



The countryside charity
Somerset

planning@cpresomerset.org.uk
www.cpresomerset.org.uk

President Mariella Frostrup
Chair Hugh Williams
Planner Fletcher Robinson MSc

23 April 2024

To: Somerset Council , Planning East Team
For attention of: Ed Winter, Case Officer

Dear Sirs,

2023/1892/FUL- Solar ground mounted PV installation, Land at Nythe Road, Walton, Somerset

CPRE Somerset wishes to OBJECT to this planning application, and has submitted a separate landscape objection statement prepared by Philip Hanson CMLI, senior partner of The Landscape Practice ('TLP'), which we jointly commissioned with Save our Somerset Levels (posted on 15 April).

Introduction

1. Whilst we support renewable energy, our members rightly expect us to stand up and defend the most obviously intrinsically beautiful landscapes in Somerset from large scale incongruous and harmful development, such as this proposed solar PV installation over a huge area on Pedwell Hill and Butleigh Moor.
2. This is one of the most scenically beautiful and iconic landscapes in Somerset. It is also a 'Valued Landscape', for the reasons set out in detail in the TLP Landscape Statement, using the criteria set out in TGN 02/21 (see below). The landscape of the Levels at Butleigh Moor consists of the tranquil moor partly surrounded and overlooked by a crescent of high ground, being the Polden Hills, Walton Hill, Dundon Hill and High Ham.
3. Butleigh Moor from Walton Hill is one of the most famous views in Somerset. The surrounding hills and the Levels are criss-crossed by well used public footpaths and narrow lanes. Walkers are the most sensitive of receptors.
4. The scale of the proposed development is equivalent to 83no. premier sized football pitches, or 106no. premier football pitches taking into account the cumulative impacts arising from power lines and the existing relatively small adjacent solar installation, which were not considered in the Applicants' LVIA.
5. The proposed development consists of thousands of monotonous panels, together with 39 inverter units each the size of a shipping container, arranged in 12 clusters, an exceptionally large and incongruous 'control room' building, 8.40 km of fencing, and 39 x 3.0m high CCTV cameras. According to our research it would be the 10th largest solar installation in the UK.
6. The proposal will blight this superb landscape, and will be visible for miles in multiple directions. The TLP Landscape Statement says that it will create substantial harm to the unique character of this landscape. In our view it is entirely unacceptable.

Failure to take account of the sensitivity of the landscape

7. As noted in the TLP Landscape Statement, the landscape sensitivity has not been properly assessed in the Applicant's LVIA, and landscape impacts and effects have been grossly underestimated. Text and drawings are *'difficult to read having numerous errors and omissions. There are instances of cut and paste from other projects unrelated to this site'*. Furthermore, the TLP Landscape Statement states that the Applicant's LVIA has not assessed the value of the site's landscape context.

Failure to take account of the value of the landscape

8. The TLP Landscape Statement sets out in detail why the site is an integral part of a 'Valued Landscape', evidentially meeting the criteria set out in the Landscape Institute's Technical Guidance Note (TGN) 02/21 *' Assessing Landscape Value Outside National Designations'* .

9. The TLP Landscape Statement further states that the assessment of landscape value in the Applicant's LVIA refers only to the site area, not to the wider landscape. This is a significant omission. In the *Stroud* case [2015] EWCH 488 (Admin) Mr Justice Ouseley upheld the approach of a planning inspector who had looked for *'demonstrable physical attributes which would take this site beyond mere countryside'*. In the more recent CEG case [[2018] EWHC 1799 (Admin) the same judge said that *'as long as it forms an integral part of a wider valued landscape I consider that it would deserve protection under the auspices of the Framework'*.

10. The CEG case demonstrates that the landscape context of the proposed development site is an important concept in the case law for the purposes of qualifying a landscape as a 'Valued Landscape' meriting protection under NPPF 180(a), but the LVIA has omitted to assess the value of the wider landscape. Consequently the LVIA fails to provide important information to the LPA of the high landscape quality of this location.

11. While NPPF 180 (a) refers to *' protecting and enhancing valued landscapes'*, NPPF 180(b) refers to *' recognising the intrinsic character and beauty of the countryside'*. In this context we refer to the recent appeal decision APP/J1860/W/23/3325112 -proposed solar installation at Birchall Green Farm, Sinton Green, Hallow WR2 6NT. The Inspector said [at 28] :

' NPPF para 180 sets out how planning decisions should contribute to and enhance the natural and local environment by, amongst other things, 'protecting and enhancing valued landscapes' and 'recognising the intrinsic character and beauty of the countryside'. In my view 'recognising' connotes a degree of protection regardless of whether a landscape is 'designated' or 'valued' .

12. The TLP Landscape Statement says that the panels will form a large and continuous block of monotonous colour which would be highly discordant with the patchwork character and varying colours and textures of existing landscape patterns and the high quality rural setting. There is also a cumulative impact which is not considered in the LVIA. The proposed development would be visible with high overhead power lines and with the adjacent solar development on Butleigh Drove (approx 17.2 Ha) in both wider, elevated and lower level views.

13. The TLP Landscape Statement also explains that the hedgerows planting proposed to screen views of the panels would be wholly out of character with the open nature and character of the Moors area, and in any case would be ineffective in wider elevated views. From lower levels they would obstruct open and important views over the moor.

14. We note the points made by the planning lawyer Tim Taylor of Khift Ltd in his letter of 8 April 2024. He says that as matters currently stand there appears to be a wide gap between the applicant's conclusion that the site is '*typical of the local area*' and is '*of low to medium landscape value*' and the Landscape Officer's view that the site is '*high quality*' and '*very remote and tranquil*'.

15. He also noted that it is equally clear from the Landscape Officer's objection that she considers the Application will have a significant adverse impact on the local landscape character, as set out in her six reasons for recommending refusal [at 3.0]. Given the comments made in her objection together with analysis provided by Save Our Somerset Levels and other objectors, he asked the LPA to request the Landscape Officer to confirm whether she considers the site is within a valued landscape for the purposes of NPPF 180 (a), and her reasons for that conclusion.

16. We now request that the Landscape Officer should also take into account the TLP Landscape Statement submitted on our behalf, which sets out detailed reasons why the site forms part of a Valued Landscape, for the purposes of NPPF 180 (a). The TLP Landscape Statement is 1. the first assessment provided by a qualified landscape professional of the value of the wider landscape in which the development site is located, and 2. the first such assessment to be provided to the LPA which undertakes a structured and transparent analysis of the landscape at this location in terms of the TGN 02/21 'Valued Landscape' criteria. According to the case law, these two components will be helpful to the LPA in determining 'Valued Landscape' status.

17. We note also Tim Taylor's legal argument that whether the site is a Valued Landscape or not for the purposes of 180(a), the impact of the scheme is unacceptable in policy terms. In addition, if the LPA considers the landscape is valuable due to its intrinsic beauty, the proposal would also be contrary to para 180 (b) of the NPPF.

Use of Best and Most Versatile Land

18. We would respectfully draw the LPA's attention to the recent High Court judgment in the 2024 *Lullington* case [EWHC/295/Admin/2024/295]. This judgment upheld an appeal dismissal of a solar installation on agricultural land. The Inspector found that the loss of food production for 40 years outweighed the claimed benefits of the proposed development. Importantly, the case confirmed that the Written Ministerial Statement (WMS) of March 25, 2015 remains extant and relevant.

19. This WMS said that:

‘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 landscape. 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 local council will need to consider. These include making effective use of previously developed land, and when a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of higher quality.’

20. The NPPF has recently been revised [in December 2023] to reinforce the presumption against developing agricultural land with the addition of footnote 62 , which states:

‘ Where significant development of agricultural land is demonstrated to be necessary, areas of lower quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding which sites are most appropriate for development’.

21. We also refer to the recent amendments to the Net Zero target and delivery budgets in the NPS. EN-3 confirms that:

‘Where possible, developers should utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poor quality land should be preferred to higher quality land avoiding the use of Best and Most Versatile Land where possible. Best and Most Versatile Land is defined as grades 1,2 and 3a’.

22. We are concerned that the Applicant has obfuscated this issue. The ‘Planning and Sustainability Statement’ of 27 February 2024 [at p.30] acknowledges that 99.1% of the site is Grade 3a land (which is BMV land), but then claims that the land is ‘*sub-grade 3a land* ‘ being ‘ Type 1, 2 and 3’ soils, which it classifies as ‘non -agricultural land’. There are no such distinctions in the definition of Best and Most Versatile Land in the NPPF. This approach falls far short of the high level of clarity called for in the 2015 Written Ministerial Statement.

Reliability for planning purposes of the Applicant’s Agricultural Land Classification

23. In this context, we would draw the LPA’s attention to the same applicant’s Agricultural Land Classification report (also as in this case prepared by RPS Consulting Services) which was submitted in relation to a solar installation on land north of the Transmitting Station in Williton [3/39/21/028]. This planning application was refused by Somerset Council, and is now at appeal.

24. In that case the tenant farmers had commissioned an agricultural land classification report which confirmed that the site is Best and Most Versatile Land. The Applicant then submitted an agricultural land classification report claiming that the 'soil types' it had identified justified a finding that the land was not Best and Most Versatile Land.

25. In order to arbitrate these discrepancies, Somerset Council commissioned its own independent agricultural land classification report from a leading firm of consultants, Mott Macdonald. This independent report examined the Applicant's findings and methodology, and concluded that:

'The Applicant's Report cannot be relied upon for planning purposes'.

26. Given this prior history, we question whether the Applicant's present findings at Nythe Road that the 3a land identified is not Best and Most Versatile Land can be relied upon for planning purposes. In our view the applicant's claims should be examined in an independent report, as in the Williton application. We also request the LPA to give reasons to justify any finding that 3a land, which is defined in the NPPF as being within the category of Best and Most Versatile Land, has 'sub-grades' which would take it out of that category, as claimed by the Applicant, when such 'sub-grades' of BMV land are not envisaged in the National Planning Policy Framework.

Absence of community engagement

27. Three parish councils have recommended refusal (Walton, Ashcott and High Ham), and there is a large number of local objections. It is evident that this large scale proposal has been submitted following minimal 'tick-box' consultation/community involvement, which is unacceptable for such a large and substantially harmful project.

28. On 27 February 2023, CPRE Somerset wrote to Mr Ronan Kilduff, the CEO of Elgin Energy, at his company's then address in the City of London, drawing his attention to the high sensitivity and landscape value of Butleigh Moor and the surrounding hills and respectfully asking him not to proceed with preparing a planning application at this location, as there were more suitable alternative locations with less landscape impact. No reply was received. Furthermore, there is anecdotal evidence that residents who contacted the company also were not replied to. This lack of communication at the earliest stages of this planning application does not reassure us that communication would improve if permission were to be granted.

Conclusions

29. We refer the LPA to the TLP Landscape Statement for a full set of our landscape conclusions. In brief summary, the planning application proposes a solar development of industrial nature and scale within an overtly rural landscape of international importance and with perhaps some of the finest and most distinctive views in Somerset. This is a high quality landscape of value with a high susceptibility to this type and scope of development and therefore has a high susceptibility to change. Published landscape character assessments for the area confirm this.

30. The proposed development is discordant with this setting and its prominent location. The site is overlooked from surrounding elevated ground within panoramic views, and locally at close proximity where proposed development would spoil and obstruct important existing views. It would conflict with the land management guidelines for landscape type. It would not conserve historic elements of the landscape and the low key character of footpaths, or the rural landscape.

31. On this basis the proposal is non-compliant with LP Policies DP1-Local Identity and Distinctiveness, DP4-Mendip's Landscapes and DP 19-Landscapes, irrespective of whether it is a 'Valued Landscape'.

32. The concept of 'Valued Landscape' is, however, also relevant in this context. The TLP Landscape Statement concludes that this a 'Valued Landscape' which would be substantially harmed by this development. An acceptance by the LPA that this is a Valued Landscape would be an additional reason to refuse the application under NPPF 180(a).

33. The TLP Landscape Statement sets out detailed reasons why the landscape qualifies as a Valued Landscape, taking into account all the factors in TGN 02/21, which provides a structured and transparent assessment process. As Tim Taylor of Khift Ltd explains in his legal letter, it is not necessary for all TGN 02/21 criteria to be met, but in this case all the criteria appear to have been met.

34. In applying the factors in TGN 02/21, our landscape consultant has considered not only the site itself and its features, elements, characteristics and qualities, but also their relationship with the role they play within the site's context. The landscape context includes the Somerset Levels at Butleigh Moor, and the surrounding hills. This contextual approach is critical to an evaluation of landscape value, as highlighted by the High Court in the recent CEG case, and is notably absent in the Applicant's LVIA.

35. The area is famous for walking due to its outstanding scenic beauty and far-reaching views across the open Levels. The hills and Levels at this location are criss-crossed by public footpaths and narrow lanes. Walkers are the most sensitive receptors. As noted in the TLP Landscape Statement, it is unclear why the LVIA ascribes only a 'Medium high' sensitivity to those making use of the extensive footpath network in this location. The value of this recreational use has been downplayed in the LVIA, yet is one of the TGN 02/21 criteria for a valued landscape.

36. The Planning Statement says that the site has been identified as 99.1% '3a' land in the ALC report* (3a land falls within Best and Most Versatile agricultural land by definition in the NPPF). However, according to the Applicant, it does not qualify as Best and Most Versatile Land, on the grounds that 'soil types 1, 2 and 3' identified by the Applicant change the classification to 'sub-grade 3a', which is then claimed to be 'non-agricultural land'.

37. This self-serving re-definition of Best and Most Versatile Land does not accord with the definition of BMV land in the NPPF. We have highlighted in this letter that similar issues arose last year with the same applicant in respect of the Somerset West and Taunton solar application in the Washford river valley, which was refused by the Council [3/39/21/028-Land N. of the Transmitting Station, Williton]. In that case the Council eventually commissioned its own independent ALC report, which concluded that the applicant's ALC methodology could not be relied on for planning purposes.

Yours sincerely,

Hugh Williams
Chair
CPRE Somerset

Fletcher Robinson MSc Planning
Trustee and Planner
CPRE Somerset

* The ALC report does not appear to be on-line

