



Appeal Decision

Inquiry held on 9 – 12 January 2024

Site visit made on 12 January 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2024

Appeal Ref: APP/L3245/W/23/3329815

Land to the South of Hall Lane, Kemberton, Telford, TF11 9LB

- 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 Mr K Philpott (Vattenfall) against the decision of Shropshire Council.
 - The application Ref 22/02441/FUL, dated 13 May 2022, was refused by notice dated 20 March 2023.
 - The development proposed is the installation of a solar farm and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a solar farm and associated infrastructure at land to the south of Hall Lane, Kemberton, Telford, TF11 9LB in accordance with the terms of the application, Ref 22/02441/FUL, dated 13 May 2022, subject to the conditions set out in Annex A.

Procedural Matters

2. The Council confirmed (25 April 2022) that an Environmental Impact Assessment was not required. There is no reason to disagree.
3. One of the reasons for refusal related to the impact on landscape character. However, the Council confirmed at the Case Management Conference and in the Statement of Common Ground that they would not be contesting that reason for refusal.
4. A revised Landscape Mitigation Plan was submitted with the appeal. This shows additional biodiversity enhancements in the south-east corner of the site and additional hedgerow planting to the east of the substation enclosures. The council expressed no concern with the use of this revised plan. I consider the changes are relatively minor and I am satisfied that no party would be prejudiced by my taking the amended plan into account. Accordingly, the Inquiry proceeded on this basis.

Main Issues

5. The parties are agreed that the proposal is inappropriate development in the Green Belt in terms of local and national policy.
6. Given this, the main issues in the appeal are:

- The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on, and the potential loss of, agricultural land and an agricultural enterprise; and
- Whether the harm to Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development.

Reasons

The site, the surrounding area and the proposal

7. The appeal site comprises 2 fields that form a L-shape and which total approximately 20 ha. External and internal field boundaries are mainly defined by mixed hedgerows and mature trees, the exception being the eastern boundary of the southern field that is marked by a post and wire fence. A public right of way, which forms part of the Monarch's Way long distance path, traverses the south-east corner of the site.
8. The site is located between the village of Kemberton to the east and the built edge of Telford to the west, both of which occupy higher ground. It is also within the West Midlands Green Belt. Immediately adjacent to the northern and western boundaries lie Hall Lane and the B4379 respectively. Beyond these roads and adjacent to the other boundaries is a mix of arable and pastoral agricultural land with a rolling topography.
9. The proposal would consist of ground mounted solar arrays arranged in rows across the majority of the two fields along with essential electricity generation infrastructure, internal access tracks, security fencing, pole mounted CCTV cameras and boundary landscaping.

Planning policy context

10. The development plan comprises the *Shropshire Core Strategy 2006 – 2026 (adopted February 2011)* (CS) and the *Site Allocations and Management of Development Plan (adopted December 2015)* (SAMDev).
11. Leaving aside the third reason for refusal on landscape character which is not being contested, the reasons for refusal reference Policy CS5 which deals with development in the Green Belt and the countryside, CS13 which addresses economic development, enterprise and employment, and CS15 on Town and Rural Centres. At the Inquiry the Council could not identify how the proposal was contrary to any part of CS15. I would agree with that conclusion and so will not consider it further.
12. Although not mentioned in the reasons for refusal, the need to make effective use of land and safeguard natural resources, including high quality agricultural land, is set out in CS Policy CS6. In addition, Policy CS8 of the CS supports low carbon and renewable energy generation proposals where they would not have significant adverse impacts on recognised environmental assets.
13. The Council are currently in the process of producing a new Local Plan (LP). This was submitted for examination in 2022. But it was confirmed at the Inquiry that a further hearing session is expected in the summer with

consultation on the main modifications in late 2024. The Council made reference to Policies DP18 and DP26 within the LP but in the absence of any indication of the level of unresolved objections on these policies and whether modifications may be needed to make them sound, I give minimal weight to them.

14. The *National Planning Policy Framework* (the Framework), the *Planning Practice Guidance* (PPG), the *National Policy Statement on Energy* (EN-1) and the *National Policy Statement on Renewable Energy Infrastructure* (EN-3) are all material considerations.
15. Kemberton produced a Parish Plan in 2017 which sets out a framework for the future of Kemberton. Whilst this was subject to consultation with the community, it underwent no independent examination to ascertain whether it aligns with development plan and is not a Neighbourhood Plan. As such, whilst I take note of the factual information it contains, I give minimal weight to any of its aspirations in relation to planning and development.

Green Belt openness

16. Policy CS5 of the CS indicates that development in the Green Belt will be controlled in accordance with national policy which is currently set out in the Framework.
17. The Government attaches great importance to the Green Belt. The fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence. Openness has both a visual and spatial element.
18. The appeal site currently comprises 2 open fields. The proposal would introduce development across the majority of these fields. Although the footprint of the posts holding the arrays would be small, the panels themselves are larger. They would have the effect of covering more of the ground area, albeit that their mass would be broken up by the grass in between each row and the fact that there would be 'airspace' and functioning soil beneath the panels. In addition, there would be access tracks, fencing, substations and transformers as part of the proposal. As a result, I consider that the proposal would slightly diminish the openness of the Green Belt spatially.
19. In visual terms, the appellant's landscape witness considered the effects to be very limited and localised due to the existing and proposed vegetation around the site and the local topography. This is supported by the findings of the Landscape and Visual Impact Assessment (LVIA) which found that the only publicly accessible viewpoints which would have more than 'negligible' visual effects were a section of the Monarch's Way footpath (viewpoints 1-4), sections of footpaths to the north and west of Kemberton (viewpoint 7) and the roads adjacent to the site (viewpoint 5). In all cases the visual effect from these would be reduced as the new planting is established with only Monarch's Way remaining more than 'negligible' at 'slight adverse'.
20. The Council highlighted that the Zone of Theoretical Visibility (ZTV) shows there to be visibility of 100% of the site from the ridge of the Halesfield Industrial Estate. However, the only publicly accessible point on this ridge is the road. Road users would primarily be paying due care and attention to other road users and hazards, so would only take in limited glimpses of the site,

resulting in only a negligible adverse visual effect. Even for passengers, views would only be fleeting. Whilst the views would be less fleeting for pedestrians, the absence of any footway on the road at this point, suggests this route is unlikely to be heavily utilised by pedestrians.

21. The other point on the ZTV where there is 100% visibility, was indicated to be a field with no public accessibility. Views of the site are also possible from the car park and outside seating areas to the rear of the Mason's Arms Public House in Kemberton. What views of the site that are possible from these areas are similar to that from viewpoint 1 and are at present heavily screened by the existing boundary vegetation. As this existing hedging would relatively quickly mature to its new height, views of the proposal would be minimal.
22. The Council did not provide any technical evidence to counter the findings of the LVIA and from my own observations I would agree with the conclusions it reached on the likely visual effects of the proposal.
23. The appellant's landscape witness considered that the proposed planting would take slightly longer to establish than suggested in the LVIA – 5-10 years rather than 3-5 years. I consider that the proposed increase in height of the existing hedges to 3m could be achieved in 3 years, bringing the mitigation benefits to the majority of the viewpoints highlighted above within a relatively short timeframe. Whilst the full screening effect of the new mitigation planting is more likely to take between 5 and 10 years to achieve, I am not persuaded this slightly longer timeframe significantly alters the visual impact of the proposal.
24. All in all, initially, I consider the proposal would cause moderate harm to the visual openness of the Green Belt, but this would reduce to slight as the mitigation planting matures. Given the very localised nature of this visual impact overall, I consider it would only have a slight impact on the visual openness of the Green Belt.
25. The LVIA acknowledges that there would be some views of the proposal from various residential properties in the vicinity, although, when the mitigation planting is fully established, at worst the visual effect would be "slight adverse". Moreover, these are private not public views and the Council accepted that the proposal would not cause any unacceptable harm to the living conditions of the occupiers of these dwellings. There are no other existing or proposed solar farms in the LVIA study area, so there would be no cumulative landscape or visual effects.
26. The PPG indicates that when assessing the impact of a development on the openness of the Green Belt, the duration of the development and its remediability, and the degree of activity it would be likely to generate, are matters to take into consideration. The proposal would occupy the site for 40 years which although a significant period of time is not permanent. At the end of this period the site could be restored to agricultural land. In addition, apart from during the construction phase and during de-commissioning, the development would generate minimal activity.
27. Taking all of the above together, both visually and spatially, the proposal would result in slight harm to the openness of the Green Belt. This adds to the harm caused by reason of inappropriateness.

Green Belt purposes

28. As defined by paragraph 143 of the Framework, the Green Belt serves 5 purposes (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and spatial character of historic towns; and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
29. It is agreed that the fourth purpose, relating to historic towns, is not relevant in this instance. In addition, the Council indicated that all parts of the Green Belt contribute equally to the fifth purpose.
30. As part of the evidence base for the emerging LP an assessment of how land within the Green Belt contributed to the five Green Belt purposes has been undertaken. In this the appeal site lies within area BA2. The assessment concludes that this area makes no contribution to purpose 1, a moderate contribution to the second purpose and a strong contribution to purpose 3. The land on the other side of the B4379 lies in area P22, which the assessment concludes makes a strong contribution to purpose 1, a weak contribution to purpose 2 and a moderate contribution to purpose 3.
31. The Framework does not provide a definition of what constitutes "sprawl", but it is a matter considered by the Council's Green Belt Assessment. This notes that definitions of 'sprawl' vary but concludes that "land immediately adjacent to the large built up area is likely to contribute to this purpose as it provides the boundary and zone of constraint to urban expansion."
32. Although the appeal site is situated in what is a relatively narrow gap between Telford and Kemberton, it is not immediately adjacent to either the built edge of Telford, or Kemberton (although the latter is not a large built up area), as intervening fields lie between the site and both settlements. As a result, the proposed development would be visually discrete from both settlements.
33. Moreover, the solar panels and associated infrastructure would be relatively low-lying features, that would have a completely different character and form to either the industrial units on the edge of Telford or buildings in Kemberton. As such, the proposal would not be seen as the spreading out of either settlement. Thus, even if 'sprawl' encompasses 'leapfrog development' as suggested by the Council, the proposed development would not be contrary to this purpose.
34. With regard to the second purpose of including land in the Green Belt, the Council's Green Belt assessment highlights that the Framework specifically refers to preventing the merging of towns, not the merging of towns with smaller settlements, or the merging of smaller settlements with each other. Whilst Kemberton was referred to as either a village or a hamlet, it is agreed that it is not a town.
35. The Green Belt in the area has a role to play in preventing the coalescence of Telford with the town of Shifnal. However, the appeal site does not lie directly between these 2 settlements and so the proposal would not contribute to any narrowing of the gap between Telford and Shifnal. In addition, should it be considered that the site lies between Telford and Albrighton, the considerable

distance between these two towns means the proposal would not reduce this gap to any significant degree.

36. The proposed development would result in the partial infilling of the gap between Kemberton and Telford and so physically would lead to a narrowing of this gap. Nonetheless, open fields would remain between the site and both settlements. Additionally, the LVIA shows that there would be very little visibility of the proposal from the public realm and so visually the impact the proposal would have on the perceived openness of this gap would be very limited. Consequently, even if it is considered that the second purpose relates to the gap between Telford and Kemberton, the proposal would not, in my view, be contrary to this purpose.
37. It is not disputed that the proposal would represent development in the countryside. However, the busy nature of the 'B' road adjacent to the site does detract from the rural character of the area. The appeal scheme would introduce man-made structures into the fields and would change their character. Nonetheless, the solar arrays would be located within the existing field pattern and the scheme would retain and enhance the existing field boundaries which would result in minimal visibility of the scheme from outside the site. Furthermore, the solar arrays would be low-lying, open sided features, that would be temporary in nature, limiting the overall effect on the countryside.
38. Therefore, the proposal would cause encroachment into the countryside, contrary to this purpose. However, the degree of harm it would cause would be limited.

Green Belt conclusion

39. The parties agree that the proposal is inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The development would also cause some slight harm to the openness of the Green Belt and by causing some degree of encroachment into the countryside would conflict with one of the purposes of including land in the Green Belt. In line with paragraph 153 of the Framework, the harm to the Green Belt from these matters results in substantial weight against the proposal. The proposal would not accord with Policy CS5 or the Framework.
40. The Council highlighted other recent solar farm developments that had been approved in the Green Belt in the Albrighton area. It was suggested they were more acceptable because they did not conflict with any of the purposes of including land in the Green Belt and were not as close to urban areas. Be that as it may, I have considered the appeal scheme on its own merits.

Effect on, and potential loss of, agricultural land

41. Amongst other things, CS Policy CS6 seeks to make efficient use of land and safeguard natural resources including high quality agricultural land. Whilst paragraph 180b of the Framework states that planning decisions should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land, it does not prevent the use of such land for non-agricultural uses. Further guidance regarding the use of BMV land is provided in footnote 62 of the Framework. This footnote is linked to paragraph 181 not 180b, and the former relates to plan making not decision taking. However even

if it is considered to be relevant to decision taking it simply indicates that the availability of land for food production is a consideration to be taken into account, rather than preventing the use of such land.

42. The Written Ministerial Statement on solar energy (25 March 2015) indicates that the use of BMV for solar farms has to be justified by the most compelling evidence.
43. In addition, The *Planning Practice Guidance* (PPG) on renewable and low carbon energy, which also dates from 2015, provides a list of planning considerations that relate to large scale ground mounted solar photovoltaic farms¹. These include: encouraging the effective use of land by focussing such developments on previously developed and non-agricultural land provided it is not of high environmental value; and where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
44. It is agreed that the majority of the appeal site (71%) comprises Grade 3b agricultural land with the rest being Grade 3a. Whilst the latter constitutes BMV land, it is not a discrete element that could be farmed separately. The wider area comprises overwhelmingly of Grade 2 and 3 land, with no grade 5 land and only small amounts of Grade 4. In this context, the use of a site that is predominantly Grade 3b would constitute using poorer quality agricultural land as required in the PPG.
45. In addition, the appellant's Site Selection Process report (SSP), identified all potentially suitable land within an area that would be able to connect to either the Halesfield or Shifnal substations, where there was connection capacity. The Council suggested that there are other substations with capacity in the region. However, this failed to recognise the difference between transformer capacity and export capacity. As the appellant's evidence is based on detailed discussions with the local electricity distribution network operator, I have no reason to doubt that Halesfield and Shifnal are the only two substations with viable connection capacity. As such, the search area used in the SSP is reasonable.
46. The SSP found that within the search area there was no urban or brownfield land that would be large enough for the proposal. 36 greenfield sites were identified, but many of these were ruled out due to being too small or because they were Grade 2 agricultural land. Two of the sites were outside the Green Belt but both of these were being actively developed for housing. Whilst a detailed assessment of the other sites classified as Grade 3 land has not been undertaken to clarify if any of them contain less Grade 3a land than the appeal site, appendix 2 of the SSP gives good reasons as to why all of them were discounted. I therefore consider that the SSP represents a robust analysis of other potential sites. In this respect this appeal differs from the appeal referred to by the Council.²
47. In the absence of any evidence to the contrary regarding the availability and suitability of alternative sites, I see no reason to disagree with the conclusions

¹ Paragraph ID:5-013-20150327

² Appeal Decision APP/F1040/W/22/3313316

of this report, which shows there is no poorer quality agricultural land or urban/brownfield land available that would be able to use the available grid connections. Therefore, in accordance with the PPG, it has been demonstrated that the use of agricultural land would be necessary, and that poorer quality land would be used in preference to higher quality agricultural land.

48. It was highlighted that the SSP was not submitted when the planning application was lodged but later in the determination period. However, there is no national or local policy requirement to carry out an assessment of alternative sites for solar farm developments and to submit this as part of an application. From the evidence before me I am satisfied that the SSP explains adequately the process the appellant went through in identifying potential sites. Moreover, whilst the land on the other side of the B4379 may be closer to the sub-station the evidence shows it is not available for such developments.
49. The proposal would change the use of the land for a period of 40 years which, although a significant period of time, is not permanent. Furthermore, during the operational period it is indicated that the land around the solar panels would be used for the grazing of sheep. As a result, apart from the small areas used for the fixed infrastructure, the majority of the land would still be used for some agricultural purposes during the 40 year period the solar farm operated. It is the intention that it would be returned fully to agricultural land at the end.
50. I note the concerns that the productivity and versatility of the land would be reduced and that grazing by sheep during the operational period is not guaranteed. Nevertheless, the specific way agricultural land is farmed is not a matter that is subject to planning controls. As such, there would be nothing in planning terms to prevent the owners using the fields that form the appeal site for the grazing of sheep at present or even leaving them fallow.
51. Given this, the fact that the proposal would limit the ability to carry out any arable farming does not, in my opinion, mean that it results in the loss of agricultural land when it can still be used for other agricultural uses and can be returned to agricultural use in the future. Nor is there any substantive evidence to show that cumulatively solar farm developments are having an unacceptable impact on the amount of agricultural land available in the county.
52. The appellant has indicated that the footings for the solar panels would be piled. As such this would cause minimal disturbance to the soil and the quality of the land. This conclusion is supported by the findings of post-construction surveys of other solar farms provided by the appellant. Nor is there any evidence to show that the proposal would cause the release of the carbon stored in the soil as a result of the organic farming practices that the land has been subject to in recent years.
53. Whilst the land currently has organic status, this relates to how the land is managed rather than the land quality. This status could be lost if it was rented out differently and could also be regained at the end of the lifetime of the development.
54. Overall, I am satisfied that the proposal would not result in the temporary or permanent loss of agricultural land as the land could continue to be used for some agricultural purposes whilst also being used to produce solar energy. Nor would the proposal be detrimental to the quality of the land, so a return to agricultural use at a later date would still be possible.

Effect on, and potential loss of, an agricultural enterprise

55. Policy CS13 of the CS seeks to develop and diversify the economy and deliver sustainable economic growth. It indicates that in rural areas particular emphasis will be placed on recognising the continued importance of farming for food production and to supporting rural enterprise and diversification of the economy. As part of supporting a prosperous rural economy, paragraph 88b of the Framework also supports the development and diversification of agricultural and other land based rural businesses.
56. Until recently the fields that form the appeal site were used as pasture by the adjacent organic dairy farm and so were only indirectly used for food production. However, Policy CS6 does not state that any proposal that leads to a loss of area used for food production is unacceptable. Moreover, at the inquiry, the Council acknowledged that the use of agricultural land for solar energy is an example of economic activity associated with agricultural and farm diversification even if not listed as such in this policy.
57. Whilst the adjacent dairy farm had been using the land for around 20 years, it was rented by them on an annual basis with no security of tenure. As such, irrespective of the appeal proposal, there was no guarantee that the land would have necessarily continued to be available to rent by the dairy farm. Given the nature of this tenancy arrangement with the dairy farm, the Council accepted that it was incorrect for the second reason for refusal to allege the proposal would adversely affect this tenancy for 40 years. They also accepted that the rest of this second reason for refusal was based on the misunderstanding of the tenancy.
58. Moreover, there is no evidence that the loss of the two fields to the dairy farm would adversely impact on milk production or the viability of the business albeit that, as a consequence of the inability to continue renting this land, the business may incur costs in finding new land. In fact, the evidence of the owner of the dairy at the inquiry was that despite the loss of this land the business continued to be thriving. As such, the proposal would not cause any harm to food production.
59. Consequently, I consider that the proposed development would not be detrimental to, or lead to the loss of, an agricultural enterprise.

Conclusion on Agricultural Considerations

60. Overall, I consider that the proposal would not result in the loss of either agricultural land or an agricultural enterprise. Nor would it have an unacceptable impact on either agricultural land or an agricultural enterprise. The land could continue to be used for agricultural purposes alongside the production of renewable energy and could return fully to agricultural use at the end of the lifetime of the development. Accordingly, there would be no conflict with Policies CS13 and CS6 of the CS or with the Framework outlined above.

Benefit arising from the provision of renewable energy

61. The proposal would have an installed capacity of approximately 22MW, estimated to provide sufficient electricity to power around 6,000 homes a year and saving approximately 5,280 tonnes of CO₂ per annum. The site benefits from an immediate connection to the grid at the Halesfield substation which is clearly beneficial in enabling the energy produced to be exported without delay.

62. In recent years both the Government and the Council have declared an Environmental and Climate Change Emergency. Various recent government publications have highlighted the need to significantly increase generation from onshore wind and solar energy production, as it seeks to ensure that by 2035 all our electricity will come from low carbon sources and that it achieves net-zero emissions by 2050. In addition, the Shropshire Climate Action Partnership, of which the Council is one of the founders, has set the objective of achieving a net-zero carbon county by 2030.
63. Documents such as the British Energy Security Strategy reinforce the need for electricity to come from low carbon sources for energy security and economic stability. This is also reflected in various local documents such as the Energy Strategy for The Marches Local Enterprise Partnership.
64. To achieve these ambitious targets, it is clear that considerable growth in large scale solar farms will be necessary and this cannot be achieved solely by the use of brownfield land or roof top installations.
65. The support in both national and local policy for renewable energy is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal, both in terms of its contribution towards energy security and resilience and the reduction in greenhouse gas emissions, must be accorded substantial weight.

Other considerations

66. The proposal would include a variety of landscape and biodiversity measures including new and improved hedging, wildflower grass strips, new tree planting, a new pond and the provision of bird and bat boxes. The biodiversity metric shows that it would deliver biodiversity net gain both in terms of primary and linear habitats. Whilst the net gain may not be as high as achieved on other solar farm schemes in the area, it is still a permanent benefit of the scheme, that, along with the landscape benefits, attract moderate weight.
67. There would be some economic benefit during the construction period albeit this would reduce significantly once the development was operational. It would also result in additional business rates and would support the rural economy through the diversification of the farm business that owns the land. I give moderate weight to these economic benefits. It has been suggested that the proposal could lead to job losses. However, there was no evidence to support this claim and the owner of the dairy did not indicate that the loss of these two fields had had any impact on the number of people they employed. This unsubstantiated claim therefore does not weigh against the proposal.

Other Matters

68. Kemberton Conservation Area lies approximately 150m to the east of the site and 5 Hall Lane, St Andrew's Church and Brockton Hall Farm are all Grade II Listed Buildings in the vicinity of the site. The appellant's Heritage Impact Assessment considered the changes the proposal would cause to the setting of these heritage assets and the impact this would have on their significance. Given the distance to the site and the intervening vegetation that already exists, it is agreed that the proposal would not result in harm to Brockton Hall Farm. From the evidence before me, and what I saw at my site visits, I agree that there would be no harm to the significance of this heritage asset.

69. The undeveloped agricultural fields currently make a positive contribution to the setting of the south-western part of the Conservation Area and the Listed Buildings within it (5 Hall Lane and St Andrew's Church). The topography, existing and proposed vegetation and limited height of the panels means that the majority of the development would not impact on the setting and significance of the heritage assets. However, the introduction of security fencing and security cameras along the north-eastern boundary would cause some limited visual harm to the setting of the Conservation Area and the Listed Buildings and thereby to their significance. However, employing the terminology of the Framework, I consider this would result in 'less than substantial harm', at the lower end of the scale, to these heritage assets. Nonetheless, in accordance with the Framework and the statutory obligations imposed I give great weight to this harm. I shall weigh this against the public benefits later in my decision.
70. The appeal site is in Flood Zone 1 but due to its size a Flood Risk Assessment was produced. This considered all types of Flood Risk and concluded that there was a negligible flood risk, and no specific mitigation was required. Local residents produce photographic evidence showing flooding that already occurs on the adjacent roads and raised concerns that the proposal would exacerbate this further. However, subject to conditions, which includes a condition requiring a surface water run-off mitigation strategy, the Lead Local Flood Authority had no objection to the proposal. In the absence of any substantive evidence to the contrary I see no reason to come to a different conclusion in this regard.
71. The application was accompanied by a Glint and Glare Assessment which considered the impacts on a wide range of different local receptors and concluded that, after taking account of mitigation measures, the impact on all receptors would be low or none and therefore not significant.
72. As well as the houses on Hall Lane there are a small number of other isolated dwellings in the vicinity. The distance between these various properties and the closest panels, together with the existing and proposed intervening vegetation, means that the proposal would not unacceptably harm the living conditions of occupiers, in terms of noise and disturbance or glint and glare.
73. The Parish Plan indicates that the local footpath network attracts tourists and visitors. Whilst tourism can rely considerably on the quality of the countryside, the LVIA specifically considered the impact of the proposal both on the users of the local footpath network and on the wider landscape and found it to be acceptable. This concurs with what I observed on my site visit and the conclusions of the LVIA were not disputed by the Council. I am not persuaded that the changes to the landscape in this case would be detrimental to users of the public footpath network or would lead to the loss of viability of any existing tourism related business.
74. It has been suggested that the appeal scheme would set a precedent for further similar developments. However, no directly comparable sites to which this might apply were put forward. Each application and appeal must be considered on its merits and a generalised concern of this nature does not justify withholding permission in this case.
75. The Parish Council have stated that the Council made some errors on the appeal questionnaire. However, it is not disputed that the appeal site is in the

Green Belt and from the maps provided showing the boundary of Kemberton Conservation Area, the site is not adjacent to the boundary.

Planning Balance and Conclusion

76. It is agreed that the proposal is inappropriate development in the Green Belt. This, by definition, is harmful to the Green Belt. In addition, the proposal would result in slight harm to the openness of the Green Belt and would be contrary to one of the purposes of including land in the Green Belt. In line with the Framework, I give substantial weight to the harm the proposal would cause to the Green Belt. In addition, the proposal would cause less than substantial harm to the setting of nearby designated heritage assets.
77. On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future. The appeal scheme would make a significant contribution to this, and I give substantial weight both to the contribution the proposal makes to cutting greenhouse gas emissions and to improving energy resilience and security.
78. In addition, I give moderate weight to both the landscape and biodiversity enhancements that would be achieved, and to the economic benefits.
79. The Framework requires that where a proposal causes less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. I attribute significant weight to this harm but the contribution the scheme would make to the generation of clean and secure energy is a substantial public benefit and together with the other benefits outlined above, outweigh the less than substantial harm to the designated heritage assets.
80. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. In this case I consider that the public benefits of the proposal are of a magnitude that they would clearly outweigh the combined weight of the harm to the Green Belt and to the heritage assets. Therefore, the very special circumstances needed to justify the development exist, and the proposal would not conflict with the policies in the development plan outlined above or the Framework. Consequently, I conclude that the appeal should be allowed.

Conditions

81. The Council and the appellant agreed a set of conditions that were discussed at the Inquiry. I have considered these in the light of paragraph 56 of the Framework and have revised a number of them as discussed at the Inquiry.
82. In addition to the standard implementation condition (condition 1), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 2). Conditions 3 and 4 are reasonable and necessary to limit the period of the permission and to ensure the site is decommissioned either at the end of the permission or when energy generation ceases.
83. In the interest of the character and appearance of the area conditions 5, 9, 10 and 11 are necessary. Conditions 9 and 10 both need to be pre-commencement conditions. The former to ensure adequate protection is given

to the existing trees before any construction works start and the other as it relates to works that need to be undertaken during the construction period.

84. Conditions 6, 7, 8 and 16 are necessary for highway safety. Both conditions 6 and 8 need to be pre-commencement conditions. The former to ensure that a safe access is provided for construction traffic before construction work begins and the latter as it relates to works that need to be undertaken during the construction period.
85. In the interest of biodiversity conditions 12, 13, 14 and 15 are necessary.
86. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gwion Lewis KC instructed by Mr Barry Butchart on behalf of Vattenfall

He called:

Mr Alastair Field BA (Hons), MSc, FBIAC, PIEMA, MI Soil Sci, FRGS	Director & Company Secretary – Reading Agricultural Consultants Ltd
Mr John Ingham BA (Hons), Dip LA, CMLI	Director of Landscape Planning, Stephenson Haliday
Mr Barry Butchart BSc (Hons), MRTPI	Director, Mallory Land

FOR THE LOCAL PLANNING AUTHORITY:

Sioned Davies Counsel instructed by Ms Kim Brown, Solicitor on behalf of the Council

She called:

Cllr Edward Potter	Member of Southern Planning Committee
Ms Lynn Parker BA (Hons), MA	Senior Planning Officer – Shropshire Council
Cllr Tony Parsons	Member of Southern Planning Committee

INTERESTED PARTIES:

Philip Jones	Chair Kemberton Parish Council
Alan Chatham	Chatham Dairy

INQUIRY DOCUMENTS

INQ1	Opening statement by Appellant
INQ2	Opening statement by Council
INQ3	Statement by Mr P Jones on behalf of Kemberton Parish Council
INQ4	Emerging Local Plan position – email from Council
INQ5	Letter from Farms for Farming
INQ6	Closing statement by Council
INQ7	Closing statement by Appellant
INQ8	Map showing Conservation Area boundary on Hall Lane

CORE DOCUMENTS

Can be accessed using the following link:

[Hall Lane, Kemberton, Telford, TF11 9LB - public enquiry docs | Shropshire Council](#)

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. Such date shall be referred to hereinafter as 'the Commencement Date'.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref SA39827-01; Initial Layout Ref Figure 2a; Landscape Mitigation Plan Drawing No 3109-001 Rev D; Panel and Access Details Ref Figure 3; Security Ref Figure 4; Customer Substation Ref Figure 6; Containerised DNO Substation Ref Figure 7b; and Site Access and Construction Layout Drawing No SA42435-BRY-ST-PL-A-0002.
- 3) The permission hereby permitted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (the First Export Date). Written notification of the First Export Date shall be given to the local planning authority within 14 days of the event.
- 4) Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the First Export Date, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.
- 5) Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and shall be maintained as such for the lifetime of the development hereby permitted.
- 6) No development shall take place until the proposed site access, as shown on Drawing No SA42435-BRY-ST-PL-A-0002, has been constructed, and the first 15m of the proposed access has been surfaced with a bound material. The access shall be retained as such for the lifetime of the development hereby permitted.
- 7) Before the new site access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays as shown on Drawing No SA42435-BRY-ST-PL-A-0002. Thereafter, the visibility splays shall be kept free of obstructions exceeding 0.6 metres in height for the lifetime of the development hereby permitted.
- 8) No development shall take place until a mitigation strategy to prevent exceedance flows from the development contributing to flooding outside of the development site has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be fully implemented before the First Export Date.

- 9) No development shall take place until the pre-commencement tree works and tree protection measures as detailed in Section 2 (Arboricultural Impact Assessment), Section 3 (Arboricultural Method Statement), Schedule 1 (Tree Schedule), Appendix 5 (Tree Protective Barrier), Appendix 6 (Ground Protection) and Plan 2 (Tree Protection Plan) of the approved Arboricultural Appraisal (SC: 596AA, Salopian Consultancy Ltd, 17.05.2022) have been implemented and have been approved as such, in writing, by the local planning authority. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the construction phase of the development and until all equipment, machinery and surplus materials have been removed from the site.
- 10) No development shall take place until a scheme providing full details of the soft landscaping to be implemented on the site (the 'Landscaping Scheme') has been submitted to, and approved in writing by, the local planning authority. The scheme submitted shall be in accordance with the details illustrated on approved Landscape Mitigation Plan (Drawing 3109-001 Rev D). The scheme shall include a planting plan and specification (including cultivation and other operations associated with plant and grassland establishment) providing schedules for all new planting and seeding noting species, mixes, planting sizes and proposed numbers/densities where appropriate and a timetable for implementation. All new planting shall be implemented in accordance with the approved details and implementation programme. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow or any replacement planting is removed, uprooted or dies or becomes seriously damaged or diseased replacement planting of the same species and size shall be planted in the same location in the next planting season.
- 11) Prior to the First Export Date, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows of a minimum of 3m high, shall be submitted to, and approved in writing by, the local planning authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting and grassland implemented as part of the development. All vegetation within the site shall be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.
- 12) Prior to the First Export Date, the makes, models and locations of bat and bird boxes shall be submitted to, and approved in writing by, the local planning authority. This should make provision for: a) A minimum of 4 external woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species; b) A minimum of 4 external bird boxes, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and/or small birds (32mm hole, standard design). The boxes shall be erected on the site prior to the First Export Date in accordance with the approved details and shall thereafter be retained for the lifetime of the development.

- 13) No external lighting shall be installed other than in complete accordance with a scheme that has previously been submitted to, and approved in writing by, the local planning authority. Any external lighting so installed shall thereafter be maintained in accordance with the approved details for the lifetime of the development.
- 14) No works to trees and shrubs, or vegetation clearance, shall occur between 1st March and 31st August in any year unless, immediately prior to any clearance/works, a detailed bird nest survey, undertaken by a suitably experienced ecologist has been carried out and has been submitted to, and approved in writing by, the local planning authority demonstrating that no active bird nests are present.
- 15) Prior to the First Export Date, an appropriately qualified and experienced ecologist shall provide a report to the local planning authority demonstrating implementation of the recommendations made in Section 4 of the Biodiversity Net Gain Assessment by Salopian Consultancy dated 17th June 2022.
- 16) All works to the site shall occur strictly in accordance with the Construction Traffic Management Plan set out in Section 4 of the Transport Statement (Doc Ref: SA42435_TS1 dated March 2022).