee of the Campaign to Protect Rural England Hertfordshire

## INQUIRY DOCUMENTS

Superseded documents are not included in this list

- CD200 Letter dated 8 September 2023 from Hertfordshire CC providing a freedom of information response in respect of Fire Service comments on the application.
- CD201 Mr Hardy's opening statement on behalf of the Applicant.
- CD202 Ms Daly's opening statement on behalf of the LPA.
- CD203 Mr Harding's statement on behalf of the JOG.
- CD204 Mr Jackson's revised proof of evidence.
- CD205 Video – Solar Harm. Submitted by Mr Jackson.
- CD206 Notification letter about the calling-in of the application.
- CD207 List of recipients of CD206.
- CD208 Revised location plan, ref 3004-01-001 rev B.
- CD209 List of heritage assets within the study area.
- CD210 Slide pack - community harm objection. Submitted by Mrs Simpson.
- CD211 Map of The Chilterns AONB.
- CD212 Map of the north-eastern part of The Chilterns AONB.
- CD213 Webpage showing examples of above ground bases for solar panels.
- CD215 Composite plan of proposed drainage layout, ref 5208-110-P1.
- CD216 Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process. Submitted by Mr Kendall and Dr Tilford.
- CD217 Revised plan showing construction swept paths, ref 3004-01-ATR01 rev D.
- CD218 Revised list of possible conditions (18 September). Submitted by the Applicant.
- CD219 Illustrative skylarks plot plan. Submitted by the Applicant.
- CD220 Letter dated 15 September 2023 from Hertfordshire CC to the LPA concerning the revised biodiversity metric applied to the proposal.
- CD221 Note on a planning application for a solar farm at St Ippolyts. Prepared by the LPA.
- CD222 Birds of Conservation Concern 5. Referred to in footnote 2 of Mrs Hamilton's proof of evidence.
- CD223 Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox. From in practice, September 2022. Referred to in footnote 4 of Mrs Hamilton's proof of evidence.
- CD224 Land Management for Wildlife – Yellowhammer, RSPB. Referred to in footnote 5 of Mrs Hamilton's proof of evidence.
- CD225 The effects of solar farms on local biodiversity: A comparative study, by H Monntag, G Parker & T Clarkson. Referred to in footnote 8 of Mrs Hamilton's proof of evidence.
- CD226 Densities and population estimates of breeding skylarks *alauda arvensis* in Britain in 1997, by S Browne, J Vickery & D Chamberlain. From Bird Study 47:1. Referred to in footnote 9 of Mrs Hamilton's proof of evidence.
- CD227 Habitat selection by skylarks *alauda arvensis* wintering in Britain in 1997/98, by S Gillings & R J Fuller. From Bird Study 48:3.

- CD228 Land Management for Wildlife – Skylark, RSPB. Referred to in footnote 11 of Mrs Hamilton’s proof of evidence.
- CD229 Potential ecological impacts of ground-mounted photovoltaic solar panels – An introduction and literature review, by R Taylor, J Conway, O Gabb & J Gillespie. Referred to in footnote 13 of Mrs Hamilton’s proof of evidence.
- CD230 Renewable energies and biodiversity: Impact of ground-mounted solar photovoltaic sites on bat activity, by E Tinsley, J S P Froidevaux, S Zsebok, K L Szabadi & G Jones. From Journal of Applied Ecology 2023;00. Referred to in footnote 14 of Mrs Hamilton’s proof of evidence.
- CD231 Life in a hedge, by R Woolton. From British Wildlife June 2015. Referred to in footnote 15 of Mrs Hamilton’s proof of evidence.
- CD232 Mr Collier’s statement on grid connection and site identification.
- CD233 Supplementary table to Document CD232.
- CD234 Solar park microclimate and vegetation management effects on grassland carbon cycling, by A Armstrong, N J Ostle & J Whitaker. From Environmental Research Letters, volume 11, number 7. Referred to in footnote 16 of Mrs Hamilton’s proof of evidence.
- CD235 Note on agricultural land classification statistics. Submitted by Mr Kernon.
- CD236 Plans showing proposed revised site visits itinerary. Agreed by the main parties.
- CD237 The Biodiversity Metric 4.0, calculation for the proposed development.
- CD238 Mr Harding’s response to CD216.
- CD239 Appeal decision concerning ground-mounted solar arrays and associated development at Crays Hill, Essex. Submitted by the Applicant.
- CD240 Technical glossary. Submitted by the Applicant.
- CD241 Extract from the Hertfordshire Minerals Local Plan Review 2002-2016.
- CD242 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Draft Plan.
- CD243 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Policies Map.
- CD244 Mr Harding’s closing submissions on behalf of the JOG.
- CD245 Ms Daly’s closing submissions on behalf of the LPA.
- CD246 Mr Hardy’s closing submissions on behalf of the Applicant.
- CD247 Email dated 28 September 2023 on behalf of the Applicant to The Planning Inspectorate concerning a cessation of generation condition.
- CD248 Email dated 28 September 2023 from the JOG to The Planning Inspectorate concerning possible conditions.
- CD249 Regulation 2(4) notice concerning pre-commencement conditions.
- CD250 The Applicant’s response to CD 249.



# Department for Levelling Up, Housing & Communities

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

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

### Challenges under Section 288 of the TCP Act

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

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

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

## SECTION 3: AWARDS OF COSTS

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

## SECTION 4: INSPECTION OF DOCUMENTS

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