
Appeal Decision

Inquiry held on 28 October 2025, 10 to 14 and 16 to 19 March 2026

Site visit made on 20 March 2026

by S R G Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2026

Appeal Ref: APP/X1355/W/25/3368146

Land East of Edge Lane, Maiden Law, County Durham, DH7 0RY.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Lightsource SPV 215 Limited against the decision of Durham County Council.
 - The application Ref is DM/22/01769/FPA.
 - The development proposed is the installation and operation of a ground mounted photovoltaic (PV) solar energy generation system (solar farm), electrical substation and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of a ground mounted photovoltaic (PV) solar energy generation system (solar farm), electrical substation and associated infrastructure on land east of Edge Lane, Maiden Law, County Durham, DH7 0RY in accordance with the terms of the application, Ref DM/22/01769/FPA, and the plans submitted with it, subject to the conditions in the attached Schedule of Conditions.

Preliminary Matters

2. Before determination by the local planning authority (lpa) the description was amended to remove reference to a battery storage facility. The application was made for a temporary period of 40 years.
3. The appellant requested that the appeal be determined based on amended plans and up-dated supporting documents. The amendments responded to updated information by a statutory consultee. The amended plans are, FT-2P-25-6854-02 - Indicative Panel Elevation, GBR-Burnhope-LP3-PDL-07-PL - Preliminary Design Layout, and P25-0730_EN_08C - Landscape Strategy. The updated supporting documents are, Surface Water Drainage Strategy June 2025, Updated Glint and Glare Assessment June 2025, and the Burnhope Capacity Statement June 2025.
4. The lpa has no objection to the appeal being determined based on the amended plans. Keep It Green (KIG), object, submitting that the amendments, particularly the number of panels, would be a material amendment. The redline area and the nature of the proposal remains the same. National Policy¹ recognises that at the time of the decision, not all aspects of a proposal may have been settled. These aspects, include the type, number and dimensions of the panels.
5. Having reviewed the submissions, the nature of the reconsultation exercise and the responses received, I am satisfied that the Substantive and Procedural tests

¹ National Policy Statement for Renewable Energy Infrastructure (EN-3), Paragraph 2.10.62

outlined in Guidance² have been met. The amendments do not make significant or material changes to the scheme and no party would be prejudiced by determining the appeal based on the amended plans.

6. The Inquiry Procedure rules³ requires the lpa to issue 2 notification letters and post a press notice. The first, notifies of the submission of the appeal and the second, confirms the date, time and place of the inquiry. On Friday 24 October 2025, the lpa notified the parties that the second letter of notification, had not been issued and the press notice had not been published. Following submissions, I ruled that were the inquiry were to proceed, there was a significant risk that interested parties would be prejudiced. The inquiry was adjourned to allow the lpa to notify interested parties.
7. Draft agreements under S106 of the above Act and S39 of the Wildlife and Countryside Act 1981 were discussed at the inquiry. The obligations relate to, off and onsite biodiversity mitigation. Completed and signed Agreements were received after the inquiry closed.
8. Following the adjournment, proposed revisions to the National Planning Policy Framework (Framework) were issued for consultation. The parties were given to opportunity to comment on the implications of the proposed changes by way of supplementary evidence. The consensus was that the revised Framework as a draft was document was susceptible to change and as such little weight should be attached to the proposed revisions.

Application for Costs

9. Applications for costs against Durham County Council were made by the appellant and KIG. These applications are the subject of separate decisions.

Main Issues

10. These are (1) the landscape and visual impact of the proposal and (2) the effect on public rights of way (PRoW).

Development Plan and National Planning Policy.

11. The development plan includes the County Durham Plan adopted in 2020 (CDP). In 2025, the lpa undertook a review to assess consistency with the Framework. Of the relevant policies, Policy 33 – Renewable and Low Carbon Energy was identified as being partially consistent with the Framework. The lpa determined that when considering renewable energy proposals, regard should be had to the Framework. Other local guidance includes Supplementary Planning Documents (SPD) relating to Trees, Woodlands and Hedges, Financial Contributions and Solar Energy.
12. National policy and guidance includes the Framework, Planning Practice Guidance (PPG), Clean Power 2030 December 2024 and the Solar Roadmap June 2025. Overarching National Policy Statement for Energy (EN-1) (NPS) and EN-3 NPS for Renewable Energy Infrastructure were updated in December 2025. Whilst NPSs have effect for decisions on applications for energy developments that are Nationally Significant Infrastructure Projects (NSIPs) under the Planning Act 2008,

² Planning Inspectorate Procedural Guidance: Planning Appeals England.

³ Rules 4(4)(b) and 10(5) of SI 2000/1625 The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

they can be a material consideration⁴ in decision making on appeals made under the Town and Country Planning Act 1990 (as amended). Given the scale and nature of this proposal, NPSs EN-1 and 3 are material considerations.

Reasons

13. Before dealing with the main issues, it is necessary to deal with the matter of overplanting. The installed generating capacity of a solar farm declines overtime largely through a reduction in panel efficiency. In addition, power is lost through, transportation to the grid, converting direct current (dc) to alternating current (ac), at times of low irradiation and the difference between the theoretical output of a solar panel and the output achieved under operating conditions. One method of accounting for losses is through overplanting to maximise the grid connection over the lifetime of the site.
14. Footnote 98 of NPS EN- 3 defines overplanting as where the installed generating capacity of a scheme exceeds the capacity of the grid connection. Reasonable overplanting is acceptable so long as, the electricity exported does not exceed the NSIP installed capacity threshold throughout the lifetime of the site, it can be justified, and impacts are fully assessed through the planning process.
15. KIG draw attention to the Judgement of Mr Justice Fordham⁵ in upholding a challenge to a planning permission granted for a solar farm on this site in 2022. However, matters have moved on since the Fordham judgment. NPS EN-3, indicates that when determining the acceptability of overplanting, the decision-maker should have regard to the 2025 Judgement of Mr Justice Eyre⁶ in 2024⁷ dismissing a challenge to an appeal decision for a solar farm.
16. Solar arrays generate electricity as dc, which, before export is converted to ac by inverters. Solar capacity is measured in ac based on the maximum combined capacity of the installed inverters. At the time the application was submitted, schemes generating 50MWac⁸ and above were designated as NSIPs and outside of S78 Planning Act 1990 regime. Here, the installed inverter capacity would be managed at 49.99MWac and to meet the requirements of the grid connection, the maximum export output would be limited to 45MWac. With a maximum output capacity of 49.99MWac and the imposition of a condition controlling export capacity, this scheme is not classed as an NSIP.
17. Given continuous improvements in panel efficiency and the lead-in times from permission to procurement, national policy acknowledges the need for flexibility, particularly in terms of the type and number of panels, layout and spacing. This is amply demonstrated by the contents of Capacity Statements produced in October 2024 and June 2025. In October 2024, to meet a target capacity based on the power output of panels available then, the number of panels was estimated at 110,640. However, in June 2025, to meet a reduced target capacity and based on improvements to panel efficiency, the number of panels was estimated at 93,270. Whilst it is acknowledged that overplanting, would by definition, require more land

⁴ NPS EN-1 paragraphs 1.2.1 & 1.2.2.

⁵ R (Galloway) v Durham County Council and Lightsource SPV 215 Ltd [2024] EWHC 367 (Admin).

⁶ Lyn Ross v Secretary of State for Housing, Communities and Local Government & Renewable Energy Systems Ltd [2025] EWHC 1183 (Admin).

⁷ APP/P3040/W/3330045.

⁸ Since the application was submitted the NSIP threshold has been raised to 100MWac. The change in regulations is not applied retrospectively.

and potentially more harm, the issue is whether it can be justified and the full effects of the scheme are assessed and weighed in the planning balance.

18. Solar farms are one of the most established renewable energy technologies, quick to build and the cheapest form of electricity generation. In this context, one of the overarching objectives of Government policy in achieving net zero and energy security, is to maximise the contribution of solar. However, grid connections are scarce, with access to the grid the biggest constraint facing the industry. In this context, overplanting allows the efficiency of a solar farm and the grid connection to be maximised over the life of the development.
19. The appellant has provided yield assessments using a variety of panel capacities based on a broadly similar area occupied with panels. In each case, the overplanting ratio would be the same at 1.45. This ratio is within the typical range for overplanting for solar farms locally and nationally. However, with lower rated panels, the number required to meet the target output would be substantially greater and placed at a greater density. Overall, the appellant's chosen scenario⁹ provides more energy yield per annum and more efficient use of the grid connection i.e. the capacity factor. Whilst the differences between the individual scenarios appear small¹⁰, these are annual figures. The increase in efficiency i.e. yield and the maximisation of the grid connection should be viewed over the lifetime of the solar farm, which would be significant.
20. The appellant also provided an assessment of the implications for energy yield and the capacity factor of a development on a reduced site¹¹ using the same density of panels or increasing the density of panels. On this basis, the estimated annual energy yield and efficiency of the grid connection in each scenario would be markedly different. The chosen scenario would produce an energy yield of 63,014MWh as opposed to 51,426MWh on the reduced area at the same density or 55,805MWh on the reduced area but with a higher density of panels. The capacity factors would be 16%, 13% and 14.2%, respectively. Again, these are annual figures; the increases in efficiency i.e. yield and the maximisation of the grid connection should be viewed over the lifetime of the solar farm, which, again would be materially significant. To reinforce the point, the appellant's calculations show that the chosen scenario with an overplanting ratio of 1.45 would in the winter months would provide a yield of up to 20% greater than that from a reduced site area.
21. When the appeal was submitted, the proposed export limit, controlled by condition, was below the threshold, 50MW, to be considered as an NSIP. The scale of the proposed overplanting falls within the typical range of overplanting for solar farms locally and nationally. The degree of overplanting has been justified in terms of the developer's ability to maximise the energy yield and efficient grid connection use throughout the year and life of the development and the exercises undertaken by all parties have, fully assessed the development and its impacts.

Issue 1 - Landscape and Visual Impact

22. The site is not covered by any national or local landscape designations. The site lies within National Character Area (NCA) 16 Durham Coalfield Pennine Fringe.

⁹ 93,270 panels with an assumed panel capacity of 700MWp & overplanting ratio 1.45.

¹⁰ 63,014MWh Scenario 1 versus 62,741MWh for Scenario 3.

¹¹ Circa 40ha instead of 50ha.

NCA 16 is an extensive area and its key characteristics recognisable in the immediate area of the site are, pasture farming on higher ground, a landscape influenced by opencast mining where early restoration sites are often lacking in character, topography, and natural features, whilst later schemes are of more value for wildlife and amenity, numerous small plantations of conifers or mixed woodland, as blocks or shelterbelts. The site and land to the north was the subject of extensive opencast mining. The subsequent restoration is recognised as a good example of mining restoration.

23. The County Durham Landscape Character Assessment 2008 locates the site within the extensive West Durham Coalfield landscape designation. This study describes the landscape in terms of broad Landscape Character Areas (LCA) and at a finer grain, Local Landscape Character Types (LLCT). The site is within the extensive Northern Coalfield Uplands LCA, which picks up in more detail some of the NCA 16 characteristics. In this LCA, key characteristics include pasture fields bounded by stone walls, hedges and wire fences, opencast mining reclamation with fragments of heathland and frequent conifer plantations and a visually open landscape with commanding views across adjacent valleys to distant ridges.
24. At a finer grain, the site straddles 2 LLCTs. To the east of Edge Lane, Fields 5, 9, 10 and 13, are located within and comprise most of the High Ridge & Valley Farmland: Walled Pasture LLCT. This LLCT is described as pastoral farmland of high ridges, a mixture of improved and semi-improved pasture. Field boundaries are regular grids of dry-stone walls. The remainder of the site is located within the High Ridge & Valley Farmland: Wooded Pasture LLCT. This area is described as improved, semi-improved and wet rushy pasture with field boundaries of mainly hawthorn hedge. The Burnhope Plantation that separates Fields 9, 10 and 13 from Fields 7, 11 and 14 and the Morrowedge and Newcross Plantations effectively surround Fields 1 and 2 are noted as Upland Woods.
25. In 2019, to inform preparation of the CDP, the lpa undertook a Landscape Value Assessment (LVA). The Northern Coalfield Uplands LCA (BLT7) was divided into Character Areas. The land north of Burnhope between Edge Lane and Green Lane tapering up to Quaking Houses was identified as the Chapman's Well Sub-Area [BLT7a(xiv)]. Landscape value was assessed using Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment (GLVIA) 3rd edition. In terms of value, Chapman's Well scored Low-Moderate for historic conservation interest, Moderate for condition, scenic quality, rarity, representativeness and perceptual aspects and High for natural conservation interest and recreation. The LVA was followed by a Local Landscape Designations Review (LLDR), to identify potential Areas of High Landscape Value (AHLV) for designation in the CDP. Based on the LVA scores, the Chapman's Well Sub-Area was listed as, "Do not identify as Area of HLV: candidate for future consideration."
26. CDP Policy 10 – Development in the Countryside says that development will not be permitted unless allowed for by specific policies and where its siting and scale would not unacceptably harm the intrinsic character beauty or tranquillity of the countryside, which could not be adequately mitigated. CDP Policy 39 – Landscape is a permissive policy indicating that development will be permitted where it would not result in unacceptable harm to the character, quality or distinctiveness of the landscape, important features or views. Guided by landscape character assessments, development should, where possible, contribute to the conservation or enhancement of the local landscape.

27. In 2024, the Ipa issued a Solar Energy Supplementary Planning Document (SPD) with guidance tailored to solar farms of varying scale. Large scale proposals should contribute positively to an area's character and landscape features. Development should not cause unacceptable harm to the character, quality, or distinctiveness of the landscape, or to important features or views and incorporate appropriate measures to mitigate adverse landscape and visual effects. However, the SPD recognises that large-scale developments can have locally significant effects, which might need to be accommodated as part of transforming the energy supply infrastructure in the context of the climate emergency and where the local effects can be reduced by careful site selection and design.
28. The SPD notes that landscape effects can be reduced by, selecting locations in landscapes that have a lower susceptibility, locations that are naturally well screened in public views by topography and vegetation or are capable of being screened with new planting within a relatively short timescale, and by avoiding sites where panels could dominate the user's experience of the ProW network. Areas of lower susceptibility have flat or gently undulating terrain, landscapes heavily enclosed by hedges and woodland cover, landscapes experienced in shallow and short views and limited intervisibility with other areas. In terms of layout, design and planting, landscape and visual effects can be reduced by, preserving landscape features such as hedges, walls, woodlands and tree lines, fitting arrays comfortably into existing fields, avoiding conspicuous long, ragged or staggered edges, establishing new features to help screen and assimilate it into the landscape, allowing hedges to grow to a taller with their height managed to achieve screening more rapidly.
29. Framework, paragraph 187, indicates that the intrinsic character and beauty of the countryside should be recognised. That said, the Framework does not seek to protect, for its own sake, all countryside from development; rather it concentrates on protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan. Both the Ipa and KIG suggest that the site forms part of a valued landscape for the purposes of Framework paragraph 187a. Moreover, from the strong feelings passionately expressed both at the inquiry and in writing, I have no doubt about the value residents place on their surroundings.
30. The Framework does not define what constitutes a valued landscape. Case law has established that a landscape does not necessarily have to be statutorily designated or identified in the development plan for it to be considered as a valued landscape. However, landscape value means more than popularity and given that all landscapes are valued, by someone at some time, the term, valued landscape, must mean a landscape that is of value because of attributes, both physical and perceptual, that takes it to a level of more than just open countryside. GLVIA3 at Box 5.1, and the complementary advice in Technical Guidance Note (TGN) 02/21¹² assist the decision maker in determining landscape value.
31. In determining value, the parties use a combination of Box 5.1 and TGN 02/21. For the exercise, the Ipa and KIG focus on the Chapman's Well Sub-Area, and the appellant concentrates on the site. TGN 02/21 at paragraph A5.1.7 refers to the importance of looking at the role a site plays in the wider landscape and not limiting the assessment of value to the site itself. In this context, it is too narrow an

¹² Assessing Landscape Value Outside National Designations.

approach to just consider the site itself. However, the question, is, how far the spatial net should be cast. Whilst the LVA does not describe how the boundaries of the Chapman's Well Sub-Area were chosen, having viewed the area on the ground, that area would be a reasonable basis on which to assess value.

32. When considering whether areas should be the subject of AHLV designation, the LLDR adopted a number of positions. These ranged from a firm, do not identify to a firm, identify parts or all of a sub-area as an AHLV. Whilst the assessors had the opportunity to identify parts of Chapman's Well as AHLV, they did not. That appears to me to have been a deliberate choice. However, that approach does not diminish the interpretation of the LLDR statement. Looking at other sub-areas and the of scores achieved, areas with a mix of moderate and moderate-high across the board were recommended either in part or as a whole for designation as an AHLV. Chapman's Well scored moderate across the range of attributes and the reference to recent but maturing opencast site suggests that the assessors considered that the sub-area, as a whole, had, "something" but that, "it was not quite there yet." To me it seems that it would not have taken much for this sub-area to have reached the threshold for AHLV status.
33. It is several years since the LVA and LLDR were published, and the landscape of Chapman's Well has continued to mature. It is in this context that the value of the sub-area needs to be reassessed. I acknowledge that TGN 02/21 was issued after the LVA was undertaken and offers additional guidance in determining landscape value. However, in coming to my conclusion on landscape value and to achieve consistency with the LVA and LLDR, I have used the attributes and values used in the LVA.
34. *Condition* - apart from a few areas directly adjoining the northern edge of Burnhope, the overriding impression is that this is a landscape in good condition of *moderate-high* value. *Scenic* - there are distinct and noticeable variations across the sub-area, with well-maintained pasture fields, heathland and plantations of varying size and density. The prominence of Chapman's Well Pond from the PRoW, the rough landscape of Langley Moor, and a general sense of tranquillity elevates scenic quality. This is a landscape with many positive scenic attributes of *moderate-high* value.
35. *Rarity* - given the concentration and juxtaposition of a local nature reserve (LNR) containing habitats of acknowledged importance and value, well-maintained pastureland and mature plantations, the sub-area can be described as being of *moderate-high* value. *Representativeness* – in assessing this attribute, comments made in the description of key characteristics of NCA 16 are pertinent. NCA 16 is a landscape influenced by opencast mining where early restoration sites often lack character, topography, and natural features, later restoration schemes are of more value for wildlife and amenity. It is generally acknowledged that the restoration of the Chapman's Well opencast site was designed and implemented to a high standard and has been a success. It is a landscape of its type and in good condition of *moderate-high* value.
36. *Conservation Interest - Natural & Historic* - given the presence of the LNR which accounts for some 30% of the sub-area, I have no reason to demure from the *high* value ascribed by the LVA. That said, I disagree with the historic value attributed by the LVA. This is a landscape with no discernible historical features and of *low* value. *Recreation* - as a landscape with a high level of public access, I agree with

the LVA that it attracts a *high* value. *Perceptual* - given the increased maturity, this is a settled rural landscape with some detractors of *moderate* value.

37. The above scores are consistent with LLDR sub-areas that were recommended for AHLV designation. In this context, I consider the local landscape, which the site comprises part of, can reasonably be considered to be a valued landscape for the purposes of Framework paragraph 187a. However, although a valued landscape, that, on its own, does not prevent development within it.
38. The lpa and KIG criticise the Landscape and Visual Assessment (LVA) undertaken for the application and the assessment in appellant's evidence for not concluding on the significance of the landscape character and visual impacts of the scheme. The lpa and Secretary of State issued screening opinions under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. In both instances the conclusion was that the development was unlikely to have significant effects on the environment and the requirement for an Environmental Impact Assessment (EIA) was not triggered.
39. Table 3.1 of GLVIA3 explains the role of an LVA as part of an EIA or as a standalone appraisal. GLVIA3 indicates that as part of a standalone appraisal, the assessment of significance is not required. The role of a standalone appraisal is to specify the nature of the development, describe the landscape and views affected, predict the effects (although not their likely significance) and to consider how the effects might be mitigated. This is what the appellant has done. Moreover, if an adverse effect is deemed to be significant, this would contradict the outcome of a screening opinion on a scheme where it was concluded that it was unlikely to have significant effects on the environment. Accordingly, the appellant's approach to assessing landscape character and visual impacts is appropriate. In coming to conclusions on landscape character and visual impacts, I have, as GLVIA3 recommends, refrained from using the terms significant/not significant.
40. As the Solar SPD acknowledges, given their nature and scale, it is inevitable that large scale solar farms may result in some landscape and visual harm. Here, none of the parties suggest that there would be no harmful effects. The difference between the parties is the degree of harm and how that should be weighed in the overall planning balance.
41. My conclusions on landscape character and visual impacts are based on the submitted evidence, observations made on multiple accompanied and unaccompanied site visits and the numerous viewpoint photographs (VP) and photomontages (PM) provided. Whilst the VPs and PMs are of assistance in assessing visual impact, these views are snapshots in time and, they do not fully reflect the experience of walkers/riders as they proceed along the road/public footpaths/bridleways.

Landscape Character

42. The site sits on a hilltop plateau with localised higher ground in the north-east corner (Fields 1, 2 and part of Field 3A). The arrays and associated infrastructure, would, sit lightly on the affected fields, with no material change to topography or the removal of significant areas of hedgerows. The substantial Burnhope, Morrowedge and Newacres plantations and the large plantation surrounded by Fields 6, 7, 8, 11 12 and 14 are outside the redline area and would remain untouched. The arrays, substation, inverters and access tracks would be spread

across 14, mostly pasture fields. The nature of the arrays, their disposition in regular long rows together with the substation would be out-of-keeping with the character of the pasture fields introducing a major discordant element.

43. During construction and early operation of the solar farm there would be, within the site, a Major Adverse effect on landscape character. Additionally, the character of the area around Chapman's Well Pond between Fields 4 and 5 and, decreasing with distance, the area north of Fields 3B and 4 would also experience an impact on their character. Beyond these areas, to the west, east, south and south-east, given the degree of separation, the presence and retention of existing mature and maturing planting and the retention of the characteristic dry-stone walls, the effects on landscape character would be Negligible. Given the high degree of physical containment and its scale, there would be no significant adverse effects on the landscape character of the wider LCA. Although the construction period would be short, and at a time when the mitigation planting would be young, these adverse impacts cannot realistically be avoided.
44. During the 40-year life of the solar farm, the Major Adverse landscape character changes within the site boundary would inevitably remain; that is the nature of the beast. However, as mitigation planting matures, changes in landscape character beyond the site would be small and, in places, imperceptible. After decommissioning, the mature landscape mitigation would be retained and allow for the agricultural reuse of the site.

Visual Impact

45. Visual receptors consist primarily of walkers, cyclists and horse riders using the network of public and signposted footpaths and bridleways and drivers and their passengers using Edge Lane. Walkers, cyclists and horse riders are of the highest sensitivity and would experience the greatest effect when using the footpaths (FP) and bridleways, particularly where they adjoin the boundary of the site. Drivers and their passengers have a lower sensitivity.
46. What is noticeable is the high degree of physical and visual containment provided by hedgerows and dense woodland next to the site. From any one public vantage point there would be no ability to appreciate the full extent of the development. Moreover, the ability to obtain views across adjacent valleys to distant ridges is limited and narrow and restricted to the localised high ground in the north-east. These longer distance views are from VPs located at the entrance to Morrow Edge Farm on Bridleway (BW) 22, near the entrance to Wheatley Hill Farm and the informal and unsigned parking area off BW23. From the remainder of the public viewpoints, views are mostly short to medium range views across fields, most of which have as their backdrop dense woodland.
47. National guidance and the Solar SPD acknowledge that visual effects can often be mitigated to some degree by the retention and management of existing features and new planting, to offset visual effects during the operational period. Where new hedgerows are proposed there is concern over the time it would take for them to reach the height and density necessary to mitigate the visual impact of the arrays. The type and density of planting is a matter that could be controlled through condition. It is generally accepted that maintaining hedgerows to a minimum height of 3m can provide acceptable mitigation. I have adopted a cautious

approach to hedgerow growth and assessed the effects using 10 to 12 years for newly planted hedgerows to achieve the density and maturity to ensure screening.

48. Much of the development would be effectively screened by the existing belts of woodland and hedgerows and over time by new hedgerow planting. Post construction, the Landscape Strategy shows that after mitigation there would still be views of the arrays. In these areas where no mitigation is proposed, the development would remain visually intrusive. The key views would be from, FP26 along the southern edge of Field 14, views from SP3 across Fields 7 and 11 and views westward from BW22 across Chapman's Well Pond to the arrays and DNO substation in Field 5.
49. In the view across Chapman's Well Pond and the view north from FP26 to Field 8, the degree of separation would provide mitigation. However, in the absence of mitigation, the existing pastoral views to the backdrop of dense woodland would all be obscured and replaced by the 3m high arrays that would be discordant utilitarian feature. At some 3.3m apart, I acknowledge that the arrays would be generously spaced and that views from SP3 could be obtained along grass channels to woodland beyond Field 11. However, in the foreground what would be seen would be row after row of utilitarian metal lattice frames dominating the view. For Field 7, the existing longer distance pastoral views towards the belt of woodland beyond Fields 6 and 8 would be replaced by channelled views of the panels supports essentially across 2 fields. The visual effects would be Major Adverse at these locations and endure for the life of the development.
50. Notwithstanding the above, in all cases, additional mitigation planting would help to mitigate visual impact. The lpa and the appellant have suggested a condition that would require a scheme of soft landscaping, to be submitted. This would provide the opportunity for additional mitigation planting, albeit it would not entirely screen out all views of the solar farm, particularly from those vantage points of the localised higher ground to the north-east of the site. Moreover, as the Solar SPD notes mitigation planting could itself result in a harmful visual impact for walkers at the western end of FP26 and along SP3. The visual impact with mitigation would be Minor- Moderate Adverse.
51. There are 2 small scale solar farms within 1.5km of the site. To the north within the LNR is the Morrison Busty site and to west is the Greencroft site. To the east of Green Lane, a planning application for a sub-50MW solar farm has been refused by the lpa. Given the existing and proposed degree of separation, the scale of woodland/hedge planting and topography there would be no unacceptable adverse effects in terms of cumulative landscape or visual impacts.
52. Drawing all of the above together, the development would result in Major Adverse landscape character changes within the site boundary, which would continue throughout the life of the development. Given the high degree of physical and visual containment of the site, harm to landscape character beyond the site would be limited. There would be localised Major Adverse visual impacts decreasing over time with mitigation reducing to localised Minor-Moderate Adverse in conflict with CDP Policies 10 and 39 and Framework paragraph 187.

Public Rights of Way

53. This concern relates to the potential impact on the quality of the recreational experience for walkers, horse riders and cyclists. CDP Policy 26 – Green

Infrastructure has a section on PRow. Development is expected to maintain or improve access for users. Proposals that would result in the loss or deterioration in the quality of existing PRow will not be permitted unless equivalent provision of a suitable standard is made. The Solar SPD indicates that the effect of solar farms can be reduced by, avoiding sites where arrays could dominate the user's experience of the PRow network. The Ipa also preys in aid CDP Policy 31 – Amenity and Pollution citing that development that would have an unacceptable effect either individually or cumulatively on health, living, working conditions or the natural environment will not be permitted.

54. Framework paragraph 103 recognises that access to a network of high-quality open spaces for physical activity is important for the health and well-being of communities delivering wider benefits for nature and address climate change. Framework paragraph 105 indicates that decisions should protect and enhance PRow and access, including opportunities to provide better facilities through, amongst other things, adding links to existing networks.
55. NPS EN-3 whilst recognising the value and importance of PRow, acknowledges that some may need to be temporarily closed or diverted to enable construction. During construction, where practical and safe, developers should keep all PRow open and protect users. The design, layout and appearance of sites should, where possible, ensure their continued recreational use during construction, and operation of the site. Where possible, the visual impacts on those using existing PRow should be minimised recognising that screening may impact on the ability of users to appreciate the surrounding landscape. EN-3 encourages the maximisation of opportunities to enhance the PRow network through the adoption of new PRow or permissive paths.
56. The Definitive Map shows a variety of PRow across and around the site. These include FPs 24 and 25 linking Edge Lane to paths to the north of Burnhope. FP24 starts at Edge Lane and goes south-east through fields and then forks to include FP25, with both links meeting FP26 and other routes into Burnhope. Following the restoration of the Chapman's Well opencast site use of these paths was blocked by drystone walls, fences and wooded areas. Despite stretches of these paths being unusable they remain on the Definitive Map, and I understand requests have been made to the Council to ensure access is restored.
57. As part of the opencast restoration, FPs 24 and 25 were to be replaced by 3 new paths, 2 running east from Edge Lane to the northern edge of Burnhope (SP1 & 2) and one running north to south from BW22 to the northern edge of Burnhope (SP3). Although these paths were created, signposted, they are not included on the Definitive Map.
58. Following the grant of planning permission in July 2022, a S247 application was made to extinguish FPs 24 and 25. A draft Order to extinguish FPs 24 and 25 and add SP3, to the Definitive Map was published but not pursued. The Order also provided for the extinguishment of FP21, to be replaced by a longer FP to the northern point of Langley Moor and a new FP to run from the northern part of the moor along the western edge of the Morrowedge plantation to join BW22. These paths were implemented and signposted but not included on the Definitive Map. A footpath connecting BW22 to BW23 along the eastern edge of Field 3A was proposed but never implemented.

59. Currently, there are 2 applications for Definitive Map Modification Orders (DMMO) to add 2 paths to the Definitive Map. These are the Burnhope Morrow Edge link between BWs 22 and 23 along the eastern edge of Field 3A and the Burnhope Stream Valley link along the western edges of Fields 6 and 8 and the eastern edge of Field 12.
60. It is not for me as part of this appeal to consider the merits of whether individual footpaths should be extinguished or diverted or the merits of the DMMO applications. Should the appeal be successful, development that has a direct effect on any FP could not be implemented until relevant Orders had considered. That said, if extinguishment applications were not successful, and/or the DMMOs were made, the layout could be adjusted to accommodate the FPs.
61. Durham County Council Countryside Service promote the Chapman's Well Local Nature Reserve (LNR) as a visitor attraction. A signposted carpark is available to the west of Edge Lane opposite the access to SP1 and SP2. I have no reason to doubt the submissions that the LNR and the paths within it attract visitors from beyond Burnhope. Similarly, Burnhope Parish Council promote the Burnhope Circular Walk which consists of 2 circular routes through the site.
62. FPs originated to allow rural communities, in this case miners and agricultural workers, to access places of employment. Here, with the decline of mining and reductions in the agricultural labour force, their use has changed, with FPs now used mostly for recreational purposes. FPs to the south and west of Burnhope are in places steep and challenging to use. In contrast the FPs through and across the site are generally flat and provide an easy to walk for most users. In this context, the FPs have an enhanced community recreational value. SP3 appears to me to be the spine of this recreational network linking Burnhope via the network of paths that radiate from it to the LNR and beyond. Use of SP3 affords users with pleasant short to medium distance views across pasture fields to a backdrop of woodland. Similarly, BW22 where it runs along the western and northern edges of Fields 3B and 4 has a similar value in that views are obtained across the pasture fields and LNR.
63. SP3 would be altered from a FP with an open aspect, to a grassed corridor some 900m long and varying in width between some 4 and 23m. That said, enclosed FPs of this nature are common in the countryside. Indeed, a significant stretch of BW23 is enclosed by tall dense planting.
64. Public access to the FP network would be retained and improved with management and the replacement of the existing less than user-friendly stiles on SP3. Given the width of the path and the setback of the arrays from the fenceline and new hedgerows, users of SP3 would not be dominated by the development. That said, I recognise that although SP3 forms a small part, less than 1km, of the FP network, the recreational value of the walking experience would be reduced. Whilst reactions to the change in recreational value would be varied, what is important is that SP3 as part of a larger network would remain available for use in a form consistent with other paths in the immediate and wider countryside.
65. FP26 where it passes the proposed biodiversity mitigation areas in the south-east corner of the site would be fenced on either side. However, this fencing is intended to be low stock-proof fencing designed to deter foxes and would be the

subject of a condition requiring the approval of details. As such users of this part of the network would not be unacceptably corralled by fencing.

66. As to the health and wellbeing implications for the local population, there is no dispute that sections of the local community experience deprivation and acute/chronic health issues. KIG presents what it considers to be established facts regarding levels of deprivation, the mitigation of which it suggests partly depends on the landscape remaining open. KIG acknowledges that epidemiological evidence that this development would cause measurable health and wellbeing deterioration in the local population does not exist. The Framework indicates that decisions should aim to achieve healthy, inclusive and safe places especially where this would address identified local health and well-being needs and reduce health inequalities through the provision of safe and accessible green infrastructure, and layouts that encourage walking and cycling. In this case, given that the footpath network would remain available during the life of the development and retaining access to the key areas open to the public, what has been presented lacks objective evidence to justify dismissing this appeal.
67. BWs 22 and 23 run west to east linking Edge Lane to Green Lane and are open to horse riders and cyclists. What is notable is whilst BWs 22 and 23 link to FPs, they are isolated and not linked to any other BWs in the locality. That said, there are a number of equestrian businesses in the locality that make use of these BWs and FP21 across Langley Moor. The County Council as landowner, permits the use of FP21 as part of a riding route. The appellant's initial intention was to seek the temporary closure of BWs 22 and 23 during the 28-week construction period. At my request, the appellant provided the inquiry with a note relating to Construction Impacts on Rights of Way (CIRW) and discussions took place with at least one of the equestrian businesses regarding use of BWs 22 and 23 and the potential for keeping them open.
68. The appellant's current intention is to keep the BWs open as much as possible during the construction period and open outside hours of working. A condition is suggested that includes a requirement agree a Construction Environmental Management Plan that would, unless it was not feasible, ensure that all the PRow were kept open and accessible during the construction phase in accordance with the CIRW statement and national guidance. Apart from large goods vehicles serving the site compounds proposed for Fields 5 and 9, use of the remainder of BWs 22 and 23 would be limited to light vehicles and their movements would be controlled by banksmen to mitigate any conflict with walkers, riders and cyclists. In this context, there was a high degree of confidence that the PRow links could be safely managed during the construction period.
69. Fields 4, 6, 7, 8, 11, 12 and 14 would be accessed via BWs 22 and 23 at the boundary of Fields 6 and 7. There would be no reason for construction traffic to use BW23 to the east of this point. That part of BW22 between Edge Lane and where the 2 BWs diverge does not appear to be used by horse riders, given there is no offroad to access BWs beyond Edge Lane and concerns about sharing the road with traffic. The CIRW notes that it may be necessary to temporarily close the western end of BW22 during construction hours to allow for deliveries and access to Fields 5, 9, 10 and 13. The CIRW also includes the option of including a temporary link between BWs 22 and 23 along the eastern boundary of Field 4. Riders approaching from the north via FP21 would, with the temporary link in place, have the ability to complete the round trip with minimal disruption. Riders

approaching from the east, Wheatley Farm, with the temporary link would be able to access FP21 with minimal disruption. Similarly, cyclists would be able to use the BWs to link from Edge Lane to Green Lane with minimal disruption. In any event, any disruption would be of a short duration and limited to working hours.

70. Drawing all of the above together, I consider there would be a Minor Adverse reduction in the recreational value of parts of the footpath network contrary to the objectives of CDP Policy 26 and on a fair reading of CDP Policy 10, there would be no conflict.

Other Matters-

Ecology and Biodiversity

71. Consistent with the Framework, CDP Policies 41 and 43 require development to minimise harm, deliver measurable biodiversity net gain (BNG), ensure the effects on protected species are fully assessed and that viable populations are maintained and enhanced where possible. Framework paragraph 193 indicates that development should not be permitted where significant harm to biodiversity cannot be avoided (through the use of an alternative site), adequately mitigated or compensated for. The lpa does not object to the development on ecological or biodiversity grounds concluding that the development would not conflict with local or national policy.
72. This is a proposal that predated the statutory requirement¹³ for the provision of least a 10% increase in BNG. Here, the BNG assessment identifies net gains of some 80% for habitat units and 70% for linear units representing a substantial material increase.
73. Chapman's Well LNR is located to the north and west of Fields 1 to 5, albeit Fields 1, 2 and most of 3A are separated from it by blocks of dense woodland. Separated from the main area of the LNR and located to the south of Field 13 is Burnhope Plantation, an outlier of the LNR. That part of Burnhope Plantation separates Fields 9, 10 and 13 from Fields 7, 11 and 14 is not part of the LNR.
74. The site and its immediate surroundings have been the subject of a several ecological appraisals since 2022. This body of work included Ecological Impact Assessments submitted in 2022 and 2024, an update Ecological Appraisal in 2024, a Preliminary Ecological Appraisal of that part of the LNR to the north of Fields 3 and 4 and an Update Breeding Bird Appendix in 2025. These assessments provide the basis for the mitigation strategy.
75. The site is dominated by heavily grazed species poor grassland that has limited ecological importance. Since the original application in 2022, there appears to have been no significant changes in the agricultural management of the site that would affect the above assessment. Habitats of higher importance, i.e. hedgerows and ditches would be retained and enhanced. Several new hedges would be planted, which, in time, would provide additional habitats for nesting birds. Local concern relates to the nature and extent of the breeding bird survey and the absence of a survey of the Lowland Heath area.
76. Surveys relating to breeding birds have been carried out in accordance with recommended practice at the appropriate time of the year. These surveys

¹³ Schedule 7A of the Town & Country Planning Act 1990 as inserted by the Environment Act 2021.

consistently identified, amongst others, varying populations and territories of Eurasian Curlew, Lapwing and Skylark on the site and land to the north. A preliminary appraisal of the LNR, immediately to the north of the site¹⁴, was restricted to an assessment for the presence of Curlew and Lapwing and did not identify the presence of these species.

77. Curlews, inhabit a wide variety of habitats including grassland, heathland and moorland. Given the presence of these species on fields to the south, west and east of the LNR, their absence from the area to the north appears counter intuitive. However, habitat surveys of the area to the north indicate that some 88% of the area is made up of mostly tall, dense rush, which at this density and height is regarded as being unsuitable for ground nesting waders. Thus, the absence of an ecological appraisal of the offsite mitigation area is not fatal. The range of ecological appraisals and surveys undertaken since 2021 provides a reasonable basis to assess the effect of the proposal on local ecology.
78. Notwithstanding the presence of other protected species on the site, KIG's submissions concentrated on the effects of the development on the Curlew and the appropriateness of the mitigation measures. The Curlew has undergone a significant national decline justifying its placement on the Red List and designation as a species of principal importance for conservation and enhancement under the Natural Environment and Rural Communities (England) Act 2006 (NERC).
79. Curlew territories were principally identified in Fields 3 to 10 with outliers in Fields 1 and 14. The 2025 assessment identified the presence of 6 confirmed and one probable Curlew territory. Whilst breeding pairs were identified, the assessments consistently identified low breeding productivity. Given the proximity of the territories to dense woodland, low productivity is largely attributed to fox and corvid predation. Given the identification of the Curlew as a Red List and a species of principal importance, its categorisation as being of local or county value is an irrelevance. Indeed, whilst the most recent surveys identified an increase in the number of pairs, this does not necessarily indicate the value of the area. Rather, birds are more mobile and subject to considerable intra-annual variations in terms of numbers and breeding success. Here, what is important is whether the anticipated effects have been adequately assessed and mitigated. One of the basics of mitigation is like-for-like replacement. However, this does not mean provision for a specific number of breeding pairs, rather it refers to the suitability of the replacement habitat for that species.
80. The retention of the adjoining woodland and the retention/enhancement of field hedgerows would maintain and enhance the habitat for other priority and protected species. The arrays would for the duration remove the habitat for ground nesting birds and waders. To mitigate this impact, on and off-site mitigation is proposed. On-site provision would comprise some 8.6ha of grassland to the south of Fields 8 and 12 and a linear area bordering Edge Lane. These areas would be designed to provide areas suitable for wading birds through grassland management, the provision of wader scrapes and fencing of an appropriate type and height to discourage predation. The precise detail of these features, their implementation and management would be controlled by planning conditions and the S39 Agreement.

¹⁴ The area proposed for off-site mitigation.

81. Whilst conditions and the S39 Agreement could provide areas appropriate for use by ground nesting waders, like KIG and the RSPB¹⁵, I am not convinced that, given their scale and location, these areas, on their own, provide the adequate mitigation required to avoid harm to the habitat of these protected species. That said, the largest area to the south-east is one where skylarks have been observed and would be capable of providing a suitable habitat for Skylarks.
82. In the above context, the off-site mitigation measures proposed within the LNR immediately to the north is important. The proposed mitigation area extends to the some 38ha to the east of Chapman's Well Pond and immediately north of the fields where Curlew and to a lesser extent Lapwing have been observed. The proposal is to manage the area through rush control, continued grazing and the provision of scrapes to provide an enhanced habitat for ground nesting waders. The RSPB, subject to appropriate measures being implemented to create a mosaic of habitats, considers the use of this area to be a positive feature. The precise details of the works and ongoing management, which would be undertaken by the Council, is the subject of the S106 Agreement.
83. The offsite mitigation area is identified as Lowland Heath habitat, which given its declining extent, is classified as a Priority Habitat. The appellant's unchallenged evidence is that, given the extent of rush growth, this area now has a lower habitat distinctiveness. The proposed works and ongoing management would contribute to restoring its status as a Lowland Heath habitat, providing an additional biodiversity benefit.
84. Drawing all of the above together, the development would not conflict with CDP Policies 41 and 43 and the policies of the Framework regarding the effect on biodiversity and ecology.

Decommissioning

85. CDP Policy 33 indicates that, where relevant, proposals will need to include a scheme to restore the site to its original condition. Where necessary, this would be secured by a bond, legal agreement or condition. Neither the policy nor the supporting text assists in identifying what would constitute a "satisfactory" scheme or when it would be "necessary" to secure a bond or legal agreement.
86. On decommissioning/restoration, the lpa and the appellant have agreed a condition requiring a scheme to be submitted for approval 18 months before the expiry of 40-years. Given the generating life of a solar panel is limited, temporary permissions are common to ensure that redundant panels are removed, and land restored at the end of their generating life. To comply with CDP Policy 33 and to ensure the development is acceptable in planning terms, KIG submits that the appellant should provide a £7.9m decommissioning bond, the absence which weighs against the grant of permission.
87. PPG¹⁶ notes that solar farms are normally temporary structures and conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use. There is no reference to the provision of financial bonds. Currently, it is not Government's policy¹⁷ to require decommissioning bonds. The lpa is content to rely on the condition, which would

¹⁵ Royal Society for the Protection of Birds

¹⁶ Renewable and Low Carbon Energy Paragraph: 013 Reference ID: 5-013-20150327.

¹⁷ Solar Power: Decommissioning, Question to the Secretary of State for Energy Security and Net Zero.

be enforceable against the developer, their successors in title and the landowners. Moreover, the lpa explained that it has the ability to undertake the work itself and impose a charge on the property.

88. The application was accompanied by a Construction and Decommissioning Method Statement (CDMS). In evidence, the appellant clarified and updated the position on the financial measures underpinning decommissioning. Lease agreements would contain an obligation to undertake decommissioning. The lease obligations, which would take effect from the 15th anniversary of signing, commit the tenant to ensure that financial provision is in place through a sinking fund in the names of the tenant and landowner, to decommission the site.
89. Generally solar farms are constructed using project finance and normally the tenant and landowner are required to sign a Lease Direct Agreement (LDA). A LDA provides comfort to the lender that the landowner would not forfeit the lease without allowing the lender the opportunity to remedy the breach and comfort to the landowner that the tenant or the lender will comply with the obligations in the lease. In the early years of operation, the value of the infrastructure would be high and outweigh the cost of decommissioning. Whilst the value of the infrastructure would decline over time, at that stage the sinking fund would be in place, thus mitigating the risk of a site being abandoned and liability for decommissioning passing to the landowner. Given current guidance, the Government's up-to-date position on financial bonds, and the lease obligations, there is no reason to conclude that a requirement to provide a financial bond to guarantee restoration would be necessary to make this proposal acceptable in planning terms.

Living Conditions

90. CDP Policy 31 seeks to ensure no unacceptable effects on the living conditions of nearby residents. An updated Glint and Glare Assessment was submitted in June 2025. Two properties would be subject to a High and Medium impact, and 2 road receptors would be subject to a High impact from glare. Once hedgerow mitigation was considered, no residential or road receptors would be subject to glint and glare. The application was accompanied by a Noise Impact Assessment which concluded that the development could generate noise levels at or below existing background levels and would not result in any observable adverse effects on behaviour or result in other physiological effects. Whilst some residential properties on the north side of Burnhope and on higher ground to the north-east would have a view of some of the arrays, given the degree of separation, the very limited and temporary impact from glint and the absence of noise, the potential level of impact on residents' living conditions would not rise to the level where affected properties would become unattractive places to live such that the development should be refused. The development would not conflict with CDP Policy 31.

Agricultural Land

91. CDP Policy 14 seeks to protect Best and Most Versatile (B&MV) agricultural land. The Framework defines B&MV agricultural land as Agricultural Land Classification Grades 1, 2 and 3a. Where significant development of agricultural land is necessary, areas of poorer quality should be preferred. Here the site is graded 3b and 4, land of lower quality. Whilst use of the site as a solar farm for 40 years is a significant period of time, it is not permanent, nor does it take the land completely

out of agricultural use. Solar farms are regularly used for sheep grazing and sheep farming a feature in this area. Modern solar farms sit lightly on the ground with minimal effect on land/soil quality. As grassland and “rested” from intensive pasture use, soil health and structure would improve for when the land reverts to agricultural use. A Soil Management Plan would ensure that there would be minimal impact on soil quality. There would be no conflict with CDP Policy 14.

Contamination, Mineral Safeguarding and Coalfield Risk.

92. The site has been the subject of opencast coalmining and landfill use. Although the subject of a restoration scheme and subsequently used for agriculture, a Phase 1 preliminary risk assessment has identified that the potential for significant contamination impacts is limited. Such low risks would be adequately mitigated by imposing conditions providing for Phase 2 assessments and, if necessary, Phase 3 remediation.
93. The site is within a Mineral Safeguarding Area for coal where CDP Policy 56 indicates that development resulting in the sterilisation of mineral resources will not be permitted. One exception is development of a temporary nature that would not inhibit extraction. The solar farm would be time-limited to 40 years and as such would not permanently sterilise the potential resource.
94. The site is located within a High-Risk Coalfield Development Area, and a Coal Mining Risk Assessment has been submitted. Whilst the previous sub-surface mining may have been removed by the opencast mining, some risk remains and intrusive ground investigation and, if necessary, remediation is recommended. These concerns would be adequately addressed by proposed conditions. There would be no conflict with CDP Policy 32.

Benefits

95. The development would initially export up to 45MWac to the grid with a potential to increase this to 49.9MWac if additional grid capacity becomes available. The proposal could power some 15,000 homes and displace some 11,050 tonnes of CO₂ emissions annually, the equivalent of taking some 6,100 cars off the road. Government strategy is to reach net zero by 2050 and current guidance confirms that solar power is crucial in meeting that target. Solar power is acknowledged as a key part of the strategy for energy security, net zero and clean growth with the expectation of a 5-fold increase in solar deployment by 2035. This project would make a material contribution to the imperative of mitigating climate change, achieving net-zero and providing energy security. The proposal benefits from a secure grid connection that would be prioritised for connection pre-2030 and there are no physical constraints that would prevent early implementation of the scheme.
96. This is not a proposal that is required to provide a mandatory 10% under the Environment Act 2021. Biodiversity mitigation measures would provide substantial BNGs (some 80% in habitat units and 70% in hedgerow units) as required by CDP Policies 41 and 43 and Framework paragraph 187(d).
97. The proposal would result in local economic benefits during construction and contribute to the economic stability and viability of the farm unit. The appellant has accepted the imposition of a condition requiring a scheme to improve the quality of footpath accessibility within the development boundary. Although not formalised in

a legal agreement, the appellant has expressed a willingness to make financial contributions to the Durham Community Foundation and Burnhope Parish Council.

Planning Balance and Conclusion

98. Addressing the adverse effects of the climate crisis is recognised as a generational challenge and delivering clean power is a flagship policy of the government. NPSs EN-1 and EN3 highlight that solar is one of the lowest cost ways of generating electricity and that a secure reliable, affordable, net zero consistent energy generating system in 2050 is likely to be composed predominantly of solar and wind. Solar is a key part of the Government's strategy/policy for low-cost decarbonisation of the energy sector and has a role in delivering greater energy independence. This proposal, given a guaranteed grid connection, would make an early and material contribution to achieving local and national objectives relating to tackling climate change, achieving net zero and providing energy security. Framework paragraphs 161 and 168a support the transition to a low carbon future and enjoins the decision maker to give **significant** weight to the benefits of renewable energy and the contribution to a net zero future.
99. The Biodiversity Net Gains and economic benefits attract **significant** and **moderate** weight, respectively. It is generally accepted that solar farms, particularly those on agricultural land, are subject to temporary permissions for up to 40 years to ensure that the land can be restored and the useful life of the solar panels maximised. Thus, the restoration of the site to its current use attracts **limited** weight. Whilst contributions the Community Funds could benefit the community in general; they are not a material consideration in determining this appeal and as such attract **no** weight.
100. Implementation of the development would require the permanent closure of 2 FPs shown on the Definitive Map. A S247 draft Order was made to close these paths and formalise the route of SP3 along the western edge of Fields 7, 11 and 14, but not implemented. The layout of the solar farm could accommodate the routes of the Burnhope Morrow Edge and Stream Valley paths currently the subject of DMMO requests. Given that SP3 exists and may have acquired public footpath status through length of use and the formalisation of the Morrow Edge and Stream Valley paths could occur without the development of the solar farm, I consider that **no** weight should be attached to these matters.
101. The adverse landscape impacts identified would be temporary, reversible and highly localised. There would be **Major Adverse** landscape character changes within the site boundary, which would endure for the life of the development. However, given the high degree of physical containment this site displays, harm to landscape character beyond the site would be limited. The visual effect on users of the public footpaths/bridleways, would be **Major Adverse**, reducing to localised **Minor Adverse** as mitigation planting matures. Given my conclusion that the site lies within a valued landscape and taking an in the round view of the degree of landscape and visual harm that would occur over the lifetime of the solar farm, I attach **Significant** weight to these harms. The development would result in some **Minor Harm** to recreational value, mainly experienced along SP3. I attach **Moderate** weight to this harm.
102. Both national and development plan policy recognise that large scale solar farms may result in some landscape and visual impact harm. However, both adopt a

positive approach indicating that development can be approved where the harm is outweighed by the benefits. Striking that balance is a planning judgement.

103. In striking that balance KIG submit that the contribution the residents of Burnhope have made to national energy needs and the harm they suffered as a result of mining, being classed a Category D village that was stripped of many of its facilities and expected to die quietly without further investment should form significant part of the balance. Residents' descriptions and photographs of the opencast mining paint a picture of landscape devastation, with residents stripped of access to a vast swathe of countryside. I can fully understand the residents' frustration of at the thought of being "done to" again. The restoration scheme acknowledged as being of high quality and a credit to those involved in it, was not compensation for the years of opencast mining. Rather, it was a natural and required end of that process. Neither was it a gift to the community to be preserved in in perpetuity. The land was restored for agricultural use and returned to the original owners or their successors. Whilst the collective concerns of the residents were eloquently, and sometimes passionately, expressed, the planning and appeal system has to operate on an essentially objective basis. As such I attribute **limited** weight to this matter.
104. Acknowledging the Chapman's Well Sub-Area as a valued landscape is not a bar to development within it. There would be time-limited localised landscape, visual and recreational harm, in conflict with the relevant development plan policies. However, the imperative to tackle climate change, achieve net zero targets and contribute to energy security as recognised in legislation and energy policy, and the other benefits of the scheme clearly outweigh those harms. As such the proposal would accord with the development plan when read as a whole. Accordingly, and having taken all other matters into account, the appeal is allowed.

Conditions and S106/S39 Agreements

105. The list of suggested conditions was agreed between the lpa and the appellant. The suggested conditions contain several pre-commencement conditions which the appellant has no objection to.
106. In the interests of clarity and certainty, conditions 2, 3, 4, 5, 6 and 7 are necessary. Solar farms are granted temporary permissions to ensure that the land can be restored to its previous condition once it is no longer required. Condition 4 grants temporary permission for 40 years from the date of first export so as to maximise the amount of energy exported to the grid. Condition 6 provides for the restoration of a site in situations where the export of electricity ceases for a continuous period of 12 months. KIG suggested including situations where the solar farm had an output of less than 10MWac for a period of 6 months. This addition could trigger early restoration of a scheme where the inability of the operator to export electricity to the grid occurred as the result of events that were outside their control. As such, the addition of a 10MWac threshold would be unreasonable.
107. Conditions 8, 23, 24 and 25 are necessary to protect neighbours' living conditions. Condition 8(r) contains a requirement to submit details of measures to liaise with the local community and measures to deal with complaints. KIG suggested that the submitted details should first be agreed with the local community. It is for the lpa to consult with community representatives on how best this can be achieved and to assess whether what is proposed is acceptable, rather than include a

requirement for the appellant to do so within a condition. Condition 9 is necessary to mitigate the potential impacts of flooding. Conditions 10, 12, 13, 14 and 15 are necessary in the interests of the appearance of the area and biodiversity. Condition 11 is necessary in the interests of recreational amenity. Condition 16 is necessary in the interests of highway safety.

108. Conditions 17 and 18 are necessary to safeguard any archaeological interest on the site. Conditions 19, 20, 21, and 22 are necessary to mitigate the potential for ground contamination and mining instability. Condition 26 is necessary in the interest of ensuring disturbed soils are appropriately managed.
109. The completed Agreements under S106 of the above Act and S39 of the Wildlife and Countryside Act 1981 provide for on and off-site biodiversity mitigation. The S106 Agreement provides for staged payments totalling £204,325 to the Council for it to undertake agreed mitigation measures on land at Chapman's Well LNR. The S39 Agreement provides for the implementation of biodiversity works within the site in accordance with a management and maintenance plan to be submitted to and approved in writing by the lpa. The maintenance period would be for a period of 40 years. I am satisfied that the S106 Agreement complies with the tests set out Having regard to Framework paragraph 58 and R122 of the Community Infrastructure Levy Regulations 2010 and I have regard to the contents of the S106 Agreement and the S39 Agreement in coming to my conclusions.

George Baird

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The local planning authority shall be given at least 7 days prior written notification of the date of commencement of the development.
3. The approved development, once operational, shall have an export capacity of not more than 49.99MWac.
4. The planning permission hereby granted shall be for a temporary period only, expiring 40 years after the First Export Date of the development, with the exception of the DNO substation and associated grid connection infrastructure, which are permitted to remain on site beyond that period. Written confirmation of the First Export Date shall be provided to the local planning authority within 7 days of the event.
5. Not less than 18 months before the expiry of 40 years from the first export of electricity, a Scheme for the Decommissioning of the solar farm, including land restoration, shall be submitted for written approval by the local planning authority. The approved scheme shall provide for the dismantling and removal of the solar farm, and all associated above and below ground infrastructure, with the exception of the DNO substation and any associated grid connection infrastructure which are permitted to remain thereafter, and for the land to be restored in accordance with the approved scheme and timescales. The scheme for decommissioning shall also include details of the retention of any approved boundary treatment(s) and planting, the management and timing of any works, a Traffic Management Plan to address likely traffic impact issues during the decommissioning period, an Environmental Management Plan to include details of measures to be taken during the decommissioning period to protect public rights of way, wildlife and habitats, and details of site restoration measures. The approved scheme of restoration shall then be fully implemented within 18 months from date of expiry of 40 years after first export.
6. In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a Scheme for the Decommissioning of the solar farm, including land restoration, shall be submitted to and approved in writing by the local planning authority within 6 months from the end of the 12-month period. The approved scheme shall provide for the dismantling and removal of the solar farm, and all associated above and below ground infrastructure, with the exception of the DNO substation and any associated grid connection infrastructure which are permitted to remain thereafter, and for the land to be restored in accordance with the approved scheme and timescales. The scheme for decommissioning shall also include details of the retention of any approved boundary treatment(s) and planting the management and timing of any works, a Traffic Management Plan to address likely traffic impact issues during the decommissioning period, an Environmental Management Plan to include details of measures to be taken during the decommissioning period to protect public rights of way, wildlife and habitats, and details of site restoration measures. The approved scheme of restoration shall then be fully implemented within 18 months of written approval being given.

7. The development hereby approved shall be carried out in accordance with the following approved plans unless amended or supplemented by details approved under the terms of Condition 10 or any other condition attached to this permission.

Drawing Number	Drawing
AD-SLP	Site Location Plan
GBR_GBR_Burnhope_LP3 - PDL_07	Preliminary Design Layout
GBR Indicative EPD_FT-2P-25-6854_02	Panel Elevation
UK_EPD_AUX+300	Auxiliary Transformer
UK_EPD_INV	Inverter
UK_EPD_MH/CB	Monitoring House Communication Building
UK_EPD_MTR	Cabinet DNO Meter
UK_EPD_GTD	Gate
UK_EPD_FNC	Fence
UK_EPD_CSS	Customer Substation
UK_EPD_BB	Power Conversion Block
UK_EPD_RCS	Road Cross Section
UK_EPD_S40+300	Storage Container
GBR_BRH_EPD_SUB	Substation Floor Plans
GBR_BRH_EPD_SUB	Substation Sections
UK_EPD_DNO	DNO Substation Elevations and Floor Plan
UK_EPD_TFM	Transformer
UK_EPD_TLT	Toilet
UK_EPD_SWG	Switchgear Production Substation / LV & MV Kiosk
UK_EPD_CAM	CCTV Camera
P25-0730_EN_08C	Landscape Strategy

8. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted and approved in writing by the local planning authority. The CEMP shall include as a minimum, but not necessarily be restricted to, the following:
- measures to ensure that all Public Rights of Way within the site are kept open, unobstructed and accessible in a safe manner for users during the construction phase, unless it is not feasible to do so. During construction, measures to manage the Public Rights of Way shall be in accordance with those set out in the document titled 'Construction Impacts on Rights of Way, March 2026, where applicable.
 - a Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" 2023 V2.1.
 - with regards to noise, the construction phase of the proposed development should include the duration of the phases and details of mitigation measures to be employed to minimise the noise during construction on noise sensitive receptors as identified in the Noise Impact Assessment (Noise Consultants, November 2023). There shall be provision that, on written request by the local planning authority, the operator shall, within 28 days, produce a report to

demonstrate adherence with the above rating level. The Assessment and Mitigation shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

- d. where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- e. details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.
- f. details of measures to prevent mud and other such material migrating onto the highway from construction vehicles including on-site wheel washing and street cleaning.
- g. designation, layout and design of construction access and egress points.
- i. details for the provision of directional signage (on and off site).
- j. details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- k. details of provision for all site operations for the loading and unloading of plant, machinery and materials.
- l. details of onsite construction lighting, including hours of operation.
- m. details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period.
- n. routing agreements for construction traffic.
- o. details of the erection and maintenance of any security hoarding.
- p. details of construction and decommissioning working hours.
- q. waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works. and
- r. detail of measures for liaison with the local community and procedures to deal with any complaints received.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

- 9. No development shall commence until a final drainage scheme has been submitted to and approved in writing by the local planning authority. The design of that scheme shall be in general accordance with the submitted Surface Water Drainage Strategy (Ref. J-15651), dated 17th December 2024 and prepared by Nijhuis Saur Industries. The submitted details shall include a timetable for the implementation of the approved drainage scheme. The approved measures shall be retained and maintained thereafter throughout the lifetime of the development.
- 10. Notwithstanding the details contained in the plans approved under Condition 7, no development shall commence until full details of the: final position, design, and materials of any above-ground structures (including all fences and all other means of enclosure) have been submitted to the local planning authority and approved in writing. Development shall be carried out in accordance with the approved details.
- 11. No development shall commence until a scheme to improve footpath accessibility within the development boundary is submitted to and approved in writing by the

local planning authority. The approved scheme shall be implemented within 12 months of the first export of electricity from the site.

12. No development shall commence (including any operations involving the use of motorised vehicles or construction machinery) until necessary root protection areas and methodology shall be set out in a detailed Arboricultural Method Statement (AMS) in accordance with BS5837:2012 Trees, in relation to design, demolition and construction shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
13. No development shall commence until final details of a scheme to provide bird mitigation measures has been submitted to, and approved in writing by, the local planning authority. That scheme shall include full details of the measures set out in the Ground Nesting Bird Mitigation Strategy, including the areas for the implementation of mitigation and specification of works. The scheme shall be carried out in accordance with the approved details.
14. No development shall commence (including any ground works, site or vegetation clearance) until a scheme for the soft landscaping of the site, in general accordance with the Landscape Strategy Drwg P-25-0730-EN-08C (incorporating existing flora and using native species), and a timetable for its implementation has been submitted to and approved in writing by the local planning authority. The soft landscaping details shall include:
 - a. proposed tree and shrub species (native species to be used where possible).
 - b. planting densities and sizes at planting.
 - c. grassland, meadow, or wildflower mixes (if applicable).
 - d. hedgerow layout, species mix, and management prescriptions.
 - e. timetable for planting (e.g., within the first planting season after completion of development).
 - f. measures for protection during establishment (stakes, guards, irrigation if required).

The soft landscaping of the site shall be implemented in accordance with the approved details and shall be maintained and managed for the lifetime of the development in accordance with a Landscape Management Scheme to be submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 15 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

15. No development shall commence (including any ground works, site or vegetation clearance) until a Biodiversity Scheme & Management Plan has been submitted to and approved in writing by the local planning authority. The content of the Plan will demonstrate the ability to deliver an overall Biodiversity Net Gain of at least 80.15% in habitat units and a net gain in habitat units of at least 71.34% in linear habitat units. The Biodiversity Scheme and Management Plan shall thereafter be implemented in accordance with the approved details.
16. Development shall be carried out in accordance with the Construction Traffic Management Plan, dated December 2024.

17. No development shall commence on the land surveyed as part of the submitted Geophysical Assessment (Report No. 3887, dated January 2023 and prepared by WYAS Archaeological Services) until a Written Scheme of Investigation setting out a phased programme of archaeological work for this area in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' has been submitted to and approved in writing by the local planning authority. The programme of archaeological work in this area will then be carried out in accordance with the approved scheme of works.
18. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be developed until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be submitted to and approved in writing by the local planning authority.
19. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall be compliant with the Yorkshire and Lincolnshire Pollution Advisory Group Guidance (YALPAG) guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.
20. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the local planning authority.
21. No development shall commence in any part of the site until: a) a scheme of intrusive investigations has been carried out on that part of the site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on that part of the site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
22. Prior to the date of first export, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
23. Construction operations shall only take place within the following hours: 07.30 to 19.00 hours Monday to Friday 07.30 to 12.00 hours Saturday. No construction operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The local planning authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

24. The rating level of noise emitted from the development shall not exceed 0dB LAeq (15 mins) above background noise levels at any noise sensitive properties during nighttime hours (2300 - 0700) and shall not exceed 5dB LAeq (1hr) above background noise levels at any noise sensitive properties during daytime hours (0700 - 2300). The measurements and assessment of noise levels shall be made in accordance with BS 4142:2014.
25. The development shall be carried out in full accordance with Section 7 of the Glint and Glare Assessment prepared by Neo Environmental dated 18 December 2024.
26. No development (except for Enabling Works) of any access tracks and/or the DNO substation shall take place until a Soil Resources Management Plan covering those areas has been submitted to and approved in writing by the local planning authority. The submitted details shall include:
 - a. areas of soil to be protected from earthworks and construction activities.
 - b. the areas and types of topsoil and subsoil to be stripped, stockpile locations.
 - c. the methods for stripping, stockpiling, re-spreading and ameliorating landscape soils; and,
 - d. details for the sustainable re-use of soils.

The submitted Soil Resources Management Plan shall specifically consider the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. Development shall be carried out in accordance with the approved plan.

APPEARANCES

FOR THE APPELLANT

David Hardy, Partner CMS Cameron McKenna Nabarro Olswang LLP.

He called.

Nicholas Bell BA (Hons) MCIEEM.
Senior Ecologist, Tyler Grange Group Limited.

Andrew Cook BA (Hons) MLD, CMLI, MISEP Env.
Executive Director, Pegasus.

Farah Sarhan BSc.
Head of Commercial Engineering UK, Lightsource bp.

Anthony Greally BA (Hons) DipTP, MRTPI.
Senior Director, Lichfields.

FOR THE LOCAL PLANNING AUTHORITY

John Barrett, Counsel instructed by Linda Olanipekun, Legal and Democratic, Services, Durham County Council.

He Called:

Maria Ferguson BA (Hons) DipTP MRTPI.
Managing Director, Maria Ferguson Planning Consultancy.

Stephen Lawes BA (Hons) DipLA CMLI.
Chartered Landscape Architect.

Michael Ogden BA (Hons), FIPROW.
Access & Rights of Way Team Leader, Durham County Council.

FOR KEEP IT GREEN

Ian Galloway, Dean of Free Church Formation, Cranmer Hall, St John's College, Durham University.

He Called:

Ros Southern BA (Hons) MPHIL CMLI.
Director, Southern Green Ltd.

Camilla Rhodes MA MLE MRICS FIPROW.
Public Access Team Specialist and Team Lead, Birketts LLP.

John Thompson BSc MSc MCIEEM.
Executive Director, EcoNorth Limited.

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BHS Intermediate Instructor (BHSII) Stage 5 Coach, Ride and Stable
Manager, British Dressage and British Showjumping Accredited Coach,
BHS Riding & Road Safety Trainer.

Richard John Davies, MSc BSc.
Managing Director, Titan Solutions Limited.

Andrew Millross LLB (Hons) Dip L.G. ML(Summer).
Consultant Solicitor, Anthony Collins Solicitors LLP.

Heather Galloway MBBS, MRCGP, DRCOG, DPSM, DCH
Retired GP, Trustee Burnhope Community Centre, Community Champion
Durham Public Health.

INTERESTED PERSONS

Ms Gladstone.
Mr Joyce.
Mr Wilkinson.
Mr Gibson.
Mr Webzell.
Ms Cooper-Davies.
Mr J Gueran.
Ms Dowdeswell.
Cllr Gray.
Mrs Millross.
Mrs Baldacchino.
Ms Palmer.

DOCUMENTS SUBMITTED DURING THE INQUIRY

- Doc 1 - Impact statement of Mr Wilkinson and Mrs Murphy.
- Doc 2 - Council's Note - notification.
- Doc 3 - Council's Note – amended plans.
- Doc 4 - Appellant's Note – amended plans.
- Doc 5 - Appellant's Note – list of amended plans.
- Doc 6 - Appellant's Note - notification.
- Doc 7 - Keep It Green Note – notification.
- Doc 8 - Keep it Green Note - amended plans.
- Doc 9 - Field reference plan.
- Doc 10 - Draft S247 Stopping Up Order.
- Doc 11 - Draft S247 Stopping Up Order Plan.
- Doc 12 - Draft S247 Stopping Up Order Plan – New Highway.
- Doc 13 - Statement by Mr Gibson.
- Doc 14 - Length and widths of existing Bridleways and Footpaths (Appellant).
- Doc 15 - Notated Landscape Strategy Plan.
- Doc 16 - Statement by Mr Webzell.
- Doc 17 - Statement by Ms Cooper Davies.
- Doc 18 - Length and width of existing Bridleways and Footpaths 1 (Keep it Green).
- Doc 19 - Length and width of existing Bridleways and Footpaths 2 (Keep it Green).
- Doc 20 - Construction Impacts on Rights of Way.
- Doc 21 - Landscape Character Plan.
- Doc 22 - Statement by Mr Gueran.
- Doc 23 - Statement by Ms Dowdeswell.
- Doc 24 - Statement by Mr Joyce.
- Doc 25 - Planning Practice Guide Renewable and Low Carbon Energy.
- Doc 26 - Burnhope Durham Definitive Map.
- Doc 27 - Statement by Cllr. Gray.
- Doc 28 - Statement by Ms Gladstone.
- Doc 29 - Keep it Green Updated TV figures.
- Doc 30 - Declaration of Chapmans Well Nature Reserve, 27/06/2006.
- Doc 31 - Danielle Cutter, Indicative Horse-Riding Route.
- Doc 32 - Statement by Ms Baldacchino.
- Doc 33 - Chapmans Well Equestrian Use, Durham County Council.
- Doc 34 - Statement by Mrs Millross.
- Doc 35 - Solar Power Decommissioning – Question for Department for Energy Security & Net Zero.
- Doc 36 - Durham County Council Landscape Advice App. No. DM/22/01769/FPA.
- Doc 37 - Statement by Ms Palmer.
- Doc 38 - Statement by Ms Wilkinson.
- Doc 39 - Keep it Green Closing Submissions.
- Doc 40 - Durham County Council Closing Submissions.
- Doc 41 - Durham County Council Response to Applications for Costs on behalf of the Appellant and Keep it Green.
- Doc 42 - Appellant's Closing Submissions.
- Doc 43 - Site Visit, Walking Route Schedule.
- Doc 44 - Site Visit Route Plan.
- Doc 45 - Appellant's Application for Costs.
- Doc 46 - List of Suggested Conditions and Reasons (Appellant & Durham County Council).