



## Appeal Decision

Inquiry opened on 16 January 2024

Accompanied site visit made on 24 January 2024

**by Philip Major BA(Hons) DipTP MRTPI**

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

**Decision date: 5<sup>th</sup> February 2024**

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**Appeal Ref: APP/U2235/W/23/3321094**

**Land north of Little Cheveney Farm, Sheephurst Lane, Marden, Kent**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Statkraft UK Ltd against the decision of Maidstone Borough Council.
  - The application Ref: 22/501335/FULL, dated 20 May 2022, was refused by notice dated 28 October 2022.
  - The development proposed is the installation of a renewable energy led generating station comprising of ground-mounted solar arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements.
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### Preliminary Matters

1. The inquiry sat in person for 6 days from 16 to 24 January 2024, with closing submissions delivered by electronic link on 26 January, after which I closed the inquiry. I carried out an accompanied site visit as set out above, and unaccompanied visits to the site and surrounding area between 15 and 23 January.
2. I held a case management conference (CMC) prior to the inquiry, on 10 November 2023. At the CMC I agreed that the Appellant could rely on amended details of the proposed development in view of the fact that the amendments were minor in nature, and subject to a reconsultation exercise being carried out. That reconsultation took place and a significant number of responses was received. I am therefore satisfied that the proposal has been properly brought to the attention of all interested parties and that no prejudice results from my consideration of the amended scheme. At the inquiry itself an additional plan was submitted which amends a very short stretch of fence line by 1m. In light of the exceptionally minor nature of this change the Council had already agreed that it could be accepted without prejudice. I have no reason to disagree.
3. The proposal as originally submitted would have generated up to 49.9MW of electricity. The amendments, which reduce the number of proposed panels, would reduce the likely output to about 47MW. The scheme seeks permission for 37 years from first export of electricity to the grid.

4. The Council refused planning permission for the proposal for 5 reasons. In the intervening period before the inquiry those matters relating to ecology and noise have been discussed and a way forward agreed. These can be addressed by condition in the event of planning permission being granted. Hence the Council has not contested reasons for refusal 4 and 5.

### **Decision**

5. The appeal is allowed and planning permission is granted for the installation of a renewable energy led generating station comprising of ground-mounted solar arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements at land north of Little Cheveney Farm, Sheephurst Lane, Marden, Kent in accordance with the terms of the application, Ref: 22/501335/FULL, dated 20 May 2022, subject to the conditions set out in the attached schedule.

### **Main Issues**

6. The main issues in the appeal are:
  - (a) The impact of the proposal on the character and appearance of the surrounding area;
  - (b) The impact of the proposal on the setting of nearby heritage assets;
  - (c) Whether it has been demonstrated that the development is appropriately sited given the presence of best and most versatile agricultural land (BMV);
  - (d) Whether, in light of the above issues, and the other matters identified below, the planning balance falls in favour of, or against, planning permission being granted.

### **Policy and Guidance**

7. The development plan for the area includes the Maidstone Local Plan (LP) adopted in 2017. This is currently being updated in an emerging Local Plan Review (eLP).
8. The most important policies for determining the application are set out in the Statement of Common Ground (SoCG). These are LP Policies SP17, SP18, DM1, DM3, DM4, DM24 and DM30. Of those DM 24 deals specifically with renewable and low carbon energy schemes. It is a matter of agreement that these policies are up to date and accord with the advice of the National Planning Policy Framework (NPPF).
9. The eLP has reached a relatively advanced stage. Policy LPRINF3 rolls forward LP Policy DM24 and is not subject to potential modifications. It can carry significant weight. I deal with policies in more detail in the issues below.
10. The Council has also produced a planning policy advice note – Large Scale (>50kW) Solar PV Arrays.

### **Other Guidance**

11. The NPPF is supportive of renewable energy schemes where its impacts are, or can be made, acceptable. The NPPF also advises that reference should be

given to the use of lower grade land before the use of BMV, albeit that the use of such land is not ruled out. These are important material considerations.

12. Also material are the recent National Policy Statements (NPS) EN-1 and EN-3, which deal with the overarching policy for energy and the national policy for renewable energy infrastructure. Whilst these documents are produced for use in assessing nationally significant infrastructure projects (NSIPs) EN-1 also makes it clear that the NPSs may be a material consideration in dealing with cases such as that before me. EN-3 states that the government expects<sup>1</sup> a five-fold increase in combined ground and rooftop solar deployment by 2035.
13. A raft of other documents have been referred to in the SoCG and core documents which encompass the background to the various current objectives and obligations for encouraging low carbon energy development in order to seek to reduce the impact of climate change. I do not need to list them all here, but they include Powering Up Britain<sup>2</sup> (March 2023), the British Energy Security Strategy<sup>3</sup> (April 2022), the Net Zero Strategy<sup>4</sup> (October 2021) and Powering Our Net Zero Future<sup>5</sup> (December 2020).

## **Reasons**

### ***Character and Appearance***

14. The appeal site covers some 74.5 hectares of land, most of which is currently used for arable crop production. It is located in the Low Weald National Landscape Character Area (LCA), with this being further subdivided in the finer grained Kent (Low Weald Fruit Belt) and Maidstone (Laddingford Low Weald and Teise Valley) studies. The appeal site straddles the boundary of the Laddingford Low Weald and Teise Valley areas. These various landscape assessments all reflect characteristics which are seen on the appeal site, such as its overall low lying and relatively flat rural nature, with a patchwork of fields separated by hedgerows, trees, ditches and other watercourses, in amongst a scattered pattern of country lanes and settlements.
15. A closer assessment reveals that the site has been subject to some hedgerow removal and field amalgamation, resulting in a more open character, particularly in the eastern part of the site. The Low Weald Fruit Belt study seeks to conserve the scale of the landscape, which it describes overall as small-medium, as well as to reinforce enclosure patterns. In a similar vein, the Laddingford Low Weald and Teise Valley documents identify opportunities to conserve the landscape including the restoration of lost hedgerow boundaries and extending native woodland blocks.
16. Against this context it can be noted that the appeal site does not fall within any designated landscape, either scenic or ecological. Nonetheless it is pleasant and relatively unspoilt. There is a railway line immediately to the north, which forms the northern boundary of the proposal, and this inevitably impacts upon, and reduces, the sense of tranquillity which is otherwise experienced on the public right of way (PRoW) which crosses the land there. The experience of the land is also diminished to an extent by the high voltage line which crosses the

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<sup>1</sup> As expressed in the British Energy Security Strategy, April 2022

<sup>2</sup> CD 3.10

<sup>3</sup> CD 3.9

<sup>4</sup> CD 3.8

<sup>5</sup> CD 3.7

- site. As a landscape without formal designation, and without identified features, notable condition or other factors which lead to it being out of the ordinary, it cannot be said to be a valued landscape as such. But that does not mean it has no value.
17. The expert analyses provided on behalf of the Appellant and Council agree in part on the susceptibility of the landscape to change, and the value of the various elements of the landscape. However, I prefer the evidence of the Appellant in relation to the susceptibility of the arable land here. Although the land confers some openness as identified by the Council, the land is not a particularly valuable or distinctive feature in its own right. I agree that its susceptibility to change should be lower than the level suggested by the Council. Despite this and other differences in the respective assessments the sensitivity of the appeal site is in many areas assessed at a similar level and the overall conclusions are not markedly at odds with each other. Although the Council argues for medium to high sensitivity overall, I am satisfied that the Appellant's evidence of an overall sensitivity of medium is more appropriate here. With that in mind I turn to the impacts of the development on the landscape.
18. I have noted above some of the characteristics of the site which are listed in the various landscape assessments nationally and locally. I have also noted some of the objectives for the landscapes. In this case there would be an undoubted change to the characteristics of the landscape on site. The introduction of banks of solar panels could hardly result in anything other than change. In place of arable land there would be pasture with rows of 3m high solar arrays (at their highest) supported on frameworks sunk into the ground. The arrays would be surrounded by 2.4m high fencing (at its highest) with occasional CCTV installations somewhat higher. The proposed substation and connection point to the power grid would add further change.
19. It was suggested at the inquiry that solar farms are inherently of a rural character (and I accept that most are located in rural areas, of necessity). But this does not make them an integral part of rural character any more than other forms of infrastructure. In being located in rural areas they do not become part of the wider rural character, but rather become part of the distinguishing features of a particular location. That is reflected in the undisputed finding that the change in landscape in this case, although extensive, would be localised in that its influence would not extend far beyond the site boundaries. There is agreement from the Council that the extent of the impact would lie within a 1km radius at worst. It has been suggested that the site would be visible from the greensand ridge to the north, but in my judgement it would be barely discernible in a vista which includes extensive industrial premises and significant areas of polytunnel development.
20. In order to minimise the impact an extensive mitigation strategy has been drawn up. This includes native hedgerows, native woodland, and meadows planted with wildflowers. The planting of native species would accord with the general aims of the local landscape character assessments noted above, albeit that the structure of the landscape would not be returned to its historic form in all areas. But gapping up existing hedgerows would certainly return the landscape to something more akin to its historic state. In my judgement the mitigation planting proposed would be appropriate to the locality (and would significantly improve biodiversity - a matter not contested and which I deal

with briefly later). There would be loss of openness in some areas of the site which is experienced from PRowS but this would be principally in the northern part of the site adjacent to the main line railway, where site character is impacted by the very presence of the railway.

21. The Council has sought to argue that some of the mitigation proposed would, in itself, be harmful to the landscape because of the change it would bring to its structure, principally in the loss of openness and increase in enclosure. I do not agree with that suggestion. As I have indicated, the planting of hedgerows and trees goes some way to meeting the objectives of landscape assessments, and I agree that in the longer term the mitigation will add some beneficial elements. Although there would be some long straight hedgerows these would not be wholly out of place here, and they would reduce the size of some of the land parcels at the site, bringing them more in line with those in the wider area. The enclosure of the land to the north would result in loss of openness at that point, but even were I to consider this a harmful change (which I do not) the resultant harm to the character of the site and the surrounding area would be minor.
22. My overall assessment of the impact of the proposal on the character of the wider landscape is that it would not introduce any more than moderate localised harm, and over time would bring some benefits in line with the intentions of relevant landscape assessments. There would initially be significant adverse harm within the site itself, not least because of the extent of the development. But as mitigation matures the harm would reduce and by year 10 I agree with the Appellant that this can best be summarised as a low level of impact. However, I would not go so far as to agree that it would be beneficial to landscape character, as suggested. In my judgement the longer-term impact is more correctly described as negligible, and reversible, in relation to the Low Weald.
23. Visually the site would change over time as the landscaping matures. That is common ground. It is also common ground that on completion and in year 1 the solar farm would have an adverse visual impact, but that this would reduce as vegetation becomes established. The PRowS which cross the site are likely to be used by recreational walkers, and these are agreed as highly sensitive receptors to change.
24. As I have noted the northern part of the site would be enclosed by fencing and a new hedgerow. Although this would narrow the field of view for users of that footpath it would not become so narrow as to be an unattractive feature. It would be akin to walking in a long and narrow field. However, it cannot be denied that for a time after installation the array of panels to the south would be a significantly harmful visual element in the landscape. The view would be of the rear of panels and their framework, with an intervening security fence and occasional CCTV installation.
25. From other viewpoints along existing public footpaths the views into the site would be of a lesser intensity, and frequently at a greater distance. From the footpaths which leads from Marden to Sheephurst Lane, and from Turkey Farm when walking west, these views would also be filtered by existing vegetation. Despite the slight dilution of these views they would still be correctly assessed as being moderately to significantly adverse.

26. Residents enjoying their own properties are rightly assessed as sensitive receptors too, whether indoors or enjoying their gardens. My site visit enabled me to recognise that the visual impact experienced by residents in the cluster of properties at Little Cheveney Farm (including Willow Barn and Cottage which lie close to the site boundary) would, in the early part of the development period, experience significant adverse impacts when looking towards the solar farm. However, these impacts would be mitigated to some extent by the distances to the nearest solar panels. The residents of properties along Sheephurst Lane itself, and along Burtons Lane to the north-west, would have limited visibility of the development such that the impact, although adverse, would be no more than moderate.
27. I know that the area described as parkland to the north of Little Cheveney Farm is much valued by the nearby residents, and this land is surrounded on 3 sides by the proposed development. Visual impact from the parkland would be significant and adverse initially, but would be reduced over time by the planting of woodland and native hedgerows. This would eliminate most if not all of the harmful impact.
28. Sheephurst Lane is not conducive to walking and I find it unlikely that there would be any more than minimal impact from the solar farm on those choosing to walk along it. It is necessary to concentrate on traffic and safety rather than take in the surroundings when using that lane because of its configuration and lack of overall width. The same would apply to cyclists. Similarly, drivers along this route require their attention to be on the road and not the surroundings. Hence any visual impact experienced by road users of any kind here would be minimal. Train passengers would have a fleeting impression of the development as they briefly passed to the north, but this would be unlikely to result in any more than minimal visual intrusion. It is also fair to record that people who see solar farms can be encouraged by their presence, as a sign that climate change is being addressed. For some people, therefore, they are a positive experience.
29. Taken in the round it is my judgement that the proposed development would lead to some significant adverse visual impact until mitigation planting matures. But this adverse visual impact would not be consistent around the site. It would be limited to those areas currently accessible to the public along PRowS and to the environs of private residences. The extensive areas of planting proposed as part of the proposal would do much to alleviate the adverse impact. I therefore find that the longer-term visual impact of the proposal would reduce to slight adverse at its worst, but over the majority of the site any impact would be negligible.
30. I note that permissive paths are proposed along the eastern and western sides of the site which would link with existing PRowS. These are not currently publicly accessible areas and I have assessed the impacts of the development based on those areas where the public has right of access, and in light of the proximity of private residences.
31. As a final point on this issue it is notable that the Council's witness on landscape matters has fairly accepted that the harm to landscape and visual amenity, if found by the decision maker to be at a minor adverse level, would not of itself be likely to be a sufficient reason to refuse planning permission.



32. On this issue as a whole I find that there would be some harm to the character and appearance of the area, but the area in which the harm would be experienced would be limited, and the harm itself would reduce to a minor level after 10 years. Planting would in due course help to improve local distinctiveness and any impacts on the character and appearance of the countryside would be appropriately mitigated in line with LP Policy DM30 i and ii. The proposal would also follow the objectives of Policy DM3(1) i and vi in that it would protect existing landscape features and enhance them over time, whilst mitigating the effects of climate change. The distinctive landscape of the Low Weald would be conserved and in part enhanced in the longer term, in accordance with the objectives of Policy SP17(6).

### **Heritage**

33. I start from the position that my duty under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
34. The Council's case against the proposal on this issue surrounds the impact of the proposal on the setting of a limited number of heritage assets. These are Little Long End, located on Burtons Lane, and the cluster of buildings at Little Cheveney Farm, comprising the farmhouse, two former oasthouses, and a barn. It is an agreed position that setting is the surroundings in which a heritage asset is experienced, but that it is not fixed. All the buildings are listed as Grade II. I deal with these in turn.
35. Little Long End is located to the north-west of the site. It clearly has had a relationship with the agricultural nature of the locality in that it is described as a cottage said to have been converted from a barn. Its agricultural roots are not particularly apparent in its present residential use and form, though it is clearly an historic building. I agree with the Appellant's evidence that its significance lies in its architectural value and historical relationship with the surroundings. Its immediate setting is its own enclosed garden. The wider setting includes the rural landscape, and this assists to a minor degree in understanding the building's former relationship with the area.
36. However, there is no notable physical link between the building and the fields to the south and east which form part of the appeal site. Each is a separate entity with no direct connection. The strongest appreciation of the setting of the asset is from its own immediate surroundings – the garden and lane from which it takes access, and the nearby buildings also serviced from the lane. The nearest element of the solar array would be some 199m from the building and intervisibility would be almost nil. Certainly, when planting is established there would be no views from one to the other. The appreciation of the setting of Little Long End would continue to be as it is today and none of its significance as a heritage asset would be lost. Hence, I find that there would be no harm to the setting of Little Long End.
37. Turning to the group of buildings at Little Cheveney Farm there is agreement that they are experienced as a group, albeit that their former interaction as farm buildings is largely lost as they now have individual curtilages. Because they are no longer conjoined in agricultural use as such this also impacts on their relationship with the wider setting. The link to the surrounding land has been weakened but can still be appreciated. That said, I agree that the

buildings are best experienced from within or in close proximity to the group. This is where the agricultural antecedence is strongest.

38. Because two of the group are former oasthouses they are prominent architecturally, and they can be seen from further afield, notably the footpaths towards Marden. There is an obvious link between the buildings and their former use in connection with the surrounding land. To that extent the wider setting has some influence on their significance. But the significance would be little changed by the development. The views of the buildings from the footpaths from Marden would not include the solar farm because of intervening vegetation and the configuration of the solar farm itself. The existing glimpses of oasthouses and other buildings would remain and would not be impacted by the solar array. The oasthouses are just visible from the northern extremity of the site, over what would be solar panels and the mitigating planting, but this is such a limited vista that it would have no material impact on the significance of the assets or their setting.
39. Taking these findings together I find that there would be no harm to the significance of the heritage assets or their settings from the proposed development. Their settings would be preserved. The proposal would accord with LP Policy SP18, Policy DM4, and Policy DM1ii, which taken together seek to protect, and where possible enhance, heritage assets within the Borough.
40. It is worth noting here that had I agreed with the Council that there would be harm to the setting of the buildings in question, that harm, as assessed by the Council, would be at the lower end of the spectrum of 'less than substantial'. Great weight attaches to any harm to heritage assets, but that harm would, under a heritage balance alone, be clearly outweighed by the benefits of the proposal (which are set out later).

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

41. Some 47% of the appeal site is classified as best and most versatile (BMV). This breaks down as 9% grade 2 and 38% grade 3a. The remaining 53% is therefore not classified as BMV and is of lower quality. It is agreed that if the development proceeds the land would be taken out of arable crop production for a period of at least 37 years.
42. There is no compunction on landowners to use agricultural land in any particular way, though it would, of course, be unusual for land of good and medium quality not to be used productively. A raft of policies and guidance indicate a preference for the use of land other than BMV for this type of development. It is agreed, however, that for solar farm development of the scale proposed it is almost inevitable that agricultural land will be used. There are likely to be few areas of previously developed land, contaminated or industrial land which are capable of accommodating such proposals, and neither the Council nor the Appellant has identified any in this case.
43. On behalf of the Council it was suggested that the expressed preference for the use of lower quality land should be interpreted as giving precedence to the use of that land. In turn it was argued that this would require an assessment akin to a sequential assessment to enable the best choice to be made. That is not an interpretation accepted by the Appellant, and I also do not agree that preference can be equated with precedence in this context. In support of the position the Appellant quotes from the advice of NPS EN-3, which states that



*"While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land."* Although this advice is primarily intended for use in the considerations of NSIP schemes, as I have noted above the contents of NPSs can be a material consideration in other casework. I consider that to be the case here, in part because the proposed output of the solar farm is close to the NSIP threshold.

44. LP Policy DM24 requires that a number of matters have been taken into account, and also requires, at DM24(2) that preference be given to locations on lower quality land (that is, not BMV). The supporting text to the policy also accepts that parts of Maidstone Borough are technically suitable for the construction of low carbon energy schemes, including solar. In 2014 the Council adopted a policy advice note relating to larger scale solar farms (as identified above). The advice note recognises that Kent is one of the best locations for solar generation in the UK. The note accepts that such development will look to land currently in agricultural use, although expressing a preference for non-agricultural land.
45. The most recent iteration of advice in the NPPF also expresses a preference for the use of lower quality land and indicates that the availability of agricultural land used for food production should be considered alongside other policies in the Framework. I also mention here the Written Ministerial Statement (WMS) of March 2015, in which the then Secretary of State also expressed a preference for the use of poorer quality land for solar farms. The statement also advised that the use of BMV for solar farms should be justified by the most compelling evidence.
46. This clear and consistent message that poorer quality land (of whatever type) is to be preferred remains essentially unchanged. The WMS of 2015 did not alter the underlying message that the use of BMV must be properly justified. Advice and policy issued after the WMS has clearly reiterated the message that the use of BMV is an important material consideration, but does not prohibit such use. The use of poorer quality land is still a preference expressed in policy and guidance, but that does not dictate the avoidance of such areas if it is demonstrated to be necessary and acceptable in a particular case.
47. There is no requirement to carry out a sequential analysis of alternative sites as suggested by the Council. Had there been such a requirement in policy or advice it would surely have said so. The recent judgement in *Bramley Solar Farm v SOS for Levelling Up, Housing and Communities*<sup>6</sup> says just that in finding that PPG does not mandate the consideration of alternatives, still less that a sequential test be adopted. The best that can be said is that in cases such as this it should be shown that the use of agricultural land has been demonstrated to be necessary, and that could involve an assessment of potential alternatives.
48. In any event the Appellant has carried out a search of the area which lies close to the existing 132kV line which runs roughly north to south through the Borough and beyond. Although evidence of earlier searches is limited, I take at face value the fact that an area beyond Maidstone Borough was involved. There have been other locations identified for potential development and those

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<sup>6</sup> CD 7.11

alternatives were not pursued for good reason. However, this is something of a moot point as I am not considering competing alternative locations. I must make my decision based on the circumstances of this case.

49. The Council accepts that the Borough in general has a higher than national average proportion of BMV, and I accept that it would be difficult to find an alternative site which was entirely made up of lesser quality land. Criticism was levied at the Appellant's lack of detailed land quality assessment studies at alternative sites. But requiring such extensive, time consuming and no doubt expensive analysis (even if permission was granted by the landowner) would be a disproportionate and unreasonable burden on prospective developers. In the light of the climate change emergency declared in 2019 and the UK's binding net zero targets, alongside the fact that this land has not been identified for its high environmental value, I am left in no doubt that it has been demonstrated that the use of agricultural land is justified in this case.
50. The development would include the use of some 6.9ha of grade 2 land, a relatively minor proportion overall, and this would be almost entirely free of solar panels. The remaining BMV would have some solar panels present but overall the majority of the array would be located on grade 3b land (that is non BMV). I include the access tracks as part of the arrays in this context. Those areas from which the panels would be excluded would be used primarily for landscape mitigation and biodiversity enhancements, with the exception of the substation and other necessary control mechanisms. But in any event the land beneath and around the panels would be retained as grazing land so would not be lost to agricultural use as such. The loss of this limited area of BMV would be relatively insignificant given the amount of such land in the locality. For that reason the impact on food production would also be likely to be correspondingly insignificant, especially as grazing by sheep as intended would retain some food production capacity on the land.
51. It is accepted by the Council that the provision of renewable energy from this scheme carries substantial weight. When taken alongside the imperative to ramp up the provision of electricity from solar farms, and the urgent need to address the effects of climate change, I am satisfied that there is ample compelling evidence for the use of this land, including the proportion of BMV, for the proposed development. In reaching this judgement I also bear in mind that the proposal is for a time limited period (albeit of significant longevity) and that there is nothing to contradict the Appellant's evidence that the land would benefit from a change in the nature of its use – essentially that a 'rest' from intensive arable production would enhance land quality. At the end of the life of the solar farm the operational land could be returned to other forms of use, including arable production if that was deemed appropriate. The temporary loss of BMV is therefore of limited weight.
52. Taking this issue in the round I am satisfied that the use of agricultural land has been demonstrated to be necessary here. Furthermore, I have found no persuasive evidence to suggest that BMV land should be precluded from the proposed use. The presence of BMV at the quantities identified here is not, in my judgment, a predominating factor in determining whether the land is suitable for the proposed use. Rather the opposite is true, and there is compelling evidence that its use would be acceptable, especially in light of the opportunity to reverse the impacts of development in due course. There would

therefore be no conflict with the objectives of LP Policy DM24 (2) or (3) in this regard, nor with national policy and guidance.

## **Other Matters**

### ***Flooding***

53. The appeal site is located largely in flood zone 3 and therefore there is an expectation that there will be periods of fluvial flooding. I heard from local residents at the inquiry of the increasing frequency with which the adjacent Lesser Teise river breaks its banks. At the appeal site this results in some of the land being inundated as evidenced by submitted photographs. Flooding also occurs downstream in the vicinity of Brook Farm.
54. The Appellant has submitted a flood risk assessment and addendum, as well as producing a surface water drainage strategy. In addition a revised and minor change to a short stretch of the proposed boundary fence would retain the required distance between the fence and the Lesser Teise. There are no objections from the Environment Agency or the Local Lead Flood Authority. I also have no reason to believe that any other permits for, for example, the bridging of ditches, are not achievable.
55. I acknowledge the concerns of local people that any impedance by site fencing of the transmission of debris along the river could lead to a reduction in the ability to accommodate flood water on site – effectively narrowing the floodplain. But there is no substantive evidence that this is likely, especially as I am aware of the standoff distance of the fence being substantial in the locality where photographic evidence shows the likeliest location of flooding. The expert evidence of the Appellant is that flood water would still find its natural level on the appeal site with no added detriment to those downstream.
56. So far as runoff from the panels is concerned, this would fall directly on to pasture and would be likely to be quickly absorbed, as it is currently. Any damage to land drains by the piling necessary to support solar panels may impede runoff from the site, but this would logically lessen the potential for downstream impact. In any event this is likely to be a minor effect with no material consequence for runoff.
57. Solar panels would stand above any worst case predicted flood levels and would not in themselves be at risk. The hard standing associated with the substation and control buildings would drain to a swale which would release water gradually. Taking all this into account I am satisfied that it has been properly demonstrated that this proposal would not create unacceptable risk of flooding or exacerbate any impacts of flooding which took place.

### ***Biodiversity Net Gain and Ecology***

58. There is no dispute that the landscape mitigation for the solar farm would add significantly to green infrastructure locally. It would encompass not only hedgerows and trees, but include wildflower meadows in other areas around the site. There would be an acknowledged level of biodiversity net gain (described as over 20% in the SoCG) which is likely to reach over 50% for area-based habitats and over 35% for linear habitats.
59. The SoCG also confirms that there is agreement in relation to the provision of access for mammals such as badger, and that such provision and other

requirements, including a skylark mitigation strategy can be required by condition. Permissive paths are envisaged within the site and it is agreed that the position of the path to the west of the site, which would protect the adjacent ancient woodland, could also be required by condition. The permissive paths would create linkages to existing PRowS and would enhance accessibility for recreational walkers.

60. Hence there is nothing before me which would suggest that the proposal would be unacceptable in biodiversity or ecological terms. There is no conflict with policy or guidance in this respect.

### ***Residential amenity***

61. The original plans were of concern as it could have led to some noise disturbance for residents to the south. The relocation of the substation has allayed the principal concerns of the Council, but it would still be possible, and reasonable, to ensure that future noise emissions are not unacceptable by imposing a suitable condition.
62. A glint and glare study was submitted by the Appellant and this has been accepted by the Council as an indication that glint and glare would not be unacceptable. I agree with that position, albeit that there may be occasional impact at a minor intensity until landscaping is established for a limited number of properties. As such there would be little risk of material disturbance from any reflections from the solar panels.

### ***Overall Comments by Third Parties***

63. There has been considerable opposition to the scheme from local people, which I acknowledge and do not take lightly. Apart from the individual matters which I address above it is argued that this is the wrong development in the wrong place. I respectfully disagree. The nearest residents were ably represented at the inquiry with cogent and structured representations, and I have taken them fully into account along with all other submissions in addressing the planning balance below.

### ***The Planning Balance***

64. I turn then to the planning balance. There is agreement between the Council and the Appellant that the provision of renewable energy carries substantial weight in this case. That is a position with which I wholly agree. Renewable schemes of this nature are fundamental to combatting climate change if any adverse impacts of a scheme can be made acceptable, as here. There is also significant weight to be attributed to the high level of biodiversity net gain. Further positive weight (not contested in principle) flows from the economic benefits of farm diversification and the general economic benefits of the construction and operation of the solar farm. These benefits attract moderate weight. The provision of permissive paths across the site would benefit those using the countryside for recreation and attracts limited weight in this case. The fact that the Appellant has a grid connection agreement in place is material in that the scheme could be delivered quickly, but this is a neutral point as other schemes could no doubt be connected in its place, if not in this exact location.
65. Set against these benefits are the negative effects on landscape character and appearance, but these would be limited as mitigation planting would reduce

their impact over time to acceptable levels. As such this attracts no more than moderate weight. I afford no weight to the asserted harm to heritage assets. The temporary loss of BMV from productive arable farming is of limited weight.

66. In my judgement the impacts of the proposed development can be made acceptable and in these circumstances the substantial weight attached to the provision of renewable energy on its own would be sufficient to outweigh the limited adverse impacts identified. The other benefits identified simply add to the balance of positive matters in this case.
67. I have set out under each issue my assessment of the proposal against the relevant policies of the adopted development plan. Policy DM1 is an overarching policy dealing with the principles of good design. It applies across all the issues in this case. This proposal would accord with criterion ii, being a positive response to local, natural and historic character; criteria v and vi, by responding to existing natural features, heritage and landscape; and criterion viii, through the enhancement of biodiversity. The scheme has properly taken into account the criteria and requirements of Policy DM24, which relates to renewable and low carbon energy, and I am satisfied that it would accord with the policy. As DM24 is essentially rolled forward into the eLP there is compliance with the eLP in that respect. The proposal accords with the most important policies relating to this development and it therefore also complies with part 1 of countryside policy SP17. Consequently I am satisfied that the proposal complies with the development plan as a whole, and as such the proposed development should be allowed.

### **Conditions**

68. I have mentioned above some of the matters which can be controlled by condition to ensure that the development is acceptable. A list of conditions largely agreed by the parties was helpfully provided during the inquiry.
69. A condition identifying all of the plans on which the proposal is determined is necessary to accurately define the permission. Conditions are also necessary and reasonable in dealing with the following matters:
- (a) Detailed design, layout, finish and colour of solar panels, in order to ensure a suitable development is achieved;
  - (b) Conditions limiting the time period over which the solar farm can be used, together with requirements to decommission the site in accordance with an approved scheme at the appropriate time;
  - (c) Conditions requiring the submission of full landscaping details including a timetable for implementation, management and maintenance so that the mitigation proposed is properly delivered, together with retention and protection of existing vegetation and approval of an arboricultural method statement;
  - (d) The approval of Landscape and Ecological Management, and Construction Environment Management Plans (LEMP) and (CEMP) and accordance with the construction traffic management plan (CTMP) in order to ensure that the development takes place in a satisfactory manner;
  - (e) Conditions requiring schemes for the protection of wildlife, of ecological protection, of sustainable drainage measures, provision

- of a river buffer zone, and the location of permissive paths, in order to ensure the development is of a suitable standard;
- (f) A condition requiring archaeological field evaluation to ensure any finds are properly recorded;
  - (g) A condition requiring the approval of a soil management plan, to ensure soil quality is retained;
  - (h) A condition to ensure any identified contamination is adequately dealt with to avoid any potential for such contamination to adversely affect the local environment;
  - (i) Conditions requiring the approval of details of fencing and cctv to ensure the site is safe and secure;
  - (j) Conditions controlling access, the use of vehicles on site, any external lighting, and storage of materials on site, to ensure that the proposal does not adversely affect the amenities of the locality;
  - (k) A condition requiring noise monitoring and, if necessary, mitigation, to ensure that local amenities are protected.

70. There is some disagreement about the terms of the landscaping condition to be applied. This is primarily concerned with what is planted and when, and whether any landscaping should be removed during decommissioning. In my judgement it is reasonable to require as much landscaping as possible as early as possible, in line with the Council's suggestion. However, given that any decommissioning would be likely to be years away, and bearing in mind that we cannot know what the situation will be at that time, I do not consider that it would be reasonable or necessary to require any landscape removal at this stage. It is likely that the planting will have become part of the accepted character of the landscape by then. However, if it were deemed necessary to remove any landscaping in the future it could become part of the required decommissioning agreement. Where necessary I have amended conditions to meet the required tests as set out in the NPPF.

### **Conclusion**

71. have taken account of all other matters raised at the inquiry and in writing, but none is sufficient to outweigh the matters which have led me to my overall conclusion.

72. For the reasons given above I conclude that the appeal should be allowed.

*Philip Major*

INSPECTOR



## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in all respects in accordance with the following plans/drawings:
  - 27899/150 Rev C: Proposed Solar Farm Site Location Plan
  - 27899/051 Rev A: Proposed Solar Farm Aerial Site Location Plan
  - 27899/053 Rev A: Proposed Solar Farm Footpath and Boundary Layout
  - SCUKK-SHEEP-000 100(Q) General PV Layout
  - AW0143-PL-003: Proposed Mitigation, Landscape & Ecology Enhancements – with Appeal Amendments
  - 21-0354 SP02 Rev A: Plain Road / B2079 West End / Goudhurst Road / Sheephurst Lane Swept Path Analysis
  - 21-0354 SP01 Rev B: Sheephurst Lane Primary Site Access Swept Path Analysis
  - 21-0354 SK03 Rev A: Construction Traffic Routing
  - 21-0354 SL04: Sheephurst Lane Proposed Site Compound
  - SKUKK-SHEEP-000-MCS 206: CCTV Elevation
  - SCUKK-SHEEP-001-HVG 465: Main Building Plant
  - SCUKK-SHEEP-001HVG-466 Rev A: Main Building Elevation
  - SKUKK-SHEEP-000-HVG-104: Monitoring Cabin
  - SKUKK-SHEEP-000-MCS-201: Internal Tracks
  - SKUKK-SHEEP-000-MCS-203: Perimeter Fence Detail
  - SKUKK-SHEEP-000-MCS-204: Access Gate Elevation
  - SKUKK-SHEEP-000-MCS-205: Framework Elevation
  - SKUKK-SHEEP-000-MCS-252: Transformation Station
  - SKUKK-SHEEP-000-MCS-253: Edge of Park Switchgear Station
- 3) Prior to their erection on site, details of the proposed layout, materials and finish including colour of all solar panels, frames, ancillary buildings, equipment and enclosures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such for the lifetime of the proposed development.
- 4) No development, other than the access shown on the submitted plans drawing no. 21-0354 SP01 rev B shall take place until the access has been completed and the visibility splays have been provided in accordance with drawing 21-0354 SK01 Rev A entitled 'Sheephurst Lane Primary Site Access. The access shall thereafter be retained for the lifetime of the development. In addition the visibility splays shall thereafter be retained for the lifetime of the development, free of all obstruction to visibility above 0.9 metres.

- 5) The planning permission hereby granted is for a period of 37 years from the date of first export of electricity from the development to the grid (First Export Date), after which the development hereby permitted shall be removed. Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event.
- 6) Not less than 12 months before the expiry of this permission, a Decommissioning Method Statement (DMS) shall be submitted for the approval in writing by the Local Planning Authority. The DMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable. The development shall be decommissioned in accordance with the approved DMS.
- 7) Within 3 months of the development, or part thereof, ceasing to generate electricity for a period of 12 months prior to the 37 year period, a statement of decommissioning works (Early Decommissioning Method Statement (EDMS)) shall be submitted for the approval in writing by the Local Planning Authority. The EDMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable. The development shall be decommissioned in accordance with the EDMS.
- 8) No development shall commence at the site until a fully detailed scheme of landscaping proposals including a timetable for the implementation of all landscaping works and a programme for its management and maintenance have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details during the planting season (October to March) and completed in accordance with the approved timetable. The timetable shall include advance planting and phased planting as part of the scheme to be agreed. The approved scheme shall be fully completed no later than the first planting season following completion of the installation of the PV arrays hereby permitted.
- 9) All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved plans as being removed. All retained trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long-term amenity value has been adversely affected shall be replaced not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.
- 10) No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take

account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

- 11) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include that:
- (1) Prior to commencement of the development and prior to the First Export Date, highway condition surveys for highway access routes should be undertaken and submitted to the Local Planning and Highway Authorities.
  - (2) Details of the routing of construction traffic to the site and any traffic management measure.
  - (3) Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.
  - (4) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
  - (5) Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
  - (6) Provision of measures to prevent the discharge of surface water onto the highway.
  - (7) Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

The CEMP shall be implemented in accordance with the approved details.

- 12) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the First Export Date. The content of the LEMP shall include the following:
- (1) Description and evaluation of features to be managed.
  - (2) Ecological trends and constraints on site that might influence management.
  - (3) Aims and objectives of management.
  - (4) Appropriate management options for achieving aims and objectives.
  - (5) Prescriptions for management actions.
  - (6) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - (7) Details of the body or organisation responsible for implementation of the plan.
  - (8) Details of annual habitat and species monitoring.
  - (9) Details of how the monitoring will inform updates of the management plan.

The LEMP shall also include details of the mechanism(s) by which the long term implementation of the plan will be secured by the developer.

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

- 13) Prior to commencement of the development, a Skylark Mitigation Strategy for delivery of mitigation measures within 8km of the site shall be submitted to and approved in writing by the Local Planning Authority. The content of the Skylark Mitigation Strategy shall include the following:
- a) purpose and conservation objectives for the proposed skylark nest plots;
  - b) detailed methodology for the skylark nest plots following Countryside Stewardship Scheme option: 'AB4 Skylark Plots';
  - c) locations of the compensation measures by appropriate maps and/or plans;
  - d) persons responsible for implementing the mitigation measures;
  - e) an annual monitoring schedule to certify the delivery of the Skylark Mitigation Strategy for the first five years of operation;
  - f) a timetable for an assessment of the efficacy of the mitigation measures to be submitted for the approval of the Local Planning Authority;
  - g) review, and if necessary, update of the Skylark Mitigation Strategy if indicated as necessary by the assessment of the efficacy of the mitigation measures including any need for further monitoring beyond 5 years.

The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for the lifetime of the development.

- 14) No development shall commence until a scheme detailing the protection of kingfishers (a protected species under The Wildlife and Countryside Act 1981 (as amended)) and their associated habitat has been submitted to and approved by the Local Planning Authority. The plan must consider the whole duration of the development, from the construction phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to and approved in writing by the Local Planning Authority. The kingfisher protection plan shall be carried out in accordance with a timetable for implementation as approved.

The scheme shall include the following elements:

- 1) Details of pre-commencement nesting bird surveys for Kingfisher;
- 2) Sufficient buffer zones around any suspected nest sites;
- 3) Any works within 10m of known nesting sites must be overseen by a suitable qualified and experienced Ecological Clerk of Works (ECoW).

- 15) No development shall take place (including any ground works, site or vegetation clearance) until a Method Statement for ecological mitigation and enhancement has been submitted to and approved in writing by the local planning authority which shall accord with verification/update ecological surveys carried out within 3 years prior to commencement of development, presently being AW0143-PL003 Proposed Mitigation, Landscape & Ecology Enhancements, the Biodiversity Net Gain Report April 2023, Ecological Impact Assessment April 2023. The content of the Method Statement shall set out the following:
- 1) Purpose and objectives for the proposed works;
  - 2) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
  - 3) Extent and location of proposed works, shown on appropriate scale maps and plans;
  - 4) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - 5) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works;
  - 6) Use of protective fences, exclusion barriers and warning signs;
  - 7) Initial aftercare and long-term maintenance (where relevant);
  - 8) Disposal of any wastes for implementing works;
  - 9) Enhancement measures shall include the installation of log piles, bug hotels, bat boxes and bird nesting boxes,, wildlife friendly gullies, fencing designed to enable wildlife movement, along with provision of generous native planting including suitable pollinators.

The Statement shall be implemented as approved and thereafter retained.

- 16) No development shall take place until a scheme for the provision and management of a river buffer zone alongside the watercourse has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Buffer zones must be free from built development including formal landscaping and community orchards. The scheme shall include:
1. plans showing the extent and layout of the buffer zone which shall be at least 8m in width;
  2. details of any proposed native planting scheme;
  3. details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan;
  4. details of any proposed footpaths, fencing, lighting and any other infrastructure;

5. details of the timings of any proposed works within the buffer zone, including the development of the footpaths and any future landscaping/management;

6. details of how any of the identified sensitive ecological features will be protected during and after works.

- 17) Development shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Outline Surface Water Drainage Strategy Final Report prepared by JBA Consulting dated April 2023 and the Flood Risk Assessment Final Report prepared by JBA Consulting dated March 2022 and Addendum dated December 2023 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall demonstrate (with reference to published guidance);

1. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters;

2. appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

- 18) Prior to the commencement of development details of a specification and written timetable for archaeological and geo-archaeological field evaluation works shall be submitted to and approved in writing by the Local Planning Authority. The evaluation shall be carried out in accordance with the agreed specification and timetable. Should the results of the evaluation require further archaeological, geo-archaeological and Palaeolithic investigation, recording and reporting, a specification and timetable shall be submitted to and approved in writing by the Local Planning Authority prior to such investigation, and a programme for the post excavation assessment and its publication shall have been submitted to and approved in writing by the Local Planning Authority. Any further investigation shall be carried out in accordance with the agreed specification and timetable.
- 19) No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no material loss of soil quality within the operational lifetime of the site and provides details of any movement of soils within the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved.
- 20) No development shall take place until a scheme of measures to minimise the risk of crime that shall include details of the location and design of CCTV cameras has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented



- before the development is first brought in to use and thereafter retained and maintained for the lifetime of the development.
- 21) Prior to the erection of temporary or long-term perimeter security fencing, details shall be submitted to and approved by the Local Planning Authority. The details shall show the incorporation of badger gates/gaps in the fencing aligned with the main and outlier setts as detailed in the Ecological Impact Assessment by Riverdale Ecology dated April 2023. The fencing shall be installed as approved and all badger gates/gaps retained during the construction, operation and decommissioning of the PV generating station. There shall be no soil storage bunds located between the main and outlier setts at any time.
  - 22) No development shall take place until an order made pursuant to section 257 of the Town and Country Planning Act 1990 to divert the part of PRoW KM248/2 shown inside the approved solar farm on approved layout SCUKK-SHEEP-000 100(Q) to a new route around the north-east perimeter of the solar farm has been confirmed and the route as diverted has been made available in accordance with the terms of the order.
  - 23) Prior to the commencement of the development, details including an implementation timetable of how the development will enhance biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved implementation timetable and be retained for the lifetime of the development.
  - 24) Notwithstanding the layout hereby approved, the proposed permissive path on the western part of the site shall be a marked or mown route only (not a sealed or otherwise engineered surface) and shall be aligned at least 15m from the boundary with the Ancient Woodland. Prior to commencement of development, details of the alignment of the permissive path shall be submitted to and approved in writing by the Local Planning Authority. A vegetated buffer shall be maintained between the permissive footpath and the Ancient Woodland in accordance with the Drawing Number SCUKK-SHEEP-000 100(Q) General PV Layout comprising wildflower meadow grassland and retention of existing natural scrub directly adjacent to the Ancient Woodland. Management of the buffer will be detailed through the Landscape and Ecological Management Plan but will comprise low intensity management, specifically where directly adjacent to the Ancient Woodland, avoiding any management actions which could adversely affect the integrity of the Ancient Woodland.
  - 25) The construction of the development shall be carried out in accordance with the approved construction traffic management plan (CTMP) (Cotswold Transport Planning, March 2022), in all respects other than the traffic routing. All construction traffic shall use the A229, B2079, Underlyn Lane, Green Lane, B2162, Sheephurst Lane (northern end), unless otherwise agreed in writing by the Local Planning Authority.
  - 26) If during works of construction contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination

will be dealt with has been submitted to and approved in writing by the Local Planning Authority.

The remediation strategy shall be implemented as approved.

- 27) No lighting shall be installed unless a lighting design scheme including details of operation for the whole site has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The colour temperature of the lighting shall be at the red end of the spectrum.

Any external lighting shall be installed in accordance with the specifications and locations set out in the approved plan and shall be retained thereafter.

- 28) No vehicles except for light vehicles (maximum or 3.5 tonnes) associated with the essential maintenance of the development during operation shall enter or leave the site on Sundays or Public or Bank Holidays or outside of the following hours:

0730 to 1800 Monday to Friday

0800 to 1300 on Saturdays

- 29) There shall be no storage of any materials including soil or raising of ground levels within that part of the site affected by the modelled fluvial flood events (including a 35% allowance for climate change) as shown on PFA Consulting Drawing No. S714/07A.

- 30) Within 1 month of the first export of electricity from the development to the grid post installation sound level assessments shall be undertaken and the results submitted to the Local Planning Authority in accordance with a scheme of assessment agreed in writing by the Local Planning Authority.

If the results of the post installation sound level assessments show the specified sound levels at the specified receptors of the dB Consultation Limited Report (Document Reference: dBC/Origin/10253/ML/04) are exceeded, details of proposed mitigation and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of first export of electricity from the development to the grid. The approved mitigation details shall be implemented in accordance with the approved timetable and retained thereafter.

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## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Miss Kimberley Ziya She called:	Counsel for the Local Planning Authority
Mr Peter Radmall MA BPhil CMLI	Chartered Landscape Architect
Mr Jeremy Fazzalaro BA(Hons) MSc IHBC SPAB AMCIA	Conservation Officer, Maidstone Borough Council
Mr Martin Robeson BA FRTPI FRICS FRSA	Managing Director, Martin Robeson & Partners Ltd

### FOR THE APPELLANT:

Mr Hereward Phillpot KC He called:	Counsel for the Appellant
Ms Allison Walters BSc(Hons) PGDipLA CMLI	Founding Director, Awscape Ltd
Mr Rob Sutton MCIfA	Director of Heritage Consultancy, Cotswold Archaeology
Mr Tony Kernon BSc(Hons) MRICS MBIAC	Kernon Countryside Consultants Ltd
Mr Ben Fox BSc(Hons) MCIWEM CWEM CEnv	Associate, PFA Consulting Ltd
Mr Chris Cox BSc(Hons) MA MRTPI	Associate Planner, Pegasus Group

### INTERESTED PERSONS:

Mrs C Russell	Local resident
Mrs Sarah Springhall	Local resident, representing herself and neighbours

## DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Opening submissions of Mr Phillpot
- 2 Opening submissions of Miss Ziya
- 3 Drawing Number SCUKK-SHEEP-000 100 (Q) General PV Layout (CD 14.1)
- 4 Drawing Number P22-2992\_0021 132KV Overhead Lines (CD 14.2)
- 5 Appellant's Noise Response to Mr Peter Radmall's Proof of Evidence paragraph 5.15 (CD 14.3)

- 6 Measurements from the red line boundary to the proposed hedgerow along the northern boundary of the site (CD 14.4)
- 7 Updated Table of Conditions as agreed at 23 January 2024 (CD 14.5)
- 8 Plan showing distances from listed buildings to the PV arrays (CD 14.6)
- 9 Biodiversity and Climate Change Action Plan Update (CD 14.7)
- 10 PFA response to representations made by Vickey Petrie (CD 14.8)
- 11 Closing submissions of Miss Ziya
- 12 Closing submissions of Mr Phillpot
- 13 City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government and others [2021] EWCA Civ 320 (CD14.9 – entered with closing submissions)
- 14 R (on the application of Kinsey) v Lewisham London Borough Council [2021] EWHC 1286 (Admin) (CD14.10 – entered with closing submissions)