



Appeal Decision

Hearing held on 24 August 2023

Site visits made on 23 and 24 August 2023

by Alan Novitzky BArch MA(RCA) PHD RIBA

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Appeal Ref: APP/J3720/W/23/3321095

Land near to Middle Road Farm, Middle Road, Harbury, Warwickshire, CV33 9JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Leicestershire Solar 1 Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 22/00001/FUL, dated 21 December 2021, was refused by notice dated 28 October 2022.
 - The development proposed is the installation and operation of ground-mounted solar photovoltaic panels and associated energy storage, inverter stations, substation compound, customer station, fencing and gates, spare parts containers, meteo stations, CCTV (with associated masts), hard and soft landscaping and all associated works, including site access and internal access tracks.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of ground-mounted solar photovoltaic panels and associated energy storage, inverter stations, substation compound, customer station, fencing and gates, spare parts containers, meteo stations, CCTV (with associated masts), hard and soft landscaping and all associated works, including site access and internal access tracks at Land near to Middle Road Farm, Harbury, CV33 9JN in accordance with the terms of the application, Ref 22/00001/FUL, dated 21 December 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Leicestershire Solar 1 Ltd against Stratford-on-Avon District Council. This application is the subject of a separate decision.

Preliminary Matters

3. **Following the Council's refusal, the Appellant submitted amendments to be considered at appeal, shown on Landscape Mitigation Plan P20-0544_14 Rev N and Layout Plan LAY-MR-001 Rev 10. Appendix 2 of the Appellant's Landscape Statement dated 29 June 2023 shows the amendments on Drawing P20-0544_30 (unrevised).**
4. In summary they comprise the omission of solar panels previously shown in Fields 5 and 6; the addition of tree buffers along the eastern boundaries of Fields 7 and 14; the setting back of panels further from field boundaries; additional hedgerows, hedgerow trees and tree belts to aid screening; the

diversification of hedgerow tree size and the addition of silver birch; the revision of the woodland planting mix to improve structural diversity; the reduction of tree heights to aid adaptation and growth; the amendment of the hedgerow specification to triple rather than double staggered rows; and the alteration of the fence line along PRoW SM63 to provide a green corridor with increased screen planting.

5. The amended scheme was submitted to the Council as a planning application (Ref 23/01305/FUL) on 5 May 2023 and granted planning permission on 18 August 2023. Consultation on the proposed amendments took place within the **amended scheme's application and decision process, and through the Appellant's separate consultation exercise on the proposed amendments to the appeal scheme**. I am satisfied that no party has been deprived of the opportunity to make representations.
6. The amendments proposed are minor in nature and would lessen the impacts of the scheme through enhanced mitigation. In my opinion, they make no material difference to the substance of the proposed development. I will therefore assess the appeal based on the amended scheme.

The Site

7. The site which lies east of the Fosse Way (B4455), is divided into northern and southern groupings of fields separated by some 1 to 1.5km. The fields are enclosed by quite high hedges with trees, and at present are in arable and pastoral use. Fields 1 to 7 lie in the northern grouping, and Fields 8 to 14 in the southern grouping, through which an embanked main railway line runs broadly west to east. An existing small solar farm, Radford, lies between the two groupings with an area of glasshouses immediately to the north of the solar farm.
8. The low-lying, flattish land undulates gently, rising eastwards to a ridge, on which lie the small settlement of Ufton to the north, and the town of Harbury to the south, linked by the Centenary Way PRoW. West of the site, Crown Hill and Radford Hill allow the landscape to be overlooked and Chesterton Windmill occupies a raised viewpoint to the south.

Main Issue

9. The main issue is the effect of the proposals on the character and appearance of the landscape.

Reasons

Landscape Character

10. The site and its surroundings are not subject to any statutory or policy landscape designations. A Landscape and Visual Impact Assessment (LVIA) was prepared for the planning application in December 2021. After the submission of additional information regarding the cumulative effects of planned schemes, the Council considered the LVIA sufficient to allow judgments to be made on the proposals. I agree.
11. The site lies within National Character Area 96: Dunsmore and Feldon. The Warwickshire Landscape Guidelines, published in 1993, locates the site in the Vale Farmlands sub area of the Feldon Character Area; and the Stratford on

Avon District Design Guide (2001) sets it within the Mudstone Vale sub area of the Feldon Character Area. The characteristics of each of these areas are **described in the Appellant's Landscape Statement**.

12. **In addition, the Council's Renewable Energy Landscape Sensitivity Study** published in July 2014 identifies the site as belonging to Landscape Character Type 10, Feldon Vale Farmland. The Study states, at para 6.3, that there may be potential for solar energy development to be spaced so as to become a key characteristic in the Feldon Vale Farmlands provided that suitable mitigation is possible such as the location of developments on fairly flat land with screening hedges and trees.
13. Although the character of the field surfaces within the site would change, the hedgerow and tree boundaries would be reinforced and maintained. The overall character of agricultural use would remain, with a shift from arable to grazing capacity, and the overall biodiversity would increase greatly through enhanced hedgerow margins and in other ways. The solar panel supports would only lightly impact the ground and, on decommissioning, all above and below ground equipment would be removed. The rested land could then quickly revert to arable use or remain as pasture.
14. There would be no change to the fabric of the landscape beyond the site. Tranquillity would not be affected since noise generation is not a feature of solar farms and, although visual aspects are covered in more detail in the following section, the general outlook onto a peaceful rural scene would scarcely change.
15. Despite some minor harm, the effect of the proposals on landscape character overall would allow the site to remain consistent with the character attributes set out in the national and local classifications to which reference has been made.

Landscape Appearance

16. Zones of theoretical visibility, which would exist after screening by foliage, are set out in the LVIA. Besides glimpses from the south-west of parts of the site south of the railway line, visibility is well contained within the 5 km study area extending from the site boundary. I am satisfied that this study area is appropriate. I am also satisfied that the public viewpoints (VPs) investigated in the LVIA provide an adequate analysis of visual effects from the surrounding area within the visual envelope.
17. In addition, the semi-public viewpoint from the White Hart beer garden provides a contained, unobstructed view towards the northern part of the site. Fields 5 and 6 are a particular focus since their slope, downwards to the east, orients them more squarely towards the beer garden than the other fields within the development. However, the omission of solar panels from fields 5 and 6 in the amended scheme resolves this issue, as is clear in Figure 14 **(VP17) in the Appellant's Landscape Statement**.
18. In general, I agree with the assessments of the visual effects of the proposals on the public viewpoints made in the LVIA with regard to the original proposals. The amended scheme would somewhat reduce residual visual intrusion.
19. Public footpath routes can be particularly sensitive. Centenary Way (SM25, SM26, SM59), running along the eastern ridge, might seem to reveal intrusive

views over the lower land containing the site. However, effects are negligible because of screening by foreground landform and vegetation, and the effects of distance.

20. SM63 runs from Harbury, which lies south-east of the southern grouping of fields forming the site, down past VP5 and Lower Westlake Farm to VP13 inside the boundary of Field 14. It then follows the railway embankment within the site enclosure, runs through an underpass under the railway, and along a track at the eastern end of Fields 10 and 9 towards Westfield Cottages (VP6). SM63 then continues along the northern edge of Field 9 before emerging from the site to run north-westerly, crossing the Fosse Way at VP8 and merging into a network of footpaths rising towards Crown Hill (VP10).
21. VP5 provides a medium distance outlook over the southern element of the site. Views of the solar panels from the footpath would be effectively screened at landscape maturity by a 10m wide tree buffer growing to some 10 to 15m height. Within the site, the footpath would be enclosed by hedgerows with trees up to the point where it leaves the site. Despite the greater setting back of the arrays under the amended scheme, some visual harm would be evident until the landscape matures sufficiently. Moreover, the openness available to footpath users would change in places to much heavier enclosure, because of the extent of additional planting. I noted on the site visit that, even without the proposed landscape mitigation, very little visibility into the wider landscape is available.
22. Beyond the site, proceeding along the footpath to the Fosse Way, the Radford solar farm can be seen and the enclosed fields north of the railway line would be visible, but not the fields to the south, nor the grouping of fields in the northern section of the site. At landscape maturity, the new panel arrays would be adequately screened. Very little would be visible to drivers on the Fosse Way after reinforcement of the already effective hedge boundary.
23. Footpath W122a rises to Crown Hill, giving a glimpse of Chesterton Windmill on the far horizon to the south, but views towards the site are masked by landform until the higher levels are reached. Parts of the existing solar farm can then be seen, and the northern and southern site field groupings identified, but views of the solar arrays would be limited because of the shallowness of view and landscape screening.
24. Southam Road, the A425, which borders part of the northern site grouping of fields, would allow glimpses of the arrays, but these would be fleeting and oblique for the most part. A wide panorama is available from Windmill Hill to the south, within which the site would hardly be seen. Depending on the lighting conditions the solar arrays might register as a small body of water.
25. **The Council's Renewable Energy Landscape Sensitivity Study regards the amended scheme as 'very large', being over 25ha. The Study states that the potential for solar energy development is limited to broader, flatter or very gently sloping areas where there is potential for hedge and tree screening and away from many views from surrounding higher ground. I consider the site satisfies these criteria.**
26. Although the amended scheme might give rise to minor harmful visual effects in the years immediately after construction, the landscape mitigation measures proposed would effectively resolve this difficulty within five years.

Cumulative Effects

27. **The Appellant's LVIA Assessment Addendum** – Cumulative Issues focuses on the two schemes closest to the site, both of which now have planning permission. They are the Eastfields Solar Farm, which lies some 2km south-east of the site; and the Ashorne Solar Park which lies to the south-west of the site, comprising two parcels of land, just over 1km away from the site at its closest point.
28. An OS overlay was submitted prior to the Hearing, showing solar energy proposals within a 10km zone, of the site together with a tabulation of their progress towards permission and operation. From this, and the discussion that took place at the Hearing, I am satisfied that cumulative considerations apply only to the two schemes identified by the Appellant. The Radford Solar Farm formed part of the LVIA, being an existing feature.
29. According **to the Appellant's analysis, there would be little or no theoretical** intervisibility between the site and the two schemes. Moreover, as demonstrated by the cumulative panoramas, layers of intervening structural vegetation, undulating landform, and railway embankment would make any sequential, simultaneous, or in-succession views of any significance highly unlikely.
30. I am satisfied that cumulative effects on the landscape character and appearance arising from the amended scheme would be negligible.

Conclusion

31. Having regard to the public benefits of the amended scheme set out in the Planning Balance below, I find that its effect on the character and appearance of the landscape would be acceptable. It would accord with Policy CS.5 (Landscape) of the Stratford-on Avon Core Strategy 2011-2031.

Other Matters

Historic Environment

32. The 18th century brick and red tile Lower Westfields Farm lies a little to the east of the southern section of the site. The significance of the Grade II listed group lies in its historical and architectural interest as a working farm, typical of its time and regional location.
33. **The Appellant's Heritage** Assessment (CD) notes that the setting of the Grade II listed Farmhouse might be affected by the proposals. The other two separately listed buildings in the Lower Westfields group are excluded, having no known historical association or intervisibility with the site, as are all other listed buildings in the area. This also applies to the Chesterton Roman Town Scheduled Monument and the Harbury Conservation Area. I agree with this analysis.
34. Whilst the Assessment found no evidence of a historical association, views are possible between the site and the Farmhouse. Moreover, views of both are possible from public footpath SM63, which links Harbury with the site, and from Middle Road. They lie within its setting and give a sense of the historical agricultural landscape and the function of the asset, which contribute to its significance.

35. Before the landscape matures, following the mitigation measures, the solar arrays would intrude harmfully in views between the asset and the site, and in those from the footpath and the road. Once fully established, the tree belt would screen views from the asset and reduce those from the footpath and road. This would give rise to some slight degree of less than substantial harm.
36. Having regard to the public benefits of the amended scheme set out in the Planning Balance below, I find that its effect on the historic environment would be acceptable. It would accord with Policy CS8 (Historic Environment). I have taken account of s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special regard to be had to preserving a listed building or its setting in considering whether to grant planning permission.

Loss of Agricultural Land

37. Most of the site area of some 90ha comprises Grade 3b agricultural land, a small proportion, some 5ha, being grade 3a. Grazing of sheep beneath and around the solar panels is perfectly possible, and the biodiversity of the site, with reinforced hedgerows and margins would increase substantially. The permission would be valid for 40 years, after which the land would be returned to general agricultural use.
38. Furthermore, a good grid connection, vital to serve a solar farm and generally difficult in more urban surroundings, is assured. In these circumstances, having regard to the public benefits set out in the Planning Balance, I find the temporary loss of arable land use carries negligible weight.

Glint and Glare

39. A thorough assessment was carried out of the risks of glint and glare arising from the solar arrays. The report was updated to incorporate the details of the amended scheme.
40. In relation to dwelling receptors, a moderate impact was predicted. However, mitigation was not recommended because of the large separation distance between the panels and the dwelling, the presence of intermittent screening, and coincidence with direct sunlight.
41. For road receptors, impact significance was judged low and no mitigation required. For railway signals, no impact was predicted, and for train driver receptors any solar reflections would be obstructed by existing screening.
42. In these circumstances, I consider that negligible harm would arise from glint and glare associated with the solar panels.

The Planning Balance

43. The extreme urgency of dealing with the climate crisis, and the vital role renewable energy production must play, is evident to all. This is manifest throughout national policy, including the National Planning Policy Framework, National Planning Practice Guidance, the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3).
44. The proposals are of clear public benefit in this sphere, and also in moves towards national energy security. Public benefit would also flow from the high

level of biodiversity net gain and the stimulus to the local economy arising from the construction and operation of the solar farm.

45. The Council made a Climate Change Declaration in 2019 and resolved to support actions encouraging the use of renewable energy. Policy CS.3 (Sustainable Energy) states that proposals for solar energy will be supported where the impacts are, or can be made, acceptable. As noted, I find them acceptable in terms of Policies CS.5 (Landscape) and CS.8 (Historic Environment). I also find them acceptable in relation to Policies CS.2 (Climate Change and Sustainable Construction), CS.9 (Design and Distinctiveness), and AS.10 (Countryside and Villages).
46. I find the proposals accord with the development plan overall and conclude that they are acceptable.

Conditions

47. A list of suggested conditions was submitted and discussed at the Hearing. Conditions controlling the longevity of the permission, the **development's** removal and the restoration of the site afterwards, and the list of approved drawings are necessary to accurately define the permission.
48. Conditions relating to hard and soft landscaping including boundary treatment, materials, and finishes, and the height of the Comms Tower are necessary to protect the landscape and in the interests of visual amenity. External lighting, CCTV, water supplies, and fire hydrants are controlled for public safety and amenity. The provision of suitable accesses and the operation of an approved construction management plan are conditioned for the same reason.
49. Ecological mitigation measures, badger, and avian protection measures are conditioned to protect the natural environment; flood risk protection measures are controlled in the public interest, as are surface water drainage details. Various conditions protect Footpath SM63, in the interests of public amenity, and archaeology is protected by a condition requiring an approved written scheme of investigation. Finally, for environmental reasons, a condition requires submission and approval **of the Council's** Climate Change Checklist.

Conclusion

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

Alan Novitzky

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Counsel: Thea Osmund-Smith, No5 Chambers

Instructed by: Paul Burrell, Executive Director Pegasus Group (Planning)

Andrew Cook (Landscape)

Rachel Gaffney (Planning)

FOR THE LOCAL PLANNING AUTHORITY:

Stuart Flaherty, Planning Officer with the Council

Dr David Hickie, Landscape Architect

DOCUMENTS SUBMITTED:

Appellant's Note on the Amended Scheme

List of Suggested Conditions

Costs Application on Behalf of the Appellant

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this permission.
- 2) The temporary planning permission hereby granted shall expire 40 years and 6 months from the date of connection of the solar farm to the National Grid.
- 3) The development hereby approved shall be carried out in accordance with the following plans, drawings and documents:
 - Site Location Plan Drwg No: P20-0544_03 Rev D
 - Middle Road Layout Drwg No: LAY-MR-001 Rev 10
 - Inverter Station Elevations Drwg No: MDR_CS21GB001_01
 - Panel Elevations Drwg No: MDR_CS21GB001_02
 - 33/132kV Substation Compound Drwg No: MDR_CS21GB001_03 – Sheet 1/1
 - Switch Room Elevations (Comms Tower Elevation Detail) Drwg No: MDR_CS21GB001_03 – Sheet 2/2
 - Customer Station Elevations Drwg No: DR_CS21GB001_04
 - Cable Trench Cross Sections Drwg No: DR_CS21GB001_05
 - Fence and Gate Details Drwg No: MDR_CS21GB001_06
 - Spare Parts Building Details Drwg No: MDR_CS21GB001_07
 - Battery Storage Elevations Drwg No: MDR_CS21GB001_08
 - Meteo Station Details Drwg No: MDR_CS21GB001_09
 - CCTV Pole Details Drwg No: MDR_CS21GB001_10
 - Road Cross Section Drwg No: MDR_CS21GB001_11
 - Landscape Mitigation Plan Drwg No: P20-0544_14 Rev N
 - Agricultural Land Classification Drwg No: P20-0544_27
- 4) The developer shall notify the Local Planning Authority within 21 days of the first export from the development of electricity to the National Grid.
- 5) Notwithstanding the Landscape Mitigation Plan (Drwg No: P20-0544_14 Rev N), prior to commencement of the development hereby permitted, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by infrastructure shall be submitted to and

approved in writing by the Local Planning Authority. This landscaping scheme shall include:

- (A) planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting, ditches and ponds;
- (B) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting, ditches ;
- (C) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
- (D) existing landscape features such as trees, hedges, shrubs, ditches and ponds which are to be retained and/or removed, accurately plotted (where appropriate);
- (E) existing and proposed finished levels (to include details of grading and contouring of earthworks) and details showing the relationship of proposed mounding to existing vegetation and surrounding landform (where appropriate);
- (F) the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
- (G) location, type and materials to be used for any hard surfacing, where applicable, including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved;
- (H) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
- (I) car parking layout and any other vehicular and pedestrian access and circulation areas, where applicable;
- (J) minor artefacts and structures (e.g., refuse areas, substations and other storage units);
- (K) historic landscape features to be retained, removed or restored (where appropriate); and
- (L) a timetable for the implementation of the soft and hard landscaping scheme.

There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees unless previously approved in writing by the Local Planning Authority.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details and plans throughout the lifetime of the permission.

- 6) Any planting approved as part of the soft landscaping details, including existing trees and hedgerows, that is removed, uprooted, severely damaged, destroyed or dies during the operational life of the development, shall be replaced with the same species and size of the original planting, unless the Local Planning Authority gives written approval to any variation. This shall be undertaken before the end of the first available planting season

(October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

- 7) Prior to commencement of any part of the development hereby permitted, a scheme for the management and maintenance of the existing and proposed boundary treatments of the entirety of the application site shall be submitted and approved in writing by the Local Planning Authority. The scheme shall cover details of the existing and proposed vegetation including heights (maximum and minimum), density and species, as well as details of how the boundary treatments protect drivers' views (including both vehicle drivers and railway drivers) and maintain adequate visibility for rail and road signals and signs.

The approved boundary treatment scheme shall be carried out strictly in accordance with the approved details within the first planting season following first export of electricity and the timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details and plans throughout the lifetime of the permission.

- 8) Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on any of the buildings or structures), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all external lights to the building(s) and/or structure(s) and other parts of the application site and the hours at which such lighting is to be operated.

The work shall thereafter be carried out in accordance with the approved details (unless the Local Planning Authority gives prior written approval to any subsequent variations), shall thereafter be retained in that form and under no circumstances shall it cause light pollution.

- 9) Notwithstanding the approved the plans, prior to the erection, installation, fixing, placement and/or operation of any external CCTV on the site (including on any of the buildings or structures), details of the CCTV (including brochure details of the CCTV cameras, location of all CCTV cameras, colour of the CCTV cameras and associated equipment and structures) shall be submitted to and approved in writing by the Local Planning Authority.

- 10) Notwithstanding the approved plans contained in Condition 3, prior to their erection on site, details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, telecomms mast/tower, equipment and enclosures including boundary treatments (where applicable), shall be submitted to, and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details and maintained as such for the lifetime of the proposed development.

- 11) The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and

approved in writing by the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented in accordance with the approved details and shall thereafter be maintained and managed unless the Local Planning Authority gives prior written approval to any variation.

- 12) No works of construction for Parcel A or B shall be undertaken until an access for vehicles has been provided to the site in accordance with drawing number N149/07 Rev H, including the provision of visibility splays where indicated. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.
- 13) No works of construction for Parcel C shall be undertaken until an access for vehicles has been provided to the site in accordance with drawing number N149/08 Rev E, including the provision of visibility splays where indicated. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.
- 14) No works of construction for Parcel D shall be undertaken until an access for vehicles has been provided to the site in accordance with drawing number N149/10 Rev D, including the provision of visibility splays where indicated. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.
- 15) The accesses to the site for vehicles shall not be used in connection with the development hereby permitted until they have been surfaced with a bound macadam material for a distance of 20 metres as measured from the near edge of the public highway carriageway.
- 16) No construction and/development shall be undertaken until a Construction Management Plan has been submitted to and approved by the Local Planning Authority. The Construction Management Plan shall contain details of:
 - HGV routing.
 - Temporary warning signage to be implemented on the approaches to the highway accesses to the site.
 - Measures to prevent mud and debris on the public highway.
 - Suitable areas for the parking of contractors and visitors and the unloading and storage of materials.
- 17) The accesses to the site shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.
- 18) No later than six months prior to the expiry of the planning permission, or if the solar farm hereby permitted ceases to operate for a continuous period of 6 months after the first export of electricity from the site, whichever is sooner, then the following shall be submitted within six

months of the end of the cessation period for approval by the Local Planning Authority.

A Decommissioning Traffic Management Plan containing details of:

- HGV routing.
- Temporary warning signage to be implemented on the approaches to the highway accesses to the site.
- Measures to prevent mud and debris on the public highway.
- Suitable areas for the parking of contractors and visitors and the loading and storage of materials.

The Decommissioning Traffic Management Plan shall be implemented wholly in accordance with the approved details and plans and agreed timetable of works for the restoration of the site.

The operator of the solar farm shall notify the Council in writing no later than five working days following the cessation of electricity generation.

19) The development hereby permitted shall be carried out in accordance with the protection measures and reasonable avoidance measures method statement contained in the confidential badger report by Avian Ecology submitted with this application.

20) The development hereby permitted shall be carried out in accordance with the ecological mitigation measures for protected and notable species contained in Section 3 and annex 6.1 of the Biodiversity Management Plan by Avian Ecology submitted with this application, unless otherwise agreed in writing by the Local Planning Authority.

The ecological enhancement and habitat management measures shall be implemented throughout the construction and operation of the solar farm unless otherwise agreed in writing with the Local Planning Authority.

21) The development shall be carried out in accordance with the submitted Flood Risk Assessment by PFA Consulting, dated April 2023 and the following mitigation measures it details:

- There shall be no overall ground raising within Flood Zones 2 or 3.
- All ancillary buildings and units shall be located within Flood Zone 1 with only fencing and solar arrays sited in Flood Zones 2 and 3.
- All fencing within Flood zones 2 and 3 shall have a minimum mesh spacing of 150mm.

These mitigation measures shall be fully implemented prior to the first export of electricity from the site and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development, having due regard to Policy CS.4 of the Stratford-on-Avon District Core Strategy 2011-2031.

22) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, the

approved FRA (N149-DOC01-FRA-ISSUE-3.1) and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme submitted shall include plans of a proposed surface water drainage strategy, including the proposed sustainable drainage (SuDS) features and indicative levels. SuDS features should be designed in accordance with The SuDS Manual (CIRIA C753). Surface water drainage strategy should be supported by hydraulic calculations.

- 23) Prior to first export of electricity from the site, a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (N149-DOC01-FRA-ISSUE-3.1) shall be submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.
2. Any As-Built Drawings and accompanying photos.
3. Results of any performance testing undertaken as a part of the application process (if required/necessary).
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects.

- 24) Prior to first export of electricity from the site, a detailed, site specific maintenance plan in respect of surface water drainage shall be provided to the LPA in consultation with the LLFA. Such maintenance plan shall:

1. Provide the name of the party responsible, including contact name, address, email address and phone number.
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water for each relevant feature shall be maintained and managed for the lifetime of the development.
4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

- 25) No site security fencing may be erected on or within 1m of the centreline of public footpath SM63 (unless closed by legal order).

- 26) Prior to commencement of any works involving disturbance of the surface of public footpath SM63, the developer must contact Warwickshire County Council's Rights of Way team as Highway Authority to obtain any necessary consents and make any necessary arrangements for the protection of the public footpath and its users. Specifications for any works to resurface public footpath SM63 must also be submitted to Warwickshire County Council's Rights of Way team for approval. All resurfacing works on public rights of way must be completed to the satisfaction of the Highway Authority prior to the first occupation and/or use of the solar panels or buildings at this site.
- 27) The applicant must carry out remedial works to make good any damage or address any flooding on the surface of public footpath SM63 caused by the development and any remedial works must be completed to the satisfaction of the Highway Authority prior to the first export of electricity.
- 28) No development shall take place until the applicant, or their agents or successors in title, has secured and have implemented a programme of archaeological work in accordance with a written scheme of investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.
- 29) Any new vegetation must be planted at least two metres away from the centreline of the public footpath SM63 to help ensure that mature growth will not encroach onto the public right of way.
- 30) No later than six months prior to the expiry of the planning permission, or if the solar farm hereby permitted ceases to operate for a continuous period of 6 months after the first export of electricity from the site, whichever is sooner, then the following Scheme and Statement shall be submitted within 6 months of the end of the cessation period for its written approval by the Local Planning Authority.
- (a) A detailed Site Scheme for:
- (i) the removal of the solar PV panels, cabling (overhead and underground), frames, fencing/gates, CCTV poles, inverter cabins, comms buildings, access tracks and all other associated equipment, works and structures hereby permitted; and
 - (ii) the restoration of the land (including a timetable for restoration works) to a condition suitable for agricultural use; and
- (b) A detailed Decommissioning Statement (in consideration of Condition 18) which shall include:
- (i) safeguards and mitigation for protected species;
 - (ii) a timetable for the completion of decommissioning works.

The Site Restoration Scheme and Decommissioning Statement shall be implemented wholly in accordance with the approved details and plans and agreed timetable of works for the restoration of the site.

The operator of the solar farm shall notify the Local Planning Authority in writing no later than five working days following the cessation of electricity generation.

- 31) The Climate Change Checklist (CCC) at Appendix 1 to Part V of the Development Requirements Supplementary Planning Document shall be submitted to the Local Planning Authority for approval prior to first export of electricity from the development hereby permitted. All mitigation measures indicated in the CCC shall be implemented prior to the first export of electricity from the development hereby permitted and retained throughout the lifetime of the development thereafter.
- 32) The Comms Tower, as detailed on drawing no: MDR_CS21GB001_03 - Sheet 2/2, shall be set at no more than 15 metres in height.



Costs Decision

Hearing held on 24 August 2023

Site visit made on 24 August 2023

by Alan Novitzky B.Arch MA(RCA) PHD RIBA

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Costs application in relation to Appeal Ref: APP/J3720/W/23/3321095
Land near to Middle Road Farm, Middle Road, Harbury, Warwickshire,
CV33 9JN

- The award is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The appeal was made by Leicestershire Solar 1 Ltd against the refusal of Stratford-on-Avon District Council to grant planning permission for the installation and operation of ground-mounted solar photovoltaic panels and associated energy storage, inverter stations, substation compound, customer station, fencing and gates, spare parts containers, meteo stations, CCTV (with associated masts), hard and soft landscaping and all associated works, including site access and internal access tracks.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Submissions and responses

2. Submissions and responses were made in writing as set out in the document list below. No oral submissions, adding to or amending the written submissions, were made at the Hearing. Substantive unreasonable behaviour is claimed.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. Although the Council is not obliged to follow its officers' **recommendations**, its decision should be based on sound planning reasons supported by evidence. The committee report acknowledged that the application would cause a level of harm by urbanising the currently undeveloped agricultural fields but that this should be weighed against the benefits of enabling renewable energy in this part of the District at a time of climate change emergency, and that the proposals would not result in such a level of harm as to warrant a refusal.
5. The Council based its decision on a single reason for refusal that, by reason of its scale and size, the proposed development would be visually intrusive in the open countryside, would not be sensitive, and would seriously detract from the open and rural character and appearance of the landscape. Further, that it would have a significantly adverse urbanising effect on the landscape character, especially considering cumulative impact on the open countryside.

6. This reason for refusal has not been appropriately supported by evidence or analysis. The minutes of the committee meeting add nothing of substance. The **Council's** Statement of Case points to minor adverse impacts on landscape character identified in the Landscape and Visual Impact Assessment (LVIA) and appears to imply that the Council put great weight on this aspect. However, no exercise in planning balance was evident. A landscape witness appeared for the Council at the Hearing, but no report was submitted, and no oral evidence of substance was forthcoming.
7. The Council infers that the production of the Amended Scheme, which was granted planning permission prior to the Hearing, indicates that the original scheme was unsatisfactory. However, this approach is undercut by the **Council's refusal to** consider the amendments appropriate under the Wheatcroft principles during the appeal process and up to the Hearing.
8. The Council has failed to produce evidence to substantiate its reason for refusal on appeal.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stratford-on-Avon District Council shall pay to Leicestershire Solar 1, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Stratford-on-Avon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Alan Novitzky

INSPECTOR

DOCUMENTS

Costs Application on Behalf of Leicestershire Solar 1 Ltd
Stratford-on-Avon **District Council's** Response to Application for Costs
Costs Reply on Behalf of the Appellant