



Appeal Decision

Site visit made on 22 April 2025

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 May 2025

Appeal Ref: APP/C3105/W/24/3353069

**Land near Stratton Audley, Cherwell District, Oxfordshire, England
OX27 9AL**

(Site also known as Land North and Adjacent to Mill Lane, Stratton Audley)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant planning permission.
 - The appeal is made by JBM Solar Projects 8 against the decision of Cherwell District Council.
 - The application Ref 22/03873/F, dated 23 December 2022, was refused by notice dated 18 July 2024.
 - The development proposed is described as the '*Installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements*'.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements at Land near Stratton Audley, Cherwell District, Oxfordshire, England OX27 9AL in accordance with the terms of the application, Ref 22/03873/F, dated 23 December 2022, subject to the conditions set out in Appendix A.

Application for costs

2. An application for costs was made by JBM Solar Projects 8 against Cherwell District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. An Inquiry was originally sought by the Appellant (JBM Solar Projects 8). The Local Planning Authority (the Council) considered that the written representations procedure would be suitable. On submission, the Planning Inspectorate determined that the appeal would be considered by the Hearing procedure.
4. On appointment to the appeal, and after examining the written submissions made by all parties, I considered that determination via the written

representations procedure was appropriate. This was because, having reviewed the written submissions and evidence, the appeal scheme principally raises one main issue – that of landscape and visual impacts – which needs to be considered, and the implications of that on the final planning balance.

5. The Planning Inspectorate, exercising the powers under s319a of the TCPA, amended the procedure to written representations. All parties, including interested parties, were provided a further opportunity to provide any final comments. These were taken into account prior to the determination of the appeal.
6. I also note that the Council and interested parties indicated that they wanted me to walk the land and local area in order that I understood the potential impacts on users of the Public Rights of Way (PROW) and from nearby public vantage points. This would also enable me to appreciate and understand the context of the appeal in relation to nearby listed buildings and also residential dwellings.
7. I undertook an unaccompanied site visit on Tuesday 22 April 2025 to view the site and its surrounds.

Background and Main Issue

8. In their decision notice, the Council refused permission on the grounds of:

By virtue of the topography of the surrounding area and its exposed isolated location, the proposed solar farm, which would be visible from several public vantage points, would have a significant adverse landscape impact. The benefits of the scheme do not outweigh the harm identified...'

9. In the agreed Statement of Common Ground (SOCG), dated 27 March 2025, the main parties – that is the Appellant and the Council – indicated that:

'The parties disagree as to the level of visual impact from the local road network and extent of resultant harmful impact.

And;

The parties disagree on whether the level of landscape and visual harm is sufficient to justify a refusal of planning permission.¹

10. In its statement of case, the Council stated that:

'The LPA still maintain that the positioning of solar panels within the open countryside in a currently unoccupied field would inherently cause harm to the landscape visual amenity, which would notably be felt by the population of nearby Goddington (sic). Members of the Planning Committee are of the opinion that the harm caused by the intrusion into the countryside and its impact on the openness and wider landscape would significantly and demonstrably outweigh the benefits of the scheme.'

11. I also note the concerns raised by interested parties, including Stratton Audley Parish Council and Godington Parish Meeting, and local residents, on this subject.

¹ Agreed SOCG, page 10.

12. Taking all of the above into account, the main issue in this case is:

- i) The effect of the proposed development on the character and appearance of the area, including landscape.

Planning Policy Context

13. The adopted development plan for the area includes the *Cherwell Local Plan 2011-2031 Part 1 (CLPP1)* and the *Cherwell Local Plan 1996 (CLP)*. In particular, the Council have set out five policies from their development plan. These are summarised as:

14. Policy ESD5: Renewable Energy, sets out that

'The Council supports renewable and low carbon energy provision wherever any adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.'

Planning applications involving renewable energy development will be encouraged provided that there is no unacceptable adverse impact, including cumulative impact, on the following issues...

- *Landscape and biodiversity including designations, protected habitats and species...*
- *Visual impacts on local landscapes...*
- *Residential amenity.'*

15. Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment, sets out that

'Protection and enhancement of biodiversity and the natural environment will be achieved by the following:

In considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources...'

16. Policy ESD13: Local Landscape Protection and Enhancement, sets out that

'Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.'

Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.

Proposals will not be permitted if they would:

- *Cause undue visual intrusion into the open countryside*
- *Cause undue harm to important natural landscape features and topography*
- *Be inconsistent with local character*

- *Impact on areas judged to have a high level of tranquillity*
 - *Harm the setting of settlements, buildings, structures or other landmark features, or*
 - *Harm the historic value of the landscape.'*
17. Policy ESD15: The Character of the Built and Historic Environment, sets out that
- 'Successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design...'*
18. Policy C28, sets out that
- 'Control will be exercised over all new development...to ensure that the standards of layout, design...are sympathetic to the character of the...rural context of that development...'*
19. At a national level, planning policy primarily is set out in the *National Planning Policy Framework* (the Framework).

Reasons

The appeal site and its context

20. The appeal site measures approximately 59.4 hectares in size. Including the cable route, this rises to around 67.9 hectares. The site is relatively flat and screened from many of the nearby public highways by hedgerows. In the main, the site is currently farmed and has the appearance of arable farmed fields divided by hedgerows and some trees. There is a single Public Right of Way (PROW) along the northernmost boundary (numbered as 371 8b/10) and there are two further PROWs near to the site to the east (225 6/10) and to the south (371 3/10).
21. The appeal site is not subject to any specific national landscape or ecology designations. Furthermore, whilst valued as a landscape by the local community and visitors (as evidenced within the written submissions) the site is not a 'valued landscape' within the meaning of the Framework.
22. In terms of access, this would be achieved during construction and operational phases via the existing access point on the southern site boundary. Off-site cabling works would run along the public highway southwest through the settlement of Stratton Audley towards Bicester, and then southeast along Skimmingdish Lane (A4421) to connect to the existing substation.
23. A report titled *Agricultural Land Classification Padbury Brook Solar Farm Dated 25 November 2022 Issue 4* (ALC) was submitted by the Appellant. The underlying survey work was conducted in June and August 2022 and included consideration of the soil condition, and factors such as droughtiness and stoniness. This found that the site was entirely Grade 3b (moderate) agricultural land. This position is agreed between the main parties in the agreed Statement of Common Ground (SOCG) at Paragraph 3.4.

24. I note that a previous farmer of the land indicates that they had good crop yields and consider that, in farming terms, the land was, and remains, good farmland. However, in the absence of any detailed analysis to the contrary of that submitted in the ALC Report, I see no reason to dispute its conclusion, and the agreed position between the main parties, that the land is not Best and Most Versatile Agricultural Land (BMVAL) for planning purposes. Furthermore, in light of this, I find that the land would fall into the category of 'poorer quality land' in the context of Footnote 65 of the Framework when considered in this context.
25. The proposed solar PV panels, would utilise a fixed tilt system, in east-west rows and facing in a southerly direction. The panels will be covered in a high transparency glass with anti-reflective coating which helps reduce glint and glare and allows maximum absorption of available sunlight. The inverter containers will be located at intervals throughout the site and situated side-by-side in a linear format.
26. The emerging Local Plan does not currently propose to allocate any sites for solar development or identify where such development should occur.

Character and appearance of the area, including landscape

27. The proposal seeks the introduction of a Photovoltaic (PV) solar farm, Battery Energy Storage System (BESS), and associated infrastructure. These would be introduced into what are currently open agricultural fields bounded by hedgerows on most boundaries. These would, when viewing the site, undoubtedly, be at odds with its existing rural character and appearance. That is because elements of the character of the area would be changed. For example, the currently open fields would instead be covered by arrays of solar panels. It is also clear that the proposal would be visible, albeit to varying degrees, from various viewpoints.
28. For example, I saw during my site inspection the appeal site and its surrounds from a number of locations. This included from the local highway network along Mill Road to the west of the site, the highway to the south of the site between the junction of Mill Road and Stratton Audley Park, and also the road to the east of the site which runs from the road to the south of Godington to Holy Trinity Church, towards the northern end of the settlement of Godington. Views into or towards the appeal site from these highways is generally screened by either the undulating topography of the land or due to hedgerows along or near to the edge of fields/the highway. As such, most motorists and other road users are unlikely to experience or see the proposed development for most of their journey on local highways.
29. From a different viewpoint², I walked along Public Rights of Way (PROW) including that numbered 371 8b/10 which runs alongside the northern edge of the site. It provides an important footpath link between Fringford and Godington, and whilst crossing Mill Road at one point, in the main provides users with a pleasant and attractive rural walk between the two settlements and the wider PROW footpath network. Whilst I did not see any other users whilst walking this part of the PROW, I saw that there were horse-shoe marks in the northern most field along this PROW, and also shallow indents in the

² I use the term viewpoint here not as a specific point on a map, but rather the journey along this PROW as being a 'view' or 'viewpoint' of the site along the length of the PROW indicated.

land where walkers have traversed the PROW for many years; which suggests that it is an actively used PROW.

30. As part of my site inspection in the vicinity of PROW 371 8b/10 , I experienced walking through the woods from Mill Road and looking southward towards the northernmost field of the proposal. From this point I was able to see across the agricultural field into parts of the site. I was also able to walk diagonally across the field to the west of the appeal site on the PROW where it meets a timber bridge leading into other agricultural fields. There is also a fording point here which appears to have been used to access these fields. These lie outside of the appeal site, with the boundary typically formed by hedgerows.
31. I was also able to see the relationship between the appeal site and the main access road into the settlement of Godington. In the main, much of the length of this road is bounded by hedgerow. As such, it is likely that through gaps in the hedgerow or when it is cut to a low height, the appeal site would be visible to occupiers of motor vehicles as they travel up and down this road.
32. Nonetheless, the primary purpose of drivers is to watch the road. Given it is a relatively narrow country lane leading to and from Godington, it is unlikely that most road users would see these glimpses unless stationary, or when experiencing the kinetic journey up and down the road when their focus will principally be on the highway. Given these factors and also the landscape mitigation, I concur with the assessment of the LVIA in that any adverse effects from this route would diminish from high-moderate initially to minor once mitigation, secured by condition, is established³.
33. From a different viewpoint, views from the nearby PROW 225/6/10 (approximately towards the southeast of the site), are shown in the submitted viewpoint photos and photomontages. This is labelled as Viewpoint 5 in the LVIA⁴. The visual appreciation of the site and its surrounds from this PROW can be seen in Viewpoint Photo Figure no: 1051745-ADAS-XX-XX-FG-L-8005 Issue 02, date of Issue 17/11/2022. In this photo, as an example, it is possible to see how users of the PROW currently see across an expanse of farmland; including hedgerows and trees marking the boundaries of fields.
34. To assess the potential impact on users of the PROW, three photomontages of the same view are provided⁵. It is clear, when looking at the Year 0 photomontage that the view users of the PROW will change. This would result in a magnitude of change; being assessed as *major adverse* on the high ground of this PROW and *moderate adverse* on the lower ground⁶. Whilst the landscape mitigation would reduce to *minor adverse* for the lower ground, for the high ground it would remain *major adverse*.
35. This can be seen on comparing the Appellant's Year 0 and Year 15 photomontages of Viewpoint 5 from the LVIA, which clearly show that the proposed development, even with landscaping (which can be secured by condition), the proposal would be visible to users of the PROW. The photomontages for later years are not provided. However, it is logical to

³ Appellant's *Rebuttal Statement of Case*, dated May 2025, Page 11, paragraph 3.2.18

⁴ *Padbury Brook, Landscape and Visual Appraisal*, dated November 2022, undertaken by ADAS

⁵ Including that labelled as Viewpoint 5: PRoW 225/6/10, looking west towards the site, 1051745-ADAS-XX-XX-FG-L-8024 Year 0, and Viewpoint 5: PRoW 225/6/10, looking west towards the site, 1051745-ADAS-XX-XX-FG-L-8025 Year 15.

⁶ LVIA, page 29,

conclude that, with maintenance of the hedges and trees which take place as part of good agricultural practice, the 15 year photomontage is likely to represent the landscape mitigation at its greatest extent. Even within that scenario, it is clear that users of this section of PROW will continue to see and experience what is a large piece of renewable energy infrastructure. This will be a visual harm that would be present for the lifetime of the development: even with landscape mitigation in place.

36. The point here is that the visibility of the site within the wider landscape changes. This depends not only on the viewpoint itself – for example the length of a PROW – but also on its relationship with the appeal site and also the context (including the intervening area between the appeal site and the viewpoint) thorough which the relationship is experienced in practical terms by the viewer. In some instances, the existing and proposed mitigation will likely reduce the effect on character and appearance to low, such as in the case for drivers using the nearby public highways. For others, such as users of PROW 225/6/10, there would be major adverse effects; and these are impacts that will likely be sustained for the lifetime of the proposal every time people use this PROW.

Mitigation for character and appearance

37. To address these impacts, the Appellant has sought to provide soft landscaping. This would reduce the prominence of the proposed solar development through the use of hedgerows and trees which, in the main, would follow the existing field layout and form. When considered in light of the proposed landscaping, the effect on people arising from the development would be very limited from most public viewpoints. I am reinforced in this view by the information provided by the Appellant's Landscape report and also the Council's professional Landscape Officers. The latter who are reported in the Council's Appeal Statement there '*would not be significant landscape harm as a result of the proposals*'.⁷

38. As part of the appeal process, the Council also appointed an independent landscape consultancy, MCA Landscape Architects Limited, to provide an independent Review of Landscape and Visual Impact Assessment to aid the Council in their response to this appeal. This document is dated 27 March 2025, and was undertaken by a Chartered Member of the Landscape Institute. This review concludes that:

*'In conclusion I feel that the visual impact of the solar farm from much of the surrounding area can be mitigated by the proposed hedgerows and tree planting and by the retention and appropriate management of existing hedgerows. The proposed planting will contribute to the long term screening of the site and will constitute a real long-term enhancement of biodiversity and vegetation cover which will persist after completion of the operational period.'*⁸

39. Accordingly, these three separate expert assessments broadly indicate that whilst there would be some localised effects or impacts, overall these impacts have the ability to be mitigated and/or the harm is localised.
40. However, this is a broad summary of the position, and it should be noted that the Council's independent review does raise a number of concerns on certain

⁷ Cherwell District Council's Appeal Statement, paragraph 8.

⁸ Review of Landscape and Visual Assessment dated March 2025, Page 40, paragraph 7.15

views or viewing locations. For example at Paragraph 5.9 and 5.10 it sets out that *'The LVE considers that the landscape mitigation proposed will reduce residual adverse effects so that the overall visual effect at 15 years would reduce to **Moderate/Minor** significance. However in my opinion there will remain a negative impact on the PRow due to the loss of openness even if the planting matures to create an enclosed green corridor in which the solar panels cannot be seen. And for PRow 225/6/20 'Overall visual effects would be **Major to Major/Moderate** significance. The LVE concedes that even with landscape mitigation the negative effects would persist long-term from elevated sections of the PRow.'*

41. At paragraph 7.14, the Review acknowledges that *'There will be a significant visual impact from Godington where views to the south-west will have relatively uninterrupted views of the solar farm.'*
42. The reports above are not the only technical evidence presented in the appeal process. Stratton Audley Parish Council and Godington Parish Meeting commissioned their own independent Chartered Landscape Architect to review the submitted information. This resulted in the submission of a document called *Landscape Statement* dated March 2025. I refer to this as the Parishes landscape information.
43. The Parishes landscape information considers that the appeal site is located within a 'deeply rural environment' which the proposal would be totally out of character with⁹. This comment is in relation to the proposals considered impact in landscape character terms, and in particular it refers to *'if one was to stand within the appeal site on the public right of way [371 8b/10], with the scheme operational, there would be little sense of place associated with this rural location'*.
44. Respectfully, I disagree; this is because with adequate landscaping of the appeal site when viewed from the PRow 371 8b/10 the viewer would see hedgerow on the southern side of this PRow and the existing wooded area to the north when they travel along this footpath. I agree that when looking southwards the view would change, but it would still remain rural insofar as viewers would see a hedge on one side of the PRow and a wooded area on the other side when they move in westerly or easterly direction along the PRow. More generally, viewers will be able to see beyond the solar farm where it is visible, and therefore rather than a sea of solar panels the proposal would visually variegated within views as it is experience through, around and over existing and proposed landscaping.
45. In terms of visual amenity, the Parishes landscape information raises concerns over the effectiveness of the proposed landscaping to preserve visual amenity. Whilst it is true that the mitigating effects of the proposed landscaping are dependent on its implementation and maintenance over the lifetime of the proposed development, there is little information before me which would indicate that this is not a feasible and realistic aim. Indeed, the existence of hedgerows within and throughout the site not only indicates that such boundary treatments are able to grow within this location, but are also an important part of its character.

⁹ Page 23, paragraph 3.33

46. Concerns have been raised in terms of the effectiveness of the proposed landscaping, and whether it can truly be delivered as proposed. However, the use of such conditions to secure landscaping as a form of mitigation (and which can also provide biodiversity, ecological and wider visual benefits) is a typical one. There is nothing before me which indicates that if any similar planning conditions were imposed in this case, that they would not be effective.

Conclusion on character and appearance

47. I note the variances between the different landscape and visual impact assessments and reviews; including the different outcomes and potential 'effects' and the various weightings these have been attributed.
48. There are elements of visual impact which would be major adverse – such as for PROW 225/6/10 – and such effects are likely to last for the entirety of the proposed developments lifetime of 40 years. There would also be lower levels of visual effects or impacts; such as that I have found on the highway leading into and out of Godington and also from PROW 371 8b/10. This lower level of effects are because, in the main, of the relative distances between the site and the intervening existing and proposed landscaping that would be between most viewers and the proposed development.
49. Taken in the round, I find that the proposal would result in moderate harm to the character and appearance of the area including the landscape. However, I do note that there is a variation across the site and from some views the harm is either greater than moderate or lower. Nonetheless, I find moderate harm as a whole because the proposal would introduce large arrays of solar panels and BESS infrastructure which would be at odds with the existing character and appearance of the area. Where there are instances of landscape mitigation proposed this would, in many aspects, reduce the degree of harm from those viewpoints. For example as is the case of PROW 371 8b/10.
50. At the same time, the harms to views from PROW 225/6/10 will, even with landscaping, persevere for the lifetime of the development. In practice, this means that users of that stretch of around 150 metres of public right of way, will continue to be adversely affected. The logical conclusion here is that there would continue to be residual harm to character and appearance from the development during its operational life; albeit it is of a very localised and limited nature. In some cases the harm in terms of visual impacts will be reduced to minor or negligible.
51. In concluding on this issue, I find that the proposal would result in moderate harm to the character and appearance of the area, including the landscape. Even with the use of soft landscaping, this moderate harm would perpetuate for the operational lifetime of the development.
52. As such, I find that the proposal would conflict with Policies ESD5, ESD10, ESD13, and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, and saved Policy C28 of the Cherwell Local Plan 1996, which, amongst other aims aforesaid, seek to encourage renewable energy development provided there is no unacceptable adverse visual impacts on local landscapes and the proposal would cause undue visual intrusion into the countryside.
53. At the same time, it is important to note that there are many aspects of the adopted development plan policies cited above, which provide scope for

schemes that, whilst resulting in harm, if appropriate mitigation is secured, can be considered acceptable. I note this here, as it requires consideration as part of the overall planning balance, which I return to shortly.

Other Matters

54. A number of issues have been raised by interested parties beyond that set out in my main issue. I now consider these before considering which conditions could be imposed to mitigate or manage any impacts arising.
55. With regard to cumulative impacts, I note the point raised that there are potentially planned to be 6'000 acres of solar parks within 25 miles of the settlement of Stratton Audley. I have not been provided with the full details of the location or form of these. Nonetheless, I was able to see from my site inspection that within the immediate vicinity of the appeal site, there is an apparent absence of solar farms visible from the public realm. I do not, therefore consider that the potential cumulative impact of the proposal provides justification for the dismissal of the appeal in this case.
56. It is also suggested by some interested parties that the proposal would have an adverse effect on the Area of Outstanding Natural Beauty (AONB) or National Landscape as they are more recently known as. However, the nearest National Landscape is over 20km from the site, with no intervisibility with the appeal site. The proposal would not, therefore, result in harm to this designated National Landscape.
57. Similarly, concerns have been raised in respect of the cumulative impacts in connection with the East West Rail project (between Cambridge and Oxford) and also the High Speed 2 project (HS2). However, in both instances there is not only a physical separation of at least 1.5km, but there is also minimal opportunity to view these projects and the appeal scheme sequentially. As such, I do not find that this factor points to the dismissal of the appeal scheme.
58. With regard to agricultural land, it is suggested by the Parish Council that little weight should be attributed to any farm diversification considerations. However, whilst the financial elements of a farming business and how it operates is a private matter – including how and what crops or animals are grazed on the land, I do not agree that little weight should be attributed to the ability of the landowner to diversify their portfolio.
59. This is because whilst the land is unlikely to be farmed as intensively as before, it would nonetheless provide the landowner with the ability to not only graze livestock on the land, but also secure an income from the renewable energy created on the land. This would potentially provide greater certainty for the landowner over the forty year period that the land is used as a solar farm, and enable them to plan on the basis of a reliable income from this land. In such circumstances, I would afford this factor moderate weight in favour of the proposal rather than the 'little' suggested by the Parish Council.
60. In terms of residential amenity, concerns have been raised in terms of the potential impact on local residents from noise; including those from low-frequency components. I have considered this within the conditions section of this decision. However, at this stage I am content that a planning condition could be reasonably imposed in order to safeguard the living conditions of nearby occupiers.

61. My attention has been drawn to some appeal decisions. Whilst I do not have the full details of these cases before me and both cases are in different parts of the country from the appeal site, I am nevertheless able to consider their relevance to the scheme here.
62. In relation to that known as Land North of Stream Lane, Upleadon in Gloucestershire (reference 3331416), this appeal was dismissed in June 2024. In that case, the Inspector found that *'the proposed development would introduce a utilitarian element into this deeply rural landscape. Mitigation planting would not overcome this harm.'*¹⁰ However, in this appeal scheme in Oxfordshire, I have found that mitigation planting would overcome most of the visual harm arising, and where it would not, any such harm would be severely limited and localised (being weighted as 'moderate' harm overall).
63. With regard to the appeal decision at Great Pagehurst Farm, Staplehurst in Kent (reference 3146969), this appeal was dismissed in April 2017 around eight years ago and prior to the most recent iteration of the Framework. In that case, the Inspector found that *'the harms to the intrinsic and visual qualities of the landscape are substantial, both in significance and scale...'*¹¹. This situation is not reflective of the appeal scheme before me, where, whilst I have found some harm, this is limited and localised. In considering the relevance of both these appeal schemes, I do not find that they provide justification for the dismissal of the appeal scheme.
64. I also note that the Appellant has drawn my attention to Appeal Decisions, including within their *Rebuttal Statement of Case*, dated May 2025¹². I have taken these into account where relevant. However, they do not alter my assessment of the appeal scheme before me here.
65. Some interested parties have made reference to some form of compensation scheme being offered by the Appellant. However, that is a private matter between those parties concerned, and does not alter the consideration of the planning merits of the proposal.
66. With regard to the proposed Battery Energy Storage System (BESS) element of the proposal, concerns have been raised in respect of fire risks; including runaway fires. To that end, interested parties have sought the submission and approval of a Battery Safety Management Plan (BSMP) to be secured by condition. This appears to be a pragmatic way in which to minimise the potential risks to nearby residents in the unlikely but still possible event of a battery fire event occurring.
67. Concerns have been raised in respect of a nearby licensed wedding venue and rally centre, holiday lets, and the potential impacts on nearby horse stud businesses near to the site. In this respect, the Appellant amended the original scheme by removing part of the westernmost element of the site. The effect of this is that the proposal is unlikely to result in more than glimpsed views from this venue when landscape mitigation – such as hedgerows and trees – is taken into account.
68. In terms of the potential impact on other businesses in the area such as horse stud and holiday lets, I have considered the potential visual and landscape

¹⁰ Appeal Decision APP/P1615/W/23/3331416, paragraph 14

¹¹ Appeal Decision APP/U2235/W/16/3146969, paragraph 32

¹² From Appellant's *Rebuttal Statement of Case*, May 2025, pages 3 to 5.

impacts in the main issue and within the overall planning balance. I do not consider that the harm arising in character and appearance terms would result in unacceptable harm to these current businesses within the local area.

69. Concerns have been raised in terms of the proposed grid connection towards Stratton Audley, and the potential impact of this on trees and the conservation area. However, it is clear that the cable route would be installed within the existing road carriageway and/or verge and such installation would be subject to controls under other regulatory regimes, such as the Highways Act. This is a typical approach used by utility companies many times throughout the lifetime of the public highways. It is also a pragmatic approach, which, whilst resulting in minor traffic issues during the works, would provide long term benefits by avoiding the need to dig up large areas of fields, for example, between the appeal site and the local substation. It should also minimise any potential impacts on the root protection areas of trees along the route. It does not, therefore provide justification for the dismissal of the appeal.

Planning Balance (including material considerations)

70. The proposal would have an effect on the character and appearance of the area, including on the landscape. As such, it would conflict with some development plan policies. However, in the main, the harm arising would be localised and principally restricted to two stretches of PROWs (one to the north and outside and to the south of the site). Furthermore, it would be possible to use landscaping, and secure this by condition, in order to mitigate and minimise the visual effects of the proposal.
71. The Appellant has pointed to a number of material considerations¹³ which they consider should be taken into account. These include the National Planning Policy Framework (and Paragraphs 11, 125, and Section 14 *Meeting the challenge of climate change, flooding and coastal change for example*), various Written Ministerial Statements, the national Planning Practice Guidance, the National Policy Statements EN-1 and EN-3, the Climate Change Act 2008 (2050 Target Amendment Order 2019, the British Energy Security Strategy, and the declaration of a climate emergency in 2019 by Cherwell District Council.
72. It is clear, looking at all these various material considerations, that there is a strong direction of travel which is in favour of reducing the UK's reliance on fossil fuels and moving towards low carbon / net-zero means of creating energy. This is encapsulated in Paragraph 161 of the Framework, which states:

'The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'¹⁴

73. This does not necessarily provide an unfettered ability to build renewable energy wherever one may wish to. However, it does provide fairly

¹³ These are listed in the Appellant's *Statement of Case*, Pages 9 to 15

¹⁴ Emphasis mine.

unequivocal support for renewable energy schemes and associated infrastructure as a starting point. Nonetheless, it still requires a careful consideration of the potential impacts that schemes can create or exacerbate; as I have done here in relation to character and appearance.

74. In terms of ecology, the proposed development includes significant landscaping and biodiversity enhancements, including wildflower meadows and hedgerow planting, delivering an overall biodiversity net gain of over 215%.
75. The proposal would result in harms arising in terms of character and appearance including landscape; which as issue I afford moderate weight to the harm arising. As a result of this, there is conflict with some of the policies of the adopted development plan; and these indicate that permission should be refused.
76. When taking all of the material considerations into account, I afford these, when viewed as a whole, substantial weight in favour of granting planning permission. In such a planning balance, and as a matter of planning judgement, I find that the benefits of the proposal would outweigh the negative aspects or harm arising.
77. I therefore find that the material considerations in this case indicate a decision otherwise than in accordance with the adopted development plan. Accordingly, when applied within an overall planning balance, I find that the conflict with the adopted development plan is outweighed by the material considerations. Planning permission should therefore be granted in this instance.

Conditions

78. A number of conditions have been suggested by the main parties. I have taken into account the Framework (Paragraph 57) and the national Planning Guidance and the use of planning conditions.
79. Conditions have also been suggested by interested parties – in particular in terms of battery safety management plan. In many cases, these seek to refine those suggested by the main parties, and where appropriate I have incorporated the text suggested; albeit the overall thrust of the condition and its aims remain the same.
80. In the interests of fairness, the main parties have had an opportunity to consider all conditions suggested and comment on them. Where necessary I have amended the wording used, so as to reflect the requirements of Paragraph 57 of the Framework.
81. Conditions relating to time limit for commencement and to be built in accordance with the submitted drawings are relevant and necessary in order to provide certainty. However, the drawings condition need only to refer the drawings and plans themselves rather than list all submitted documents.
82. Conditions expiring the permission after 40 years and decommissioning matters are reasonable and necessary in order to control the operational lifetime of the development as sought. These conditions would also ensure that when the operational life of the proposed development ends, the site will be both decommissioned and there would be a restoration scheme approved by the Local Planning Authority. This should also make provision for early cessation of renewable energy on site should that situation occur.

83. Conditions relating to the landscaping scheme for the site and its retention are necessary in order to ensure that the landscape mitigation is put in place and is retained for the operational life of the scheme.
84. A condition requiring details of the kerbed bell mouth and another condition restricting any other access are not necessary. This is because they can be incorporated into other conditions. Nonetheless conditions in respect of a Construction Traffic Management Plan (CTMP) and approval of access arrangements have been submitted to and agreed by the Local Planning Authority are necessary to provide certainty and in the interests of highway safety matters.
85. Conditions relating to the permissive path within the site, and details of protection, mitigation and improvements of PROW 371 8b/10 are necessary in order to ensure that access to the countryside is maintained for all, wherever possible.
86. Conditions in terms of drainage and drainage schemes are necessary and reasonable in order to minimise the risk of flooding.
87. A condition relating to noise is reasonable in order to minimise any adverse impacts on occupiers of nearby residential dwellings during the operational lifetime of the site. Similarly a condition requiring a Construction Environment Management Plan (CEMP) is necessary to ensure that such noise and activity can be minimised to reduce adverse impacts on local residents. I have amended the wording to include consultation and communication with local residents, and the Stratton Audley Parish Council and Godington Parish Meeting to ensure that both these bodies are involved at this stage. The Local Planning Authority would continue to approved the final CEMP.
88. Conditions relating to archaeology and such activities taking place on site are necessary and reasonable in order to ensure that any finds of interest are recorded appropriately.
89. With regard to conditions relating to Protected Species including Great Crested Newts, the need for licences, a specific CEMP: Biodiversity, and requiring walkover of the site by a suitably qualified person(s), are absolutely necessary and reasonable in order to ensure that animal and plant life on or near to the site are protected. They should also include a requirement that if there are any significant pauses between the development of one field and another, that any walkover or other survey work is undertaken again in order to continue to protect Protected Species and/or their habitats. For these reasons, I have also inserted wording into the decommissioning condition to ensure that during that phase, Protected Species and their habitats are protected as required.
90. Similarly, a condition requiring the submission and approval of a Landscape and Ecology Management Plan (LEMP) is necessary in order to protect habitats of importance to biodiversity. For similar reasons, a condition requiring that no permanent external lighting is installed on the site is reasonable. However, I have omitted the 'unless agreed in writing with the Local Planning Authority' as this lacks precision and would result in doubt from interested parties and others as to the mechanism involved and how this could be reasonably controlled to ensure that any external lighting does not have an adverse impact on either biodiversity and/or local residents.

91. Lastly a condition has been suggested by interested parties in terms of requiring a Battery Safety Management Plan (BSMP). There are a number of sections within the site where BESS is proposed. In the main, these are situated some distance from nearby residential dwellings and, as such, the potential risk is likely to be low were any fires to be realised in practice. Nonetheless, these are legitimate and rational concerns to have. Furthermore, the imposition of a planning condition requiring the submission of a BSMP and its approval by the Local Planning Authority is reasonable and directly related to the scheme here.
92. This document should be informed by discussions with local residents through the Parish Council and Parish Meeting. This is to ensure that it not only meets any technical requirements, but that it is informed by the local context over the lifetime of the development and in turn helps inform residents of actions; such as evacuation or closing windows or any other activities, so as to reduce the risk to human health from the exceptional but still present risk arising from batteries associated with BESS. This has been imposed as Condition 16 to the permission granted here; although amended in order to comply with Paragraph 57 of the Framework.

Conclusion

93. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be allowed. This is because even though the proposal does not accord with the adopted development plan for the area when considered as a whole, there are material considerations which indicate a decision otherwise than in accordance with the development plan in this instance.

C Parker

INSPECTOR

Appendix A

List of conditions imposed – 3353069

Time Limit

Condition 1.

The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Compliance with Plans

Condition 2.

Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

Drawing number 1120022-ADAS-XX-XX-DR-P-8001 - [Site Location Plan A]

Drawing number 1120022-ADAS-XX-XX-DR-P-8002 - [Site Location Plan B]

Drawing number 1051745-ADAS-XX-XX-DR-PL-8000 - [Site Layout Plan Overall]

Drawing number 1051745-ADAS-XX-XX-DR-PL-8001 - [Site Layout Plan 1 of 4]

Drawing number 1051745-ADAS-XX-XX-DR-PL-8002 - [Site Layout Plan 2 of 4]

Drawing number 1051745-ADAS-XX-XX-DR-PL-8003 - [Site Layout Plan 3 of 4]

Drawing number 1051745-ADAS-XX-XX-DR-PL-8004 - [Site Layout Plan 4 of 4]

Construction Compound drawing Rev A - [Indicative Construction Compound]

Typical battery station drawing - [Typical battery stations ancillary drawing]

Typical inverter + DC batteries drawing Rev A - [Typical battery stations ancillary drawing]

Typical cable route trench drawing Rev A - [Typical Cable Route Trench Sections Details]

Comm mast details drawing Rev A - [Comms and Weather Station mast]

Customer switchgear drawing Rev A - [Customer Switchgear Details]

DNO building drawing Rev A - [DNO Building Details]

Fence & CCTV details drawing Rev A - [Fence, Track and CCTV]

Inverter building drawing Rev A - [Inverter Station Details]

3P table drawing Rev A - [PV table details]

Spares container drawing Rev A - [Spares Container Details]

Trench section drawing Rev A - [Trench Sections Details]

Access gate drawing Rev A - [Access Gate]

Drawing number 111299-10-01 - [Indicative Access Junction]

Drawing number 111299-10-02 Rev A - [Indicative Access Junction Swept Path Analysis Generic Low Loader (18m)]

Drawing number 111299-10-03 Rev A - [Indicative Access Junction Visibility Splay 2.4m x 215m]

Drawing number 111299-10-04 - [Indicative Access Junction Visibility Splay 2.4m x 120m]

Time Limited Permission

Condition 3.

The permission shall expire no later than 40 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after that event.

Condition 4.

- (i) Not later than 24 months before the end of this permission, (or after a period of six months where no electricity is exported from the site into the wider network (in effect earlier cessation before the 40 years period)) a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority.
- (ii) Such scheme shall include the management and timing of any works and traffic management plan to address likely traffic impact issues during the decommissioning period. It shall also include details of ecological surveys which shall include a survey of the site in terms of protected species and habitats in order to ensure that such species and/or habitats present on or near to the site are protected as required during any decommissioning and/or restoration works.
- (iii) The approved decommissioning and restoration scheme shall be fully implemented within 12 months of the expiry of this permission or following the earlier cessation period detailed in (i) of this condition; whichever is sooner.

Landscaping Scheme

Condition 5.

Prior to the clearance of the site (or any works associated with such activities) a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- i. Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- ii. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- iii. details of the hard surface areas, including any pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

The development shall not be carried out other than in strict accordance with the approved scheme and the hard landscape elements of the scheme shall be fully implemented prior to the first operation of the development and shall be retained as such thereafter.

Landscaping Implementation

Condition 6.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner.

Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species. Thereafter, all planting, including replacement plants, shall be retained as approved.

Landscape Maintenance

Condition 7.

Prior to the clearance of the site (or any works associated with such activities) a schedule of landscape maintenance for a minimum period of 10 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

Highways and Public Rights of Way

Condition 8.

Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Condition 9.

No development shall commence until full details of the means of a raised kerbed bell mouth site access between the land and the highway (as shown indicatively on the Indicative Access Junction drawing no. 111299-10-01), including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority.

The agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

The means of access shall be implemented in accordance with the approved details and once delivered, no other means of access whatsoever between the development and the highway shall be formed or used in connection with the development.

Condition 10.

Prior to First Export Date, full details of the permissive path through the site, including the route, width, signage, access furniture, and any other associated works required to ensure it is accessible for all insofar as is possible, shall be submitted to and approved in writing by the Local Planning Authority. The approved details for the permissive path shall be carried out in accordance with the details agreed within 12 months of the details being approved, and retained thereafter.

Condition 11.

Prior to the First Export Date, full details of protection, mitigation and improvements of the existing path within the site at PROW 371 8b/10 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Flood Risk and Drainage

Condition 12.

Prior to the First Export Date, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a. As built plans in both .pdf and .shp file formats;
- b. Photographs to document each key stage of the drainage system when installed on site;
- c. Photographs to document installation of the drainage structures on site;
- d. The name and contact details of any appointed management company information.

Condition 13.

The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing :Document: Drainage Response Date: 13/04/2023. Thereafter it shall be maintained and retained as approved.

Environmental protection

Condition 14.

Prior to the First Export Date of the development hereby approved, full details of a noise mitigation scheme including the noise levels to be achieved with the mitigation at the Noise Sensitive Receptors listed in the noise report (ref 2061200-RSKA-RP-001, dated January 2023) and at the dwelling at Merrick Hall Stud, Godington, shall be submitted to and agreed by the LPA. Thereafter, and prior to First Export Date, the development shall be carried out and retained in accordance with the approved details.

Condition 15.

Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) which takes account of the Council's published recommended hours for noisy construction work and shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents and the Parish Council and Meeting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Condition 16.

- (i) No development shall take place until a Battery Safety Management Plan ("BSMP") has been submitted to and approved in writing by the local planning authority.

- (ii) The creation and content of the submitted BSMP should occur with the proactive inclusion of both Stratton Audley Parish Council and Godington Parish Meeting (or any subsequent replacement bodies), including any evacuation or other actions in the event of a fire event occurring at the site, before it is submitted for approval by the Local Planning Authority.
- (iii) The BSMP should include and/or detail the measures or actions required of local residents and/or businesses in the event that a battery fire occurs on the site in order to minimise the risk to human health and/or property. As a minimum, this should cover the properties and/or buildings within the parish areas of Stratton Audley Parish Council and Godington Parish Meeting. It should include details of how local residents and businesses will be informed and/or notified of these required measures or actions.
- (iv) The BSMP must prescribe measures to facilitate safety during the construction, operation, and decommissioning of the battery storage facility; including the transportation of new, used and replacement battery cells both to and from the authorised development.
- (v) The BSMP must accord with the Battery Energy Storage Systems Technical Statement (or any subsequent replacement or updated document) and, in particular, must include all the mitigation and safety measures referred to therein.
- (vi) The Local Planning Authority must consult with Oxfordshire Fire and Rescue Service before determining any application for approval of the BSMP.
- (vii) The BSMP must be implemented as approved.

Archaeology

Condition 17.

Prior to any clearance or associated activities on site and the commencement of the development, a professional archaeological organisation or person shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Condition 18.

Following the approval of the Written Scheme of Investigation referred to in condition 16, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Ecology

Condition 19.

No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan 'Padbury Brook: Impact Plan for Great Crested Newt District Licensing (Version 3) (Sheets 1 and 2)', dated 22 January 2024.

Condition 20.

No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding Great Crested Newt compensation have been appropriately dealt with, has been submitted to and approved by the Local Planning Authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Condition 21.

No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

Condition 22.

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of 'Biodiversity Protection Zones';
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d. The location and timing of sensitive works to avoid harm to biodiversity features;
- e. The times during construction when specialist ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h. Use of protective fences, exclusion barriers and warning signs.

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

Condition 23.

Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked, including a walkover, by a suitably ecologist (member of

the IEEM or similar related professional body) to ensure that no protected species, which could be harmed by the development, have moved on to the site since any previous surveys were carried out.

Should any protected species be found or suspected to be present during this check, or at any other time during construction works, all works on site shall stop and full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority before any work recommences on site.

Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

Condition 24.

Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Lighting

Condition 25.

No permanent external lighting shall be installed within the site area.

***** END OF CONDITIONS *****