

PLANNING COMMITTEE

SCHEDULE OF ADDITIONAL LETTERS

Date: 15th November 2022

NOTE: This schedule reports only additional letters received before 5pm on the day before committee. Any items received on the day of Committee will be reported verbally to the meeting

Item No.	Application No.	Originator:
5	22/03068/FUL (Upper Pepperhill Solar)	Applicant

Applicant's Archaeologist's response to SC Conservation initial consultation response
AOC Archaeology are acting as cultural heritage consultants for this solar farm proposal. In this capacity we have both studied the site and assessed the potential for impacts upon the settings of heritage assets within 2km of its boundary. Site visits were undertaken to our work and these underpinned the conclusions of the resulting Cultural Heritage Assessment (CHA).
I write with respect to the consultation response from the Shropshire Council Conservation Officer which was received on the 8th of August 2022. This notes the presence of four designated heritage assets which could be subject to setting impacts as a result of the proposed development; the Church of St. Chad Boningale (grade II* listed), Patshull (registered park and garden (RPG), grade II), the Boningale conservation area and the grade II listed farmhouse at Upper Pepperhill. The response also identifies a scheduled cross which stands within the Churchyard at Boningale and three non-designated assets; Lower Pepperhill Farm, Parkside Farm and the Horns of Boningale public house. The potential for impacts upon the settings of these assets is considered in detail in CHA and this acknowledged by the Conservation Officer who considers that here would be '*some screening*' with respect to the Patshull RPG, that views from Boningale church would be '*largely screened*' although '*some intervisibility and glimpse views*' are possible, whilst there is '*some potential*' for intervisibility from the conservation area. The response acknowledges that there would be '*little intervisibility and therefore negligible impact*' with respect to the three non-designated assets.
These conclusions are broadly in line with the findings of the CHA although it should be acknowledged that in no instance would the proposed development constitute a material change to the setting of these assets and that, despite its proximity, the Patshull RPG historically lay within a separate landholding to the site, and it is therefore unlikely that any of the boundaries or vegetation on the site was associated with it.
The Conservation Officer's principal concern relates to the potential for an impact upon the setting of the listed farmhouse at Upper Pepperhill which stands adjacent to the site boundary on the edge of an escarpment, overlooking the land to the west. Although it is proposed to locate panels to the north and south of the farmstead, within Development Zones 4 and 5, the Conservation Officer is principally concerned with the potential for intervisibility with Development Zone 1 which lies at the foot of the escarpment on the lower ground to the northwest of the farmhouse. Although the Conservation Officer acknowledges that development within Zone 1 would constitute '*less than substantial harm*' to the setting of Upper Pepperhill, he considers that it would reach '*the middle part of the scale*'. He therefore considers that the proposed development would be '*contrary to paragraphs 197 and 202 of the NPPF, policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev*', although he acknowledges that this should be balanced against the '*public benefits*' of the proposed development, which the Council's Climate Change Task Force have set out in their consultation response.
The Applicant has submitted a photomontage (EDP 1) which shows the predicted view from Church Lane, Boningale which lies west of the site and northwest of Upper Pepperhill. The photography was undertaken on the 1st of April 2022, before the trees were in leaf and shows that when viewed from this vantage point the listed farmhouse would be largely concealed from view behind the tree line that extends along the slope of the escarpment. It should also be acknowledged that a line of overhead electricity towers pass in front of the escarpment at this point, dominating the foreground. The photomontage offers two scenarios; showing the proposed development as it would appear immediately after construction (Year 1) and again after the proposed mitigatory planting has reached maturity (Year 15). In Year 1 the panels within Development Zone 1 would be visible at the foot of the escarpment and would be partially

shielded from view by intervening tree and hedgelines along with the leading edges of the panels within Development Zones 2 and 4, which extend along the upper edge of the escarpment. However, the panels within Zones 1 and 2 would be clearly set apart from the largely concealed listed farmhouse, whilst those within Zone 4 would be partially shielded from view behind the tree belt along the escarpment edge. The 15-year scenario shows that visibility of Zone 1 would be largely unchanged, although the panels within Zones 2 and 4 would be largely concealed behind the new planting. It should be noted that both the Year 1 and Year 15 images were generated prior to the design of the development being revised so as to remove the panels that were originally proposed for the southern part of Development Zone 1. As the photomontages show these panels would have appeared at the foot of the escarpment 'below' the listed farmhouse and therefore their removal further reduces the potential for an effect upon its setting. Given the limitations of the extent of the predicted visibility and the intervening presence of the existing overhead power line, it is clear that the proposed development does not have the capacity to materially change the setting of the grade II listed Upper Pepperhill farmhouse when it is viewed from Church Lane. In cultural heritage terms Historic England have defined 'harm' as a 'change for the worst' and note that it primarily refers 'to the effect of inappropriate interventions on the heritage value of a place'¹. If harm is considered to represent a change for the worst then it is reasonable to argue that that 'substantial harm' must be understood to be a considerable change for the worst and, given the limitations of visibility of the proposed development when viewed from the listed building and the existing character of the modern landscape it is clear that this would not be the case here. However, as the Historic England definition makes clear, change does not in itself equate to harm. Indeed, given that any impact upon the key attribute of the farmhouse's setting, its visual relationship with the escarpment on which it stands, would be at worst limited it is debatable whether any harm should be predicted at all.

This brings us to the policy test that the Conservation Officer sets out in their response, namely the compliance of the proposed development with paragraph's 197 and 202 of the National Planning Policy Framework (NPPF), policies CS6 and CS17 of the Shropshire Core Strategy and Policies MD2 and MD13 of the Shropshire Site Allocations and Management of Development Adopted Plan (SAMDev). In this context it is important to note that Upper Pepperhill farmhouse is in the same ownership as the site and is currently vacant and in poor condition. The landowner has agreed to ring fence two hundred thousand pounds from the revenue that they would receive from the solar farm in order to restore the listed building and return it to use. This would be secured through the use of a unilateral undertaking and would secure Upper Pepperhill's long term future.

Paragraph 197 of the NPPF notes that when determining planning applications, planning authorities should consider:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.'*

Whilst paragraph 202 notes that '*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*'

Both paragraphs place emphasis on the 'desirability' of ensuring that 'viable uses' are secured for heritage assets, an objective which, with respect to designated assets such as grade II listed buildings, paragraph 202 considers to be a public benefit. Given the limitations of the predicted impact upon the setting of Upper Pepperhill and the commitment to use funds from the development to secure the restoration of this grade II listed building, thereby '*securing its optimum viable use*', it is argued that the development is clearly compliant with the NPPF. Policy CS6 of the Shropshire Core Strategy relates to '*Sustainable Design and Development Principles*' and is arguably generic, containing little that can be specifically tied to the historic environment. However, it does commit the Council to ensure that all development '*protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and*

those features which contribute to local character'

Although policy CS17 'Environmental Networks' is not specific to the historic environment, it does contain more detail than CS6, committing the Council to use development to '*identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources*'. This will be achieved by ensuring that all development:

- '*Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings... [and]*

- *Does not have a significant adverse impact on Shropshire's environmental assets and does not create barriers or sever links between dependant sites;*

- '*Secures financial contributions, in accordance with Policies CS8 and CS9, towards the creation of new, and improvement to existing, environmental sites and corridors, the removal of barriers between sites, and provision for long term management and maintenance*'.

Although the proposed unilateral undertaking to return Upper Pepperhill to use, would fall outwith the specific circumstances for securing financial contributions that are set out in policy CS17, it matches it in both principle and spirit and can therefore be said to accord with the Core Strategy. The SAMDev sets out detailed policies for development management within Shropshire. Policy MD2 addresses sustainable design although it does make limited reference to the historic environment within section 2(iii) which states that development should '*contribute to and respect locally distinctive or valued character and existing amenity value by ... protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting*'. Detailed policy on the historic environment is reserved for MD13 which is specific to the discipline. Policy MD13 states that '*Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by:*

1. *Ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.*

2. *Ensuring that proposals which are likely to affect the significance of a designated or non-designated heritage asset, including its setting, are accompanied by a Heritage Assessment, including a qualitative visual assessment where appropriate.*

3. *[relates specifically to non-designated heritage assets]*

4. *Encouraging development which delivers positive benefits to heritage assets, as identified within the Place Plans. Support will be given in particular, to proposals which appropriately conserve, manage or enhance the significance of a heritage asset including its setting, especially where these improve the condition of those assets which are recognised as being at risk or in poor condition*'.

With respect to points 1 and 2 considerable care has been taken in the design of the proposed development to ensure that any impact upon the setting of heritage assets would be minimised. As this letter has set out, '*harm*' in a heritage context represents a '*change for the worst*' rather than merely a change and any minor impact upon the setting of Upper Pepperhill would be more than offset by the proposed unilateral undertaking to return the listed building to long term viable use, thereby avoiding any potential for direct harm in the future through the physical loss of fabric as the building deteriorates. Given that Upper Pepperhill is presently vacant it is logical to consider that it is either '*at risk*', or has the potential to be '*at risk*' in the future and consequently the proposed unilateral undertaking would accord with point 4 of policy MD13.

In the light of the arguments that are set out above it is considered that the proposed development is accordance with paragraphs 197 and 202 of the NPPF, policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of the SAMDev. The proposed development therefore complies with both national policy and the development plan.

I hope that this information is of use to you. Should you have any questions or comments then please do not hesitate to contact me and I will be happy to help.

Yours sincerely, Thomas Bradley-Lovekin

Consultancy Project Manager, AOC Archaeology Group.

Officer Note: SC Conservation has been re-consulted on this response and the proposed legal commitment to fund restoration of the Grade II listed Upper Pepperhill Farm. The response is outstanding. Any response will be reported verbally to committee.

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5	22/03068/FUL (Upper Pepperhill Solar)	Applicant

Applicant’s response to objections on B&MV agricultural land

This letter is written in response to a number of consultation responses submitted for the abovementioned planning application regarding the agricultural use of the Site in order to provide clarifications and further information.

Several consultation responses object to the “loss” of high-quality agricultural land, however, it is important to note that the Proposed Development does not result in the loss of land being used for agriculture. It is the Applicant’s intention for animals, such as sheep, to graze beneath and between the solar panels thereby maintaining the agricultural use of the Site while also producing clean, renewable energy. The Applicant has experience of successfully doing this at 8 of the 13 sites they own and operate. The applicant has beehives on 4 of the 13 sites they own and operate.

It is noted that while the Site will retain its agricultural use as animals graze during the life of the Proposed Development, it will be taken out of a specifically arable use. However, as set out in the Planning, Design and Access Statement (‘PDAS’) submitted as part of this application the Proposed Development would only result in the temporary loss of 0.00034% of Shropshire’s 145,000 ha of BMV land (as estimated in the PDAS). There are no controls which prevent a farmer from switching the use of an agricultural field between arable and grazing uses, both being agricultural, and planning permission would not be required for this. A farmer may choose to do this at any time for a number of reasons, including to rest the land.

Furthermore, the use of the Site for renewable energy generation alongside its agricultural use is a form of diversification which will benefit the much larger agricultural unit. Income generated from this will, in part, be re-invested in the wider farm estate in ways that will maintain and improve productivity. Furthermore, the diversification of income streams will help to protect the wider farm from any losses which may be incurred in the future due to extreme weather events or disease, helping to ensure its long-term future producing food for the country.

It is also important to note that the Proposed Development is only temporary in nature for a maximum period of 40 years and at the end of its operation would have all infrastructure removed and be returned to its current state, allowing the farmer to return the rested land to its arable use if this was appropriate at the time. The removal of the infrastructure would be controlled by any forthcoming Planning Permission and the Council would have the power to enforce against this and compel the owners of the land in the future to return the land to its current state by removing all physical infrastructure. The costs associated with this, are secured by a bond which the operator begins paying into at the point at which the installed infrastructure begins to lose its re-sale value. This ensures that it is economically viable to decommission the Proposed Development at the appropriate time, throughout its operation. On a practical point as to how the Proposed Development is decommissioned. The panels are removed and over 90% of the panel materials can be recycled. The panels are mounted on metal frames which are driven into the ground so the frames are simply lifted out of the ground. The metal shipping containers are removed, electrical equipment stripped and all materials recycled. The only concrete is the pads which the inverters, battery units and substations sit on – these pads would be broken up and taken offsite.

As a result of public responses, we are proposing to reduce the agricultural land take in DZ1 by removing approximately 21 acres of BMV land out of the scheme. This area consists of the best agricultural land within the planning boundary and will continue in its current arable crop production. This reduction in size has a number of other benefits including, a greater buffer from residents and the Public House, reduces views of the project from Boningale, reduces setting impact on Lower and Upper Pepperhill Listed Buildings and will half the number of HGVs required to build this part of the site.

In a recent planning appeal decision (Application Reference: S62A/22/0000004), the Planning Inspectorate relating to a temporary solar farm proposed on BMV agricultural land, similar to the Proposed Development. They state:

"I have also noted the partial and temporary loss of BMV land, albeit I accept that some agricultural use can continue. Given the lack of alternative sites at lower Grades across the district, the generally lower order of BMV land across the site, the small scale of the site in comparison to available agricultural land and the lack of alternatives providing for grid connection and proximity to the airport, I give only moderate weight to the harm that arises."

It is notable that the Proposed Development similarly allows agricultural activity to continue, is small in scale in comparison to the remaining agricultural land across the County (and the agricultural unit) and a lack of alternatives has been suitably demonstrated in the Alternative Site Assessment submitted as part of this application which demonstrates a lack of alternative sites at lower grades across the district.

The appeal decision goes on to note the landscape impact and the significant contribution the proposal made to fighting climate change and the biodiversity net gain, similar to the Proposed Development which will generate around 23 MW and deliver significant Biodiversity Net Gains. The appeal decision ultimately concluded that the benefits outweighed the harm.

The need case for the Proposed Development is pressing and is set out in the PDAS submitted as part of this application. The evidence of this need, particularly for the domestic production of renewable energy, has been further demonstrated by the ongoing energy crisis. Furthermore, on the 08 September 2022 the Prime Minister addressed the House of Commons about the ongoing energy crisis and announced her intention for the UK to be a net exporter of energy by 2040 through the development of renewable energy amongst other things. This re-iterates and strengthens the Government's support for domestic renewable energy generation to strengthen our energy security and economy.

The need for renewable energy generation at a local level in order to fight climate change was recently acknowledged by the Council in the Climate Change Consultation Response submitted to the Planning Register on 26 August 2022. Key points include:

"The climate crisis is a serious threat to the lives of millions of people globally, nationally and locally. The mitigation of greenhouse gas emissions and adaptation measures to build resilience is now urgent and essential to prevent the worst outcomes. Even if we are successful in mitigating the worst effects, we will continue to experience more pronounced and frequent episodes of extreme weather effects. The much greater frequency of extreme weather events will significantly increase insurance risks and threaten the health, wellbeing and future resilience of our communities and infrastructure."

"It's recognised by the Climate Task Force that the development would contribute 23MW towards the approximate total of 5,000MW required to make the county self-sufficient in renewable energy."

Furthermore, a recent planning appeal decision for a proposal located within the Green Belt (APP/C3430/W/22/3292837) re-affirmed paragraph 151 of the National Planning Policy Framework which states that for development within the Green Belt "very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources".

This scheme will deliver significant benefits to the local area. The applicant is working on an agreement with the landowner to ring fence some of the solar farm rental income to be put towards conservation works at the currently derelict Upper Pepperhill Farm. The applicant is looking to agree a permissive horse hack route around DZ1.

The direct financial contribution to the local parish is currently being discussed with Boningale Parish Council as is standard on our projects. This community benefit fund is offered as a one-off payment or an annual payment for the duration of the project and is secured through a Short Form Legal Agreement.

In conclusion, it is considered that the Proposed Development maintains the agricultural use of the Site while temporarily producing much needed renewable energy to support the UK's energy security in the midst of a serious and growing energy crisis. It is considered that the limited harm of the Proposed Development relating to the temporary removal of BMV land from arable use (although retaining its agricultural use) and landscape impact is outweighed by the significant benefits of the Proposed Development, including Biodiversity Net Gains in addition to the production of clean energy.

Yours sincerely, **Jordan Martin BSc (Hons) MRTPI**
Senior Planner, DWD

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5	22/03068/FUL (Upper Pepperhill Solar)	Case officer

Errata in committee report:

- 1.3 The text in brackets regarding array height should be deleted.
- 1.4 The angle referred to should read 29.5 degrees
- 1.14 & 6.7.11 The development would deliver an overall biodiversity net gain of +93.57 (70.06%) habitat units and +26.29 (473.60%) linear habitat units from the latest calculation.
- 4.7 The amount of species rich grassland referred to by SC Ecology should read 36.7ha
- 6.4.4 & 5.4.8 References to 'Lilyhurst Road' should refer instead to 'Holyhead Road' (A464).

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The applicant has submitted a letter from their solicitor confirming acknowledgment of the instruction to prepare a unilateral undertaking to deliver funding for restoration of the Grade II listed Upper Pepperhill Farm.

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As the proposal will cause "less than substantial harm" to the setting of a listed building reference should be had to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard should be had to the desirability of persevering the setting of listed buildings. This means that considerable weight must be given to any harm caused to designated assets in the planning balance including any harms to the setting of a listed building.

This is a statutory presumption but can be outweighed by material considerations.

Officer note: For the avoidance of doubt the officer conclusion is that the legal agreement to secure funding for restoration of the Grade II listed Upper Pepperhill Farm to secure the optimum viable use of the building is sufficient to overcome any less than substantial harm to the setting of the building when the public benefits of the renewable energy from the scheme are also taken into account.

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With reference to section 6.4.10 of the officer report Members are reminded that benefits offered to a local community by an applicant are not material to the determination of the proposed development. As such, they would not count towards the very special circumstances needed to justify development in the Green Belt.

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There is no issue with the principle of providing a funded agreement to mitigate the impact of the development will have upon the significance of the listed building as a consequence of the affects upon its setting by securing the repair of the asset itself. However, I think that a s106 might perhaps be a better mechanism for securing the mitigation to the harm that would be caused to the heritage asset because the LPA would have control and assurance that the mitigation would be delivered in a way we consider to be acceptable (and which we could therefore afford more weight in the planning balance). My concern otherwise is that it could appear that the Applicant is seeking to buy a planning permission if we're not involved.

Officer note: In view of this response the recommendation is amended to require a full s106 Legal Agreement to secure the heritage payment.

Item No.	Application No.	Originator:
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The applicant has requested the following minor change to the wording of draft condition 22 in the event that the permission is granted:

All photovoltaic panels and other structures constructed in connection with the approved development shall be physically removed from the Site within 40 years of the date of ~~this permission~~ **first export of electricity from the Site** and the Site shall be reinstated to agricultural fields. The Local Planning Authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this permission.

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