

LAND NORTH OF  
LITTLE CHEVENEY FARM,  
SHEEPHURST LANE,  
MARDEN, KENT

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AGRICULTURAL PROOF OF EVIDENCE  
ON BEHALF OF  
THE APPELLANT  
BY  
TONY KERNON BSc (Hons), MRICS, MBIAC

**VOLUME 3: SUMMARY**

LPA Reference: 22/501335/FUL

December 2023





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## **VOLUME 3: SUMMARY OF PROOF**

## SUMMARY OF PROOF

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1. This Proof of Evidence has been prepared by Tony Kernon.
2. I am a graduate in Rural Land Management (BSc (Hons)), a Chartered Surveyor (MRICS) and a Fellow of the British Institute of Agricultural Consultants (FBIAC).
3. I have specialised in rural planning and agricultural development matters for the last 35 years. I have been widely involved in solar farm proposals over the last 10 years, including Nationally Significant Infrastructure Projects and Development Consent Order schemes, across England and Wales.

### **Reasons for Refusal**

4. The reason for refusal followed the officer's report to Committee. That report set out that policy "**very explicitly requires avoidance of the BMV agricultural land, even if still farmed to a lower type of production**" (officer report 6.15).
5. The Council's Statement of Case has developed this. It is stated that policy requires BMV land to be used as a matter of precedence (ie before). The Statement of Case also sets out that the loss of food production for the duration of the permission is a concern, and that agricultural use may not continue.

### **Land Quality Matters**

6. In my opinion the Council's approach is neither a correct nor accurate interpretation of planning policy. Nowhere in Government policy, Local Plan policy, the Planning Practice Guidance suite or the Council's Policy Note is there a policy or requirement to avoid using BMV land for solar panels.
7. As set out in the NPS EN-3 (November 2023) there is an urgent need for renewable energy for energy security and climate change reasons. No comparable position exists in terms of food production.
8. The Council's position, that policy "very explicitly requires avoidance of BMV agricultural land", and that policy requires BMV land to be used as a matter of precedence, goes beyond the development plan policy. This is a matter of law to be explored at this Inquiry. There is no bar to the use of BMV land for solar panels.

9. Planning policy and Government initiatives do not require, or encourage, the use of land (BMV or otherwise) for food production or intensive agricultural use.
10. Policy does not seek to prevent the use of BMV or non-BMV land for non-food uses. Biodiversity, biomass and other initiatives clearly seek non-food uses of BMV and other land.
11. The policy simply requires that the economic and other benefits of BMV land be considered, with a focus on assessing the effects from the loss of the BMV resource. Loss is generally defined as involving the permanent, irreversible loss from sealing of agricultural land or permanent downgrading of agricultural land quality.
12. With the exception of the limited areas of land required for tracks and infrastructure, which cover 0.35 ha of Subgrade 3a land, the agricultural land will not be adversely affected. It will not be downgraded. This is widely recognised in planning decisions.
13. Therefore there is no conflict with policy in the NPPF and Local Plan DM24.

#### **Food Production Matters**

14. The Council's Statement of Case develops and expands the reason for refusal to raise concerns about food production and continued agricultural use.
15. There is no policy, or Government incentive, to use land for its full productive capabilities. Government has clearly stated that we have food security concern. There is no requirement to farm land intensively. There is no requirement to farm land for food production at all. Emerging schemes encourage the opposite of intensive food production.
16. There will be clear benefits for soil health and biodiversity and wider biodiversity from converting arable land to grassland.
17. The economic and food production implications, were the BMV land within the Appeal site to be retained for arable use and the panels deployed to lower quality land instead, have been recognised and would be modest.
18. Policy DM24 requires that provision is made to return the land to its previous use once the installations have ceased operation. The land will be returned.

19. Policy DM24 does not set out a food production concern, as set out in the Council's Statement of Case. That concern is not based on policy or any factual analysis about food security.
20. The land can be grazed for the duration of the operational phase, and that makes practical as well as economic sense.

**Overall Conclusion**

21. The agricultural issues should be given limited weight as very little BMV land is affected. There are clear benefits from the land being put to grassland for