



Department for Levelling Up,  
Housing & Communities

Mr B Spiller,  
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Unit 5, Designer House Sandford Lane  
WAREHAM  
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Email: [REDACTED]

Our ref: APP/D1265/W/23/3317593  
Your ref: P/FUL/2021/01920

3 April 2024

By email only

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY ENVIROMENA ASSET MANAGEMENT UK LIMITED  
LAND AT CRUXTON FARM, CRUXTON LANE, CRUXTON DT2 0EB  
APPLICATION REF: P/FUL/2021/01920**

*This decision was made by Felicity Buchan MP, Minister for Housing and Homelessness, 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 P W Clark MA(Oxon) MA(TRP) MRTPI MCMI, who held a public local inquiry from 25 to 27 July and on 2 August 2023 into your client's appeal against the decision of Dorset Council (the Council) to refuse your client's application for planning permission to install ground-mounted solar panel photovoltaic solar arrays, substations, inverter stations, security fencing, access tracks, landscaping and other associated works, in accordance with application Ref. P/FUL/2021/01920, dated 27 May 2021.
2. On 20 April 2023, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

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

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. 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 dismiss the appeal and refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the Supplementary Environmental Information (SEI). Having taken account of the Inspector's comments at IR4, the Secretary of State is satisfied that the Environmental Statement (ES) and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

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

6. In December 2023, the Council published the following guidance documents: Planning for climate change: Interim guidance and position statement, Sustainability statement and checklist for planning applications (which came into effect on 15 January 2024) and Listed buildings and energy efficiency: what you can do for climate change. The Secretary of State is satisfied that the publication of these documents does not affect his decision or necessitate a referral back to parties.
7. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. On 17 January 2024, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the revised Framework and revised National Policy Statements (NPS) EN-1 and EN-3. Representations were received from CL Planning (on behalf of the appellant) and the Council. These are listed in Annex A to this decision letter. Copies of the letters listed in Annex A may be obtained on request to the email address at the foot of the first page of this letter. The Secretary of State notes that paragraph 163a of the revised Framework now states that local planning authorities should recognise that even small-scale [renewable or low carbon development] projects provide a valuable contribution to significant cutting greenhouse gas emissions. He addresses this point in paragraph 28 below. As set out in paragraph 12 below, he finds that NPS EN-1 and EN-3 are material considerations, and he considers them at paragraph 28. 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.
8. On 22 November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed as National Landscapes. For convenience in this decision letter the Secretary of State retains the terminology used by the Inspector. As there is no change to the statutory or policy framework covering these areas, he does not consider it is necessary to refer back to parties on this matter.
9. 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**

10. 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.
11. In this case the development plan consists of the West Dorset, Weymouth & Portland Local Plan adopted in October 2015. The Secretary of State considers that relevant development plan policies include those set out at IR22-24.

12. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), as well as those other documents listed at IR26-27.

### Emerging plan

13. The emerging plan comprises an Options Draft (IR25). The Secretary of State considers that the emerging policies of most relevance to this case include COM10 and ENV4.

14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Due to the very early stages of local plan preparation the Secretary of State considers little weight can be attached to these emerging plan policies.

### **Main issues**

#### The effects of the proposal on the character, appearance and special qualities of the Dorset AONB

15. The Secretary of State agrees that although there will be physical changes to the site, it represents a tiny fraction of the AONB and of the Landscape Character Area in which it lies (IR96). He further agrees much of the physical character of the site would remain unaltered (IR97) and the vast majority of the impact on the character, appearance and special qualities of the Dorset AONB would be visual (IR98).

16. For the reasons given at IR99-103 the Secretary of State agrees that the inconsistency between the Landscape and Visual Impact Assessment (LVIA) methodology and the overall ES (and SEI) methodology means that the appellant's evidence has tended to underestimate the impacts of the proposal (IR103). The Secretary of State has taken this into account in reaching his conclusions. For the reasons given at IR104-105 he agrees with the methodology adopted by the Inspector.

17. For the reasons given at IR106 the Secretary of State agrees that the effects of the proposal on the site itself would be transformative, but it is only two fields within a very large AONB and Landscape Character Area, so the overall effect of that immediate impact (as opposed to longer distance views from across the valley) would be tiny – a big event on a small site. He further agrees within the close vicinity of the site, topography and surrounding hedgerows mean that the site cannot be seen until one is right upon it and proposed hedgerow planting would, after a period of time, hide the solar arrays from view at close quarters (but not from sight in longer-distance views).

18. For the reasons given at IR107-108 the Secretary of State agrees that from the site itself, the proposed development would obstruct views outward and so would undoubtedly cause harm to the AONB (IR129). Like the Inspector he considers it would therefore be contrary to policy ENV1(i), which prescribes that development which would harm the AONB, including its uninterrupted panoramic views, will not be permitted.

19. The Secretary of State agrees with the Council's views at IR109 in respect of the damage to the character of the site as a result of the creation of a green lane. For the reasons given at IR127 he agrees that there would effectively be no loss of dark skies as a result of the development proposed.

20. Like the Inspector at IR128, the Secretary of State does not accept that the proposal would have only a limited and localised visual effect. He notes that the site would be visible from a number of locations in a wide-ranging arc of about 100 degrees to the north-east of the site at distances of up to 4km or so, and agrees with the Inspector that from some of these locations it would appear at the centre of a view or as the focal point of a direction of route along a footpath, while from locations closer to the site such as Hogs Cliff Bottom, it would be more prominent (IR128). The Secretary of State agrees with the Inspector's assessment of the impact from various locations as set out at IR110-126 and IR130-132. He agrees that from longer-distant views the effect would be an indistinguishable dark mass which would be accepted as just another, different coloured field, but in nearer views the solar farm would be identifiable as what it is (IR132).
21. Overall, the Secretary of State considers there would be limited harm from longer-distance views towards the site and moderate harm to views from Hog Cliff Bottom where it would be hard to avoid seeing the site and recognising it for what it is. He agrees the effects of the proposal on longer distant views towards the site would not present a clear breach of policies COM11, ENV1 and ENV10 or the planning guidelines for the Landscape Character Area (IR133). For the reasons given at IR163 the Secretary of State agrees that there is partial conflict with clause (iii) of ENV10 because although sufficient soft landscaping would be provided to hide the photovoltaic panels from close-range views, the slope of the hillside means that it would be ineffective in long-range views.
22. The Secretary of State has found at paragraph 18 above that there is conflict with policy ENV1(i). For the reasons given at IR162, he agrees with the Council that in practice, clause (iii) requiring appropriate measures to moderate adverse impacts means that the policy read as a whole envisages a judgement to be made on a balance between harm, mitigation and benefits. Although there will be harm to the AONB, contrary to policy ENV1, this would not be conclusive on its own (IR162). The Secretary of State has returned to this matter in paragraph 37 below.
23. In line with paragraph 182 (formerly 176) of the Framework, the Secretary of State considers that great weight should be attached to the harm he has found to the AONB.
24. Paragraph 183 (formerly 176) of the Framework states that when considering applications for development within an AONB, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Taking account of footnote 64 (formerly 60) of the Framework, the Secretary of State considers the proposed development is major development. The Secretary of State's conclusions on the AONB test are set out at paragraph 40 below.

#### The effects of the proposal on the recreational benefit of the Macmillan Way

25. The Secretary of State agrees with the Dorset AONB Partnership that the development will substantially alter the character of the site and lead to the direct loss of a fine panoramic view from a section of a promoted route (IR47 bullet 22). He disagrees with the Inspector's conclusions at IR139 and finds that the harm to the recreational benefit of the Macmillan Way would not be adequately mitigated as the alternative permissive route would not provide a view of equivalent panoramic value to that which would be lost (IR47 bullet 22). He further finds that the proposal would not comply with Development Plan policy COM7(v) as the development degrades the attractiveness of a route (Macmillan Way), and the compensatory enhancements (the alternative permissive route) would not lead to a net improvement to the public right of way network. Overall, the Secretary of State disagrees with the inspector's conclusion at IR141 and concludes that the harm to the recreational benefit of the Macmillan Way would not be adequately mitigated through

the planning obligation proposed. He finds harm to the recreational benefit of Macmillan Way carries moderate weight.

The contribution which the development proposed would make to the accepted national need for renewable energy and the cost of, and scope for meeting the need for it in some other way.

26. The Secretary of State notes that the proposal would have an 11.8MW generating capacity representing 0.02% of the government's target of a further 56GW of solar capacity by 2035, and that Dorset enjoys strong solar irradiance and therefore would be expected to host large amounts of future solar photovoltaic arrays in any future net zero scenario (IR142). He further notes the Council largely accepts it has no strategy, targets or sites for their implementation of renewable energy (IR143), and monitoring data on solar photovoltaic development had not been collected since 2016 (IR144).
27. For the reasons given at IR142-155 the Secretary of State agrees at IR150 that alternative suitable locations are likely and that opportunities undoubtedly exist with high levels of solar irradiation outside the AONB or within its less sensitive parts. However, he has taken into account that a primary substation in the Maiden Newton area is one of the few anywhere in the Council area outside the built-up area of Bournemouth itself identified as having unconstrained capacity to accept generation (IR152). He agrees at IR153 that there is substance in the appellant's argument that in a constrained grid, capacity should be used wherever possible. He further agrees that the megawattage available at this point of connection would not justify the cost of a connection to a site outside of the AONB and so there is no need for viability evidence to demonstrate that any site making use of this point of connection would be limited to a radius of 3km.
28. As set out in paragraph 7 of this decision the Secretary of State has also taken into account the publication of EN-1 and EN-3. These documents enhance the need for the stated types of major energy infrastructure and urgency given to the delivery of that infrastructure. The Secretary of State further acknowledges substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008 (EN-1, paragraph 3.2.7). He further acknowledges that government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure (paragraph 4.2.4), and that low carbon infrastructure for the purposes of this policy means for electricity generation, all onshore and offshore generation that does not involve fossil fuel combustion (paragraph 4.2.5 bullet point 1). He has had regard to the Framework at paragraph 163a (formerly 158) concerning the ability of small-scale projects to provide a valuable contribution to significant cutting greenhouse gas emissions.
29. Overall, the Secretary of State agrees that the need for renewable energy generation could not be met in other ways, that the appeal proposal would make an essential contribution both to the accepted national need for renewable energy and to Dorset's need and that the cost of, and scope for meeting the need for it in some other way would be prohibitive in the short to medium term (IR155). However, he notes that the Council proposes to identify suitable sites in the new Local Plan, having regard for landscape, the historic environment, amenity, ecology, and productive farmland impacts and other constraints (IR46) and therefore this position may change in the longer term. He further agrees that the development is integral to the Council making its proportional contribution towards meeting national targets for renewable energy (IR179), but notes that the scale of the proposal would represent a modest contribution towards renewable energy per annum to power approximately 4,800 homes or 10% of those in the AONB, and that contribution needs to be balanced against the harms identified. Overall, he considers that the development's contribution towards renewable energy targets carries significant weight. The Secretary of State considers that there is not full accordance with the first

bullet point of COM11(i), which requires any adverse impacts on the local landscape, townscape or areas of historical interest to be satisfactorily assimilated. For the reasons given at IR164, he agrees that the effect of policy COM11 is to require a judgement to be made on a balance between harm, mitigation and benefits. He addresses these matters further at paragraph 37 below.

30. The Secretary of State further notes that paragraph 163b (formerly 158b) of the Framework states that an application for renewable or low carbon development should be approved if its impacts are (or can be made) acceptable (IR176). Taking into account the harm to the AONB which he has identified and the harm to the recreational benefits of Macmillan Way, he considers that overall, the impacts of the scheme are not acceptable, and disagrees with the Inspector at IR176 that the Framework's policy on renewable energy at paragraph 163 (formally 158) favours the proposal.

#### Any other benefits or disbenefits to be weighed in the planning balance

31. The Secretary of State acknowledges that a little less than half the site is Best and Most Versatile (BMV) agricultural land and the need for, as per the Written Ministerial Statement of 25 March 2015, any proposal for a solar farm involving BMV agricultural land would need to be justified by the most compelling evidence (IR156). For the reasons given at IR156-157 the Secretary of State agrees that the solar farm would be superimposed on continued (albeit restricted to pastoral) agricultural use and although this would limit agricultural opportunities and thus reduce agricultural productivity, this would, over the lifetime of the development, improve the quality of the land. The Secretary of State, overall, considers that this temporary reduction in agricultural productivity carries limited weight against the scheme. In reaching this conclusion he has taken into account the additional text which has been added to footnote 62 (formerly footnote 58) of the revised Framework. He further agrees the proposal is not in conflict with ENV8 for the reasons given at IR172.
32. The Secretary of State notes the BNG position for the scheme set out at IR158 and agrees the development complies with ENV2(vi) (IR166). He considers the BNG of over 71% for area-based Habitat Units and net gains of over 26% for linear-based units should carry moderate weight given the modest 18 hectare scale of the site for solar development.
33. The Secretary of State agrees that the economic benefits arising from construction activities are also matters to be taken into account (IR159) and considers they should carry limited weight.
34. For the reasons given at IR160 the Secretary of State agrees the fact that the proposal is for a temporary or time-limited development and that any disbenefits would be reversed at the end of 40 years' operation should carry limited weight.

#### **Planning conditions**

35. The Secretary of State had regard to the Inspector's analysis at IR73-92, 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. However, he does not consider that the

imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

36. The Secretary of State has had regard to the Inspector's analysis at IR11, IR72 and IR140, the planning obligation dated 16 August 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. However, as he has found at paragraph 25 above, harm to the recreational benefit of the Macmillan Way would not be adequately mitigated. He therefore disagrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework. He therefore attaches no weight to the submitted obligation.

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

37. For the reasons given above, the Secretary of State has found that the appeal scheme is in conflict with policy ENV1(i) and COM7(v) and is in partial conflict with ENV10(iii) and COM11(i). He has also found that policy ENV1 read as a whole and COM11 envisage a judgement to be made on a balance between harm, mitigation and benefits. Taking into account his conclusions set out above, the Secretary of State has concluded that the balance between harm, mitigation and benefits in this case indicates that the proposal is not in accordance 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.

38. Weighing in favour of the proposal is the development's renewable energy production which carries significant weight. BNG carries moderate weight, while the temporary nature of the proposal and the economic benefits arising from construction activities each carry limited weight.

39. Weighing against the proposal is harm to the AONB which carries great weight, harm to the recreational benefits of Macmillan Way which carries moderate weight and the temporary reduction in agricultural productivity which carries limited weight.

40. In line with paragraph 183 (formally 177) of the Framework, the Secretary of State has gone on to consider whether there are the exceptional circumstances required to justify this proposed development in terms of his conclusion that it constitutes major development in paragraph 24 of this letter, and whether it can be demonstrated that the development is in the public interest. In terms of paragraph 183a (formerly 177a), he notes that under paragraph 163 (formerly 158) of the Framework, applicants are not required to demonstrate the overall need for renewable or low carbon energy; he considers that the benefits of the renewable energy production carry significant weight and that the development is integral to Dorset meeting national targets for renewable energy. He has further found that there would be economic benefits arising from construction activity. In terms of paragraph 183b (formerly 177b) of the Framework, he has concluded that the need for renewable energy generation could not be met in other ways, and that the cost of, and scope for meeting the need for it in some other way, would be prohibitive in the short to medium term. In terms of paragraph 183c (formerly 177c), he is not satisfied any detrimental effect on the environment, the landscape and recreational opportunities have been considered and as far as possible moderated. Overall, the Secretary of State disagrees with the Inspector's conclusions on exceptional circumstances at IR179. He does not consider that these factors together constitute exceptional circumstances which justify major development in the AONB.

41. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the overall conflict with the development plan and the material considerations in this case indicate that permission should be refused.
42. The Secretary of State therefore concludes that the appeal should be dismissed, and planning permission refused.

### **Formal decision**

43. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission to install ground-mounted solar panel photovoltaic solar arrays substations, inverter stations, security fencing, access tracks, landscaping and other associated works, in accordance with application Ref. P/FUL/2021/01920, dated 27 May 2021.

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

44. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
45. A copy of this letter has been sent to the Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

*This decision was made by Felicity Buchan MP, Minister for Housing and Homelessness, on behalf of the Secretary of State and signed on her behalf*

## **Annex A Schedule of representations**

### **Representations received in response to the Secretary of State's reference back letter of 17 January 2024**

| <b>Party</b>          | <b>Date</b>     |
|-----------------------|-----------------|
| Chapman Lily Planning | 18 January 2024 |
| Dorset Council        | 31 January 2024 |
| Chapman Lily Planning | 31 January 2024 |
| Dorset Council        | 2 February 2024 |
| Chapman Lily Planning | 9 February 2024 |
| Dorset Council        | 9 February 2024 |

### **General representations**

| <b>Party</b>          | <b>Date</b>      |
|-----------------------|------------------|
| Dorset Council        | 21 February 2024 |
| Chapman Lily Planning | 21 February 2024 |
| Dorset Council        | 22 February 2024 |



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

**by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI**

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

**Date 27 September 2023**

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Inquiry Held on 25-27 July and 2 August 2023

Land at Cruxton Farm, Cruxton Lane, Cruxton DT2 0EB

File Ref: APP/D1265/W/23/3317593

**File Ref: APP/D1265/W/23/3317593**

**Land at Cruxton Farm, Cruxton Lane, Cruxton DT2 0EB**

- 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 Enviromena Asset Management UK Limited against the decision of Dorset Council.
- The application Ref P/FUL/2021/01920, dated 27 May 2021, was refused by notice dated 8 November 2022.
- The development proposed is to install ground-mounted solar panel photovoltaic solar arrays substations, inverter stations, security fencing, access tracks, landscaping and other associated works.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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## ABBREVIATIONS

|                 |                                                                         |
|-----------------|-------------------------------------------------------------------------|
| AC              | Alternating Current                                                     |
| AIA             | Arboricultural Impact Assessment                                        |
| AONB            | Area of Outstanding Natural Beauty                                      |
| BEIS            | Department for Business, Energy and Industrial Strategy (until 2023)    |
| BMV             | Best and Most Valuable agricultural land                                |
| BNG             | Biodiversity Net Gain                                                   |
| BRE             | Building Research Establishment                                         |
| BS              | British Standard                                                        |
| CCTV            | Closed Circuit television                                               |
| CD              | Core Document                                                           |
| CEES            | Climate and Environmental Emergency Strategy                            |
| CO <sub>2</sub> | Carbon dioxide                                                          |
| CTMP            | Construction Traffic Management Plan                                    |
| DC              | Direct Current                                                          |
| DEFRA           | Department for Environment, Food & Rural Affairs                        |
| DMS             | Decommissioning Method Statement                                        |
| DNO             | Distribution Network Operator                                           |
| DOC             | Discharge of Conditions                                                 |
| DEKES           | Digest of United Kingdom Energy Statistics                              |
| Eg              | For example                                                             |
| EIA             | Environmental Impact Assessment                                         |
| ES              | Environmental Statement                                                 |
| GLVIA3          | Guide to Landscape and Visual Impact Assessment 3 <sup>rd</sup> edition |
| Guidance        | National Planning Practice Guidance                                     |
| GW              | Gigawatt; 1,000 MW                                                      |
| GWh             | Gigawatt hours                                                          |
| ha              | Hectare(s)                                                              |
| HGV             | Heavy Goods Vehicle                                                     |
| IPCC            | Intergovernmental Panel on Climate Change                               |
| LCA             | Landscape Character Area                                                |
| LEMP            | Landscape Ecological Management Plan                                    |
| LPA             | Local Planning Authority                                                |
| LV              | Low voltage                                                             |
| LVIA            | Landscape and Visual Impact Assessment                                  |
| MW              | Megawatt; one million watts, 0.001GW                                    |
| MWh             | Megawatt hours                                                          |
| NE              | Natural England                                                         |
| NNR             | National Nature Reserve                                                 |
| NPPF            | National Planning Policy Framework                                      |
| NPPG            | National Planning Practice Guidance                                     |
| OAL             | Open Access Land                                                        |
| OS              | Ordnance Survey                                                         |
| PFA             | The name of a professional consultancy                                  |
| PINS            | The Planning Inspectorate                                               |
| POC             | Point of Connection                                                     |
| PRoW            | Public Right of Way                                                     |
| PV              | Photovoltaic                                                            |

|        |                                                       |
|--------|-------------------------------------------------------|
| REPD   | Renewable Energy Planning Database                    |
| RPA    | Root Protection Area                                  |
| RSPB   | Royal Society for the Protection of Birds             |
| SOCG   | Statement of Common Ground                            |
| SofS   | Secretary of State                                    |
| SEI    | Supplementary Environmental Information               |
| SSEN   | Scottish and Southern Electricity Networks            |
| SSSI   | Site of Special Scientific Interest                   |
| SW     | Surface Water                                         |
| TGN    | Technical Guidance Note                               |
| UK     | United Kingdom                                        |
| UNFCCC | United Nations Framework Convention on Climate Change |
| VP     | Viewpoint                                             |
| WMS    | Written Ministerial Statement                         |
| ZTV    | Zone of theoretical visibility                        |

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## Procedural Matters

1. The description of development was changed by the Council on registration of the application. The revised description is used by the appellant on the appeal form and is used in this report.
2. An EIA Screening Opinion was issued by the LPA on 12th March 2021 in respect of a solar farm and ancillary infrastructure (application ref: P/ESC/2021/00682). The Screening Opinion concluded that the proposed development is EIA development on the grounds of landscape and visual effects.
3. No formal Scoping Opinion was sought or provided. Direct discussions between the appellant's Chartered Landscape Architect and the Council's landscape officer led to an agreement that all matters other than Landscape could be scoped out of the Environmental Statement.<sup>1</sup>
4. An Environmental Statement was submitted by the Appellant as part of the planning application and supported by further Supplementary Environmental Information. It is agreed between the parties that sufficient environmental information has been provided by the Appellant to comply with the EIA Regulations and to allow a lawful decision to be made<sup>2</sup>.
5. The appeal was originally to have been decided by an Inspector, in accordance with the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997. On 20 April 2023, in exercise of his powers under s79 and paragraph 3 of Sch 6 of the Town and Country Planning Act 1990, the Secretary of State directed that he will determine this appeal instead of an Inspector. The reason for the Direction is that the appeal involves proposals which raise important or novel issues of development control and/or legal difficulties.
6. A Case Management Conference was held on 25 May 2023, in accordance with the recommendations of the Rosewell Report.<sup>3</sup> This identified the main issues in this case as;
  - i. The effects of the proposal on the character, appearance and special qualities of the Dorset Area of Outstanding Natural Beauty.
  - ii. The effects of the proposal on the recreational benefit of the Macmillan Way.
  - iii. The contribution which the development proposed would make to the accepted national need for renewable energy and the cost of, and scope for meeting the need for it in some other way.
  - iv. How the proposed reinstatement at the end of forty years is to be secured.

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<sup>1</sup> Environmental Statement, paragraphs 1.2.5 and 2.4.1 and Table 2.1 (CD1.8).

<sup>2</sup> Statement of Common Ground dated 10.5.23 paragraphs 6.3 and 8.2 (CD8.6).

<sup>3</sup> The Independent Review of Planning Appeal Inquiries December 2018 by Bridget Rosewell OBE.

- v. Any other benefits or disbenefits to be weighed in the planning balance.
7. The application was amended during its consideration by the Council to include a route for construction traffic into the site from the south off Greenford Lane. Further amended plans were submitted with the appeal which include a revised Landscape Strategy including the provision of a new permissive path. The Council is content to proceed based on the revised plans.<sup>4</sup> PINS's Procedural Guidance points out that to avoid the risk of challenge to a decision, an appeal will normally proceed on the basis of the plans considered by the Council when it made its decision and that the appeal should not be used as a way of evolving a proposal.
  8. The appellant was advised that in order to reduce the chances of someone claiming that they would be prejudiced by the consideration of revised plans, they should immediately advertise their request for the Inquiry to consider revised plans as widely as the Council itself originally advertised the proposal. This was done, with a 30-day consultation period expiring on 30 June 2023. The appellant has confirmed that during that time no correspondence was received either through the dedicated consultation website or via email or by telephone.<sup>5</sup>
  9. I am therefore satisfied that nobody would be prejudiced by proceeding on the basis of the revised plans and that is what I have done.
  10. The Inquiry sat from 25 to 27 July and on 2 August 2023. An accompanied site visit was carried out on 1 August 2023. The Inquiry was formally held open until 17 August to allow for a signed and sealed s106 agreement to be submitted.
  11. The s106 agreement provides for the creation of a permissive path in parallel with the Macmillan Way along the west side of the site on land immediately outside the site boundary to the west of the hedgerow which currently borders the Macmillan Way and bounds the site. The need for the obligation and its compliance with the CIL regulations is considered later in my report.

## **The Site and Surroundings**

12. Numerous documents describe the site and its surroundings.<sup>6</sup> The site comprises approximately 18 hectares (ha) of agricultural land located across

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<sup>4</sup> Advice given by Emyr Jones at the Case Management Conference.

<sup>5</sup> E-mail dated 5 July 2023 from Steven Bainbridge of Chapman Lily Planning Limited to Inspectorate's Case Officers filed in folder 09 Other Appeal Documents of Inspector's file. The consultation arrangements are described in Steven Bainbridge's Proof of Evidence paragraph 2.5 and Appendix 1 (CD8.18) and confirmed in Matthew Pochin-Hawkes's Proof of Evidence, paragraph 2.6. (CD8.20).

<sup>6</sup> Statement of Common Ground dated 10.5.23 section 2, pages 2-3 (CD8.6); Appellant's Statement of Case, section 2, pages 4-5 (CD8.4); Council's Statement of Case, section 1, page 3 (CD8.5), Council's Committee Report, section 4 (CD3.1); Andrew Cook's Proof of Evidence, paragraphs 2.24-2.34 (CD8.19); Sarah Barber's Proof of Evidence paragraphs 4.13-4.23 and 4.35-4.36 (CD8.21); Matthew Pochin-Hawkes's Proof of Evidence, paragraph 2.1

two agricultural fields at Cruxton Farm which lies 0.7km south-west of Dorchester Road (A356) near the village of Maiden Newton in Dorset, about 11 km north-west of the centre of Dorchester. The appeal site sits on a north-facing slope of Notton Hill on the south side of the valley of the River Frome.

13. The appeal site lies within a predominantly undeveloped agricultural landscape. The nearest properties to the site are situated in Cruxton (circa 550m north-east), with dispersed dwellings in Notton including Notton Hill Barn (circa 300m south-east) and Greenford Farm (circa 700m west). The hamlet of Cruxton is located circa 550m north-east of the site with other residential areas in the wider vicinity of the site including the village of Maiden Newton (circa 1.4km) to the north, the hamlet of Wynford Eagle (circa 1.7km) to the west and the village of Frampton (circa 2km) to the east. The fringes of Dorchester are approximately 8km south-east of the site.
14. An existing agricultural track from Cruxton Farm serves the site. The proposed panels and associated infrastructure would be located in both fields, separated by existing hedgerows. The existing access is proposed to be utilised for operational purposes. Access to the site for construction purposes only will be mostly along a temporary access to be constructed from the southern point of the solar farm to Greenford Lane<sup>7</sup> which is an unclassified road to the west of the site, running south from the A356 at Maiden Newton to the A35 at Kingston Russell.
15. The topography of the appeal site declines approximately 38m from the southern boundary to the northern boundary<sup>8</sup>. The two fields within the site are predominantly geometric in their form. The northern field slopes more steeply

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(CD8.20); Arboricultural Impact Assessment section 2 (CD1.3); Arboricultural Survey report, section 2 (CD1.4); Flood Risk Assessment paragraphs 1.2 and 3.1-3.14 (CD1.11); Ecological Assessment Report sections 1.2 and 3.4 (CD2.2) and Appendices 4 (Biodiversity Management Plan), paragraphs 2.1.2 to 2.1.4 (CD2.2a) and 6 (Confidential Badger Survey Report) section 1.2 (CD2.2c); Planning Statement section 2; Heritage Desk-Based assessment, paragraphs 2.1 and 5.5-5.7 (CD1.14); Environmental Statement, sections 3.2, 5.3 and 6.3 (CD1.8) and Appendix 2.1 (Council's Screening Opinion dated 12 March 2021)(CD3.3), Appendix 3.3 (Landscape and Environmental Management Plan) paragraphs 2.1 to 2.3 (CD2.3), Appendix 5.2 (Dorset Council Landscape Officer's comments in response to pre-application advice request)(CD1.9); Environmental Statement Non-technical Summary, pages 3 and 8-10 (CD1.10); Supplementary Environmental Information: Non-technical Summary, pages 3 and 8-10 (CD2.9); Supplementary Environmental Information sections 3.2, 5.3 and 6.3 (CD2.10); Design and Access Statement, section 2 (CD1.6).

<sup>7</sup> Andrew Cook's Proof of Evidence, paragraph 2.34 (CD8.19).

<sup>8</sup> According to the Statement of Common Ground, paragraph 2.3 (CD8.6). The Environmental Statement and Supplementary Environmental Information (both paragraph 3.2.3) (CDs 1.8 and 2.10) say 25m as does the Council's Landscape Officer (in her pre-application comments attached as Appendix 5.2 (CD1.9)). The Topographical Survey, attached to the Environmental Statement as Appendix 3.1 (CD1.9) shows the lowest point of the northernmost field to be 140.08m AOD (confirmed by Sarah Barber orally in evidence in chief), the highest point of the southern field to be 183.75m AOD, a difference of 43.67m. (In oral evidence in chief, Sarah Barber referred to a figure of c186m in the hedgerow boundary and a spot point of 196.6 in the southern boundary hedgerow).

than the southern. The northern field has previously been used as a game bird rearing area with an area of 'pens' spread across part of the slope. The pens are constructed of timber and wire netting and are periodically moved around the wider farm unit. The boundaries of the site are formed by a mixture of dense hedgerows and mature trees, mostly of moderate quality, with a small high quality<sup>9</sup> woodland block within the site at the northern boundary.

16. A Public Right of Way (PRoW), (Footpath S29/19 of the Dorset Council's Definitive Map) runs along the western boundary of the appeal site. A further PRoW runs along the southern boundary of the site (Footpath S29/20). These paths are part of the Macmillan Way promoted route, a long-distance walking route. The comprehensive network of public rights of way and Open Access Land in the locality are illustrated in the Environmental Statement, figures 3.1 and 3.4.<sup>10</sup> There are frequent pockets of Open Access Land (OAL) where there is public access.<sup>11</sup>
17. There are no International or European designated sites (Ramsar, Special Protection Area or Special Areas of Conservation) within close proximity of the appeal site. There are a number of designated sites within a 5km radius of the site. The closest are the Cerne and Sydling Downs SAC and Hog Cliff SSSI/NNR (both circa 1.3km north-east). Although the appeal site falls within the SSSI Impact Risk Zone, the proposed development does not meet the criteria for the types of development which would be considered as likely to generate potential adverse effects on the SSSI's notified features whereby the Local Planning Authority (LPA) would be required to consult with Natural England.<sup>12</sup> There are also a number of non-statutory designated sites for nature conservation within 2km; four Sites of Nature Conservation Interest, three Habitat Restoration Sites and one Dorset Wildlife Trust Reserve.<sup>13</sup> The arable land and hedgerows within the appeal site are listed as Local Biodiversity Action Plan habitats within the Dorset Biodiversity Strategy<sup>14</sup>.
18. The appeal site is located within the Dorset Area of Outstanding Natural Beauty (AONB), National Character Area 134 (the Dorset Downs and Cranborne Chase)<sup>15</sup> and Upper Frome Valley Landscape Character Area<sup>16</sup>. Key

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<sup>9</sup> Arboricultural Impact Assessment (CD1.3), and Arboricultural Survey report (CD1.4), both section 3, table 1, contradicted by both documents' Tree Survey Plan and Schedule which categorises it as B2.

<sup>10</sup> Statement of Common Ground, paragraph 8.22 (CD8.6); Environmental Statement paragraphs 5.3.24 and 5.3.25 (CD1.8).

<sup>11</sup> Andrew Cook's Proof of Evidence, paragraph 2.32 (CD8.19).

<sup>12</sup> Ecological Assessment Report, paragraph 3.2.3 (CD2.2); Environmental Statement, paragraph 3.2.7 (CD1.8).

<sup>13</sup> Ecological Assessment Report, paragraph 3.2.5 (CD2.2).

<sup>14</sup> Ecological Assessment report, paragraph 3.3.2 (CD2.2).

<sup>15</sup> Statement of Common Ground, paragraph 8.23 (CD8.6); Andrew Cook's Proof of Evidence paragraph 5.6 (CD8.19).

characteristics of the LCA include a series of broad, undulating valleys with associated chalk streams with surrounding, expansive open uplands that offer fine panoramic views enabling an appreciation of the structure of the farmed downland and undeveloped rural character with a sense of seclusion and tranquillity. The topography plan, figure 5.1 in the ES, details contour lines at 20m intervals and reflects the general topography of the area. Drawing P20-0981\_05 illustrates the complex landforms within the surrounding area.<sup>17</sup>

19. There are no designated heritage assets within the appeal site itself and the site is not located within a Conservation Area. A cluster of Grade II and Grade II\* Listed Buildings exist within the hamlet of Cruxton (circa 500m north). A further two Grade II listed buildings are located circa 610m north-east of the site. There are no Scheduled Monuments, Registered Parks and Gardens, Registered Battlefields or World Heritage Sites located within 1km of the site.
20. The appeal site is located within Flood Zone 1 which confirms that the site has a low probability of flooding from rivers or sea. The site has a low risk of surface water flooding.
21. The appeal site comprises approximately 8ha of Grade 3a 'Good Quality' agricultural land and approximately 10ha of Grade 3b 'Moderate Quality' agricultural land.<sup>18</sup>

## **Planning Policy**

22. The site falls within the Maiden Newton and Frome Vauchurch Neighbourhood Plan Area designated in September 2015 but no Neighbourhood Plan has been made, nor even a draft published for consultation<sup>19</sup>. Consequently, the Statutory Development Plan covering the appeal site consists solely of the West Dorset, Weymouth & Portland Local Plan adopted in October 2015 ("the Development Plan"). The policies cited in the Decision Notice include:
  - ENV1 – Landscape, Seascape and Sites of Geological Interest
  - ENV10 – The Landscape and Townscape Setting
  - COM11 – Renewable Energy Development
23. Other policies cited in the Council's Committee Report include:
  - ENV 2 – Wildlife and Habitats
  - ENV 4 – Heritage Assets
  - ENV 5 – Flood Risk

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<sup>16</sup> Andrew Cook's Proof of Evidence paragraph 5.14 (CD8.19); Environmental Statement, paragraph 3.2.8 (CD1.8).

<sup>17</sup> Statement of Common Ground, paragraph 8.21 (CD8.6).

<sup>18</sup> Agricultural Land Classification Report, Section 1; executive summary (CD1.2).

<sup>19</sup> Planning Statement, paragraph 5.4 (CD1.14).

- ENV 9 – Pollution and Contaminated Land
- ENV 12 – The Design and Positioning of Buildings
- ENV 15 – Efficient and Appropriate Use of Land
- ENV 16 – Amenity
- SUS 2 – Distribution of Development
- COM 7 – Creating a Safe and Efficient Transport Network
- COM 9 – Parking Standards in New Development

24. The two main parties agree<sup>20</sup> that a further policy not mentioned in the Decision Report or Committee Report but relevant to the consideration of the appeal proposals is:

- ENV 8 – Agricultural Land and Farming Resilience

25. The Council is in the early stages of preparing a new Local Plan<sup>21</sup>. An Options draft was published for consultation between January and March 2021 but a Consultation Draft is not expected until December 2024, followed by submission for examination in April 2025. Relevant policies in the Options Draft include;

- COM10 (Low Carbon and Renewable Energy Development)
- ENV4 (Landscape)

26. Other relevant documents include<sup>22</sup>:

- Dorset AONB Management Plan 2019 – 2024<sup>23</sup>
- Dorset AONB Landscape Character Assessment<sup>24</sup>
- West Dorset Landscape Character Assessment 2009
- Dorset Council Climate and Ecological Emergency Strategy, final version published July 2021
- Dorset Climate and Ecological Emergency Strategy Progress Report – 2022

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<sup>20</sup> Statement of Common Ground paragraph 7.5 (CD8.6); Appellant's Statement of Case, paragraph 6.5(d) (CD8.4) and appellant's Planning Statement paragraph 5.11 (CD1.14). The Appellant's Planning Statement adds policy INT1 – Presumption in favour of sustainable development and policy ENV10 – the Landscape and Townscape Setting.

<sup>21</sup> Appellant's Statement of Case, paragraphs 6.6-6.7 (CD8.4).

<sup>22</sup> Statement of Common ground paragraph 7.6 (CD8.6).

<sup>23</sup> Appellant's statement of Case, paragraph 6.10 (CD8.4) references policies C1(a), C3(f), C4(a), C4(c), and C4(d); Sarah Barber's Proof of Evidence for the Council (CD8.21), paragraph 3.7 references policy C1(a).

<sup>24</sup> Statement of Common Ground paragraph 8.24 (CD8.6).

- Natural Environment, Climate and Ecology Strategy 2023-25 Refresh
- Natural Environment, Climate & Ecology Action Plan
- Guidance for Large Scale Solar Arrays in the Dorset AONB (February 2011)<sup>25</sup>

27. The two main parties also agree<sup>26</sup> that there are a number of policy statements and guidance dealing with both planning policy and energy policy at the national level which comprise other material considerations in the determination of the appeal:

- National Planning Policy Framework (July 2021, now September 2023)
- National Planning Practice Guidance<sup>27</sup>
- Overarching National Policy Statement for Energy (EN-1) (July 2011)
- Draft National Policy Statement for Energy (EN-1) (September 2021)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
- Draft National Policy Statement for Renewable Energy Infrastructure (EN-3)
- UK Government Solar Strategy 2014
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on the 25th March 2015
- Climate Change Act 2008
- Climate Change Act (2050 target amendment) Order 2019
- Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
- UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019
- Energy White Paper: Powering our Net Zero Future published in December 2020

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<sup>25</sup> Statement of Common Ground paragraph 8.19 (CD8.6).

<sup>26</sup> Statement of Common Ground paragraph 7.7 (CD8.6). The appellant's Statement of Case paragraph 7.1 (j) (CD8.4) and the Council's Statement of Case paragraph 6.1 (CD8.5) both add the government's Food Strategy published in June 2022. The appellant's Planning Statement Addendum (CD2.6) adds the Paris Agreement of the United Framework Convention on Climate Change, 12 December 2015 and the Carbon Budget Order 2021.

<sup>27</sup> The appellant's Planning Statement paragraph 5.21 (CD1.14) references Guidance paragraph 0.13 (ID: 5-013-20150327).

- UK Government press release of acceleration of carbon reduction to 2035, dated April 2021
- The latest version of the 'Digest' of United Kingdom Energy Statistics
- UK Energy Statistics Press Release published by the BEIS, June 2020.
- 'Achieving Net Zero' published by the National Audit Office in December 2020
- UK Energy in Brief, published by the BEIS 2021.
- Net Zero Strategy: Build Back Greener, dated October 2021
- The Climate Crisis: A Guide for Local Authorities on Planning for Climate Change, prepared by the Town and Country Planning Association, dated October 2021
- British Energy Security Strategy, dated 7th April 2022
- Growth Strategy, dated 23rd September 2022
- Powering Up Britain, dated March 2023
- Powering Up Britain: Energy Security Plan, dated March 2023
- Powering Up Britain: Net Zero Growth Plan, dated March 2023

## **The Proposals**

28. The planning application which is the subject of this appeal is described in several of the submitted documents.<sup>28</sup> Planning permission is sought for the construction of a solar farm with a capacity of approximately 11.8MW for a temporary period of 40 years from the date of the first export of electricity from the appeal site, after which period the land would be reinstated to its current status as agricultural land.
29. The proposed development is expected to generate enough clean renewable electricity per annum to power approximately 4,800 homes (based on average

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<sup>28</sup> Statement of Common Ground, 10 May 23, section 3, pages 4-8 (CD8.6); Appellant's Statement of Case, section 3, pages 6-8 (CD8.4), Council's Statement of Case, section 2, page 3 (CD8.5); Council's Committee report, section 5 (CD3.1); Andrew Cook's Proof of Evidence, section 3 (CD8.19); Sarah Barber's Proof of Evidence paragraphs 4.1, 4.3 to 4.8 and 4.10 (CD8.21); Appellant's Glint and Glare Study, section 2 (CD1.16); Arboricultural Impact Assessment, section 5 (CD1.3); Flood Risk Assessment paragraphs 1.3 and 3.31-3.45 (CD1.11); Ecological Assessment Report, paragraph 4.3.8 (CD2.2); Planning Statement section 3 (CD1.14); Planning Statement Addendum section 3 (CD2.6); Revised Construction Traffic Management Plan, paragraphs 1.2-1.8 and 2.2-2.5 (CD2.7); Environmental Statement, section 3.3 and paragraphs 5.4.2 to 5.4.4 and 6.5.1 to 6.5.4 (CD1.8) and Appendix 2.1 (Council's Screening Opinion dated 12 March 2021 (CD3.3)) and Appendix 5.2 (Dorset Council Landscape Officer's comments in response to pre-application advice request) (CD1.9); Environmental Statement Non-technical Summary, page 4 (CD1.10); Supplementary Environmental Information: Non-technical Summary, page 4 (CD2.9); Supplementary Environmental Information section 3.3 and paragraphs 5.4.3 to 5.4.10 and section 6.4 (CD2.10); Design and Access Statement, sections 3 and 4 (CD1.6).

UK household electricity consumption). It is anticipated that approximately 3,100 tonnes of CO<sub>2</sub> will be saved by the project each year.

30. The proposed solar farm would consist of solar photovoltaic panels placed on metal arrays arranged in rows on an east to west alignment. Associated infrastructure includes inverters, boundary landscaping, perimeter fencing and access. Plant and other equipment to support the generation of electricity is located around the site, adjacent to internal tracks to ensure access can be achieved to these for maintenance purposes.

### *Proposed Development Components*

31. The main components of the proposed development comprise:

- Rows of Solar photovoltaic (PV) panels known as strings. The arrays of photovoltaic cells (typically laid out in tables of 27 or 54 modules - in total 21,978 modules) face to the south at approximately 25 degrees from the horizontal to maximise the absorbency of the sun's rays and minimise solar glare. Each string of panels would be mounted at approximately 0.6m from the ground at the lowest point (the southern edge) rising to up to 2.54m at the highest point (the northern edge), on a metal frame, with metal supports, pile driven into the ground to a depth of approximately 1 to 2m, depending on ground conditions, without the need for concrete foundations. The arrays are spaced approximately 5.6m apart to avoid any shadowing effect from one panel to another.
- Inverters and transformers distributed across the solar arrays. The inverters are essential pieces of infrastructure required to convert the electricity generated by the solar array from direct current (DC) to alternating current (AC) and to increase the electricity voltage thereby minimising losses and to ensure the on-site electrical system operates safely.
- Plant and equipment necessary to export the electricity generated onsite to the electricity network:
  - 1no. DNO substation enclosure measuring 7m (L) x 3.11m (W) x 3.45m(H);
  - 1no. Customer Switchgear/T Boot enclosure measuring 5.92m (L) x 2.96m (W) x 2.95m (H);
  - 3no. Typical LV Switch/Transformers measuring up to 2.7m (H) within a fenced enclosure and;
  - Approximately 500m of underground cabling exiting the appeal site from the north and connecting into a grid connection point pole located on the landowner's land.
- Underground cabling to connect the panels and inverters/transformer stations to the proposed on-site substation and control room;
- Security deer-type fencing with gates at necessary locations, up to 2.2m in height which enclose the perimeter of the appeal site. A 150mm gap between the bottom of the fence netting and ground level will be provided.

- Security and monitoring CCTV/infra-red cameras will be installed along the internal perimeter of the appeal site – exact details to be agreed by condition prior to installation.
32. No permanent operational lighting is required at the appeal site. Manually operated lights may be attached to the substation and inverter/transformer stations in the event of an emergency maintenance visit being required in the hours of darkness.
33. The existing PRowS located along the western and southern boundaries of the appeal site will be retained along their existing routes for the duration of the construction and operation of the proposed development.

#### *Access*

34. Access to the appeal site will be off both Cruxton Lane and Greenford Lane. Following completion of construction, gates would be installed at the access points that adjoin these public highways for security purposes.<sup>29</sup>
35. During the construction phase, the majority of HGVs will arrive at a lay down area off of Greenford Lane using an existing farm access. Access to the site for construction purposes only will be along a temporary access to be constructed from the southern point of the solar farm to Greenford Lane.<sup>30</sup> Bridleway S61/4 and Footpath S29/19 are located along this route. The solar farm components will then be delivered to the site via tractor and trailer along this presently unpaved and informal route from Greenford Lane to the south-western corner of the southern field.
36. The Cruxton Lane access will be used for a minimal amount of HGV movements during the construction phase. Its predominant use will instead be for maintenance purposes during the operation phase of the proposed development where there will be minimal vehicular movements associated with the development. Lighter vehicles during the construction phase will access the site via an existing farm track connecting to Cruxton Manor Farm and then to Dorchester Road A356.

#### *Landscaping and biodiversity enhancements*

37. The layout of the proposed development provides for no loss of existing trees and hedgerows within the appeal site.
38. A new native hedgerow will be planted along the western boundary of the appeal site on the outside of the perimeter fence measuring approximately 370 linear meters in length. A smaller native hedgerow measuring 20 linear meters in length will be planted to infill a gap between the northern and southern fields of the appeal site. The new hedgerows will be maintained at a height of 2.5-3m.

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<sup>29</sup> Andrew Cook's evidence, paragraph 3.13 (CD8.19).

<sup>30</sup> Andrew Cook's evidence paragraph 2.34 (CD8.19).

39. Any missing areas in the existing hedgerow and tree belt along the northern, eastern and southern boundaries of the appeal site will be infilled with new planting. It will then be maintained at a minimum height of 2.5-3m. The existing hedgerow between the northern and southern parcels of the appeal site will be retained and maintained at a minimum height of 2.5-3m.
40. Within the appeal site, grass underneath the proposed solar panels will be subject to conservation grazing with any bare areas created during construction sown with a grazing mix. An area of wildflower meadow seeding will be provided in the south-western corner of the appeal site. The existing PRoW along the western boundary of the site will be maintained at a minimum of 4m wide and sown with an appropriate shade tolerant grassland mix to be managed at a height of 150mm.
41. Biodiversity enhancement measures will also be provided including the creation of grassland and wildflower meadow seeding. The Biodiversity Net Gain Report submitted as part of the planning application (prepared by Avian Ecology, V4, dated February 2022) calculates a net gain of 34.32% in habitat units, plus 10.26% gain in hedgerow units<sup>31</sup>, updated to a net gain of 71.05% in habitat units and 26.76% in hedgerow units when recalculated using DEFRA metric 4 (attached as Appendix 7 to Steven Bainbridge's evidence).

#### *Construction and operation*

42. Construction is expected to take place over approximately three-four months.<sup>32</sup> It is anticipated that construction vehicles associated with the proposed development will travel from the M5 motorway. All vehicles will then route via the A35, approximately 4.2 kilometres to the south of the site, using the Kingston Russell junction to travel northbound onto Greenford Lane, returning via the Roman Road priority junction with the A35. Any construction vehicles that route from the east will use the Roman Road priority junction with the A35 instead of the Kingston Russell junction, as the former provides a dedicated right turn lane and provides the appropriate visibility splays.
43. Once installed, the solar farm would require infrequent visits for the purposes of maintenance or cleaning of the site. Such work typically requires around one visit to the site per month, made by light van or 4x4 type vehicles. The facility would be unmanned, being remotely operated and monitored.

#### *Decommissioning*

44. The proposed development would export renewable energy to the National Grid for a period of 40 years. The scheme, including the supporting framework for the solar panels, is fully reversible. These structures can be removed from the appeal site and the land reinstated to agricultural use. Most of the component parts, including the aluminium framework and silicon in the module panels, can

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<sup>31</sup> Ecological Assessment Report, paragraph 4.4.1 (CD2.2).

<sup>32</sup> The construction activities and hours of work are canvassed in the Environmental Statement, paragraphs 3.4.5 and 3.4.6. Plant and equipment to be used is detailed in the ES paragraph 3.4.9 (CD1.8).

be recycled. The landscape and biodiversity mitigation and enhancement measures would remain.

### **The Case for Enviromena Asset Management UK Limited**

45. Despite a plethora of somewhat repetitious documentation, the appellant's case is relatively straightforward:

- There is a climate crisis, recognised internationally, nationally and locally.<sup>33</sup>
- The response to the climate crisis depends on renewable energy.<sup>34</sup>

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<sup>33</sup> Appellant's Planning Statement May 2021, paragraphs 4.6-4.14 (CD1.14); Appellant's Planning Statement Addendum paragraphs 4.13-4.37 (CD2.6); Appellant's Statement of Case, paragraph 7.1 (CD8.4) referencing the Climate Change Act 2008 (CD8.24); UK government Solar Strategy 2014 (CD8.27); Written Ministerial Statement on Solar Energy 25 March 2015 (CD8.28); the Climate Change Act (2050 target amendment) Order 2019 (CD8.31); the Clean Growth Strategy published by BEIS in October 2017 (CD8.29); Parliament's declaration of a Climate and Ecological Emergency in May 2019 (CD8.30); Dorset Council's declaration of a Climate and Ecological Emergency (also noted in Statement of Common ground paragraph 8.12); the Energy White Paper: Powering our Net Zero future, December 2020 (CD8.30); the UK government's press release of April 2021 accelerating carbon reduction by 2035 (CD8.32); Net Zero Strategy: Build Back Greener, October 2021 (CD8.39); the British Energy Security Strategy, April 2022 (CD8.40); government Food Strategy June 2022; Overarching National Policy Statement for Energy (EN-1)(July 2011) (CD8.25); draft National Policy Statement for Energy (EN-1)(September 2021) (CD8.41); National Policy Statement for Renewable Energy Infrastructure (EN-3)(July 2011) (CD8.26); draft national Policy for Renewable Energy Infrastructure (EN-3)(September 2021) (CD8.42). The appellant's Material Considerations Update Note of August 2022 (CD2.4) adds; the Intergovernmental Panel on Climate Change (IPCC) second part of Sixth Assessment Report, Climate Change 2022: Impacts, Adaptation and Vulnerability (February 2022) and a contemporaneous Joint Statement from the UK, Egypt and UNFCCC issued in response to the IPCC report; the IPCC report of 4 April 2022, "Climate Change: Mitigating Climate Change"; a Parliamentary debate on 1 June 2022 and the report of the Climate Change Committee on 29 June 2022, "Progress in reducing emissions: 2022 Report to Parliament"; Steven Bainbridge's evidence paragraphs 6.1 8.12-8.13, 8.15-8.17, 8.20 and 8.69-74 (CD 8.18) referencing Development Consent Order reference EN010085; appellant's NPPF §177 Compliance Note, paragraphs 3, 4 & 5 (CD2.5).

<sup>34</sup> Appellant's Planning Statement (May 2021), paragraphs 4.4 and 4.5 (CD1.14), referencing the European Union Renewable Energy Sources Directive (2009/28/EC) and the European Union 2030 Energy and Climate Change Framework; appellant's Planning Statement paragraphs 5.24 and 5.28 (CD1.14); Appellant's Planning Statement Addendum paragraphs 4.13 to 4.37 (CD2.6) referencing the government's Net Zero Strategy of October 2021 (CD8.39); Appellant's Statement of Case, paragraphs 7.2 (CD8.4) (referencing the Digest of UK energy Statistics (CD8.48)); 7.5(g) and (h) (referencing NPPF paragraphs 152 and 158); 7.9 (referencing NPPG paragraph 013 (ID: 5-013-20150327)), 7.10-7.14 (referencing the Overarching National Policy Statement for Energy (EN-1) (CD8.25) paragraphs 1.2.1 and 3.4.1 and its draft revision of September 2021 (CD8.41), section 2.3 and paragraphs 2.3.2 and 2.3.4) 7.17 (referencing the National Policy Statement for Renewable Energy Infrastructure (EN-3) (CD8.26) and its revised draft of September 2021, paragraph 2.47.1 (CD8.42)); Steven Bainbridge's evidence, paragraphs 2.29, 8.18, 8.21, 8.24, 8.37, 8.51-8.54 and 8.57 (CD8.18); appellant's Material Considerations Update Note of August 2022 (CD2.4), paragraph 3.13, referencing the IPCC report "Climate Change 2022: Mitigating Climate Change" of 4 April 2022 and paragraphs 3.28 to 3.33 referencing the Energy Bill and quoting from the BEIS consultation on its Review of Electricity Market Arrangements.

- Energy security reinforces dependency on renewable energy.<sup>35</sup>
  - Solar power is expected to make a major contribution to renewable energy supplies.<sup>36</sup>
  - The rate at which solar power is delivered needs to be accelerated.<sup>37</sup>
  - The proposal would have an 11.8MW capacity<sup>38</sup> representing 0.02% of the government's target of a further 56GW of solar capacity by 2035<sup>39</sup>. Site
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<sup>35</sup> Reference is made to the British Energy Security Strategy, April 2022 (CD8.40). Appellant's Statement of Case paragraph 9.6 (CD8.4), referencing Dorset Council's Climate and Ecological Emergency Strategy (CD8.51); Steven Bainbridge's evidence, paragraphs 6.2, 8.7 and 8.27-8.28 (CD8.18); appellant's Material Considerations Update Note, August 2022 paragraphs 3.8 and 3.9 (CD2.4), referencing the Department for Business Energy and Industrial Strategy's Factsheet on Russia- Ukraine and UK energy supply published 25 February 2022 and the SofS BEIS's tweet of 28 February 2022 and paragraphs 3.25-3.27 referencing a report from the Stonehaven consultancy "Beyond Sticking Plasters: Cost of Living and the Energy Crisis.

<sup>36</sup> Appellant's Statement of Case (CD8.4), paragraphs 7.15 (referencing draft revised EN-1 paragraph 2.3.4 (CD8.41)), 7.19 (referencing draft revised EN-3 paragraph 2.47.1 (CD8.42)); Steven Bainbridge's evidence (CD8.18) paragraphs 8.9 and 8.14, 8.19, 8.22, 8.25, 8.26, 8.29-8.32 (referencing the government's commitment to aim for 70GW of ground and rooftop capacity by 2035, up from 14GW currently) 8.34, 8.38, 8.55 and 8.58-8.59; The appellant's Material Considerations Update Note of August 2022 (CD 2.4), paragraph 3.21 notes the publication by Atkins of an analysis showing that the UK will need to build 12-16 GW of new generation capacity each year between now and 2035 to hit decarbonisation targets and that the average rate for the last five years was just 3.2GW per year. The appellant's Planning Statement Addendum (CD2.6) paragraph 4.4 notes the key issues set out on page 26 of the final (July 2021) version of the Council's CEES (CD8.51), including "every opportunity to utilise renewable energy to meet current demand needs is to be taken" and "Dorset Council's renewable energy capacity need to increase by a factor of 60 to meet demands"; the Planning Statement Addendum (CD2.6) paragraph 4.8 notes the publication of a report by Regen, Dorset Low Carbon Energy Route Map and Evidence Base (not included as a Core Document but filed at 1.3 of folder LPA SoC within folder LPA within folder 03 statement(s)/proofs within folder 0 Inspector file of PINS horizon file); its Executive Summary notes that in 2019, Dorset met only 5% of its energy demand through local low carbon energy generation compared with 10% in Cornwall. The appellant's Planning Statement Addendum (CD2.6) paragraph 4.24 references paragraph 11 of the government's Net Zero Strategy of October 2021 (CD8.39); "A low-cost, net zero consistent electricity system is most likely to be composed predominantly of wind and solar generation, whether in 2035 or 2050."

<sup>37</sup> In cross-examination, the Council's witness, Matthew Pochin-Hawkes accepted that the key commitment of 70GW of solar by 2035 required deployment of an average of 83MW per week.

<sup>38</sup> Appellant's Planning Statement paragraph 6.2 (CD 1.14).

<sup>39</sup> In footnote 165 to her closing remarks, the appellant's advocate records Steven Bainbridge's response for the appellant when asked to comment on paragraph 5.28 of Matthew Pochin-Hawkes's evidence for the Council which suggests that the appeal proposal would make a negligible contribution of below 0.001% to the national target of an additional 56GW by 2035. She records Steven Bainbridge's response as 0.2%. In fact, the correct calculation is 0.02% but the error does not necessarily invalidate the point made.

would generate 13,755MWh of energy pa<sup>40</sup>; enough renewable electricity per annum to power approximately 4,800 homes<sup>41</sup> (based on average UK household electricity consumption) or 10% of those in the AONB<sup>42</sup>. It is anticipated that approximately 3,100 tonnes of CO2 will be saved by the project each year.<sup>43</sup>

- Solar power can only be harvested where it can be connected to the grid and the grid has capacity.<sup>44</sup>
- There is an available point of connection and grid capacity at Cruxton.<sup>45</sup> In a constrained grid, capacity should be used wherever possible<sup>46</sup>. There is no evidence that this capacity could be transferred to a different point on the grid<sup>47</sup>. The scheme is “oven-ready” and can be deployed quickly whereas the availability of possible future grid enhancements is unknown,<sup>48</sup> the deliverability of projects on the SSEN embedded capacity

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<sup>40</sup> Appellant’s NPPF §177 Compliance Note paragraph 6 (CD 2.5).

<sup>41</sup> Appellant’s Planning Statement May 2021 (CD1.14) says 4,781.

<sup>42</sup> Steven Bainbridge, oral evidence in chief.

<sup>43</sup> Appellant’s Statement of Case, paragraphs 3.2 and 9.32(a)-(e) (CD8.4), Statement of Common Ground paragraph 8.11 (CD8.6).

<sup>44</sup> Appellant’s Statement of Case (CD8.4), paragraphs 7.20, 7.21, referencing draft revised EN-3 paragraph 2.48.12 (CD8.42) and Appellant’s Statement of Case, paragraph 9.9 (CD8.4); Steven Bainbridge’s evidence paragraph 2.16 (CD8.18), referencing Dorset Council’s Planning for Climate Change – Interim Guidance and Position Statement (CD8.53) paragraphs 3.2.13 “The capacity of the electricity grid, and the proximity and availability of a grid connection can be a significant factor in locating a renewable energy development” and 3.2.21 “Assessment of an application against criterion b) of paragraph 177 will be informed by the proximity and availability of connection to the electricity grid, as the costs associated with forming new connections and upgrading infrastructure to accommodate development can be significant and potentially prohibitive to a development.” Steven Bainbridge’s evidence (CD8.18) paragraphs 6.3, 6.4; appellant’s NPPF §177 Compliance Note paragraph 10 (CD2.5); Appellant’s Planning Statement Addendum, paragraph 7.7-7.8 (CD2.6); Appellant’s Sequential Analysis Study paragraph 3.7 (CD2.8); the point was agreed by Matthew Pochin-Hawkes in cross-examination.

<sup>45</sup> Appellant’s Statement of Case, paragraphs 9.9 and 9.10 (CD8.4); Appellant’s Sequential Analysis Study paragraph 3.5 (CD2.8).

<sup>46</sup> Accepted by Matthew Pochin-Hawkes in cross-examination. His view was that landscape constraints made the use of this point of connection impossible.

<sup>47</sup> Accepted by Matthew Pochin-Hawkes in cross-examination.

<sup>48</sup> Agreed by Matthew Pochin-Hawkes in cross-examination.

register is unknown<sup>49</sup> and even if all the projects on the SSEN register did come forward there would still be a need for more.<sup>50</sup>

- The site is relatively close (500m) to the grid connection point.<sup>51</sup>
- No preferable site is available to exploit the Point of Connection.<sup>52</sup>
  - Other than the AONB itself, there are few designated environmental or heritage assets nearby.<sup>53</sup>
  - The site has a low probability of flooding.<sup>54</sup>
  - The site slope is gentle.<sup>55</sup>
  - Surrounding land parcels' use would not cause limitations of shade or dust creation.
  - Landowner is willing.<sup>56</sup>

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<sup>49</sup> Accepted by Matthew Pochin-Hawkes in cross-examination.

<sup>50</sup> Agreed by Matthew Pochin-Hawkes in cross-examination.

<sup>51</sup> Statement of Common ground paragraph 8.15 (CD8.6)

<sup>52</sup> Appellant's Statement of Case, paragraphs 2.6-2.9, 9.11 and 9.12 (CD8.4); Steven Bainbridge's evidence, paragraphs 2.3, 6.3 and 8.8 and appendix 6 (CD8.18); appellant's NPPF §177 Compliance Note paragraphs 11-19(CD2.5); appellant's Planning Statement Addendum, paragraph 7.3 and 7.9 (CD2.6); Appellant's Sequential Analysis Study(CD 2.8); Environmental Statement (CD1.8) paragraph 4.2.4 summarises the reasons for choosing the site; in cross-examination, Matthew Pochin-Hawkes accepted that the megawattage available at this point of connection would not justify the cost of a connection to a site outside of the AONB.

<sup>53</sup> Statement of Common Ground, paragraph 8.19 (CD8.6); Andrew Cook's evidence (CD8.19) paragraphs 8.15 and 8.16 assert compliance with AONB management plan policies A2 and A3 protecting the historic environment and promoting environmental resilience (CD8.49); Ecological Assessment Report dated February 2022 by Avian Ecology (CD2.2), paragraph 4.2.3 advises that "Given the distance between the Site and any statutory designations (excluding the AONB) it is considered highly unlikely that any direct or indirect impacts on any statutory designated sites or the habitats and species they support will occur as a result of the proposed solar development"; Heritage desk-Based assessment, March 2021, paragraphs 6.6 and 6.7 (CD1.12); Design and Access Statement paragraphs 2.6, 2.7 and 2.9 (CD1.6).

<sup>54</sup> Appellant's Statement of Case, paragraph 2.10 (C8.4); Statement of Common Ground (CD8.6) paragraphs 8.49 and 8.50, confirming compliance with Development Plan policy ENV5 (CD4.1); Flood Risk Assessment April 2021 by PFA Consulting (CD1.11); Design and Access Statement paragraph 2.10 (CD1.6).

<sup>55</sup> Andrew Cook's evidence, paragraph 4.2 (CD8.19); Design and Access Statement paragraph 2.3 (CD1.6).

<sup>56</sup> Appellant's Statement of Case, paragraph 9.13 (CD8.4)

- Subject to compliance with the proposed Construction Traffic Management Plan, both construction and operational traffic can be accommodated on the highway without objection from the highways authority.<sup>57</sup>
- Dorset enjoys high solar irradiance.<sup>58</sup>
- Contrary to NPPF paragraph 155, the Development Plan has no strategy for renewable energy development, has no specific site allocations for renewable energy<sup>59</sup> and no target of numerical need for renewable energy.<sup>60</sup>
- Dorset has no landscape capacity study or equivalent in its Development Plan.<sup>61</sup>
- Dorset's Development Plan policy COM11 encourages renewable energy<sup>62</sup> but sets three provisos and requires that the benefits of the development significantly outweigh any harm – a higher bar than set by the NPPF and so, the policy is not compliant with the NPPF.<sup>63</sup> Its emerging local plan policy COM10 is hardly changed from COM11.<sup>64</sup>
- Dorset Council's Planning for Climate Change – Interim Guidance and Position Statement March 2023 moderates the requirement to one where the benefits will need to "suitably" outweigh any adverse impacts.<sup>65</sup>

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<sup>57</sup> Statement of Common Ground, paragraph 8.42 (CD8.6); Appellant's Planning Statement Addendum paragraphs 7.25-7.30 (CD2.6); Design and Access Statement paragraphs 4.2-4.6 and 5.4 (CD1.6).

<sup>58</sup> Appellant's Statement of Case (CD8.4) paragraph 9.6, referencing Dorset Council's Climate and Ecological Emergency Strategy (CE8.51) and Statement of Case (CD8.4) paragraph 9.12; appellant's NPPF §177 Compliance Note paragraph 20 (CD2.5); appellant's Planning Statement Addendum (CD2.6) paragraph 4.10 referencing Regen report June 2021, Dorset Low Carbon Energy Route Map and Evidence Base, paragraph 3.1.1 (not included as a Core Document but filed at 1.3 of folder LPA SoC within folder LPA within folder 03 statement(s)/proofs within folder 0 Inspector file of PINS horizon file).

<sup>59</sup> Statement of Common ground, paragraph 8.3 (CD8.6); Steven Bainbridge evidence paragraph 2.3 (CD8.18).

<sup>60</sup> Accepted by Matthew Pochin-Hawkes in cross-examination.

<sup>61</sup> Statement of Common ground, paragraph 8.3 (CD 8.6).

<sup>62</sup> Statement of Common Ground paragraph 8.4 (CD8.6).

<sup>63</sup> Steven Bainbridge's evidence paragraph 2.7 (CD8.18); In cross-examination, Matthew Pochin-Hawkes accepted that the policy included a tilted balance against renewable energy development.

<sup>64</sup> Steven Bainbridge's comment when giving evidence in chief.

<sup>65</sup> Steven Bainbridge's evidence (CD8.18) paragraphs 2.15 and 2.16, referencing Dorset Council's Planning for Climate Change – Interim Guidance and Position Statement March 2023 paragraph 3.3 (2(b)) (CD8.53).

- Dorset's Development Plan policy SUS2 supports renewable energy generation in the countryside, outside development boundaries.<sup>66</sup>
- Dorset's Climate and Ecological Emergency Strategy July 2021 says renewable energy development at scale is required.<sup>67</sup>
- Due to size requirements, a solar farm of the scale proposed can only be accommodated outside of urban areas in a rural location.<sup>68</sup>
- Much of Dorset (42%) is an AONB<sup>69</sup>. The AONB houses 74,000 residents, and includes large settlements such as Lyme Regis, Bridport, Beaminster and Swanage. It accommodates major roads, electricity transmission lines and is no bar to solar farm development.<sup>70</sup> The Council does not argue that renewable energy development can be accommodated entirely outside the AONB or that a scheme for renewable development outside the AONB would preclude a finding of exceptional circumstances to justify the present case.<sup>71</sup>
- The AONB Management Plan, policy C3, supports renewable energy production.<sup>72</sup>
- The site chosen would cause limited harm<sup>73</sup>.
  - Site is a tiny part of the AONB's 1,128 sq km.<sup>74</sup>

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<sup>66</sup> Statement of Common Ground, paragraph 8.7 (CD8.6).

<sup>67</sup> Statement of Common ground, paragraph 8.13 (CD8.6).

<sup>68</sup> Appellant's NPPF §177 Compliance Note paragraph 12 (CD2.5); Appellant's Planning Statement Addendum, paragraph 7.4 (CD2.6); Design and Access Statement paragraph 3.5 (CD1.6).

<sup>69</sup> Dorset Council's Planning for Climate Change – Interim Guidance and Position statement paragraph 3.2.16 (CD8.51) says approximately 56% of its area is covered by its two AONB designations; the 42% referred to in the appellant's evidence presumably refers to the AONB which includes the site.

<sup>70</sup> Guidance for Large Scale Solar Arrays in the Dorset AONB published in February 2011; Statement of Common Ground, paragraph 8.6 (CD8.6); Andrew Cook's evidence paragraph 8.4 (CD8.19); Steven Bainbridge's evidence, paragraph 2.3 (CD8.18); appellant's Planning Statement Addendum (CD2.6) paragraph 4.10 referencing Regen report June 2021, Dorset Low Carbon Energy Route Map and Evidence Base, paragraph 3.1.1.

<sup>71</sup> Accepted by Matthew Pochin-Hawkes in cross-examination.

<sup>72</sup> Andrew Cook's evidence, paragraph 8.18 (CD8.19).

<sup>73</sup> Environmental Statement paragraphs 5.2.39 and 6.6.4 (CD1.8); Supplementary Environmental Information, paragraphs 5.2.40, 5.7.4 and 6.5.4 (CD2.10); Design and Access Statement paragraph 3.8 (CD1.6).

<sup>74</sup> Appellant's Statement of Case, paragraphs 9.22 and 9.30(c) (CD8.4); Andrew Cook's evidence paragraphs 8.1 and 8.4 (CD 8.19); Appellant's Planning Statement Addendum paragraph 7.17 (CD2.6).

- Site is a tiny part of National Character Area 134 (Dorset Downs and Cranborne Chase) which extends over 1,400 sq km.<sup>75</sup>
- Site not situated in a built-up area or close to habitation.<sup>76</sup>
- There would be no unacceptable glint or glare.<sup>77</sup>
- Close views of full extent of installation minimised by existing and new hedgerows.<sup>78</sup>
- Height of development minimised, less than that of surrounding hedgerows, some crops such as maize, or agricultural practices covering large areas of rural land, such as glasshouses or poly-tunnels.<sup>79</sup>
- Existing public rights of way (a small section of the 290-mile Macmillan Way<sup>80</sup>) retained on existing alignments in protected corridors.<sup>81</sup>
- There would be no effect on the night sky.<sup>82</sup>
- Within the context of the AONB, the site is unremarkable.<sup>83</sup>

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<sup>75</sup> Andrew Cook's evidence, paragraph 5.5 (CD8.19); Environmental Statement paragraph 5.3.33 (CD1.8)

<sup>76</sup> Appellant's Statement of Case paragraph 9.12 (CD8.4); Statement of Common Ground (CD8.6) paragraph 8.40 confirms compliance with Development Plan policy ENV16; Andrew Cook's evidence paragraph 7.5 (CD8.19); Design and Access Statement paragraphs 2.2 and 3.7 (CD1.6)

<sup>77</sup> Statement of Common Ground paragraph 8.39 (CD8.6); Andrew Cook's evidence paragraph 7.6 (CD8.19); Solar Voltaic Glint and Glare Study, April 2021 by Pager Power (CD1.16)

<sup>78</sup> Appellant's Statement of Case, paragraph 9.18 (CD8.4); Andrew Cook's evidence paragraphs 6.11-12 (CD8.19); Steve Bainbridge's evidence (CD8.18) paragraph 8.75, referencing appeal decision APP/H1705/W/22/3304561 (CD6.8); appellant's NPPF §177 Compliance Note paragraph 23 (CD2.5); Design and Access Statement paragraph 5.2 (CD1.6)

<sup>79</sup> Appellant's Statement of Case, paragraph 9.18 (CD8.4); Environmental Statement paragraph 3.3.8 (CD1.8); Design and Access Statement paragraphs 3.15, 3.17, 3.19 and 3.24 (CD1.6); oral evidence in chief of Andrew Cook; accepted by Sarah Barber in cross-examination.

<sup>80</sup> Steven Bainbridge's evidence paragraph 5.2 (CD8.18)

<sup>81</sup> Appellant's Statement of Case, paragraphs 9.18 and 9.30(e) (CD8.4); Statement of Common Ground paragraph 8.46 (CD8.6); Andrew Cook's evidence (CD8.19), paragraph 5.8 claiming compliance with National Character Area 134's Statement of Environmental Opportunity SE03 and paragraph 6.10; Steven Bainbridge's evidence (CD8.18) paragraphs 5.3 to 5.5 and 5.8; conceded by Sarah Barber in cross-examination.

<sup>82</sup> Accepted by Sarah Barber in cross-examination.

<sup>83</sup> Andrew Cook's evidence paragraph 5.4 (CD8.19); accepted by Sarah Barber in cross-examination.

- Limited and localised visual effect.<sup>84</sup> New permissive footpath provides alternative panoramic views.<sup>85</sup>
  - Effect on tranquillity visual, not aural.<sup>86</sup>
  - Other than on site itself, little or no actual physical change to the landscape<sup>87</sup>. Even on the site itself, the solar panels would sit lightly on the ground, the topography of which would be retained.<sup>88</sup>
  - The AONB's special qualities would be materially unaffected<sup>89</sup> and would be protected through the contribution which the proposal would make to protect against climate change.<sup>90</sup>
  - Proposal accords with the guidelines of the Dorset AONB Landscape Character Assessment.<sup>91</sup>
  - Wider views within the AONB restricted by topography and vegetation and impact reduced by distance, retention of existing landscape pattern, scale, structure and characteristic features.<sup>92</sup>
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<sup>84</sup> Andrew Cook's evidence, paragraphs 8.6-8.7 (CD8.19); Steven Bainbridge's evidence (CD8.18), paragraphs 4.6, 5.5 and 5.6 and 5.7, claiming compliance with Development Plan policy COM7; Environmental Statement (CD1.8) chapter 5, largely superseded by Supplementary Environmental Information (CD2.10), chapter 5; extent of view-zone defined in ES paragraph 5.3.60 and in SEI paragraph 5.3.67; summary of findings of ES tabulated in appendix 5.6 (CD1.9), largely superseded by table 5.6A in Supplementary Environmental Information document (CD2.10).

<sup>85</sup> Appellant's Statement of Case (CD8.4), paragraphs 9.26-9.28; Statement of Common ground (CD8.6) paragraph 8.48; Andrew Cook's evidence (CD8.19) paragraphs 6.13 and 9.7; Steven Bainbridge's evidence (CD8.18), paragraph 5.6.

<sup>86</sup> Appellant's Statement of Case, paragraph 9.20 (CD8.4); Appellant's Planning Statement Addendum paragraph 7.15 (CD2.6); Environmental Statement paragraph 5.2.42 (CD1.8); Andrew Cook's evidence paragraph 5.44 (second and third sentences) (CD8.19).

<sup>87</sup> Andrew Cook's evidence section 4 and paragraphs 5.7, 5.13, 5.16, 5.32, 5.36, 5.41-5.43, 5.44 (first sentence) and 9.5 (CD8.19); Steven Bainbridge's evidence paragraphs 4.1 to 4.4 (CD8.18); largely conceded by Sarah Barber in cross-examination; Appellant's Planning Statement Addendum paragraphs 7.12-14 (CD2.6); the findings of the Environmental Statement are tabulated in its Appendix 5.5 (CD1.9), largely superseded by appendix 5.5A from the Supplementary Environmental Information document (CD2.10).

<sup>88</sup> Accepted by Sarah Barber in cross-examination.

<sup>89</sup> Andrew Cook's evidence, paragraph 8.17 (CD8.19); Supplementary Environmental Information paragraphs 5.2.41 to 5.2.45, 5.7.5 to 5.7.9 and 6.5.5 to 6.5.10 (CD2.10).

<sup>90</sup> Steven Bainbridge's evidence paragraphs 2.26 to 2.29 (CD8.18); Andrew Cook's evidence, paragraphs 8.5-8.6 (CD8.19).

<sup>91</sup> Andrew Cook's evidence, paragraphs 5.16, 5.25-5.35 (CD8.19).

<sup>92</sup> Appellant's Statement of Case, paragraphs 9.19 and 9.22 (CD8.4); Statement of Common Ground (CD8.6) paragraph 8.37 confirms compliance with Development Plan policy ENV4;

- Of 25 representative viewpoints, three would experience effects of major adverse significance, ten (mostly at Fore Hill and Hog Cliff or Hog Cliff Bottom) would experience moderate adverse effects, four (and walkers at a fifth) would experience minor to negligible effects and seven (and road users at an eighth) would experience negligible or neutral effects.<sup>93</sup>
- Only about half of the site would be Best and Most Valuable Agricultural Land.<sup>94</sup> Pastoral agricultural use by sheep would continue.<sup>95</sup>

Andrew Cook's evidence paragraphs 6.5, 6.14-6.23, 8.8, 8.10 (CD8.19); Steven Bainbridge's evidence (CD8.18), paragraph 4.6 and 8.64 referencing appeal decision APP/B3030/W/21/3279533 (CD6.1); Appellant's Planning Statement Addendum paragraphs 7.12-14 (CD2.6); Environmental Statement paragraph 3.3.8 and chapter 5 (CD1.8), largely superseded by Supplementary Environmental Information, chapter 5 (CD2.10); extent of view-zone defined in ES paragraph 5.3.60 and in SEI paragraphs 5.3.67 and 5.4.24; "A review of the ZTV shows that the extent of potential intervisibility/yellow shading including the Application Site (e.g. direct and potential indirect effect) forms a limited portion of the 5km radius study area and is limited to the southwestern flank of the Frome valley, which in the context of the Dorset AONB is very localised."; summary of findings of ES tabulated in appendix 5.6, largely superseded by table 5.6A in Supplementary Environmental Information document; Design and Access Statement paragraph 3.23 and 5.2 (CD1.6); in cross-examination, Sarah Barber accepted that from across the valley, the viewer experiences a wide angle of view, of which the site is a small component, that the vertical proportion of the view that would be occupied by the scheme is small and that existing electricity pylons along the ridgeline in the far distance beyond the site can be seen. The Council's advocate in his closing remarks pointed out that, as the site is on a slope, it is correct that there is no visibility from the south but that cannot justify the description of it having a "*very limited visual envelope*"; the same is true of most sloped areas, eg on the various sides of Snowden but it would be absurd to describe those slopes as having very limited visual envelopes just because they are not visible from the other side of the mountain summit.

<sup>93</sup> Supplementary Environmental Information paragraph 5.4.73 (CD2.10); in cross-examination Andrew Cook characterised the effects as ranging between negligible and minor and pointed out that some people would be pleased to see measures designed to deliver renewable energy.

<sup>94</sup> Appellant's Statement of Case (CD8.4), paragraph 7.22, referencing draft revised EN-3, paragraph 2.48.13 (CD8.42) and appellant's Statement of Case (CD8.4) paragraphs 9.29 and 9.30; Andrew Cook's evidence paragraph 3.6 (CD8.19); Steven Bainbridge's evidence (CD8.18) paragraph 8.63, referencing appeal decision APP/B3030/W/21/3279533 (CD6.1); Agricultural Land Classification report by Amet Property April 2021 (CD1.2); Sequential Analysis Study paragraph 1.3 (CD2.8).

<sup>95</sup> Appellant's Statement of Case, paragraph 9.30(b) (CD8.4), Statement of Common Ground paragraph 8.35 (CD8.6); Andrew Cook's evidence, paragraphs 4.5, 4.7 and 5.42 (CD8.19); Steve Bainbridge's evidence (CD8.18) paragraph 8.68, referencing appeal decision APP/Y1138/W/22/3293104 (CD6.4); appellant's NPPF §177 Compliance Note paragraph 23 (CD2.5); Appellant's Planning Statement paragraph 5.22 (CD1.14); Appellant's Planning Statement Addendum paragraph 7.9 (CD2.6); Design and Access Statement paragraph 3.3 (CD1.6); conceded by Sarah Barber in cross-examination.

- Minimal loss of agricultural land for substation and transformers.<sup>96</sup>  
Loss of BMV agricultural land not a reason for refusal.<sup>97</sup>
- There would be environmental benefits not related to energy provision, resulting in Biodiversity Net Gain.<sup>98</sup> The proposal would comply with Development Plan policy ENV10.<sup>99</sup>
  - By retaining existing trees and hedgerows.<sup>100</sup>
  - By planting new trees and hedgerows.<sup>101</sup>

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<sup>96</sup> Andrew Cook's evidence paragraph 5.37 (CD8.19); The submitted Ecological Assessment Report dated February 2022 by Avian Ecology, paragraph 4.3.6 (CD2.2) observes that "Current BRE guidance (Biodiversity Guidance for Solar Developments. Eds G E Parker and L Greene.) states that, as panels are raised above the ground on posts, over 95% of a site used for solar farm development is still accessible for plant growth and complementary agricultural activities, such as conservation grazing."

<sup>97</sup> Statement of Common ground, paragraph 8.32 (CD8.6)

<sup>98</sup> Appellants Planning Statement Addendum, paragraphs 7.21-7.24 (CD2.6); Appellant's Statement of Case, paragraphs 9.18 and 9.30 (CD8.4); Statement of Common Ground paragraph 8.52 (CD8.6) confirms compliance with Development Plan policy ENV2, also SOCG paragraph 8.58; Steve Bainbridge's evidence (CD8.18) paragraph 8.33 and 8.76, referencing appeal decision APP/H1705/W/22/3304561 (CD6.8); The submitted Ecological Assessment Report dated February 2022 by Avian Ecology, (CD2.2) paragraph 4.3.6 observes that "The current RSPB briefing note on Solar Energy (*Solar Energy: RSPB Policy Briefing, December 2014.*) also states that biodiversity gains are possible where intensively cultivated arable or grassland is converted to extensive grassland and/or wildflower meadows between and/or beneath solar panels and in field margins." The submitted Biodiversity Management Plan dated December 2021 by Avian Ecology (CD2.2a) (attached as Appendix 4 to the submitted Ecological Assessment Report dated February 22) points out in paragraph 1.1.3 that the BRE publication Biodiversity Guidance for Solar Developments advises that "*Recent research suggests biodiversity gains on solar farms can be significant*". Paragraph 4.3.7 of the submitted Biodiversity Management Plan calculated the Biodiversity Net Gain as 39% for area-based units and 22% for linear-based units based on DEFRA metric v2. The biodiversity net gain calculations based on DEFRA metric v4 are attached as appendix 7 to Steven Bainbridge's evidence (CD8.18). They show a BNG of 71.05% for habitat units and 26.76% for hedgerow units.

<sup>99</sup> Steven Bainbridge's evidence, paragraphs 2.22 to 2.25. (CD8.18)

<sup>100</sup> Statement of Common Ground, paragraph 8.56 (CD8.6); Andrew Cook's evidence (CD8.19) paragraph 5.8, claiming compliance with National Character Area 134, Statement of Environmental Opportunity SE02; Arboricultural Impact Assessment by Barton Hyett Associates April 2020, section 6 (CD1.3); submitted Biodiversity Management Plan by Avian Ecology, section 3 (CD2.2a); Design and Access Statement, paragraphs 3.7, 3.10 and 3.20 (CD1.6).

<sup>101</sup> Andrew Cook's evidence, paragraphs 3.8(iii) and (iv), 3.14, 4.12, 5.38 and 5.39 (CD8.19); Steven Bainbridge's evidence paragraph 4.5 (CD8.18); submitted Biodiversity Management Plan by Avian Ecology, sections 4 and 5 (CD2.2a); appellant's Planning Statement (May 2021) paragraph 6.6 (CD1.14); Design and Access Statement, paragraphs 3.7, 3.10, 3.20 and 3.24 (CD1.6); in cross-examination, Sarah Barber conceded that there would be biodiversity gains resulting from the new hedging but retained her view that it would be inconsistent and harmful to the landscape character of the site.

- By establishing 15.31ha of grassland beneath the solar panels<sup>102</sup>, a wildflower meadow and nature conservation features, including bird and bat boxes.<sup>103</sup>
    - By removing land from intensive agriculture whilst retaining sheep grazing.<sup>104</sup>
    - By improving the site's handling of rainwater run-off.<sup>105</sup>
  - There would be local economic benefits,<sup>106</sup> including farm diversification.<sup>107</sup>
  - The proposal is for a time-limited period of 40 years, following which the site would be reinstated.<sup>108</sup>
  - All relevant matters other than the single reason for refusal are satisfactory<sup>109</sup>. The presence of adverse effects does not make a scheme automatically unacceptable.<sup>110</sup> The benefits of energy production and
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<sup>102</sup> Ecological Assessment Report dated February 2022 by Avian Ecology, paragraph 4.3.8 (CD2.2); Planning Statement (May 2021), paragraph 6.9 (CD1.14).

<sup>103</sup> Andrew Cook's evidence, paragraphs 3.8(v) and (vi) and 3.14 (CD8.19); submitted Biodiversity Management Plan by Avian Ecology, paragraphs 4.2.1 and 4.2.5 (CD2.2a).

<sup>104</sup> Appellant's Statement of Case (CD8.4), paragraph 9.21, referencing Dorset AONB "Guidelines for Large Scale Solar PV Arrays"; Andrew Cook's evidence paragraphs 3.8(ii), 4.11 and 5.11-5.12 (CD8.19); Steve Bainbridge's evidence (CD8.18) paragraph 8.78, referencing appeal decision APP/H1705/W/22/3304561 (CD6.8); Arboricultural Impact Assessment by Barton Hyett Associates April 2020, paragraph 6.3 (CD1.3); Arboricultural Survey Report by Barton Hyett Associates March 2021, paragraph 5.2 (CD1.4); Appellant's Planning Statement Addendum paragraph 7.16 (CD2.6); Environmental Statement paragraph 5.2.30 (CD1.10), quoting Dorset AONB Partnership Board's Guidance for Large Scale Solar Arrays in the Dorset AONB.

<sup>105</sup> Flood Risk Assessment April 2021 by PFA Consulting, paragraph 3.64 (CD1.11).

<sup>106</sup> Appellant's Statement of Case (CD8.4), paragraphs 9.7, referencing support from Maiden Newton Parish Council, and 9.8; Statement of Common Ground paragraph 8.58(g) (CD8.6); Steven Bainbridge's evidence (CD8.18), paragraphs 6.2 and 8.77 referencing appeal decision APP/H1705/W/22/3304561 (CD6.8); appellant's Planning Statement (May 2021), paragraph 6.11 (CD1.14).

<sup>107</sup> Appellant's Planning Statement (May 2021), paragraph 6.13 (CD1.14)

<sup>108</sup> Appellant's Statement of Case (CD8.4), paragraph 7.23, referencing draft revised EN-3 paragraph 2.49.13 (CD8.42). Statement of Common Ground, paragraph 8.28, 8.33, 8.34 and 8.57 (CD8.6); Andrew Cook's evidence paragraph 4.15 (CD8.19); Steven Bainbridge's evidence section 7 (CD8.18); appellant's Planning Statement paragraph 5.23 (CD1.14); Design and Access Statement paragraphs 1.3 and 3.4. (CD1.6).

<sup>109</sup> Steven Bainbridge's evidence, paragraph 2.3 (CD8.18).

<sup>110</sup> Accepted by Matthew Pochin-Hawkes in cross-examination.

economic and environmental benefits would outweigh the harm.<sup>111</sup> The proposal would therefore comply with the Development Plan overall and policy ENV1 in particular.<sup>112</sup>

### **The Case for Dorset Council**

46. The Council's case is also straightforward;

- Section 85 of the Countryside and Rights of Way Act 2000 places a statutory duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of AONBs in performing their planning functions<sup>113</sup>. The location of the proposal within an AONB would have adverse effects on most of its Special Qualities of undeveloped rural character, tranquillity, remoteness, dark night skies and uninterrupted panoramic views and is contrary to its primary purpose which is the conservation and enhancement of the landscape and scenic beauty of the designated area, contrary to Development Plan policies ENV1 and COM11 and Dorset AONB Management Plan policy C1(a).<sup>114</sup>
  - The central factor that makes the site inappropriate for the proposed development is its sloping topography on the southern side of the Frome Valley and associated inability to appropriately mitigate adverse effects within the AONB. The topography and north-facing aspect also reduces the efficiency of the site for renewable energy generation.<sup>115</sup>
  - The appellant's Landscape and Visual Impact Assessment (LVIA) underestimates the harm which would be caused.<sup>116</sup> The

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<sup>111</sup> Appellant's Statement of Case paragraph 9.23 (CD8.4); Steven Bainbridge's evidence (CD8.18) section 8, referencing appeal decisions APP/B3030/W/21/3279533 (CD6.1) and APP/Y1138/W/22/3293104 (CD6.4); appellant's Planning Statement, section 7 (CD 1.14); Appellant's Planning Statement Addendum sections 7 and 8 (CD2.6); Design and Access Statement paragraph 3.8.(CD1.6).

<sup>112</sup> Steven Bainbridge's evidence, paragraphs 2.17 to 2.20 and section 8 (CD8.18).

<sup>113</sup> Matthew Pochin-Hawkes's evidence paragraph 5.10 (CD8.20).

<sup>114</sup> Council's Statement of Case, paragraphs 8.7 and 8.15 (CD8.5); Committee report paragraphs 2 and 14.18 (CD3.1); Sarah Barber's evidence paragraphs 7.3 to 7.5 and 7.10-7.11 (CD8.21); Matthew Pochin-Hawkes's evidence paragraphs 5.10, 5.11 and 5.16 (CD8.20). In closing submissions, the Council's advocate submitted that the development would detract from three out of four characteristics, the exception being dark skies.

<sup>115</sup> Matthew Pochin-Hawkes's evidence, paragraph 5.42 (CD8.20).

<sup>116</sup> Council's Statement of Case, paragraphs 8.7 and 8.11 (CD8.5); Sarah Barber's evidence (CD8.21) paragraph 4.13(a) points out that paragraph 5.3.4 of the appellant's Landscape and Visual Impact Analysis underestimates the height of land on the north side of the Frome Valley from which viewpoints arise; her evidence paragraph 4.25, points to restricted or blocked views when looking north/north-east from the Macmillan Way; her evidence paragraphs 4.27 and 4.40 point out that, contrary to the assertion within paragraph 1.7 of Appendix 5.1 of the appellant's Environmental statement that "*even with clear visibility the proposals would not be perceptible in the landscape beyond this distance*" (1km), the

photomontages used in the LVIA do not provide winter views, misrepresent the colour of the rear of the solar panels and do not recreate the ability of the human eye to detect contrasts between the colour and texture of the manmade panels and the wider natural landscape.<sup>117</sup>

- The two fields within the site would be changed from a familiar and appropriate rural agricultural use to an industrial scale energy production use, physically altering the land cover and perception of this sensitive upland landscape through the installation of massed modern elements and utilitarian energy generation infrastructure.<sup>118</sup>
- Every part of the zone from which the development would be visible is distinctly rural.<sup>119</sup> The UK government's Solar Strategy (2014) acknowledges that large-scale solar farms can have a negative impact on the rural environment.<sup>120</sup>

appellant's own LVIA shows that the site would be clearly visible at distances between 1.5 and 2.5km distant (eg from Grimstone Down 3.6km to east); In Sarah Barber's evidence, paragraphs 5.4-5.12 describe and tabulate her disagreements with the appellant's LVIA judgements on the proposal's physical effects on the landscape. However, as the appellant's advocate pointed out in her closing remarks; "in oral evidence it became clear that Ms Barber's Proof had conflated the impact on the individual landscape features of the site with the visual impacts arising. Looking at the impact on landscape elements considered as physical features, there is now following cross-examination extensive common ground between her and Mr Cook." In Sarah Barber's evidence, paragraphs 6.1 to 6.19, 7.9 and 7.12 describe and tabulate her disagreements with the appellant's LVIA judgements on the proposal's visual effects on the landscape. Under cross-examination, these judgements were modified and an amended tabulation submitted as Inquiry Document 1. The remaining points of disagreement concern viewpoint 5 (Farm Hill Bottom and Hog Cliff National Nature Reserve and Open Access Land), 10 (from the Macmillan Way, entering the site from the north), 15 (Fore Hill), 17 (from a Public Right of Way south of Blastmoor Hill Barn, 19 (from Hog Cliff Bottom), 20 (from Hog Cliff Farm Track), 21 (from Open Access Land north of Combe Bottom), 24 (Fore Hill), 25 (the Macmillan way within the site) and viewpoints (A) and (B) not considered within the appellant's LVIA. The Council's advocate pointed out in his closing submissions that the appellant's landscape witness employs a fixed approach to the threshold for significance, regardless of context of the project, contrary to the Landscape Institute's Guide to Landscape and Visual Impact Assessment paragraph 3.33, for reasons which were not adequately explained but which favours the appellant and that, of the four landscape architects who have appraised the appeal proposal, the appellant's landscape witness is alone in regarding moderate effects as not significant.

<sup>117</sup> Sarah Barber's evidence, paragraphs 6.10-6.12 and 6.19 (CD8.21). In oral evidence in chief, she referred to the back sheets of the solar panels as a grey buff tone.

<sup>118</sup> Sarah Barber's evidence paragraphs 5.12(b) and (c) and 7.8 (CD8.21); Matthew Pochin-Hawkes's evidence paragraph 5.13; (CD8.20).

<sup>119</sup> Sarah Barber's evidence paragraph 4.26 (CD8.21).

<sup>120</sup> Matthew Pochin-Hawkes's evidence paragraph 5.9 (CD8.20).

- Whilst Planning Practice Guidance does not preclude solar farms from AONBs<sup>121</sup>, exceptional circumstances to justify the development within the AONB do not exist<sup>122</sup>, contrary to NPPF paragraph 177(c)<sup>123</sup> and paragraph 5.9.8 of the National Policy Statement for Energy (EN-1).<sup>124</sup>
- NPPF paragraph 176 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB. That applies regardless of the significance of the effect.<sup>125</sup>
- The proposal does not comply with Development Plan policy ENV10 as it fails to contribute positively to the maintenance and enhancement of local identity and distinctiveness of the landscape character area of the Upper Frome Valley as set out in the West Dorset Landscape Character Assessment (2009)<sup>126</sup>. The appeal site demonstrates the key characteristics and special qualities of this landscape character area; fine panoramic views from distinct linear ridgelines, undeveloped rural character with a sense of seclusion and tranquillity and a strong sense of rural tradition.
- The PV Panels would be orientated south – on the north facing slope – working against the landform.<sup>127</sup>
- The detrimental effect on the Macmillan Way (a recreational resource) would not be acceptable.<sup>128</sup>

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<sup>121</sup> Matthew Pochin Hawkes's evidence (CD8.20) paragraph 5.8 referencing Guidance paragraph 013 Reference ID: 5-013-20150327.

<sup>122</sup> Council's Statement of Case, paragraph 8.17 (CD8.5).

<sup>123</sup> Matthew Pochin-Hawkes's evidence, paragraph 5.6 (CD8.20).

<sup>124</sup> Matthew Pochin-Hawkes's evidence, paragraph 5.7 (CD8.20).

<sup>125</sup> Sarah Barber's evidence, paragraphs 3.2 and 3.4 (CD8.21); Matthew Pochin-Hawkes's evidence, paragraph 5.5 (CD20).

<sup>126</sup> Committee report, paragraph 2 (CD3.1); the key characteristics of the Landscape Character Area are set out in Sarah Barber's evidence paragraphs 4.36-4.38, 7.5-7.8 (CD8.21).

<sup>127</sup> Sarah Barber's evidence, table 4 and paragraph 7.8 (CD8.21); draft EN-3 paragraph 3.10.10 points out that a favourable south-facing aspect is more likely to increase year-round irradiance levels (CD8.42).

<sup>128</sup> Council's Statement of Case, paragraphs 8.5 and 8.15 (CD8.5); committee report paragraphs 14.19 and 14.27 (CD3.1); the value of the Macmillan Way is set out in Sarah Barber's evidence paragraph 4.31 (CD8.21) and in Matthew Pochin-Hawkes's evidence paragraphs 5.18-5.21 (CD8.20); at paragraphs 5.4 and 5.5 and in table 3 Sarah Barber points out that effects on the Macmillan Way where it runs through the site were not assessed within the appellant's LVIA.

- Within the Dorset section of the Macmillan Way there are currently no existing solar developments that directly impact on its experiential qualities.<sup>129</sup>
- The solar panels and security fencing would be visible at close range before planted screening takes effect.<sup>130</sup>
- The additional hedging proposed would produce a tunnelling effect.<sup>131</sup>
- Existing long distance panoramic views of an undeveloped rural scene characteristic of the special qualities of the AONB would be blocked or restricted.<sup>132</sup>
- The alternative permissive footpath proposed offers limited panoramic views of the Maiden Newton settlement, not characteristic of the special qualities of the AONB.<sup>133</sup>
- Appreciation of the landscape from Public Rights of Way and areas of Open Access Land would be harmed by an isolated, discordant and incongruous development, quasi-industrial in appearance within an open upland landscape, contrary to Development Plan policies ENV1, ENV10 and Dorset AONB Management Plan policy C2.<sup>134</sup>
  - The site is highly visible in local and mid-range views from numerous elevated vantage points to the north and north-east of the Frome Valley, particularly from Fore Hill and Hog Cliff (a National Nature Reserve<sup>135</sup>) because of the sloping topography of the site (which means that hedgerows planted or retained as screening would be ineffective), the undulating topography of its surroundings and the dense network of Public Rights of Way and of Open Access Lands.<sup>136</sup>

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<sup>129</sup> Sarah Barber's evidence paragraph 4.32 (CD8.21).

<sup>130</sup> Sarah Barber's evidence paragraph 5.12(e) (CD8.21).

<sup>131</sup> Committee report, paragraph 14.27 (CD3.1); Sarah Barber's evidence paragraph 5.12(e) (CD8.21); Matthew Pochin-Hawkes's evidence paragraph 5.22 (CD8.20).

<sup>132</sup> Sarah Barber's evidence, paragraph 5.12(e) (CD8.21); Matthew Pochin-Hawkes's evidence paragraph 5.22 (CD8.20).

<sup>133</sup> Council's Statement of Case, paragraph 8.10 (CD8.5); Sarah Barber's evidence paragraph 4.33 (CD8.21); Matthew Pochin-Hawkes's evidence paragraph 5.23 (CD8.20).

<sup>134</sup> Council's Statement of Case, paragraph 8.7 (CD8.5); committee report, paragraphs 14.18 and 14.20 (CD3.1).

<sup>135</sup> Sarah Barber's evidence paragraph 4.13(c) (CD8.21).

<sup>136</sup> Council's Statement of Case, paragraphs 3.2, 8.3 and 9.11 (CD8.5); committee report paragraph 14.19 (CD3.1); Sarah Barber's evidence, paragraphs 6.1 and 6.2 (CD8.21); Matthew Pochin-Hawkes's evidence, paragraphs 5.14 and 5.25 (CD8.20).

- Planning guidelines for the Landscape Character Area from which these views are experienced include; *"Conserve and enhance the distinctive undeveloped character of the open downland landscape and the long ranging views especially from roads, Rights of Ways and key viewpoints."*<sup>137</sup>
- The appellant's proposed mitigation would itself be harmful.<sup>138</sup>
- The presence of the solar farm and off-site biodiversity enhancement area would limit agricultural opportunities for the lifetime of the development reducing the agricultural productivity of the site which includes Best and Most Valuable agricultural land.<sup>139</sup> The 2015 Written Ministerial Statement on Solar Energy reiterated the need to protect the local environment, including higher quality agricultural land.<sup>140</sup>
- Whilst recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, the proposal's contribution to the national need for renewable energy would be small<sup>141</sup> and so its contribution towards the conservation and enhancement of the AONB by reducing the effects of climate change is nothing more than innumerate speculation.
- The need for renewable energy generation could be met in other ways:<sup>142</sup>
  - Dorset Council's Cabinet approved the 'Natural Environment, Climate and Ecology Strategy 2023-25 Refresh', the 'Natural Environment, Climate & Ecology Action Plan' and 'Interim Guidance and Position Statement' on 28 March 2023.<sup>143</sup>

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<sup>137</sup> Sarah Barber's evidence paragraph 4.39 (CD8.21), including other relevant planning guidelines.

<sup>138</sup> Council's Statement of Case, paragraphs 8.7 and 8.14 (CD8.5); committee report paragraph 14.20 (CD3.1); Sarah Barber's evidence, table 4 and paragraph 5.12(d) (CD8.21).

<sup>139</sup> Council's Statement of Case, paragraphs 8.14, 8.15 and 9.12 (CD8.5); Committee report paragraph 14.5 (CD3.1); Sarah Barber's evidence paragraph 5.12(c) (CD8.21); Matthew Pochin-Hawkes's evidence, paragraphs 5.52-5.54. (CD8.20).

<sup>140</sup> Matthew Pochin-Hawkes's evidence, paragraph 5.9 (CD8.20); draft EN-3, paragraph 3.10.14 advises that the use of BMV agricultural land should be avoided where possible (CD8.42).

<sup>141</sup> Matthew Pochin-Hawkes's evidence, paragraph 5.28 (CD8.20). In that paragraph he suggests that the appeal proposal would make a negligible contribution of below 0.001% to the national target of an additional 56GW by 2035. His calculation is mistaken; the correct figure would be 0.0210714% but that does not necessarily invalidate his point.

<sup>142</sup> Council's Statement of Case (CD8.5), paragraph 8.12, referencing the Renewable Energy Planning Database (CD8.44), SSEN's register identifying Points of Connection (CD8.60) and the World Bank Group Solar Resource Maps showing UK irradiation (CD8.57); Council's Statement of Case, paragraph 9.2 (CD8.5); committee report, paragraph 14.17 (CD3.1); Matthew Pochin-Hawkes's evidence paragraphs 4.2, 5.29 and 5.35 (CD8.20).

<sup>143</sup> Council's Statement of Case, paragraph 4.1 (CD8.5).

- The Strategy will include identifying suitable sites in the new Local Plan, having regard for landscape, the historic environment, amenity, ecology, and productive farmland impacts and other constraints.<sup>144</sup>
  - The Dorset Low Carbon Energy Route Map and Evidence Base (2021) and Dorset Low Carbon Investment Opportunities (2021) documents identify opportunities for renewable energy deployment whilst recognising planning and grid constraints<sup>145</sup>. Opportunities exist with high levels of irradiation outside of the AONB or within less sensitive parts of the AONB.<sup>146</sup>
  - Scottish & Southern Electricity Network (SSEN)'s Distribution Future Energy Scenario Report for Southern England Area (2021) comments on grid capacity for generation but does not cite this as a constraint for Dorset.<sup>147</sup>
  - SSEN's June 2023 register of generation and storage resources that are connected, or accepted to connect, to the electricity distribution networks identifies 22 emerging solar projects within Dorset which have an accepted POC (including the appeal site). The majority are outside the AONB. They have a registered capacity of over 800MW.<sup>148</sup>
  - The appellant's area of search for alternative sites was too limited.<sup>149</sup> No viability evidence to substantiate claim that site is limited to within 3km of a Point of Connection.<sup>150</sup>
  - Not every Point of Connection need be utilised.<sup>151</sup> There are other POCs within Dorset which would not necessitate the development of
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<sup>144</sup> Council's Statement of Case, paragraph 4.3 (CD8.5).

<sup>145</sup> Council's Statement of Case, paragraph 4.5 (CD8.5).

<sup>146</sup> Council's Statement of Case, paragraphs 9.6 and 9.9 (CD8.5); Matthew Pochin-Hawkes's evidence (CD8.20) paragraph 5.40 points out that the Council has given planning permission for three solar farms within the AONB (at Southern Counties Shooting Ground, at Rampisham Down and at Bryanston, Blandford Forum which illustrate ways in which major solar farms can be appropriately accommodated within the Dorset AONB in a less harmful way.

<sup>147</sup> Committee report paragraph 14.17 (CD3.1).

<sup>148</sup> Matthew Pochin-Hawkes evidence, paragraph 5.41 (CD8.20).

<sup>149</sup> Council's Statement of Case, paragraphs 8.4 and 9.4 (CD8.5); Committee report paragraph 14.16 (CD3.1); Matthew Pochin-Hawkes's evidence paragraphs 5.38 and 5.43 (CD8.20).

<sup>150</sup> Council's Statement of Case, paragraph 9.3 (CD8.5); Matthew Pochin-Hawkes's evidence paragraph 5.38 (CD8.20).

<sup>151</sup> Council's Statement of Case, paragraph 9.5 (CD8.5); Matthew Pochin-Hawkes's evidence paragraph 5.38 (CD8.20).

the proposed site and significant upgrades to grid infrastructure are expected within the lifetime of the proposed development.<sup>152</sup>

- The temporary nature of the proposal is half a lifetime, a permanent rather than temporary feature.<sup>153</sup>
- The site is poorly suited to the proposed development due to: its north-facing aspect; topography and visually exposed location within the Dorset AONB; resultant adverse landscape and visual effects; presence of best and most versatile agricultural land (BMV); and proximity to public rights of way<sup>154</sup>. Whilst some benefits are recognised<sup>155</sup> (the environmental effects of producing renewable energy, economic benefits and biodiversity net gain), these would not outweigh the harms to the Dorset AONB, Public Rights of Way and Open Access Land and agricultural productivity. Proximity to a Point of Connection does not override the harms identified.<sup>156</sup> Exceptional Circumstances to justify the development within the AONB do not exist.<sup>157</sup>

### **The Case for the Dorset AONB Partnership**

47. The case for the Dorset AONB Partnership is set out in its representations of 30 July 2021 to the Council on the original application, in its subsequent representations of 12 January 2022 on the supplementary information provided by the applicant, in its written representations dated 12 May 2023 to the Inspectorate and in its opening submissions to the Inquiry dated 26 July 2023 and its undated closing submissions. In summary, the case is as follows;

- The key difficulties in accepting this proposal arise from its elevated and isolated position amongst the downs; the fact that the promoted Macmillan Trail runs directly alongside the site, and; the clear visibility of the site from locations on the other side of the valley (including Hog Cliff National Nature Reserve and a range of footpaths above Maiden Newton). The site is an upland spur between two coombes, elevated, widely visible and clearly characteristic of the protected downland that it exemplifies, with its

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<sup>152</sup> Matthew Pochin-Hawkes's evidence paragraph 5.55 (CD8.20); under cross-examination, Steven Bainbridge accepted that the government's commitment to a five-fold increase in the deployment of solar energy could not occur without the delivery of network reform referred to in the government's Energy Security Plan at page 50.

<sup>153</sup> Committee report, paragraph 14.19 (CD3.1); Sarah Barber's evidence paragraph 5.12(a) (CD8.21); Matthew Pochin-Hawkes's evidence paragraph 5.15 (CD8.20).

<sup>154</sup> Matthew Pochin-Hawkes's evidence, paragraphs 5.37 and 6.3 (CD8.20).

<sup>155</sup> Matthew Pochin-Hawkes's evidence, paragraphs 5.46-52, 5.55 and 6.2 (CD8.20).

<sup>156</sup> Council's Statement of Case, paragraph 9.8 (CD8.5).

<sup>157</sup> Council's Statement of Case, paragraphs 8.13 and 8.17 (CD8.5); committee report paragraphs 14.21 and 14.29 to 14.31 and 16.1 (CD3.1); Matthew Pochin-Hawkes's evidence, paragraph 6.1 (CD8.20).

fine views, tranquil/remote experience and strong undeveloped rural character.

- The significant landscape and visual effects of the proposal conflict with the primary purpose of the AONB designation, which is to conserve and enhance natural beauty, to which NPPF attaches great weight.
- AONBs are an important resource for wellbeing and recreation; their protection is therefore in the public interest.
- The AONB can better respond to the climate and ecological emergency through nature recovery and increased soil carbon storage rather than through large scale renewable energy production.
- Over 75% of England and nearly half of Dorset is not subject to AONB designation, so alternative suitable locations are likely.
- National Planning Policy does not encourage large scale developments within AONBs. Major proposals should only be permitted in exceptional circumstances and in the public interest.
- Exceptional circumstances may include the weight attached to the need, the inability to meet this without an AONB location and considerations concerning the moderation of effects on the environment, landscape and recreation. The proposal does not exhibit overriding exceptional considerations and so fails the major development test of NPPF paragraph 177. It is difficult to consider the Biodiversity enhancements as being of exceptionally high value.
- The AONB team works to deliver as many renewable energy proposals that are compatible with the designation as possible. Some developments have shown considerable benefits beyond renewable energy production and have had impacts not substantially in conflict with the purpose of AONB designation, eg permission WD/D/14/001307 for a 9MW solar farm at the Southern Counties site, a brownfield and contaminated site with localised adverse effects; and permission WD/D/14/002974 for a 17.3MW solar farm at Rampisham Down where special circumstances included:
  - The limited visibility of the site
  - The Rampisham Down SSSI Management Scheme
  - Removal of non-telecommunications masts on Rampisham Down
  - Woodland Management Scheme
  - Heritage Management Plan
  - Landscape and Ecology Management Plan

There has recently been a substantial increase in large-scale proposals in the setting of the AONB. The AONB team has worked to improve their prospects of consent. The vast majority do gain consent and are expected to be implemented delivering greater levels of energy production than would result from this appeal proposal. An example is the 49MW scheme at North Dairy Farm, Pulham, approved while the Inquiry was sitting.

- The following Management Plan objectives and policies are considered particularly relevant to the decision being taken: Objective C1, policy C1a<sup>158</sup>; Objective C3, policy C3.f<sup>159</sup>; Objective C4, policies C4a<sup>160</sup>, C4c<sup>161</sup> and C4d<sup>162</sup>. In addition, the following are highlighted as relevant to the balancing exercise; C2.d<sup>163</sup>; C2.e<sup>164</sup> and C2.f<sup>165</sup>.
- The need for the development is supported by AONB Management Plan Policy C3.f in general terms but only if 'compatible' with the objectives of the designation, which this proposal is not, for the following reasons;
  - the inherent sensitivity of the site, occupying an elevated area of open downland, largely devoid of modern development, that is visible from both local and more distant footpaths, results in an insurmountable challenge.
  - the proposed development is of quasi-industrial appearance. Its aesthetic character results in contrast and juxtaposition with the underlying 'natural' character of the site and its wider landscape setting.
  - the development proposals foreseeably adversely affect some of the special qualities that underpin the designation, particularly:

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<sup>158</sup> C1a: Support development that conserves and enhances the AONB, ensuring sensitive siting and design respects local character. Development that does not conserve and enhance the AONB will only be supported if it is necessary and in the public interest. Major development decisions need to include detailed consideration of relevant exceptional circumstances.

<sup>159</sup> C3.f: Support renewable energy production where compatible with the objectives of AONB designation.

<sup>160</sup> C4a: Remove existing and avoid creating new features which are detrimental to landscape character, tranquillity, and the AONB's special qualities.

<sup>161</sup> C4c: Protect and where possible enhance the quality of views into, within and out of the AONB.

<sup>162</sup> C4d: Protect the pattern of landscape features, including settlements, that underpin local identity.

<sup>163</sup> C2.d: The key test of a proposal against the statutory purpose of the AONB will be its ability to demonstrate that the proposed change would conserve and enhance landscape and scenic beauty.

<sup>164</sup> C2.e: The conservation and enhancement of the AONB's special qualities will be a significant consideration in the planning balance.

<sup>165</sup> C2.f: Proposals that are harmful to the character and appearance of the area will not be permitted unless there are benefits that clearly outweigh the significant protection afforded to the conservation and enhancement of the AONB. Where impacts cannot be mitigated, planning gain and compensatory measures will be considered.

- “Uninterrupted panoramic views to appreciate the complex pattern and textures of the surrounding landscapes”. The development would remove views from a promoted route running close to the site. It would also reduce the quality of views towards the site from the other side of the valley, adding an identifiable unnatural texture to the landscape that would not support the appreciation of natural beauty but rather, contrast with its surroundings.
  - “Striking sequences of beautiful countryside that are unique in Britain.”
  - “Tranquillity and remoteness”. Perceptions of tranquillity are strongly influenced by visibility. Whilst activity and development associated with traditional agricultural land management are broadly accepted and do not strongly detract from tranquillity, solar farms invoke a different reaction. The installation would also change the perception of the site from that of a remote location to one where serviced infrastructure has been installed.
  - “Undeveloped rural character”. The character and appearance of fields currently cultivated for cereal crops is substantially different from that of a solar farm. The scale and extent of infrastructure would be transformative and felt widely, across an impact zone of several kilometres incorporating a wide range of locations with public access but with a strong sense of undeveloped character.
- The AONB’s Landscape Character Assessment notes that the Upper Frome Valley’s key characteristics include fine panoramic views afforded from elevated land, such as this site. This elevation not only provides outward views but makes the site a notable feature within the undeveloped upland structure of the farmed downland in wider landscape views, particularly from the opposite slopes of the valley.
- The site is at a point in the Upper Frome Valley where landform transitions from valley sides to relatively flat downland. The site forms part of an isolated and open area, with a strong sense of undeveloped rural character. Whilst some development is found in this elevated landscape, this is predominately small scale and relates to the agricultural management of the land. Overall, undeveloped rural character, with a sense of seclusion and tranquillity are among the defining characteristics, with the site largely expressing these. The contention that the site is ‘unremarkable’ appears to overlook the prevailing valued characteristics of this typical downland landscape, which is a representative component of a nationally designated landscape.
- The strong rural character of the site and the wider area, alongside the intervisibility between the site and the land to the north and east, which contains numerous rights of way and open access land, suggests that the use of the site for a PV array would be likely to result in the introduction of a discordant element, at odds with its wider environment.
- Given the elevated location of the site and its intervisibility with public rights of way and open access land in a broad arc from the north to the

east, it is difficult to accept the LVIA's suggestion that site selection itself has served to moderate the effects of the development.

- The planning guidelines for the character area recognise that the overall aim should be to conserve the strong pattern of existing features. Notably, it is recommended that we should conserve and enhance the distinctive undeveloped character of the open downland landscape and the long ranging views especially from roads, footpaths/bridleways and key viewpoints. It is also recommended that we ensure farm diversification projects do not have a negative impact of local character.
- In light of the above guidelines and with respect to the relatively extensive visibility of the site, the LVIA for this project should have identified that the proposal will result in significant landscape and visual effects on the character and appearance of the AONB.
- The LVIA commonly understates the scale and significance of the impacts and the degree to which the development would be perceived as a discordant built feature within its sensitive landscape context. The use of a restricted definition of tranquillity in undertaking the LVIA means that the extent of impacts upon this important quality have not been fully considered. The LVIA submitted does not fully describe or predict the significant landscape and visual effects of the development. It utilises a 5km study area, which is appropriate to the project. However, there are the following issues with the plans and images provided:
  - The LVIA provides a screened ZTV, but not a bare earth version. Although substantial differences are not anticipated, a bare-earth ZTV is a commonly expected element of the desk study for a LVIA.
  - The ZTV provided does not clearly highlight areas of public access within the OS base-layer, including public rights of way, open access land, roads and the railway line.
  - There is no figure that illustrates the wider AONB landscape character areas in the study area and/or a figure showing these areas in relation to the theoretical visibility of the development.
  - The photographs and photomontages provided suffer from a lack of clarity for a number of reasons. Firstly, the images appear to have been compressed, with the resolution being relatively low. Secondly, issues such as the atmospheric and lighting conditions, alongside camera focus, mean that several photos are fundamentally lacking definition. For example:
    - The photograph from viewpoint 1 is taken facing southwards during the morning in January. The relatively low position of sun appears to have resulted in the more distant features on the landscape (including the site area) appearing relatively washed-out. Comparison of the image with a monitoring photograph taken in May from the same location (<http://gigapan.com/gigapans/186953>), shows a substantial difference, including the ability to see across to the Hardy

Monument on the South Dorset Ridgeway, with the site seen in the wider foreground.

- The photograph from viewpoint 2 appears to suffer from an issue of camera focus, with the hedge in the foreground being sharp and the more distant landscape being relatively out of focus.
  - The photograph from viewpoint 4 appears somewhat unfocussed and smoke partially obscures the site.
  - Some other photography, e.g. viewpoint 8, is taken in sub-optimal conditions, resulting in landscape features appearing somewhat unclear and distant.
- Whereas the extent of the site is shown on the context photos (wider panoramas), the site location is not clearly illustrated on the 100% enlargement baseline images. Furthermore, the images would be of greater use if they showed (where relevant) the outline of the site area, rather than a floating line indicating the extent of the site.
  - Although the application provides photomontages, these are not produced using the 150% enlargement factor recommended by the Landscape Institute's guidance for visualisations, recommended for expansive projects.
  - The LVIA includes photomontages from VPs 1, 3, 6, 7 & 11. The inclusion of montages from VPs 2, 4 & 5 would have better illustrated the worst-case scenario and there are likely to be wider alternative viewpoints that would have better represented the maximum effects of the development.
  - The rendering of the development in the photomontages is unclear, with contrast and definition being substantially below what could be achieved by the human eye in the field.
- Overall, the LVIA's contention that the landscape sensitivity of the site should be regarded as 'medium' is not well justified. Likewise, the use of the terms "relatively" or "very" localised to describe the effects of the proposal is not defined and it is therefore for those reading the assessment to determine, based on their own interpretation, what 'localised effects' are.
  - The placement of the development within the upper slopes of the valley clearly results in widespread visibility of the site from the other side of the Frome Valley, an area described by the LVIA as a limited 'cone' of visibility (LVIA paragraph 5.7.14). Both parties agree that the visual influence of the development extends to a number of kilometres. Whilst recognising that visibility of the site area from the other side of the valley varies in accordance with the elevation and distance, and that the views from the affected area are commonly toward the backs and sides of the panels, it is nonetheless foreseeable that the development will be readily perceived in views, and that the effects of the development will be particularly pronounced from the more elevated vantage points.

- The LVIA contends that effects on views from the direction of Fore Hill and Hog Cliff would be, at greatest, 'low' and confined to 'localised' sections of the rights of way and open access land. More distant views from locations such as Castle Hill are regarded as experiencing a 'negligible' effect. As noted above, the quality of the images and accuracy of the visualisations in representing the impact of the development from such locations are considered unsatisfactory. The LVIA underrepresents the extent and significance of visual impacts from the other side of the valley.
- The modifications made to the scheme do not materially alter the wider visual effects, with the development continuing to be visible from the opposite slopes of the valley, across a relatively broad arc.
- In addition to the effects on a range of views across the valley, the development will clearly have a significant adverse effect on the Macmillan Way, which directly passes the site. As demonstrated by the photographs and visualisation provided by the LVIA, the development will substantially alter the character of the site and lead to the direct loss of a fine panoramic view from a section of a promoted route. The alternative permissive route would not provide a view of equivalent panoramic value to that which would be lost.
- The proposed screening of the proposal from the Macmillan Way would fail to obscure near views of the development for many years, whilst the hedgerow matures, and following this the route would be channelled through an enclosed experience, as compared to the existing situation, in which users can appreciate fine panoramic views.
- The sensitivity of the selected site and the nature of the effect on views will significantly adversely affect the appreciation of the tranquil and undeveloped character of the countryside from both the Macmillan Way and the rights of way and open access land on the opposite side of the Frome Valley, particularly in the direction of Fore Hill and Hog Cliff. There will also be lesser adverse effects on more distant locations, such as Castle Hill, which should not be entirely discounted. These effects on the character and appearance of the AONB cannot reasonably be considered very localised and of limited significance, as suggested by the LVIA. Instead the foreseeable effects would substantially inhibit the ability of the application to satisfy the major development test, described in NPPF 172, and therefore weigh heavily against the proposal.
- The methodology used in the appellant's LVIA means that only major effects have been regarded as significant. This is a high bar and, as demonstrated by the thinking applied by the Inspectorate in its Examination Report for Navitus Bay Wind Farm, is an approach that potentially under-estimates the extent of impacts. The high sensitivity of the surroundings in which the development would be located justifies recognition of there being a lower tolerance of change within an AONB, particularly where key characteristics and special qualities are affected. In reaching a view on the overall significance of effects on the AONB, regard should be paid to the perception of the proposal as a discordant feature in a relatively undeveloped area of elevated rural downland. The Guidelines for Landscape and Visual Impact Assessment (GLVIA3) highlight, at section

6.44, that whilst there is no prescribed framework for classifying effects as being 'significant', in the language of the EIA Regulations, there are three factors that increase the probability of an overall effect being classified as such, these being:

- "Effects on people who are particularly sensitive to changes in views and visual amenity...
  - "Effects on people at recognised and important viewpoints and from recognised scenic routes...
  - "Large-scale changes which introduce new, non-characteristic or discordant or intrusive elements into the view..."
- The 40-year duration of the permission sought is considerable. Its 'temporary' nature should not have a significant bearing on the overall weight given to the harm that would be caused.
  - The relatively high rate of approvals for solar farms outside the AONB suggests that there is no essential need for a solar farm to be located within the AONB. Recent approvals within approximately the past two years include:
    - Galton Manor Farm (Dorset) – approx. 30 MW
    - North Fossil Farm (Dorset) - approx. 40 MW
    - Blandford Hill (Dorset) - approx. 15 MW
    - Higher Stockbridge Farm (Dorset) – approx. 35 MW
    - Fern Brook Solar Farm (Dorset) – approx. 25 MW
    - Land at Beavor Grange (East Devon) – approx. 19 MW
    - Pipplepen Farm (South Somerset) - approx. 32 MW

These total nearly 200MW of recent approvals outside the AONB. Additionally, there are many other consented and operational solar farms relatively close to Dorset AONB, including numerous projects to the north of the AONB boundary in the Purbeck area and a cluster of solar farms close to the National Grid substation south of Hawkchurch. Overall, the numerous examples of approved and operational large scale solar farms outside of the AONB indicates that there are likely to be good opportunities for meeting renewable energy needs through sites that are not within the designated area.

- The scale of the appeal proposal is smaller than the above examples which suggests that its benefits would be modest.
- The appellant's consideration of alternatives focusses on an area within 3km of the preferred site but nothing elevates this choice of grid connection above simply being a preference of the developer and does little to inform discussion concerning the potential for the envisaged renewable energy production to come from developments outside of the AONB, which is the purpose of the NPPF test.

- The range and distribution of landscape and visual effects arising from this proposal is not limited. Likewise, the range of special qualities and key characteristic of the AONB that would be adversely influenced by this development is not limited. To outweigh the widespread adverse effects of this proposal, it would be necessary for disproportionate emphasis to be placed on the urgent and substantial need for this specific proposal. This imperative has not been demonstrated through the course of the Inquiry and therefore the AONB Team invites the Secretary of State to decline the case for 'exceptional circumstances' for the approval of the application.

### **Written Representations made to the Inspectorate**

48. Nick Jones, not originally an objector, had become alarmed since the appeal was made. He writes that there is no shortage of solar farms in Dorset but they are mostly out of sight. By contrast, this highly visible site on an east-facing hillside would be seen from the A37, 2km away. He predicts that trees and hedges casting shadows would be cut back and that grass would be mown, destroying wildlife such as skylarks.
49. He considers that the collision data map submitted with the revised access arrangements is not representative of the safety of the D-road junction with the A35. The traffic study says that there are no signed height or weight restrictions on the route but there never are any on a category D road such as Greenford Lane. He suggests a more direct route from the M5 for construction traffic. He points out that an accident on the A35 on 26 May 2023 led to gridlock as HGVs tried to negotiate D roads. He points out that the D road from Kingston Russell is a road that has hedges and grass banks along its entire length offering no grass verges to allow easy manoeuvring and at no point is wide enough to allow two-way traffic.
50. Alan and Jennifer White support the proposal on the grounds that farmers need to diversify and should not be prevented, especially for renewable energy. They claim that the site cannot be seen from adjoining farms or from the A37 road.
51. Maiden Newton Parish Council, represented by Mrs Michele Harding supports the scheme, pointing out that the appellants have alleviated initial concerns and have produced a traffic plan.

### **Written Representations made to the Council**

52. Fourteen parties (including the three above who also wrote to the Inspectorate) made representations to the Council during its consideration of the application before the appeal was made.
53. Natural England (NE) advised the Council to have regard to the statutory purpose of the AONB – conserving and enhancing natural beauty and recommended consultation with the AONB team. The site is an agricultural greenfield site prominent in views from the other side of the Frome valley which currently provide extensive views of a predominantly undeveloped rural character.
54. The three tests of NPPF paragraphs 158, 176 and 177 were referred to. The conclusion was reached that the proposals would have significant adverse impacts to landscape that forms the Dorset AONB and that there were no realistic means of fully moderating those impacts.

55. The appellant's LVIA understates the impacts. It had not selected worst case viewpoints for appraisal. It had favoured lower, rather than higher, viewpoints. Additional viewpoints were suggested with a request to reconsult NE. When reconsulted, NE was "satisfied that the additional viewpoints will ensure that the best and most accurate landscape evidence is provided."
56. "It is apparent that the solar farm would be visible and prominent in views of the Dorset AONB's otherwise unspoilt landscape". The effects were not likely to be reduced over time by screening. There would be a significant effect on users of the Macmillan Way.
57. NE contrasted the proposal with the £22m Dorset Visual Impact Provision project for replacing 8.8km of National Grid power lines by an underground connection, removing 22 pylons between Winterbourne Abbas and Weymouth, the primary purpose of which is enhancement of the protected landscape of the AONB.
58. NE referred to a technical information note on solar panels for maximising their environmental benefits. It pointed out that the Dorset Biodiversity Protocol requires submission of a Biodiversity Mitigation and Enhancement Plan but it regarded the hedgerow planting alongside the Macmillan Way to be wholly inappropriate as it would remove the long distance panoramic views that this right of way currently enjoys.
59. Linda Andrew reports that she had not been notified of the application.
60. Mr and Mrs Attwood are concerned about the effects of construction traffic on their listed building.
61. Charles and Jo Dunnett regard the site as not appropriate. They refer to AONB guidance on solar farms. The site would be very visible from the A37, exacerbated by the 29m fall in land across the site. The open view from the Macmillan Way would be blocked for fifteen minutes of the walk. They list the wildlife seen nearby.
62. Margaret Goddard notes harm to the landscape and to the setting of listed buildings. Screening would be impossible. She notes the use of prime agricultural land. There would be surface water run-off. Sporadic intrusive development is harmful to the AONB.
63. Nick Jones (who also wrote to the Inspectorate) objects to the access route proposed. Greenford Lane is a single track road with no passing places. The junction with the A35 is poor. When Bredy Hut reservoir was built, the junction opposite was improved. He suggests an alternative route.
64. Long Bredy and Kingston Russell Parish Council objects to the use of Greenford Lane as a construction access (and suggests an alternative).
65. Felicity and David Quick comment on the negative impact of the proposal on the landscape and wildlife of the AONB. The development would ruin the enjoyment of the Macmillan Way.
66. Rod Smith foresees that there would be rainwater run-off from the access road.
67. Professor David and Magda Stupples report that they were not notified of the application. They foresee that there would be overland flooding. They note

that the site is widely visible from the north-east, east and south-east. They comment that the use of chemicals in cleaning the photovoltaic panels would not be acceptable and that rotational power inverters cause noise pollution. They assert that the connection location to the grid is not stated and observe that an overhead cable to make the connection would not be acceptable. They also comment that the access roads are all single track with few passing points for large vehicles.

68. Tony Warren also reports that he was not notified of the application. He asserts that environmental and recreational qualities would be lost by the noise of 53 fan-cooled inverters and that the remains of an ancient drove road between the site and his land would be damaged by the security fencing proposed. The Millenium (Macmillan) Way would be ruined. He regrets that the storage of excess energy generated has not been considered and comments that the assessment ignores the grandstand view of the proposal site along a stretch of the A37 at Hog Cliff.
69. Alan and Jennifer White (who also wrote to the Inspectorate) support the proposal as farmers need to diversify. They argue that the site cannot be seen from nearby or from the A37.
70. Frome Vauchurch Parish Council refers to the highways plan and comments that the lane is not suitable. They also anticipate that there would be flooding.
71. Maiden Newton Parish Council (which also wrote to the Inspectorate) was initially concerned about the impact of construction traffic on small, narrow lanes but, following the scheme revisions, supports the proposal which considers access and traffic management.

### **Conditions and Obligations**

72. As noted previously, there is a s106 agreement which provides for the creation of a permissive path in parallel with the Macmillan Way along the west side of the site on land immediately outside the site boundary to the west of the hedgerow which currently borders the Macmillan Way and bounds the site. The need for the obligation and its compliance with the CIL regulations is considered in my conclusions below.
73. In the event of the Secretary of State allowing the appeal, the parties submitted a list of sixteen suggested conditions attached as an Appendix to the signed Statement of Common Ground dated 10 May 2023. By the time of the Inquiry, this list was superseded by a Planning Conditions Schedule dated 11 July 2023, containing fifteen suggested conditions. The following discussion is based on the latter list.
74. Suggested condition 1 would require commencement within three years of the date of any permission. It is required in compliance with s91 of the Town and Country Planning Act 1990 (as amended) and so is included in my recommended Schedule of Conditions, attached to this report.
75. Suggested condition 2 would set a limit of 40 years for the duration of the permission following which it would terminate. The reason given by the parties is that the proposed scheme has a 40-year lifespan and is considered unsuitable for permanent development given the visual impacts, impacts on the Dorset AONB and location of the site on grade 3a agricultural land. The latter part of

these reasons go to the heart of whether the appeal should be allowed at all. Putting that aside for a moment, the condition is necessary anyway in order to comply with the terms of the application and so it is included in my recommended Schedule of Conditions, attached to this report.

76. Suggested condition 3 would establish a requirement for a Decommissioning Method Statement to be produced twelve months before the permission terminates and for it to be implemented within six months of the termination of the permission. It would be enforceable by a Breach of Condition Notice, served on the landowner in the event that the operator of the solar farm had gone out of business or was otherwise unable to bring about the discontinuance of the use and the restoration of the site. The condition is necessary to ensure that the site is restored once the period of development is ended and so it is included in my recommended Schedule of Conditions, attached to this report.
77. Suggested condition 4 sets out the plans which the implementation of the development must follow. This is necessary to create certainty because revised plans have been submitted during the consideration of the application and in the submission of the appeal. It is also necessary in order to hold open the availability of s73 of the Act for a "minor material amendment" to the permission in the event that one is required.
78. Suggested condition 5 would require the submission of a Construction Environmental Management Plan to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and then followed during the construction period. It is to be based on the recommendations of the appellant's Ecological Assessment Report dated 23 February 2022. But, there is no need for the submission of a further document for approval; the recommendations of the Ecological Assessment Report are clear in themselves; other than a comment by the Council's landscape witness (contested by the appellant's landscape witness) that the specification of seed mix<sup>166</sup> was not particularly special and her criticism of the density of hedgerow planting<sup>167</sup> there was no evidence provided during the Inquiry that its recommendations were inadequate; I therefore recommend that condition 5 simply requires the development to be carried out in accordance with the relevant parts of the Ecological Assessment Report.
79. Suggested condition 6 would require details of tree, shrub and hedge planting to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. But, there is no need for the submission of a further document for approval; the details of tree, shrub and hedge planting are adequately specified in the four Landscape Strategy drawings and appendix 4 of the Ecological Assessment Report required by conditions (4) and (5) to be followed in carrying out the development. Other than the criticism by the Council's landscape witness of the density of hedgerow planting (contested by the

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<sup>166</sup> Paragraphs 4.1.18 and 4.1.19 of Appendix 4 (Biodiversity Management Plan) of the appellant's Ecological Assessment Report (CD2.2a).

<sup>167</sup> Paragraph 4.1.11 of Appendix 4 (Biodiversity Management Plan) of the appellant's Ecological Assessment Report (CD2.2a).

appellant's landscape witness) there was no evidence provided during the Inquiry that its these provisions would be inadequate. My recommended Schedule of Conditions therefore does not include this suggested condition.

80. Suggested condition 7 would require details of a hard landscaping scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. In response to my questioning what hard landscaping there would be, I was told that there would be very limited hardstanding, some lighting and the provision of a deer fence. The submitted Landscape Strategy (which is required to be followed in implementation by virtue of condition (4)) shows a minimal area for a DNO substation enclosure at the northern corner of the site. It is such a small area that it would matter very little with what material it would be surfaced. The planting and landscaping of all other parts of the site are adequately specified in the four Landscape Strategy drawings and appendix 4 of the Ecological Assessment Report required by conditions (4) and (5) to be followed in carrying out the development. The deer fence is shown in detail in drawing ref: 007005\_04\_SectionViews required by condition (4) to be followed in carrying out the development. Lighting is the subject of a separate condition in any event. I therefore take the view that the wide scope of suggested condition 7 would be unnecessary. All that is necessary is a condition requiring details of the hard surfacing of the DNO substation enclosure. My recommended Schedule of Conditions therefore includes this suggested condition as condition (6).
81. Suggested condition 8 would require details of the location and surfacing of the temporary construction access from Greenford Lane to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. These details are not shown on any of the submitted plans or reports which are to be followed as required by conditions (4) and (5) in the implementation of the development and so it is a necessary condition. But, as drafted, it omits to require the removal of the temporary construction access and the reinstatement of the land affected after the construction access is no longer needed. Recommended condition (7) makes good this deficiency.
82. Suggested condition 9 would require the construction of the development to take place in accordance with the submitted Revised Construction Traffic Management Plan (CTMP). This condition is necessary to satisfy public concerns about the effects of construction traffic on country lanes around the site. In particular, paragraphs 3.18-3.20 of the CTMP put in place a "just in time" arrangement to avoid the largest vehicles meeting face to face on roads too narrow to allow them to pass with ease, thus meeting the concerns of Nick Jones, Maiden Newton Parish Council, Long Bredy and Kingston Russell Parish Council, Professor David and Magda Stupples and Frome Vauchurch Parish Council. My recommended Schedule of Conditions therefore includes this suggested condition as condition (8) but omitting the tailpiece to the suggested condition as the courts have held that such a tailpiece clause makes the scope of the permission and the condition uncertain<sup>168</sup>.

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<sup>168</sup> Midcounties Co-operative Ltd v Wyre Forest DC [2009] EWHC 964 and Hubert v Carmarthenshire CC [2015] EWHC 2327 (Admin).

83. Suggested condition 10 would require a detailed surface water management scheme to be submitted to and approved by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. The details are to accord with the submitted Flood Risk Assessment. Examination of the Flood Risk Assessment shows that paragraphs 3.62 to 3.78 including table D and appendices 3 (drawing E206/01), 5 and 6 of that document provide much of the detail which would be sought by the condition.
84. Although the Dorset Council Flood Risk Management Team has sought the imposition of the condition, there is no evidence in their consultation response dated 12 July 2021 to show that these submitted details would be unsatisfactory; rather, their comment that is that there is "some discussion with respect to maintaining grass cover and managing SW during construction is offered, although this will require further detail at Discharge of Conditions (DoC) stage," which seems to imply not that the submitted details are unacceptable but that they are incomplete.
85. The Dorset Council Flood Risk Management Team's response concludes by commenting that "We therefore do not consider the proposals are likely to result in any offsite worsening. Any swales constructed may offer some limited betterment by providing on site storage". Consequently, I am not convinced of the need for the submission of a further document for approval. Accordingly, my recommended Schedule of Conditions includes as condition (9) simply a requirement that the details provided in the Flood Risk Assessment be followed in carrying out the development. However, it would be open to the Secretary of State to impose the condition as requested by The Dorset Council Flood Risk Management Team, if thought necessary.
86. Suggested condition 11 would require details of the colour of all external facing materials for the walls and roofs of buildings and structures to be submitted to and approved by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. These details are not provided in the submitted drawings. The condition refers to buildings and structures, which would include the photovoltaic panels themselves, except that they would not have walls or roofs. The colour of their underside was a matter of discussion during the Inquiry as it would largely determine the appearance of the site in longer distance views from across the valley. The condition, without the limitation to walls and roofs, is therefore both necessary and significant in ensuring the acceptability of the development. I therefore include it, with that adjustment, as condition (10) in my Schedule of Recommended Conditions.
87. Suggested condition 12 would require details of any proposed external lighting to be submitted to and approved by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. There are no details of a lighting scheme shown on the submitted drawings although the descriptions of development envisage that some external lighting would be provided. This condition is therefore necessary and is included as condition (11) in my Schedule of Recommended Conditions.
88. Although the presence of contaminated land might be thought unlikely and so a condition requiring a full scheme of identification and remediation would not be

necessary, the Council's Environmental Health Officers have identified the risk to construction personnel from areas of unknown filled land and so a contingent contamination condition is necessary. Suggested condition 13 is therefore included as recommended condition (12) in my Schedule of Recommended Conditions.

89. Suggested condition 14 would require details of an Arboricultural Method Statement in relation to trees which have the potential to be affected by the development to be submitted to and approved by the Local Planning Authority prior to the commencement of development and then to be followed in carrying out the development. Yet paragraph 6.1 of the appellant's submitted Arboricultural Impact Assessment (AIA) confirms that "No trees or sections of hedgerow are proposed to be removed. No facilitation pruning of trees, ground-level changes or hard surfacing is required within the RPAs of retained trees." Paragraph 6.2 notes that ploughing and tilling means that field boundary trees will have limited root development in the surface soil layer. Paragraph 6.4 notes that infrastructure locations have been kept largely outside of trees' Root Protection Areas; the one noted exception is likely to succumb to Ash Dieback Disease in the coming years and any impact on the tree would have a negligible overall impact for the site.
90. Paragraph 6.5 of the AIA speculates on the route of cable connections and the possibility of hedgerow section removal and replanting. It says that this would be detailed in an Arboricultural Method Statement but, this comment predates the submission of the revised Landscape Strategy and the Ecological Assessment Report which detail hedgerow removal, retention and replanting plans and which are required to be followed in the implementation of the development by conditions 4 and 5. The statement in AIA paragraph 6.5 is therefore superseded.
91. Paragraph 6.8 of the AIA notes that the new perimeter site security fencing can adequately serve as physical protection for the trees. Paragraph 6.9 advises that to achieve the required tree protection, the site security fencing will be installed first and rolled out ahead of the cable and solar table installation. This is a provision of paragraphs 3.1.1 and 3.1.3 of the Biodiversity Management Plan, compliance with which is required by recommended condition 5. For all these reasons, there is no need for a separate Arboricultural Method Statement and suggested condition 14 is unnecessary. My recommended Schedule of Conditions therefore does not include this suggested condition.
92. Suggested condition 15 would require compliance with the submitted Landscape Ecological Management Plan (LEMP) in order to achieve the intended Biodiversity Net Gain. However, that document has been superseded in its delivery of the Biodiversity Net Gain by the Landscape Strategy and the Ecological Assessment Report (in particular Appendix 4, the Biodiversity Management Plan) submitted in February 2023. Compliance with both those in the implementation of the development would be required by recommended conditions 4 and 5. Suggested condition 15 is therefore unnecessary. My recommended Schedule of Conditions therefore does not include this suggested condition.

## Conclusions

93. In this part of my report, references in square brackets [thus] are to earlier paragraphs or footnotes of this report.
94. Substantial parts of the appellant's case are not challenged. There is a climate crisis, recognised internationally, nationally and locally [footnote33]. The response to the climate crisis depends on renewable energy [footnote34]. Energy security reinforces dependency on renewable energy [footnote 35]. Solar power is expected to make a major contribution to renewable energy supplies [footnote 36]. The rate at which solar power is delivered needs to be accelerated [footnote 37].
95. Other parts of the appellant's case are more contentious. Dispute during the Inquiry focussed on the issues identified during the Rosewell Case Management Conference held on 25 May 2023, with the exception of the question of how the proposed reinstatement at the end of forty years is to be secured. All parties agree that this could be achieved by the implementation of a Decommissioning Method Statement, secured by a condition (3) [76 and footnotes 108, 153]. The remainder of this report is therefore structured in accordance with the remaining identified issues, namely:
- i. The effects of the proposal on the character, appearance and special qualities of the Dorset Area of Outstanding Natural Beauty.
  - ii. The effects of the proposal on the recreational benefit of the Macmillan Way.
  - iii. The contribution which the development proposed would make to the accepted national need for renewable energy and the cost of, and scope for meeting the need for it in some other way.
  - iv. Any other benefits or disbenefits to be weighed in the planning balance.

*The effects of the proposal on the character, appearance and special qualities of the Dorset Area of Outstanding Natural Beauty*

*The expert witnesses and the evidence*

96. I concur with the view of the appellant's advocate that the Council's landscape witness tended to conflate the impact on the individual physical landscape features of the site with the visual impacts arising [footnote 116]. Although there will be physical changes to the site in that a crop of photovoltaic panels will be superimposed on continued sheep grazing and will not rotate with arable farming; there will be security fences; there will be inverters hung on the strings of solar arrays; and there will be a small DNO substation enclosure, a small Customer Switchgear/T Boot enclosure and three small low voltage Switch/Transformers replacing the game bird 'pens' which occasionally spread across part of the slope [footnotes 118 and 130], nevertheless, this physical change to the landscape is confined to just the site itself [footnotes 87 and 88]. It represents a tiny fraction of the AONB and of the Landscape Character Area in which it lies [footnotes 74 and 75].

97. Much of the physical character of the site would remain unaltered; the topography would remain unchanged [footnote 88]; the size of each field would remain unchanged; their boundary hedgerows would remain [footnote 100] and would be supplemented by new planting where gaps have arisen [footnote 101]; the presence of public rights of way on the two fields would remain, on unaltered alignments [footnotes 80, 81, 87 and 88].
98. The vast majority of the impact on the character, appearance and special qualities of the Dorset AONB would be visual. In considering these effects, I concur with the view of the Council and of objectors to the scheme that the appellant's LVIA has tended to underestimate the impacts of the proposal [47 (bullets 14 and 16-20), 55, footnote 116] for reasons which are explained in the following paragraphs.
99. The LVIA forms part of the appellant's Environmental Statement. Chapter 5 of the Supplementary Environmental Information (SEI) provides an LVIA to replace that of chapter 5 of the original ES. Paragraphs 5.2.2 and 5.2.3 of the SEI confirm that a detailed LVIA methodology is presented in Appendix 5.1 of the ES and that the assessment of significance is based on the methodology described at ES Chapter 2: Assessment Methodology and criteria specific to landscape and visual assessment as presented in Appendix 5.1 of the ES.
100. Chapter 2 of the appellant's Environmental Statement explains its assessment methodology. Paragraph 2.6.1 of the SEI confirms that the terminology for determining significance remains the same in the SEI as in the 2021 ES. Paragraph 2.6.3 of the 2021 ES explains that significance reflects the relationship between two factors; the magnitude or severity of an effect and the sensitivity, importance or value of the receptor (the object or person experiencing the effect). Table 2.4 tabulates this relationship in a 4 x 4 matrix of 16 cells, with paragraph 2.6.6 explaining that effects assigned a rating of Major or Moderate (6 out of 16 cells highlighted in the table) would be considered as "significant."
101. Paragraph 5.2.4 of the SEI confirms that "the scale of effects is derived from the interaction of the receptor sensitivity and magnitude of change as detailed in the matrix set out in Table 5.1 and in the ES at Appendix 5.1". Table 5.1 of the SEI repeats the 16-cell matrix of Table 2.4 of the original ES, highlighting 6 out of 16 cells (those labelled as major or moderate) as "significant" but the ES at Appendix 5.1 which, as noted above, is supposed to be based on the methodology of ES chapter 2, shows something different, as the following paragraph explains.
102. Appendix 5.1 to the Environmental Statement sets out the methodology of the LVIA. Paragraph 1.11 of the Appendix explains that the sensitivity of the landscape and visual receptor and the magnitude of change arising from the proposals are cross referenced in Table 11 to determine the overall degree of landscape and visual effects. Table 11 is a 3 x 4 matrix of 12 cells; by comparison with tables 2.4 of chapter 2 and 5.1 of the SEI, it omits a column related to negligible sensitivity. Table 11 highlights as significant only those effects assigned a rating of Major (3 cells out of 12), not those rated as Moderate. To follow this methodology would mean that the LVIA downgrades and underplays the significance of moderate impacts on the landscape, in contradiction of the assessment methodology of the ES overall [47 (bullet25)].

103. In practice it appears that the LVIA has followed the methodology of appendix 5.1 and table 11 to the ES, not that of tables 2.4 of chapter 2 and 5.1 of the SEI. Thus, paragraph 5.4.41 of the LVIA in the SEI records that “effects of moderate, but not significant, have been identified during construction works for seven of the representative viewpoints from OAL or PRoW.”<sup>169</sup> In cross-examination, the appellant’s landscape witness stoutly defended his judgement that only major effects were significant and that moderate effects were not. Nevertheless, I conclude that the inconsistency between the LVIA methodology and the overall ES (and SEI) methodology means that the appellant’s evidence has tended to underestimate the impacts of the proposal.
104. It needs to be remembered firstly, that a defect in the LVIA is not the same as a harm to the landscape which would be caused by the development itself; the LVIA is only meant to be an aid to forming a judgement of whether there would be harm and secondly, that an LVIA is not a scientific measurement. It is a systematic method of coordinating a number of judgements (of susceptibility to change, of value of landscape element, of magnitude of change) into a single overall judgement of significance of impact but, in the final analysis, it remains a judgement.
105. To assess the reliability of that judgement, and the criticisms of that judgement made by the Council and by objectors to the appeal scheme, I undertook a ten-hour site visit, during which I walked approximately thirteen miles of footpaths to view a representative sample of viewpoints from which an overall assessment could be made of the impact of the proposal on the character, appearance and special qualities of the Dorset Area of Outstanding Natural Beauty. In this report, I use the word significant to mean “sufficiently great or important to be worthy of attention; noteworthy.”

*At close quarters*

106. There can be no doubt (and all parties agree), that the effects of the proposal on the site itself would be transformative [47, bullet 10.2, footnote 118]. But it is only two fields within a very large AONB and Landscape Character Area, so the overall effect of that immediate impact (as opposed to longer distance views from across the valley) would be tiny – a big event on a small site [footnotes 74 and 75]. It is also fair to say that, within the close vicinity of the site, topography and surrounding hedgerows mean that the site cannot be seen until one is right upon it (eg, from viewpoint 9, which is very close to the site, there is no view of it) [footnote 78]. It is also the case that the appellant’s proposed hedgerow planting would, after a period of time, hide the solar arrays from view at close quarters (but not from sight in longer-distant views).
107. From the slopes below the site (viewpoint 9) and from the lower parts of the site itself (up as far as approximately viewpoint 25) there are extensive panoramic views eastwards down the Frome valley as far as the Purbeck Hills. Although these would remain for walkers to experience from the slopes below the site, and notwithstanding the fact that tall crops could have the same effect from time to time, they would be lost from most of the site itself (between

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<sup>169</sup> But the revised LVIA in the SEI (CD2.2a) is not consistent; at paragraph 5.4.66 it refers to an effect which would be “moderate significant to negligible (not significant)”

viewpoints 10 and 25) for forty years because of the height of the photovoltaic panels themselves and of the hedges to be planted to screen them [47 (bullets 22 and 23), 58, footnote 132]. In my opinion, this would be a sad loss. Both main parties identify this as major and significant at year one. It would remain so thereafter.

108. From the uppermost part of the site (between viewpoints 11 and 25), internal topography and boundary hedgerows prevent views either down into the valley bottom or along the valley to the east. Boundary hedgerows channel the view along the length of the site towards the hillsides on the opposite side of the valley but it's still a big view. From the top of the site, with development in place, the photomontage of viewpoint 11 shows that it might be possible to see over the photovoltaic panels to the tops of the hills on the opposite side of the valley but most of the big view would be lost. Passing down the side of the site, as shown in the photomontage of viewpoint 25, with the development in place, a narrow view northward would remain, channelled between hedgerows, to a part of the hillside opposite the site [footnote 131]. Both parties identify this restriction of view as major and significant at year one. I agree. It would remain so at year fifteen and beyond.

109. The Council argues that the screening hedgerow planting would itself damage the character of the site as an example of downland countryside because the green lane which would be formed between the new hedgerow and the existing hedgerow would be more typical of the combes and valley bottoms than of the hilltop plateaux [footnote 138]. That may be so but, only an expert would notice.

#### *Hog Cliff Bottom*

110. From the opposite side of the valley, Hog Cliff Bottom is the area of ProW and OAL closest to the site. Views from the footpath at the bottom of the combe which is Hog Cliff Bottom are constrained by the sides of the combe (eg viewpoint 6). In these, the site is right in front of the viewer, comprising about 50% of the width and about 25-30% of the height of what can be seen of the opposite (southern) side of the Frome Valley between the sides of the combe which is Hog Cliff Bottom. The development would therefore comprise quite a high proportion of what is in sight when walking down Hog Cliff Bottom. Because of the slope of the site, the surface of the field would be visible; the appellant's hedgerow screening would not obscure from view what was happening on the site itself [47 (bullet 21), footnotes 115, 136].

111. From the higher sides of the combe (eg viewpoints 18 and 19 on its south side and viewpoint 17 on its north side, the extent of the view becomes much wider (about 60° from viewpoint 17, about 180° from viewpoint 19) as it is less constrained by the sides of the combe and so the site forms a much smaller and therefore less significant proportion of what is in sight.

112. From this distance (1-2km), the appellant's photomontages suggest that individual strings of panels forming the arrays would not be discernible and would merge into a mass of dark colouration representing the undersides of the panels and thus the development would be indistinguishable from any other dark-coloured crop grown on the site. The Council's witnesses were sceptical of this assertion and argued that the site would be recognisable as a solar farm, even from this distance.

113. I lean towards the Council's opinion because the appellant's photomontages from viewpoints 7 and 23, at a greater distance (3km and 2km respectively), albeit from a different angle, indicate that the rows of panels would be individually distinct. Although one supposes that there would be a point of distance at which the individual panels of the development would merge into a single undistinguishable mass of colour to the naked eye, I suspect that from Hog Cliff Bottom the development would be recognisable for what it would be; a solar farm, not an agricultural crop. In any event, the colouration of the site as developed would be unchanging through the years and seasons, whereas the colour of a purely agricultural use would change as the crop varies and from season to season as the crop grows and is harvested [footnote 117].
114. The parties are agreed that the effects of the proposal from viewpoints 6 and 18 would be moderate. They differ in relation to viewpoints 17; the appellant saying moderate, the Council saying major from viewpoints 17 and 19, even though the latter is immediately adjacent to viewpoint 18. In either case, the effect would be significant. I concur because the development would comprise quite a high proportion of what is in sight when walking down Hog Cliff Bottom.

*Fore Hill*

115. The viewpoints from the public rights of way on Fore Hill (immediately above the village of Maiden Newton) are a little more distant (at least 2km) from the site than those at Hog Cliff Bottom and so the site is more likely to appear as a mass of dark colour without the components of the solar farm being distinguishable. The viewpoints are also more elevated. In consequence, the views are much more panoramic and the site occupies a much smaller proportion of the panorama.
116. Viewpoints 3, 15 and 24 offer very extensive panoramas in which the site occupies a tiny part. From viewpoint 16, there are only glimpses of the site through breaks in a hedgerow, peripheral to the main view to the west from that viewpoint. I did not visit viewpoint 4 and there is no photomontage but the context photograph suggests an effect similar to that from viewpoints 3, 15 and 24. Both parties suggest that the effects from viewpoint 3, 4 and 16 would be moderate; from 15 and 24, they disagree, the appellant saying moderate, the Council major. I tend to agree with the appellant because the wider context diminishes the significance of the site but either counts as significant. I would exclude viewpoint 16 from that conclusion.

*Away to the north*

117. Viewpoint 2 on Norden Lane is much further away; 3.5km from the site. The main view from viewpoint 2 is down Combe Bottom towards Maiden Newton. On the left-hand side of the view is a spur of land (Fore Hill) above which the site is visible but not prominent. The parties agree that the effect of the development would be negligible. I agree.
118. Because access was across private land, I did not visit viewpoint 21 but the description of the view in the photographs included in ES Appendix 5.4b is that it is located about 540m south-west of viewpoint 2 and so is very similar in location, aspect and content. I consider that the effect of the development on the view would be negligible because of the distance involved and because the site would form a very minor component of the wide panorama.

119. I did not visit viewpoint 1 (Castle Hill), 4.5 km from the site, but the description of the view in the photographs included in ES Appendix 5.4b was not disputed; “the site is barely perceptible to the naked eye”. For that reason, I concur with the appellant’s assessment that there would be a negligible visual effect as a result of the development.
120. Viewpoint A, where the Wessex Ridgeway long distance footpath crosses the A37 road offers a very wide (90-100°) view which extends well beyond the site. The site subtends about 10° in the view which at a distance of about 3.5km would make the impact of the development moderate, according to the Council. I agree that the effect on the view would be noticeable but its acceptability would very much depend on whether it is recognised as a solar farm or whether its colouration allows it to merge with the woodland above it in the view.<sup>170</sup>
121. Southwards from viewpoint A, along the A37 there are occasional views of the site in the distance through breaks in the roadside hedges [61, 68]. On foot, the effects of the development would be similar to its effect on viewpoint A but, in a car, the sightings are momentary and so, barely noticeable.

*Hog Cliff National Nature Reserve [footnote 135]*

122. Viewpoint 5 offers a 180° panoramic view, of which the site comprises about 5-10°, so not a very large proportion of the view but it would be central. At a distance of about 3km from the site, I suspect that the components of the development would not be individually distinguishable to the naked eye and that its appearance would merge into an undifferentiated mass of colour. The parties disagree on whether the effect would be moderate or major. Because of the extent of the view of which the site would form a relatively small part, I tend towards the former but, either way, the impact would be significant.
123. I did not visit viewpoint 20, for which there is no photomontage but the photograph contained within ES Appendix 5.4b suggests that it is a more distant version of the view obtained from viewpoint 6 at Hog Cliff Bottom. The appellant suggests that the effect of the development would be negligible. I disagree because of the centrality and therefore prominence of the site within the narrow view restricted by the sides of the combe but the site is somewhat distant and so, I agree with the Council that the effects would be no more than moderate.

*From the east*

124. From viewpoint 7, the view of the site is largely obscured by the trees in the immediate foreground. The appellant’s photomontage suggests that, even at this distance (3km) the individual strings of the array would be clearly discernible, marking the site out as a solar farm, rather than an agricultural crop. However, the proportion of the expansive view which would be occupied by the site is small. The Council does not contest the appellant’s judgement that the effects would be minor and not significant. Even though the photomontages suggest that the development would be identifiable, I do not disagree with the judgement.

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<sup>170</sup> A photograph of which may be found appended to the evidence of Sarah Barber (CD8.21).

125. Viewpoints 22 and 23 are on a little-used<sup>171</sup> footpath leading from the A356 to the A37 at Hyde Crook. They illustrate the dynamic experience of walking along the footpath in which the site is located on the hillside directly in front of the viewer when walking towards it. Although central to the view and on the skyline, the site is only a very small part of a wide-ranging vista in which there are several powerlines visible. The appellant's photomontages of viewpoint 23 suggests that the site would be clearly identifiable as a solar farm as opposed to an agricultural crop. For that reason, I concur with both parties' assessment that the impact would be moderate, technically qualifying as significant.
126. At over 4km from the site, viewpoint B at Grimstone Down provides a 360° panorama. The site would be an incident in a very wide vista, not a point of focus, except that one's eye might be drawn to it by the Long Ash service station and wind turbine which are visible on the lower intervening ridge line, in the middle ground immediately in line with the site on the further hillside in the background. Electricity pylons can be seen on the horizon in the far distance beyond the site. The Council's revised assessment judges the impact on this viewpoint to be moderate. I concur.

*Conclusions on the effects of the proposal on the character, appearance and special qualities of the Dorset Area of Outstanding Natural Beauty*

127. There is no evidence that the site would be artificially lit at night other than on an exceptional basis should an emergency require access [footnote 82]. A condition would require any lighting proposal to be vetted by the Council. Consequently, I take the view that there would effectively be no loss of dark night skies as a result of the development proposed [footnote 114].
128. I do not accept that the proposal would have only a limited and localised visual effect [53, 56, 65, 67, footnotes 84, 92]. The site would be visible from a number of locations in a wide-ranging arc of about 100° to the north-east of the site at distances of up to 4km or so. Every one of these locations has a distinctly rural character [footnotes 119, 120]. In many of these locations, the site would figure as a minor or peripheral incident in an extensive view containing many incidents [footnote 93] but in some, it would appear at the centre of a view or as the focal point of a direction of route along a footpath. From locations closer to the site, such as Hog Cliff Bottom, it would be more prominent.
129. From the site itself, the proposed development would obstruct views outward and so would undoubtedly cause harm [footnote 132]. It would therefore be contrary to Development Plan policy ENV1 which, amongst other matters, prescribes that development which would harm the AONB including its uninterrupted panoramic views will not be permitted.
130. In views inward towards the site, the development would obstruct no views; the views would remain as extensive as they are now. The site would be present in views [47 (bullets 11 and 24)]and, from Hog Cliff Bottom, prominently so, but presence in a view, even significant presence, is not necessarily harmful. Although the views are of countryside within the AONB [47 (bullet12)], it is not countryside which is so tranquil that it is completely devoid

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<sup>171</sup> There was no prior disturbance to the crop evident on my site visit

of any human intervention; it is crossed by roads and railways; in some of the views from higher ground, pylons are visible on the far horizon beyond the site; there are also occasional sewage works, wind turbines and agricultural barns, sheds and silos. Civilization, compromising visual tranquillity, is always present to a degree. So, the harm lies in how the development would be perceived; either as a quasi-industrial facility inimical to the countryside, or simply as a field of a different colour with a man-made crop.

131. Unlike, say, Monsal Vale viaduct, the (now demolished) Fylingdales early warning radar station, or the (now demolished) power stations at Didcot or Coalbrookdale, all criticised in their time as scars on the landscape but subsequently accepted as sculptural monuments complementing the sublime nature of their landscape context, the Cruxton solar farm would be a banal, utilitarian feature. Sometimes, when seen from higher ground, the massed panels of solar farms take on the illusion of a sheet of water, not inappropriate within the countryside. That would not happen in this case, sited on the summit of a hill, where the matt undersides of the panels would determine its appearance in the wider landscape. The best that can be hoped is that, as argued by the appellant, in distant views, the individual components of the site, which make it recognisable as a solar farm, would merge into an indistinguishable dark mass and be accepted as just another, different coloured, field in a wide landscape of different coloured fields.
132. In some of the longer distant views of the Cruxton solar farm, the effect would be an indistinguishable dark mass accepted as just another, different coloured field. But in nearer views, as indicated in the appellant's photomontages of views 7 and 23, the solar farm would be identifiable for what it is. In those cases, people who are predisposed to regard solar farms as inimical to the countryside would be offended and see harm [47 (bullet13)], footnote 134]. Other people, who would be differently predisposed would not be offended and would see no harm [footnote 89]. My own reaction is that however significant the development would be in the view, there would be little or no harm except perhaps from Hog Cliff Bottom where it would be hard to avoid seeing the site and recognising it for what it is.
133. I therefore conclude that the effects of the proposal on longer distant views towards the site would not present a clear breach of Development Plan policies COM11, ENV1 or ENV10, or the planning guidelines for the Landscape Character Area, contrary to the Council's view [footnotes 126, 137] and the view of the Dorset AONB Partnership [47 (bullet 10)]; indeed, it would clearly comply with subsection (ii) of ENV10, which requires development to provide for the future retention and protection of trees (amongst other matters) that contribute to an area's distinctive character.
134. In any event however, it is government policy that within Areas of Outstanding Natural Beauty permission should be refused for major development such as that proposed in this appeal other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. I now turn to examine some of the other considerations set out in NPPF paragraph 177.

*The effects of the proposal on the recreational benefit of the Macmillan Way.*

135. As the appellant points out, the part of the Macmillan Way which passes through the site is only a very tiny part of this 290-mile long-distance footpath [footnote 80]. The section in question can be walked in fifteen minutes [61]. There are currently no existing solar developments that directly impact on the experience of walking this part of the trail [footnote 129]. The guide to the Macmillan Way<sup>172</sup> makes no comment on any of the views visible from the site, which is dealt with in two perfunctory sentences and part of a third; "At top of hill do not go through fenced opening (single wire) ahead, but turn left and after few yards turn right through opening in hedge. Continue across long field with hedge on immediate right and at corner, where there is a wooden sign, turn left still keeping hedge on right. Over stile in corner of field and bear right,.... (continues)."
136. My impression is that the Macmillan Way is not well used. It is poorly signposted. On my site visit, I met two parties of walkers who were trying to follow its route; both were lost and one party had strayed from the track. There was little evidence of crop damage by trampling where its route followed the edge of the fields through which it passed and which had been sown right up to their edges. Nevertheless, the presence of the walkers seeking to follow its route indicates its potential as a recreational resource.
137. As the appellant points out, it would remain intact as a walking route [footnote 81]. As one approaches the site from the south, having walked up the hill from Norton Hill Barn, halfway across the field before reaching the site there is a "wow" view looking down the valley of Norton Bottom. That would be unaffected by the development.
138. On entering the site from the south, there is a big view, as captured by viewpoint 11, described above, which would be lost to the development. Passing through the site, walkers would be constrained within new hedgerows and so would lose the experience of the increasingly wide panoramic view which opens up to the east as one descends the hill (described above in my commentary on viewpoints 10 and 25). But the experience would not be lost entirely as the long view towards the Purbeck Hills along the Frome Valley would still be experienced on leaving the site at its northern extremity (described above, in relation to viewpoint 9).
139. The above paragraph describes the extent of harm to the recreational benefit of the Macmillan Way. In the context of the Macmillan Way as a whole, it would be very small. Moreover, the appellant proposes mitigation in the form of a permissive footpath to the western side of the hedgerow which bounds the footpath route at present. This alternative permissive route would provide a panoramic view up the Frome Valley towards Maiden Newton [footnote 85].
140. Whilst I agree with opponents' opinions [47 (bullet22), footnote 133] that this is not such a fine vista as that down the valley which would be compromised by the development, it is still a good view and a benefit which would result from the proposal. The planning obligation which would secure this

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<sup>172</sup> Core Document 8.58, page 120

permissive footpath and its panoramic view is therefore necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale and kind. It would therefore meet the CIL regulations and I recommend that the Secretary of State takes it into account in making his decision.

141. With this obligation in place, I conclude that the harm to the recreational benefit of the Macmillan Way would be adequately mitigated, contrary to the Council's view that it would be unacceptable [footnote 128]. Others disagree [65, 68]. The proposal would comply with Development Plan policy COM7(v) which requires that where development degrades the attractiveness of a route, compensatory enhancements will be sought such that there is a net improvement to the public right of way network.

*The contribution which the development proposed would make to the accepted national need for renewable energy and the cost of, and scope for meeting the need for it in some other way.*

142. The proposal would have an 11.8MW capacity representing 0.02% of the government's target of a further 56GW of solar capacity by 2035 [footnotes 38, 39, 141]. It is anticipated that approximately 3,100 tonnes of CO<sub>2</sub> will be saved by the project each year [footnote 43]. That, baldly stated, represents its contribution to the accepted national need for renewable energy. Its benefits would be modest [47 (bullet27)]. However, there is more to it than that, because not all areas of the country are capable of making an equally proportionate contribution to meeting the national need. Dorset enjoys strong solar irradiance [footnote 58] and therefore would be expected to host large amounts of future solar photovoltaic arrays in any future net zero scenario.
143. The appellant complains, and the Council largely accepts, that despite several generalised policies in favour of renewable energy, the Council has no strategy, targets or sites for their implementation [footnotes 59-72]. In fact, paragraph 6.6.6 of the adopted Development Plan records that by 2020 locally generated renewable energy projects will need to generate 7.5% of all energy demand which, in combination with national scale projects across the country will meet the national target. However, no more up to date target is evidenced.
144. The appellant's planning witness pointed out that Dorset's Joint Annual Monitoring Report for 2020/21 records that data on solar photovoltaic development had not been collected since 2016. Its Low Carbon Energy Route Map and Evidence Base dated June 2021 (the Regen report) [footnote 145] records in the diagram on page 2 of the report <sup>173</sup> that in 2019 Dorset generated 400GWh of solar photovoltaic energy, representing 5% of its total energy demand of about 14,000GWh or about 22% of its electricity demand, so the target set in the Development Plan for 2020 was unlikely to have been met.
145. Unfortunately other figures in the Regen report are not consistent with that diagram. 400 is 2.9% of 14,000, not 5%. In section 2.1 the report also records that in 2018, Dorset's electricity use totalled 3,103 GWh. 400 is 13% of

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<sup>173</sup> which may be found at item 1.3 of folder LPA SoC within folder LPA within folder 03 statement(s)/proofs within folder 0 Inspector file of PINS horizon file).

3,103, not 22%. Elsewhere in the report, section 2.3 records that installed solar photovoltaic capacity is 480MW generating around 512 GWh of electricity per year. 512 is 3.7% of 14,000, not 5% and is 16.5% of 3,103, not 22%. Assuming that the capacity factor of solar pv is 25%, then 480MW of installed capacity would be expected to generate about 1050 GWh, not 512 ( $480 \times 0.001 \times 8760 \times 0.25$ ). 1050 is 7.5% of 14,000 and 33.8% of 3,103. Clearly the report cannot be relied upon for the precise accuracy of its figures but it gives a general idea of the scale of what exists and what would be required to achieve net zero in Dorset.

146. At the inquiry, discussion of the roll-out of solar energy projects in Dorset centred around an inconclusive examination of SSEN's embedded capacity register of June 2023. This identifies 22 emerging solar projects within Dorset which have an accepted POC (including the appeal site). The majority are outside the AONB. They have a registered capacity of over 800MW. [footnote 148] but during cross-examination, it appeared that there was some duplication within the register and not all sites were recognised or could be related to a planning application and so their deliverability is unknown [footnote 49]. Consequently, the 800MW cannot be relied upon in full.
147. If the SSEN embedded capacity register figure were reliable, and presuming a solar capacity factor of 25%, 800MW of installed capacity might generate 1,753GWh of energy in a year, suggesting that even if all the pipeline were constructed, there would still be a large need for further solar photovoltaic capacity in Dorset [footnote 50].
148. Although the parties made reference to the Regen report, none of them noted the implications of its two alternative pathways (or scenarios) to net zero emissions for Dorset by 2050. Section 3.1.1 of the report refers to "the net zero scenario projections of 1200MW." Section 4.3.1 of the report advises that "In both net zero scenarios, the imminent advent of subsidy-free large-scale solar projects results in total solar PV capacity doubling by the mid-2030s and tripling to 1500MW by 2050." However, in reaching these figures, the Regen report presumes a near halving of total energy demand (from 14,000GWh to 7,500 GWh by 2050). Although not stated as targets, these figures set a context within which the current pipeline of 800MW and the need for the current proposal of 11.8MW capacity can be judged. The appeal proposal represents about 1% of what the Regen report considers is required for Dorset.
149. Reliance on the Regen report and SSEN's embedded capacity register is problematic for the reasons stated but, they are the best evidence presented by which to judge the need for the current appeal proposal in the context of Dorset's circumstances. On the face of it, the 800MW of the pipeline represented by the SSEN embedded capacity register (which includes the appeal site) when added to the 480MW of installed capacity recorded by Regen would meet Regen's scenario projections of 1200MW, but not those of 1500 by 2050.
150. Section 3.1.1 of the Regen report confirms that Dorset has high levels of solar irradiance compared to the rest of the UK and a large amount of developable low grade agricultural land. It claims to have identified 62,000ha of land area that could potentially be suitable for large-scale solar PV, of which "only 4% would be needed to meet the net zero scenario projections of 1200MW" (Figure 2 on page 10 of the report). Over 75% of England and nearly

half of Dorset is not subject to AONB designation, so alternative suitable locations are likely [47 (bullets 5 and 26)]. Opportunities undoubtedly exist with high levels of solar irradiation outside the AONB or within its less sensitive parts [footnote 146].

151. However, the Regen report also confirms that "Dorset currently faces almost universal electrical network constraints which need to be addressed urgently to avoid impacting both the speed of decarbonisation and associated green growth economy." Section 2.5 of the report observes that "much of the electrical infrastructure in the area is constrained, this means that new connections, generation or demand can incur high costs." [footnote 48].
152. SSEN's Distribution Future Energy Scenario Report for Southern England Area comments on grid capacity for generation. It does not cite this as a constraint for Dorset [footnote 147] but Figure 1 of the Regen report shows that substations in the centre of Dorset (one of the two areas which the report identifies as having a large area of promising solar pv resource) are often constrained for both generation and demand. By contrast, the figure shows that a primary substation in the Maiden Newton area is one of the few anywhere in Dorset outside the built-up area of Bournemouth itself identified as having unconstrained capacity to accept generation.
153. Significant upgrades to grid infrastructure will be required in any event [footnote 152] but, in the short term, I conclude that there is substance in the appellant's argument that in a constrained grid, capacity should be used wherever possible [footnotes 44, 45, 46, 47, 51, 52], contrary to the Council's view [footnote 151] and that of the OANB Partnership [47 (bullet28)].
154. Even though the appellant's search for an alternative site may have been limited [footnote 149], the Council's planning witness accepted that the megawattage available at this point of connection would not justify the cost of a connection to a site outside of the AONB [footnote 52] and so, there is no need for viability evidence to demonstrate that any site making use of this point of connection would be limited to a radius of 3km [footnote 150].
155. In summary; the appeal proposal is included in the SSEN embedded capacity register pipeline. That, together with the existing solar photovoltaic installations in Dorset would just about meet Regen's net zero scenario projections of 1200MW but would fall short of the 2050 projection of 1500MW. Furthermore, both the projections are based on some pretty heroic presumptions of a fall in total energy demand. In the short to medium term, until the capacity constraints of the grid are sorted out, there is little scope for exploiting the 62,000ha of land area that Regen claims to have identified as potentially suitable for large-scale solar PV and so I conclude, contrary to the Council's view [footnotes 142, 143, 144], that the need for renewable energy generation could not be met in other ways, that the appeal proposal would make an essential contribution both to the accepted national need for renewable energy and to Dorset's need and that the cost of, and scope for meeting the need for it in some other way would be prohibitive in the short to medium term. This contribution towards renewable energy targets may be thought to represent a benefit which would significantly outweigh any harm in compliance with Development Plan policy COM 11(i).

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

156. A little less than half the site is reckoned by both parties to count as Best and Most Versatile agricultural land [62, footnote 94]. The Written Ministerial Statement of 25 March 2015 (CD 8.28) makes it clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence [footnote 140]. This sentiment is reiterated in paragraphs 3.10.14 and 3.10.15 of the draft National Policy Statement for Renewable Energy Infrastructure (EN-3); "Whilst the development of ground mounted solar arrays is not prohibited on agricultural land classified 1, 2 and 3a, or sites designated for their natural beauty, ..., the impacts of such are expected to be considered."
157. However, it is false to say (as the Council's landscape witness claims in table 4 and in paragraph 5.12(b) of her evidence) that the present agricultural use of the site would be replaced by photovoltaic panels and associated structures [footnote 96]. The solar farm would be superimposed on continued (albeit restricted to pastoral) agricultural use [footnote 95]. Although it is accepted by the appellant that this would limit agricultural opportunities and thus reduce agricultural productivity [footnote 139], it is accepted by the Council that this would, over the lifetime of the development, improve the quality of the land [footnote 104]. The use of BMV agricultural land is not a reason for the Council's refusal of permission [footnote 97]. I conclude that that is a correct assessment.
158. It is also accepted that the appellant's revised Landscape Strategy would result in substantial Biodiversity Net Gain of over 71% for area-based Habitat Units and net gains of over 26% for linear -based units [footnote 98]. This would be an impressive result but should not be overplayed in the final analysis because, in the big picture, the site is only a moderate size [47(bullet7)].
159. It is accepted that the traffic and flood risk implications of the development could be met by conditions [49, 51, 60, 62, 63, 64, 66, 67, 70, 71, 82, 83-85, footnotes 54, 57, 105,]. These considerations are therefore neither benefits nor disbenefits. Other potential disbenefits can also be met and neutralised by conditions, as discussed earlier in this report. The economic benefits arising from construction activities (as opposed to the economic benefits of electricity generation) are also matters to be taken into account [50, 69, footnotes 106, 107].
160. The appellant emphasises that the proposal is for a temporary or time-limited development and so, that any disbenefits would be reversed at the end of 40 years' operation [footnote 108]. However, in due time, all things pass. The life of every citizen is temporary or time-limited. As the Council's witnesses observed, the proposed lifespan of this appeal proposal is half a human lifetime [footnote 153]. With that thought in mind, I would attach only limited weight to this consideration other than the need to ensure that reinstatement and restoration is provided when the development becomes life-expired. Condition (3) is recommended to secure this.

*The planning balance*

161. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination of this appeal must be made in accordance with the

Development Plan unless material considerations indicate otherwise. There are three policies from the Development Plan cited in the Council's reasons for refusal, ten further policies referenced in the Council's Committee report and one further policy which both main parties agree to be relevant. I will comment on each in turn.

162. Clause (i) of ENV1 – Landscape, Seascape and Sites of Geological Interest appears to set an absolute bar on any development which would cause any harm to the AONB. Clause (ii) also suggests that development that significantly adversely affects the character or visual quality of the local landscape will not be permitted. But the Council accepted that, in practice, clause (iii) requiring appropriate measures to moderate adverse effects means that the policy read as a whole envisages a judgement to be made on a balance between harm, mitigation and benefits. So, although there will be harm to the AONB, detailed above, contrary to Development Plan policy ENV1, this would not be conclusive on its own.
163. Clause (iii) of Development Plan policy ENV10 stipulates that development should only be permitted where it provides sufficient hard and soft landscaping to successfully integrate with the character of the site and its surrounding area. My conclusions above record that although sufficient soft landscaping would be provided to hide the photovoltaic panels from close-range views, the slope of the hillside means that it would be ineffective in long-range views and so, there is only partial compliance with ENV10(iii). There would however be full compliance with ENV10(ii) in that the development proposed will provide for the future retention and protection of trees that contribute to the area's distinctive character.
164. Policy COM11 – Renewable Energy Development asserts that proposals for generating heat or electricity from renewable energy sources other than wind will be allowed wherever possible, provided that the benefits of the development, such as the contribution towards renewable energy targets significantly outweigh any harm. I have already noted [footnote 63] that this policy sets a higher bar than NPPF paragraph 177 and so may be said to be inconsistent with it; the Council itself, in subsequent policy statements has modified "significantly" to be "appropriately" [footnote 65]. Either way, the effect of the policy is to require a judgement to be made on a balance between harm, mitigation and benefits.
165. The policy goes on to prescribe that permission will only be granted provided that any adverse impacts on the local landscape can be satisfactorily assimilated. This is the same test as policy ENV10(ii). I have noted above that the proposal only partially complies with this requirement. The policy also stipulates no harm to residential amenity. This element of the policy would be complied with [footnotes 76, 77]. Finally, the policy requires satisfactory mitigation of adverse impacts upon designated wildlife sites, nature conservation interests and biodiversity. The proposal would exceed requirements in this respect [footnote 98].
166. Development Plan policy ENV 2 – Wildlife and Habitats is mainly concerned with the protection of internationally, nationally and locally designated wildlife sites. There are none relevant to this proposal [17, footnote 53]. However, clause (vi) provides that proposals that conserve or enhance biodiversity should

be supported. This proposal would earn that support by its Biodiversity Net Gain [footnote 98].

167. Development Plan policy ENV 4 – Heritage Assets is concerned with their protection. There are no designated heritage assets relevant to this proposal [19, footnote 53]. A third party claims there would be effects on a non-designated heritage asset [68] but this is said to be between the site and his land, so it is not clear how it could be affected by the security fence which would be on the site.
168. Recommended condition (9) would secure compliance with Development Plan policy ENV 5 – Flood Risk. Recommended condition (12) would secure compliance with Development Plan policy ENV 9 – Pollution and Contaminated Land
169. Other than the proposal's claimed innate incompatibility with the AONB (considered above in relation to policy ENV1), there is no suggestion that it would not comply in other respects with Development Plan policy ENV 12 – The Design and Positioning of Buildings, which is concerned, amongst other matters, to ensure that a development complements and respects the character of the surrounding area through its siting, alignment, design, scale, mass and materials.
170. Development Plan policy ENV 15 – Efficient and Appropriate Use of Land exhorts development to optimise the potential of a site and make efficient use of land, subject to the limitations inherent in the site and impact on local character. Although the Council has criticised the efficiency with which the site is laid out, because the north-facing slope requires the arrays to be more widely-spaced in order to avoid overshadowing each other [footnotes 115, 127], this is a limitation inherent in the site and so the proposal would not be in conflict with this part of the policy. Impact on local character is considered earlier, in relation to policy ENV1.
171. Development Plan policy ENV 16 – Amenity is concerned with protecting the residential amenities of local residents through effects on privacy, daylight, noise or pollution. There are no residential properties close to the site [13 footnotes 76, 77] and so no conflict with this policy.
172. Development Plan policy SUS 2 – Distribution of Development is concerned to direct development towards larger and more sustainable settlements. Outside defined development boundaries, development will be restricted to a defined range of proposals including the generation of renewable energy. The proposal therefore complies with this policy. Development Plan policy ENV8 supplements this policy by advising that where possible, development will be steered towards areas of poorer quality land where this is available. Although criticised by the Council, the appellant's Sequential Analysis Study demonstrates that this is not available and so the proposal is not in conflict with the policy.
173. Condition (8) would ensure that the proposal complies with Development Plan policy COM 7 – Creating a Safe and Efficient Transport Network which, amongst other matters, is concerned with ensuring that the volume of traffic likely to be generated can be accommodated on the local highway network without exacerbating community severance and with avoiding severe cumulative impacts on the efficiency of the transport network.

174. Development Plan policy COM 9 – Parking Standards in New Development stipulates that parking standards for non-residential development should be agreed through joint discussions between the Local Highway Authority and the Local Planning Authority in accordance with published local parking guidelines. There is no suggestion that the proposal would be in conflict with this policy.
175. In sum therefore, the development proposed would comply with the Development Plan read as a whole, except in so far as a judgement needs to be made on the balance between harm to landscape character, as mitigated by the appellant's proposed hedgerow planting, and the benefits of energy production and biodiversity enhancement.
176. Other material considerations include compliance with the policies of the NPPF. These include paragraphs 158, 174(b), 176, 177. Paragraph 158 advises that it is not necessary to demonstrate the overall need for renewable or low carbon energy, that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and that an application should be approved if it can be made acceptable. This advice favours the appeal proposal.
177. Paragraph 174(b) recommends that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services- including the economic and other benefits of the best and most versatile agricultural land. The first part of this advice corresponds with the discussion set out earlier in relation to Development Plan policy ENV1. The effects of the proposal on BMV agricultural land are discussed above where I conclude that it is accepted that the proposal would, over the lifetime of the development, improve the quality of the land, that the use of BMV agricultural land is not a reason for the Council's refusal of permission and that that is a correct assessment.
178. NPPF paragraph 176 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs [47 (bullets 2, 6), footnote 125]. That emphasises one side of the balance to be struck in this case. Whilst guidance does not preclude solar farms from AONBs [footnote 121] and Dorset Council has given permission for three such [47 (bullet 8)], NPPF paragraph 177 goes on to say that applications for major development in AONBs should be refused permission other than in exceptional circumstances [47(bullet 6), footnotes 122, 123, 124] and where it can be demonstrated that the development is in the public interest. The paragraph goes on to suggest three considerations in forming that judgement; the need for the development; the cost and scope of alternatives and the detrimental effect on the environment.
179. NPPF paragraph 158 has already established that the national need for the development should not be questioned. In terms of local need, previous discussion has established that the development is integral to any hope that Dorset has of making its proportional contribution towards meeting national targets for renewable energy. In the appellant's view, those are the exceptional circumstances which should apply. In my view, that case is made. The cost of alternatives has barely figured in this Inquiry, except that the Regen report, to which reference has been made, notes that new connections (other than those with already identified capacity) can incur high costs. The scope of alternatives

has been shown to be minimal prior to expansion in grid capacity. There has been shown to be some detrimental effect on the landscape for the forty-year life of the development but the effects on recreational opportunities (the Macmillan Way) would be adequately mitigated and there would be a net gain in biodiversity.

### **Recommendation**

#### **File Ref: APP/D1265/W/23/3317593**

180. Taking all things into consideration, my view is that the balance between harm, mitigation and benefits favours the development proposed. Others disagree [47 (bullet29), 54, footnotes 156, 157] I recommend that the appeal be allowed and planning permission be granted subject to the twelve conditions appended in the Schedule to this report.

*P. W Clark*

Inspector

## **APPEARANCES**

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

|                       |                                      |
|-----------------------|--------------------------------------|
| Emyr Jones            | Counsel instructed by Dorset Council |
| He called             |                                      |
| Sarah Barber BA(Hons) | Landscape Architect, Dorset Council  |
| DipLA CMLI            |                                      |
| Matthew Pochin-Hawkes | Lead Project Officer, Dorset Council |
| BA(Hons) MSc MRTPI    |                                      |

### **FOR THE APPELLANT:**

|                                                  |                                               |
|--------------------------------------------------|-----------------------------------------------|
| Thea Osmund-Smith, assisted<br>by Odette Chalaby | Counsel instructed by Steven Bainbridge       |
| She called                                       |                                               |
| Andrew Cook BA(Hons)                             | Executive Director, Pegasus Group             |
| MLD CMLI MIEMA CEnv                              |                                               |
| Steven Bainbridge                                | Associate Director, Chapman Lily Planning Ltd |
| BSc(Hons) MSc MRTPI                              |                                               |

### **INTERESTED PERSONS:**

|                    |                                            |
|--------------------|--------------------------------------------|
| Richard Brown CMLI | Landscape Officer, Dorset AONB Partnership |
|--------------------|--------------------------------------------|

## **SCHEDULE OF RECOMMENDED CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The permission hereby granted shall expire 40 years from the date when electrical power is first exported from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.
- 3) Not less than 12 months before the expiry date specified in condition (2) or any other planned cessation of the development hereby permitted, or following a period of one year in which the development has failed to produce electricity for supply to the grid, a Decommissioning Method Statement (DMS) shall be submitted to and approved in writing by the Local Planning Authority. The DMS shall include details of the removal of the panels, supports, inverters and transformers, buildings and all associated electrical infrastructure, structures and fencing from the site, and a timetable for their removal. The DMS shall ensure the retention of the soft landscaping works implemented as part of planning conditions [6] of this permission and provide details of other soft landscaping works compatible with the agricultural use of the site. The DMS shall also include a Decommissioning Traffic Management Plan to address likely traffic impacts associated with decommissioning. Thereafter, the site shall be decommissioned in accordance with the approved DMS within 6 months of the expiry of the 40 year period from the date when electrical power is first exported from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning, or within 18 months of the site ceasing to produce electricity whichever is sooner.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan – ref: P20-0981\_16 Rev A; Site Layout Plan – ref: 007005\_01\_Layout\_Rev D; Building elevations and floorplans – ref: 007005\_03\_Building Sections; Solar panel and security fence details – ref: 007005\_04\_SectionViews; Landscape Strategy (Sheet No 1 of 4) – ref: P20-0981\_10 Sheet No. 1 Rev E; Landscape Strategy (Sheet No 2 of 4) – ref: P20-0981\_10 Sheet No. 2 Rev E; Landscape Strategy (Sheet No 3 of 4) – ref: P20-0981\_10 Sheet No. 3 Rev E; Landscape Strategy (Sheet No 4 of 4) – ref: P20-0981\_10 Sheet No. 4 Rev E.
- 5) The development hereby permitted shall be carried out in accordance with Appendices 3 (Reasonable Avoidance Measures Method Statement), 4 (Biodiversity Management Plan V2) and paragraphs 5.1.8, 5.1.9, 5.1.12 and 5.1.13 of Appendix 6 (Confidential Badger Survey Report V3) of the submitted Ecological Assessment Report V4 by Avian Ecology Ltd dated 23 February 2022.
- 6) Prior to commencement of development, details of the hard surfacing of the DNO substation enclosure shown on the approved Landscape Strategy drawings 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.
- 7) Prior to commencement of development (including site set up and preliminary works) details of the location and surfacing of the temporary construction access from Greenford Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the temporary access road shall be constructed as approved, used as the primary construction access for the duration of the construction works in accordance with the approved Construction Traffic Management Plan and removed and the land affected reinstated to its former condition within three months of the conclusion of the construction period.
  - 8) The submitted Revised Construction Traffic Management Plan (CTMP) by Pegasus Planning Group Limited ref: P20-0981/TR05 Revision D dated August 2022 shall be implemented in full for the duration of construction of the development hereby permitted.
  - 9) The development hereby permitted shall be carried out in accordance with paragraphs 3.62 to 3.78 including table D and appendices 3 (drawing E206/01), 5 and 6 of the submitted Flood Risk Assessment by PFA Consulting Ltd dated 28.04.2021.
  - 10) Prior to commencement of development the colour of all external facing materials of buildings and structures (including DNO substation enclosure; Customer Switchgear/T Boot enclosure, LV Switch Transformers and photovoltaic array) shall have been submitted to, and approved in writing by the Local Planning Authority. Thereafter, the development shall proceed in accordance with the approved details.
  - 11) Prior to the installation of any external lighting a lighting scheme detailing the external lighting to be provided shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the positioning of each light, as well as details of the appearance, orientation, intensity, shielding and angle of the head of each light. Thereafter the lighting scheme must be installed, operated and maintained in accordance with the approved details.
  - 12) In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). If any contamination is found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. On completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

## **CORE DOCUMENTS**

### **CD1 Application Documents and Plans**

#### **Documents:**

- 1.1 Planning application forms
- 1.2 Agricultural Land Classification Report, prepared by Amet Property, dated 27th April 2021;
- 1.3 Arboricultural Impact Assessment, prepared by Barton Hyett Associates Ltd, dated April 2020 but issued 23 April 2021;
- 1.4 Arboricultural Survey Report, prepared by Barton Hyett Associates Ltd, dated March 2021
- 1.5 Construction Traffic Management Plan, prepared by Pegasus Group, dated May 2021
- 1.6 Design and Access Statement, prepared by Pegasus Group, dated May 2021;
- 1.7 Ecological Assessment Report, prepared by Pegasus Group (V1), dated May 2021  
Badger section redacted
- 1.8 Environmental Statement – Volume 1 (Main Report & Figures), prepared by Pegasus Group, dated May 2021;
- 1.9 Environmental Statement – Volume 2 (Appendices), prepared by Pegasus Group, dated May 2021;
- 1.10 Environmental Statement Non-Technical Summary, prepared by Pegasus Group, dated May 2021;
- 1.11 Flood Risk Assessment, prepared by PFA Consulting, dated April 2021;
- 1.12 Heritage Desk-Based Assessment, prepared by Pegasus Group, dated March 2021;
- 1.13 Landscape Strategy – drawing number P20-0981-10 dated 19/04/21
- 1.14 Planning Statement, prepared by Pegasus Group, dated May 2021;
- 1.15 Not used
- 1.16 Solar PV Glint and Glare Study, prepared by Pegasus Group (Issue 2), dated May 2021
- 1.17 Topographical Survey – drawing number 21752-1000-01

#### **Plans:**

- 1.18 Site Location Plan – drawing ref: P20-0981\_16 Rev A
- 1.19 Site Layout Plan – drawing ref: 007005\_01\_Layout\_Rev D
- 1.20 Building elevations and floorplans – drawing ref: 007005\_03\_Building Sections
- 1.21 Solar panel and security fence details – drawing ref: 007005\_04\_SectionViews

### **Supporting Documents**

#### **CD2 Additional/amended reports submitted after validation (1/6/2021)**

- 2.1 Dorset Biodiversity Appraisal Protocol: Certificate of Approval – Landscape & Ecological Management Plan, dated 4th March 2022;
- 2.2 Ecological Assessment Report, prepared by Avian Ecology, Version 4, dated 23rd February 2022, including as appendices:
  - 2.2a - Biodiversity Management Plan, Version 2, dated 6th December 2021
  - 2.2b - Biodiversity Net Gain Calculation, Revision 3, dated 22nd February 2022

- 2.2c - Confidential Badger Survey Report, Version 3, dated 23rd February 2022  
Badger section redacted
- 2.3 Landscape and Ecological Management Plan (Rev B), dated March 2022
- 2.4 Material Considerations Update Note, prepared by Pegasus Group, dated 30th August 2022;
- 2.5 NPPF Para 177 Compliance Note, prepared by Pegasus Group, dated 15th February 2022;
- 2.6 Planning Statement Addendum, prepared by Pegasus Group, dated December 2021;
- 2.7 Revised Construction Traffic Management Plan, prepared by Pegasus Group, Revision D, dated August 2022, including as an appendix:
  - 2.10a - GG104 Risk Assessment (dated June 2022)
  - 2.10b - GGz104 Risk Assessment Addendum (August 2022)
- 2.8 Sequential Analysis Study, prepared by Pegasus Group, dated November 2021
- 2.9 Supplementary Environmental Information Non-Technical Summary, prepared by Pegasus Group, dated December 2021.
- 2.10 Supplementary Environmental Information, prepared by Pegasus Group, dated December 2021 the SEI LVIA (Rev B) is dated May 2023
- 2.11 High Resolution Photomontages 2021

### **CD3 Committee/officer's report and/or decision notice**

- 3.1 Committee report
- 3.2 Decision notice
- 3.3 EIA screening opinion dated 12th March 2021

### **CD4 The Development Plan**

- 4.1 West Dorset, Weymouth & Portland Local Plan adopted in October 2015

### **CD5 Emerging Development Plan**

- 5.1 Dorset Local Plan, January 2021 consultation version
  - 5.1a. Dorset Council Local Plan Options Consultation document - Volume 1 - Strategy and Topics (January 2021)
  - 5.1b. Dorset Council Local Plan Options Consultation document - Volume 2 - Western Dorset (January 2021)
  - 5.1c. Dorset Council Local Plan Options Consultation document - Appendices 1-5 (January 2021)
  - 5.1d. Dorset Council Local Plan Options Consultation document - Appendix 6 part 1 (January 2021)
  - 5.12e. Dorset Council Local Plan Options Consultation document - Appendix 6 part 2 (January 2021)

### **CD6 Relevant appeal decisions and officer reports**

- 6.1 Halloughton, Nottinghamshire APP/B3030/W/21/3279533 ("Halloughton"), solar farm and battery storage
- 6.2 Cleeve Hill Solar Park Order reference EN010085
- 6.3 Bishops Itchington, Stratford upon Avon APP/J3720/W/22/3292579
- 6.4 Langford, Devon APP/Y/1138/W/22/3293104
- 6.5 Chelmsford, Essex APP/W1525/W/22/3300222, solar farm and battery storage

- 6.6 Gillingham, Dorset APP/D1265/W/22/3300299 solar farm and battery storage
- 6.7 New Works Lane, Telford APP/C3240/W/22/3293667 solar farm
- 6.8 Bramley, Hampshire APP/H1705/W/22/3304561 ("Bramley"), solar & battery storage
- 6.9 Lepe Road, Exbury APP/B9506/W/15/3132171
- 6.10 Vaggs Lane, Lymington APP/B9506/W/15/3006387
- 6.11 Officer Report - Rampisham Down
- 6.12 Officer Report - Southern Counties Shooting Ground
- 6.13 Cawston Norfolk Appeal Decision - 3278065
- 6.14 Pelham Sub Station Maunden S62a
- 6.15 Murton 3308881 - Appeal Decision
- 6.16 Telford (2) Appeal decision 3308481
- 6.17 Decision 3315877 Land S of Leeming Substation

### **CD7 Not Allocated**

### **CD8 Planning Appeal**

#### **Appeal Administration**

- 8.1 Appeal Forms
- 8.2 Copies of Appellant consultation notice
- 8.3 Inspector's Note of Case Management Conference

#### **Statements of Case**

- 8.4 Appellant's Statement of Case
- 8.5 Dorset Council (DC) Statement of Case

#### **Statement of Common Ground**

- 8.6 Agreed Statement of Common Ground
- 8.7 SOCG addendum core docs list.

#### **Revised documents and plans submitted at appeal stage**

- 8.8 Footpath – drawing ref: P007005\_09\_Footpath Rev B
- 8.9 Landscape Strategy (Sheet 1 of 4) – drawing ref: P20-0981\_10 Sheet No 1 Rev E
- 8.10 Landscape Strategy (Sheet 2 of 4) – drawing ref: P20-0981\_10 Sheet No 2 Rev E
- 8.11 Landscape Strategy (Sheet 3 of 4) – drawing ref: P20-0981\_10 Sheet No 3 Rev E
- 8.12 Landscape Strategy (Sheet 4 of 4) – drawing ref: P20-0981\_10 Sheet No 4 Rev E
- 8.13 ES Chapter 5: Landscape and Visual Impact (Rev B), dated May 2023
- 8.14 ES Appendix 5.1 LVIA Methodology, dated May 2023
- 8.15 ES Appendix 5.4b Photoviews Parts 1-3, dated May 2023
- 8.16 ES Appendix 5.5b Landscape Effects Summary Table, dated May 2023
- 8.17 ES Appendix 5.6b Visual Effects Summary Table, dated May 2023

## **Proofs of Evidence**

- 8.18 a. Appellant Planning Proof of Evidence
  - b. Appellant Summary Planning Proof of Evidence
- 8.19 Appellant Landscape Proof of Evidence
- 8.20 a. Dorset Council Planning Proof of Evidence
  - b. Dorset Council Summary Planning Proof of Evidence
- 8.21 a. Dorset Council Landscape Proof of Evidence (see also Inquiry Document 1)
  - b. Dorset Council Summary Landscape Proof of Evidence

## **Conditions and S106 Agreements**

- 8.22 Planning Conditions Schedule dated 5 July 2023
- 8.23 s106 agreement

## **National Planning Policy, Guidance and Legislation**

- 8.24 Climate Change Act 2008
- 8.25 Overarching National Policy Statement for Energy (EN-1) (July 2011)
- 8.26 National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
- 8.27 UK Government Solar Strategy 2014
- 8.28 Written Ministerial Statement on Solar Energy: protecting the local and global environment (25 March 2015)
- 8.29 Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
- 8.30 UK Parliament declaration of an Environmental and Climate Change Emergency (May 2019)
- 8.31 Climate Change Act (2050 target amendment) Order 2019
- 8.32 UK Energy Statistics Press Release published by the Department for Business, Energy & Industrial Strategy (June 2020)
- 8.33 Energy White Paper 2020
- 8.34 Achieving Net Zero' published by the National Audit Office (December 2020)
- 8.35 Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)
- 8.36 UK Government press release of acceleration of carbon reduction to 2035, (April 2021)
- 8.37 National Planning Policy Framework (July 2021)
- 8.38 National Planning Practice Guidance (Electronic Version only)
- 8.39 Net Zero Strategy: Build Back Greener, dated October 2021.
- 8.40 British Energy Security Strategy 2022
- 8.41 Draft National Policy Statement for Energy (EN-1) (March 2023)
- 8.42 Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) (March 2023)
- 8.43 Government's Renewable Energy Planning Database (REPD) - LPA and Appellant extracts from latest April 2023 version
  - a) Dorset Wide (LPA)
  - b) West Dorset (Appellant)
- 8.44 Government's Renewable Energy Planning Database (REPD) Mapping (online only) - Extract of +10MW Solar Farms
- 8.45 Powering Up Britain (March 2023)
- 8.46 Powering Up Britain Energy Security Plan (March 2023)

8.47 Powering Up Britain Net Zero Growth Plan (March 2023)

8.48 The latest version of the 'Digest' of United Kingdom Energy Statistics (DUKES)

### **Local Planning Guidance and Documents**

8.49 Dorset AONB Management Plan 2019 -2024

8.50 Dorset AONB Landscape Character Assessment 2009

8.51 Natural Environment, Climate and Ecology Strategy (July 2021)

8.52 Natural Environment, Climate and Ecology Strategy 2023-25 Refresh (March 2023)

8.53 Planning for Climate Change: Interim Guidance and Position Statement, Consultation Version April 2023

8.54 Climate and Ecological Emergency Strategy Progress Report - Autumn 2022

### **Other Documents and Guidance**

8.55 Landscape Institute TGN 06/19 Visual Representation of Development Proposals (Sept 2019)

8.56 Guidelines for Landscape & Visual Impact Assessment Third Edition (GLVIA3) Landscape Institute & Institute of Environmental Management & Assessment.

8.57 World Bank Group Solar Resource Maps showing UK Irradiation

8.58 The Macmillan Way, The Macmillan Way Association (2022)

8.59 Natural England South West region BMV map

8.60 SSEN embedded-capacity-register-june\_2023\_v5.1 - Extract

### **Additional DOCUMENTS submitted at the Inquiry**

- 1 Sarah Barber's Amendments to Proof of Evidence
- 2 Photograph of panels of the type likely to be installed in appeal proposal



# 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.