



12 December 2022

For: Somerset West and Taunton Planning Team/ Mr G.Clifford, Case Officer

Dear Sirs,

14/22/0051- installation of solar farm and energy storage system on land at Ham Farm, Creech St Michael

CPRE Somerset wish to OBJECT to this planning application.

Inappropriate use of Best and Most Versatile Land

1. An Agricultural Land classification report dated June 2022 is included in the planning application documents. The results show that 67% of the site is graded 3a (ie BMV land), and 33% is 3b. There is clear government guidance and a 'strong presumption' against the use of such high quality land for solar farms, and the application should therefore be refused.

2. In view of the clear policy bias against the use of BMV land, it is unclear why this planning application has been submitted. As the Agricultural Land Classification report is the most recently dated report in the planning application, it would appear that the preparation of the application was well advanced and that the decision was made to submit a speculative application notwithstanding the findings of the Agricultural Land Classification report.

3. Government guidance against solar farms on BMV land can be found at 'Gov.UK- Renewable and Low Carbon Energy -Guidance to help Local Councils in developing policies for renewable and low carbon energy'.

This guidance states that: '*It is important to be clear that the need for renewable or low carbon energy does not automatically override environmental protection*' [Para : 007 Reference ID :5-007-20140306].

4. In the section headed 'Particular planning considerations that relate to large scale ground-mounted solar farms', these considerations include:

> '*where a proposal involves Greenfield land whether 1) the proposed use of any agricultural land has been shown to be necessary and 2) poorer quality land has been used in preference to higher quality land*'. Neither the LVIA nor the Agricultural Land Classification report show that the proposed use of the high quality land at Ham Farm is necessary, nor that poorer quality land has been used in preference to higher quality land.

5. The government guidance then refers to a Written Ministerial Statement dated 25 March 2015 [WMS] made by the Secretary of State for Communities and Local Government , which states that :

“ The National Planning Policy Framework includes strong protections for the natural and historic environment and is quite clear that local councils when considering development proposals should take into account the economic and other benefits of the Best and Most Versatile Land. Yet many local communities have genuine concerns that when it comes to solar farms insufficient weight has been given to these protections and the benefits of high quality agricultural land. As the solar strategy noted, public acceptability for solar energy is being eroded by the public response to large -scale solar farms which have sometimes been sited insensitively.

Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land: protecting the global environment is not an excuse to trash the local environment. When we published our new planning guidance in support of the Framework, we set out the particular factors relating to large scale ground mounted solar PV farms that a council will need to consider. These include making effective use of previously developed land and, where a proposal involves using agricultural land , being quite clear this is really necessary and that poor quality land is to be used in preference to land of a higher quality.

In light of these concerns we want to be clear that any proposal for a solar farm involving BMV land would need to be justified by the most compelling evidence’. [Emphasis added]

This Written Ministerial Statement was referred to at the Environmental Audit Select Committee session on 29 June 2022 by the Environment Secretary George Eustice. He stated that the WMS ‘ *created a strong presumption against solar farms on Best and Most Versatile land* ’.

6. The legal and binding status of Written Ministerial Statements is well established in Administrative Law. They are material considerations in the determination of planning applications. Planning Inspectors have also proposed plan modifications to ensure compliance with a WMS [eg see Main Modifications to Cambridge LP 2015, arising from a government WMS].

7. No ‘ compelling evidence’, as required, has been submitted in this planning application to justify the use of this BMV land at Ham Farm. The Agricultural Classification Report makes no reference to government guidance. It simply argues that the development site is part of a larger farm and that ‘ *the proposed development will consequently not have a significant adverse impact on a full time farm business...and that other land can be managed as it is now* [para 4.39] ’. However, the government’s ban on the use of BMV land does not depend on what proportion of a farm is used for this purpose, as it is obvious that a huge proportion of the nation’s BMV land could be diverted for use by solar farms if that argument were ever to be accepted.

8. The applicant also argues that BMV land comprises 42% of all farmland, and ‘ *accordingly BMVL is not a rare resource*’ [Ag Land Classification report, para 4.20]. However, the fact that it is not uncommon is not an argument for using BMV land for solar farms. The policy prescription is that lower grade land where this is not environmentally harmful, previously developed land, and commercial roof spaces should be prioritised for this purpose.

9. The applicant also argues that ‘ *Available data for nearby areas confirms that the land is largely BMV*’ [ALC report, para 5.9]. This statement plainly does not amount to evidence that would justify the use of the high quality land at this site for use as a solar farm, nor does it demonstrate that lower quality land is being actively prioritised by the applicant in preference to higher quality land.

The Landscape and Visual Impact Appraisal is inadequate

10. As we noted on our recent site visit, this landscape is dominated by the river Tone, which is located immediately to the north of the site. The rural character and appearance of this superb river valley landscape would be industrialised by the huge proposed solar farm on higher ground close to and overlooking the famous riverside walk at this location, and its heritage buildings. However this special landscape feature is referred to infrequently in the applicant's LVIA, and its significance in providing one of the most beautiful landscapes and walks within easy reach of Taunton is substantially understated.

11. For example, the location map of the site on P6 of the LVIA does not show the River Tone, which lies immediately north of the site. Furthermore, no viewpoints have been included in the LVIA of the nearby proposed development site taken from the well-used and important Westmoor Drove public footpath T17/47 running along the river, from which there is clear intervisibility with the site from multiple locations.

12. The 'Baseline Landscape Character Review' in paragraphs 178-184 (LVIA, p.33] is completely inadequate. It refers to '*characteristics of the Low Vale set out in paragraph 100*', ponds, and hedges and proposed mitigation, but does not describe the river landscape setting nor refer to the contribution to landscape character made by the heritage buildings just to the north of the site, for all of which the development site constitutes an important element in their landscape setting.

13. The confused wording of LVIA para 137, which claims that this sensitive landscape has '*medium susceptibility*', is unhelpful in that it lacks any clear meaning in ordinary English: '*The Low Vale is judged to be of medium susceptibility, whereby whilst undue consequences may arise to the proposed development due to the nature of development with the rural farmland area*' [Sic].

14. The 'Visual Context' of the site at paras 114-117 is deficient as it refers to hedges, arable fields and rural character, but not to the distinctive River Tone landscape immediately to the north of the site, of which the development site forms part.

15. In Para 226/227 of the LVIA it is concluded that there will be '*no impact*' on the Low Vale Landscape Character Area but as the baseline character review has omitted description of the River Tone landscape feature, and failed to explain its obvious importance to this landscape, this conclusion has not been justified, in our opinion.

Technical Inadequacies in the LVIA

16. The viewpoint photographs depart from normal practice in LVIAs in that they are missing vertical lines showing the extent of the development in the landscape. In view of the large scale of the proposal, this omission is potentially misleading, and is, in our view, unhelpful to the LPA.

17. The Zone of Theoretical Visibility figure L1 Extent of Theoretical Visibility appears to be missing from the LVIA.

Landscape Value is substantially understated in the LVIA

18. Paragraph 205 of the LVIA states that '*the landscape character is moderately valued*'. This is a wholly

subjective judgment, and one which we would strongly dispute. In our view the River Tone landscape meets the criteria for a 'valued landscape' in NPPF planning terms, as it plainly meets relevant criteria in the Landscape Institute's new draft guidance 2021 on 'Valued Landscapes', set out in the Landscape Institute's Technical Note TGN02-21.

19. Specifically, in relation to the relevant factors in TGN02-21:

> 'Natural Heritage': A key example of an indicator of landscape value that contributes to the sense of place in this case is the presence of distinctive features (the wide river Tone at this location and its distinctive Vale landscape);

> 'Cultural Heritage': this is a landscape that includes the presence of the Grade II listed wharf and mill buildings on the other side of the lane from the site, the Grade II listed former farmhouses surrounding the site, and the Grade II* Coalharbour house opposite the site, all associated with past rural residency and working practices in this location;

> Landscape Condition': the soil on the site has been proven to be high quality BMV land, contained within historic field patterns. We disagree with the LVIA's claim that the soil has been '*damaged by arable cultivation*' and that installation of a 70 acre solar farm development will '*bring about positive benefits*' to soil condition due to the reversion to permanent grassland (LVIA, para 229). Even if this were true, the 'positive benefits' claimed are of minor importance relative to the substantial harm to the landscape arising from the installation of such a large block of development;

> 'Distinctiveness': the river Tone is a special landscape feature making an important contribution to the distinctive landscape character area;

> 'Recreational': this is an area with good accessibility that provides opportunities for outdoor recreation. The landscape forms part of a view that is important to the enjoyment of recreational activity ie walking. The long riverside walk is an important part of the green infrastructure connecting Taunton to the surrounding countryside, and should be protected;

> 'Perceptual/scenic': This landscape appeals to the senses, primarily the visual sense. It has distinctive features, notably the dramatic and striking River Tone bounded by the landforms of the rising ground - including the development site- seen against the backdrop of the Quantock Hills and Blackdown Hills AONBs;

>'Perceptual(Wildness and Tranquillity)' : this is a notably tranquil and entirely rural landscape. The walks on the surrounding public footpaths from which the site can be seen in multiple viewpoints, and the high levels of rural tranquillity, will be spoilt by the industrialisation of the landscape arising from the proposed large block of development. The degree of intrusiveness into the landscape of the 4-5m high solar farm panels, 14 transformer buildings, and shipping container sized battery storage containers, will be compounded by the adverse cumulative impacts of the nearby solar farm at Knapp.

The long footpath walk through the site itself will be blighted by the buildings and industrial paraphernalia of the thousands of ground mounted panels. The open views down to and across the River Tone to the Quantocks from this footpath will be blocked by a corridor of panels towering above the heads of walkers.

The adverse cumulative Impacts arising from other solar schemes in the area are unacceptable

20. The adverse cumulative impacts arising from the solar farm located close to the site are acknowledged in the LVIA at para 300: *' I acknowledge that there is potential for intervisibility between the schemes [Knapp solar farm and the present proposal] particularly when looking east from the ProW crossing the site or from land between the site and Knapp farm and from the top of Thornhill'.* At para 303 it is acknowledged that: *' In terms of cumulative Impacts the two schemes would be able to be observed in the same view from a number of walking routes through the landscape'.*

21. The LVIA also refers to other schemes *' which have been consented and constructed within this landscape character area '* [without specifying them] and implies [in para 301] that as they are *'similar in scale and similar in effect'* then this scheme too should be consented. However, there is a long-standing principle in English planning law that bad development does not justify further bad development.

22. In our judgment, there is a real risk that the River Tone / Low Vale character area will change character from entirely rural to an industrialised landscape of solar farms/battery storage, if this planning application were to be approved. The government's clear guidance [see 3.above] is that LPAs should take account of cumulative impacts, and this adds a further ground for refusal.

There are significant adverse impacts on walkers which have not been considered in the LVIA

23. The LVIA refers to the significant adverse impacts on walkers passing through the site and along T 17/37 passing north of the site, but not to the adverse impacts on walkers on other footpaths in the vicinity, from which the site will plainly be seen. We have mentioned the glaring omission in the LVIA of the critical T17/47/ West Moor drove walk along the River Tone [which becomes T17/48 to Knapp Bridge]. Other significant omissions include the adverse impacts on walkers along T10/3, T17/35 and T17/45, from all of which there will be multiple views of the site.

The 'Historic Environment Desk-based Assessment' is inadequate

24. The applicant's submitted heritage assessment discusses three Grade II listed buildings in the vicinity -Ham Wharf House, Bird's Farmhouse and Knapp farmhouse- but without explanation omits discussion of three other listed buildings in the near vicinity- Grade II listed Greenlands Old Ham Wharf farm and Ham Mills; and Coalharbour House, which is Grade II * listed. This is the highest listing in the country below Grade I listing.

25. In relation to Ham Wharf House, Bird's Farmhouse and Knapp farmhouse, in all three cases the applicant has argued that *'low levels of intervisibility'* and *'severance of historic ownership ties'* in effect disqualify them from receiving the statutory protection that the settings of listed buildings receive by virtue of s.66(1) Listed Buildings Act 1990, which requires the LPA to give *'considerable importance and weight'* to preserving the heritage asset and its setting.

26. With respect, this approach by the applicant is a misinterpretation of NPPF guidance, statutory protection of settings of heritage assets, case law and Historic England guidance.

27. Historic England guidance indicates that *'setting'* embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset. NPPF 2021 says that the significance of an asset is defined as its value to this and future generations because of its heritage interest.

28. Significance in heritage/planning terms derives not only from a heritage asset's physical presence, but also from its setting. Heritage significance would be harmed through the industrialisation of the setting of the listed buildings by the introduction of large scale arrays of solar panels over 72 acres, 14 transformers, 2 substations, 8 shipping container- sized battery storage units, cameras on poles, security fencing, etc, as now proposed.

29. There is no mention in the 1990 Listed Building Act, nor in the Historic England publication *The Setting of Heritage Assets- Historic Environment Good Practice Advice in Planning- Note 3 (2017)*, that a listed building no longer has a setting to be preserved if ownership of its land, or part of it, has changed hands in the past, or if there is 'limited intervisibility' with the development site, as claimed by the applicant.

30. Furthermore, based on observations made on our site visit , we disagree that there will be 'limited intervisibility'- the huge solar farm will clearly change the character and appearance of the landscape when viewed from the listed buildings and their curtilage.

31. In the case of the three historic farmhouses surrounding the site, it is acknowledged by the applicant that at some point in the past all of them had ownership connections with the site. Recent case law suggests that this is one factor to be considered in determining what the setting is, but it is not the most important eg see *Catesby Estates Ltd and Secretary of State for Communities and Local Government v Steer and Historic England [2018] EWCA CIV 1697*, which is said to be authority for the proposition that : '*The surroundings of the heritage asset are its physical surroundings and the relevant experience will be of the heritage asset itself in that physical place*' [see free online commentary on this case by Landmark Chambers].

32. It is clear that historic listed farmhouses should be next to farmland, not next to the industrialised landscape of a large scale solar farm, if their heritage significance as historic farmhouses is to be appreciated.

33. In the 'Forge Field' case the Court stated that the effect of the statutory duty to have special regard to the desirability of preserving listed buildings and their settings is that a decision maker is required to accord '*considerable weight*' to any harm to listed buildings or their settings , upsetting the usual rule that the issue of weight is a matter entirely for the decision maker.

34. The omission in the heritage assessment of consideration of three other listed buildings and their settings has not been explained. All of them are in the near vicinity of the site. They form part of an important group of historic buildings connected with the River Tone. They have a strong architectural and historic character and have an attractive and enjoyable appearance. The large adjacent proposed development site at present creates a tranquil and verdant setting for the listed mill buildings and Coalharbour House, the grade II* listed house by the side of the River Tone. Views of these buildings and the river landscape vary from the site, which contributes to the building's significance.

35. The area has special architectural and historic interest and has an entirely rural character and appearance that it is desirable to preserve or enhance.

Mitigation proposals

36. We disagree with the applicant that the '*long term effect of the landscape enhancements on the landscape character of the area is assessed as being slight and beneficial*' [LVIA, Executive Summary, para j]. No amount of screening will conceal the intrinsic change to the character of this sensitive landscape that will result from the installation of a 70 acre solar farm across 12 fields, with its 14 transformer buildings, shipping container size battery storage units, cameras on poles, security fencing, etc. Even with the proposed 'letting up of

hedges' and further planting, the visibility of the development in a prominent position on the rising ground will be apparent from multiple locations both far and near, as will the cumulative impacts arising from the nearby Knapp solar farm, as acknowledged in the LVIA.

37. It is clear that the character and appearance of this sensitive river Tone vale landscape will change significantly as a result of the huge block of solar farm development carried out on 12 fields, as proposed.

Summary and Conclusion

38. We have argued that this proposal should be refused for the following reasons:

- > The proposal is two-thirds on BMV land which is contrary to government policy.
- > The Written Ministerial Statement on the use of BMV land for solar farms has legal and binding status.
- > No compelling evidence has been provided to show why this development is necessary on BMV land , nor that poorer quality land has been actively prioritised.
- > The LVIA significantly understates the importance of preserving the sensitive River Tone vale landscape, which in our view is a 'valued landscape' in planning terms.
- > No photo views have been taken from the important river walk footpath, and the impact on recreational users of this landscape has been understated. Other footpaths have been omitted in the LVIA.
- > The LVIA does not show the large extent of the proposed development in the landscape, as vertical lines showing the extent of the development have been omitted from the photo views.
- > The proposal will harm the setting of six listed buildings, of which only three are discussed in the submitted heritage assessment.
- > The heritage assessment has misinterpreted government guidance and case law on the setting of listed buildings.
- > no amount of mitigation screening will conceal the intrinsic change to the landscape resulting from such a large block of development.
- > The site is on rising ground therefore screening will be ineffective.
- > There are unacceptable cumulative impacts arising from other solar schemes in the area.
- > The rural character and appearance of the River Tone landscape should be preserved for this generation, as well as for future generations.

39. The Trustees of CPRE Somerset believe that public acceptability for solar energy will be further eroded if such an insensitively sited proposal were to be approved, and urge the LPA to refuse this speculative scheme.

Yours sincerely,

Fletcher Robinson MSc Planning
Trustee and Planner
CPRE Somerset

