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# Appeal Decision

Hearing held on 27 September 2022

Site visit made on 28 September 2022

**by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 December 2022**

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**Appeal Ref: APP/J0405/W/22/3302716**

**Land east of Mursley Road, Little Horwood, Buckinghamshire MK17 0PG**

- 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 Elgin Energy Esco Ltd. against the decision of Buckinghamshire Council.
  - The application Ref 19/04485/APP, dated 31 October 2019, was refused by notice dated 6 May 2022.
  - The development proposed is Ground mounted solar farm, ancillary infrastructure and associated works including the diversion of public rights of way and landscape planting.
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## Decision

1. The appeal is allowed and planning permission is granted for a ground mounted solar farm, ancillary infrastructure and associated works including the diversion of public rights of way and landscape planting at Land east of Mursley Road, Little Horwood, MK17 0PG in accordance with the terms of the application, Ref 19/04485/APP, dated 31 October 2019, subject to the conditions set out in the Schedule.

## Preliminary Matters

2. Following the close of the Hearing, a procedural matter arose relating to a failure at the time of the application to consult with the relevant infrastructure manager of railway land, in accordance with Article 16 of the Town & Country (Development Management Procedure) (England) Order 2015. In response to a request from Network Rail, a Glint & Glare Study has been submitted by the appellant. The Council has been consulted on the report. I have dealt with the matter on the basis of a written process with the opportunity given for parties to comment. Consequently, I do not believe that any party has been prejudiced by this approach and I deal with this matter later in the decision under Other Matters.
3. The hearing was told that a District Level Licencing (DLL) scheme operates in Buckinghamshire and that the southern part of the site lies within a red risk zone for great crested newts (GKN) identified under the Natural England district level licencing scheme. This is one of the highest risk zone categories defined in the Government's Planning Practice Guidance having GKN populations of regional, national or international importance.
4. It was confirmed at the hearing that a DLL had been submitted to Nature Space Partnership only the day before.

## Main Issues

5. The main issues in this appeal are:

- the landscape and visual impacts of the appeal scheme;
- the effect on heritage assets; and
- whether there would be an unacceptable impact on protected species.

## Policy Background

6. A material consideration in the determination of planning proposals for renewable energy are the National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) were published. Both the existing and proposed NPSs state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects.

7. The UK Government has set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. It has also declared a climate emergency. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that it is more likely than not that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicated that delay in global action to address climate change will miss a brief and rapidly closing window to secure a liveable future. The UK Energy White Paper, Powering our Net Zero Future (2020), describes the costs of inaction as follows:

*"We can expect to see severe impacts under 3°C of warming. Globally, the chances of there being a major heatwave in any given year would increase to about 79 per cent, compared to a five per cent chance now. Many regions of the world would see what is now considered a 1-in-100-year drought happening every two to five years.*

*At 3°C of global warming, the UK is expected to be significantly affected, seeing sea level rise of up to 0.83 m. River flooding would cause twice as much economic damage and affect twice as many people, compared to today, while by 2050, up to 7,000 people could die every year due to heat, compared to approximately 2,000 today. And, without action now, we cannot rule out 4°C of warming by the end of the century, with real risks of higher warming than that. A warming of 4°C would increase the risk of passing thresholds that would result in large scale and irreversible changes to the global climate, including large-scale methane release from thawing permafrost and the collapse of the Atlantic Meridional Overturning Circulation. The loss of ice sheets could result in multi-metre rises in sea level on time scales of a century to millennia."*

8. The draft NSPs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to 'dramatically increase the volume of energy supplied from low carbon sources' to ensure a reduction in the reliance of fossil fuels (which accounted for 79% of energy supply in 2019). Solar (together with

wind) is recognised specifically in Draft EN-1 (para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are 'likely to be composed predominantly of wind and solar'.

9. At a national level, in combination with the drive to reinforce provision of renewable energy sources, the Government also acknowledges the need to ensure that projects come forward in appropriate locations. PPG guidance on renewable and low carbon energy states that 'there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.' (Paragraph: 005 Reference ID: 5-005-20150618).
10. Paragraph 152 of the National Planning Policy Framework (the Framework) confirms that the planning system 'should support the transition to a low carbon future in a changing climate', should 'contribute to radical reductions in greenhouse gas emissions' and 'support renewable and low carbon energy and associated infrastructure'. This recognises the responsibility placed on all communities to contribute towards renewable energy production. Therefore, there is a strong strategic policy framework which supports renewable and low carbon development proposals. The Framework therefore confirms that applicants are not required 'to demonstrate the overall need for renewable or low carbon energy' (para 158).
11. The objective of Vale of Aylesbury Local Plan (VALP) is to ensure that all development complies with the principles of sustainable development that include the consideration of minimising impacts on heritage assets, landscape and biodiversity. Policy C3 indicates that proposals for renewable energy generation will be supported where adverse impacts have been satisfactorily addressed. Policy BE1 supports development proposals that do not cause harm to, or which better reveal the significance of any heritage assets. Policy NE1 sets out to avoid adverse impacts on nationally important protected species and ensure that sufficient information is provided to enable the Council to assess the significance of the impact against the importance of the protected species and their habitat. The policy also seeks enhancement of biodiversity and ensure that a net gain in biodiversity is achieved through mitigation and compensation.

## **Reasons**

### *Issue 1 – Landscape and Visual Impact*

12. There is little question that the nature and scale of large scale solar farms may result in landscape harm. The parties acknowledged that in this context, both national and development plan policy adopts a positive approach towards this form of renewable energy development where harms are outweighed by the benefits of solar schemes. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings.

### Landscape character

13. Paragraph 174 of the National Planning Policy Framework (the 'Framework'), indicates that the intrinsic character and beauty of the countryside should be recognised. Although the Framework does not seek to protect, for its own sake, all countryside from development, it does set out to protect valued landscapes. The concept of a valued landscape is not defined in the Framework and there was some discourse between the principal parties as to whether the appeal site should be described as such. The Council accepted that the site does not form part of any designated landscape but made the point that the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.
14. Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. Apart from the elevated and distinctive ancient woodland of Norbury Coppice, which dominates the landscape thereabouts, there is nothing that I have seen or read that would elevate the appeal site or its surroundings to that of a Framework valued landscape. The heavily ploughed or grazed nature of the site and its comparatively slight undulating form, despite being crossed by a number of public rights of way that help give it a degree of popularity by virtue of it being accessible, does not to my mind elevate it above an area of modestly attractive countryside. In other words, there are no attributes that take it out of the ordinary to a level below that associated with designated landscapes.
15. In terms of landscape studies, reliance has been placed on the Aylesbury Vale Landscape Character Assessment of 2008 (AVLCA), which subdivided the county into 13 Landscape Character Types (LCT). The appeal site and much of the area immediately beyond lies within the Undulating Clay Plateau LCT (UCPLCT), which is further subdivided into 15 geographically specific Landscape Character Areas (LCA). The site lies predominantly within the Horwood Claylands LCA (HCLCA) and partly within the Greenway Open Farmland LCA (GOFLCA).
16. The landscape characteristics of the site and immediate area are consistent with the characteristic visual features listed for the LCAs. For the HCLCA, these are: rolling clay landform, shallow valley and ridges, mixed farmland and irregular field pattern around settlements with the loss of some field pattern. The Norbury Coppice is a distinctive feature whilst arable intensification and the 'disused' railway corridor (currently being reinstated) forming relatively intrusive features. For the GOFLCA, the characteristic features are: small gently sloping ridge, predominantly arable with low level of tree cover and low cut hedges with open views. A negative feature of the area is the crossing of the site by electricity pylons.
17. Three further LCAs were considered within the Zone of Theoretical Visibility and which adjoined the appeal site boundaries. The landscape in the immediate vicinity of the appeal site, although falling within different LCAs, comprised a transitional landscape of predominantly larger arable fields that did not contrast significantly from the landscape character of the HCLCA. From observations gleaned from my extensive site visit, there was a sense of merging of the LCAs

at the point of the appeal site rather than there being a hard boundary between the LCAs. I found that the three fields of the appeal site are relatively well-contained and defined by hedgerows and tree belts. I did not get any sense that there would be any significant relationship or intervisibility with the historic settlement of Little Horwood or the adjoining small furrowed fields to the east of Wood End, which contribute substantially to its setting.

18. Having found that the landscape characteristics of the site and immediate surroundings are of a transitional nature, I would agree with the appellant's assessment that the site and its surroundings have a medium landscape value and a medium sensitivity to change. The development would have a moderate adverse effect on the landscape character within the appeal site leading to minor adverse impact on the wider landscape; therefore, impacts would not be unacceptable. There was agreement that the magnitude of impact from public rights of way would be substantial adverse upon first commissioning of the solar farm although I also agree with the appellant that this would lessen as the proposed new hedgerows and tree planting start to mature after a period of 10 years. Whilst the Council expressed concern that the development would have a major adverse effect on the landscape immediately adjoining the historic feature and ancient woodland of Norbury Coppice, given the standoff, reinforcement of hedgerows and new proposed woodland and hedge planting and the retention of existing field patterns, I do not consider the impacts to be harmful to this landscape feature.
19. On my site visit, I was able to observe the landscape from the new railway bridge, which links with PRoW LHO/20/1 and noted that landform gently rises towards the north and north-west. Some mature trees have been cleared with the railway works although linear replacement planting has been carried out as part of the railway construction. The impacts on the landscape at this point would be significant in the short term but with additional planting as envisaged in the scheme proposals, this would reduce to moderate adverse after 10 years. There may be glimpsed views of the solar arrays by train users passing speedily through the landscape; however, due to the railway sitting in a cutting and the relatively dense planting that would supplement the remaining tree and hedge cover, the effects would be within acceptable levels.
20. There is little doubt that from public rights of way, users will experience an immediate landscape that is dominated by the solar farm and its paraphernalia and associated infrastructure. Planting would not diminish the impact and the effects on receptors would be significant. However, although the perception of the appeal site from public rights of way would alter in an uncharacteristic and stark way, the low-level nature of the equipment - save for the sub-station and slender monopole communication mast located in close proximity to a pylon - would mean that the perception of the wider undulating landscape of the UCPLCT as a backdrop to the site would remain.
21. Despite the Council's view that the landscape of the LCT, including the appeal site, is seamless in character, any significant landscape effects would be highly localised and reduce to acceptable levels within a relatively short time. The impact on the landscape character of the wider area would be more limited due to topography and existing vegetation, which would be supplemented in accordance with the proposed landscaping strategy. This factor, together with the increased distance arising from views into the site from outside the site boundaries, would cause the development to become less prominent in the



landscape and thus lessen the degree of impact from outwith. It is concluded that the appeal development would have a moderate adverse effect on landscape character from within the site leading to a minor adverse effect on the landscape character of the wider area and therefore within acceptable tolerances.

### Visual effects

22. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The assessment of visual impact is based on an assessment of views from 11 representative viewpoints (VP). These VPs are of course a snapshot of the site at a single location at each VP and would not necessarily reflect the experience of receptors walking the P<sub>RoW</sub> routes. They were taken in late March when deciduous trees and hedges were not in full leaf, which adds somewhat to their credibility and usefulness. By contrast, my visit to each of the viewpoint locations coincided with early Autumn before leaf-fall. Walking the P<sub>RoW</sub> helped in the understanding of sequential views of the site and the wider landscape but in the context of leaf-cover. I have based my consideration of visual effects at the 10-year point following commissioning as undoubtedly, until the full planting matures to an acceptable extent, there would be adverse effects due to the visibility of the solar farm.
23. The effect upon each of the viewpoints has been assessed against a scale. Negligible and therefore not significant is where the proposed changes would maintain existing views or the quality of views. Minor Adverse and therefore not significant is where a proposed development would result in a low magnitude of change and lead to a slight deterioration of the view. Moderate Adverse and still not significant is where the proposed changes would be clearly discernible with an increasing impression of deterioration. Substantial adverse level of effect and therefore significant is where the proposal would lead to a high level in magnitude of change. I accept these descriptors as helpful to an assessment of visual effects.
24. The effect at VP1 and VP2, described as having a long term minor adverse visual impact according to the appellant, would be tempered by the creation of a newly created 'green lane' forming part of P<sub>RoW</sub> LHO/20/1 which would be defined by existing hedgerows running on the north-eastern side and proposed hedgerows on the south-western side together with new woodland planting blocks. The assessment of effects is considered to be substantial adverse upon first commissioning and therefore significant as the localised view to the west would be dramatically changed from arable farmland to energy infrastructure. Although pylons cross at this location, the compound, the substation building, and communications mast would be located at one of the highest points and be highly visible from rights of ways. Whilst the proposed planting would provide mitigation longer term, this would not prevent walkers having glimpsed views through hedgerows or prevent horse riders having views over the vegetation. On balance, the effect long term would be moderate adverse and not significant.
25. A substantial adverse and therefore significant localised effect would be experienced upon commissioning of the solar farm to bridleway users along P<sub>RoW</sub> LHO/18/1 who would experience close views of an infrastructure dominated landscape in VP3 and VP4. As above, planting mitigation will reduce this over time and the presence of Norbury Coppice and the direction of travel

- in a west-east/east-west axis helping to direct the eye away from the solar farm. The effect long term would again be moderate adverse and not significant from both viewpoints.
26. The appellant's assessment of the effect at VP5 from the railway bridge was taken before the raising of the bridge parapet and before the extensive tree cutting by the railway company. Nevertheless, the remaining trees and the new planting that has occurred as part of the railway works will help reduce the impact at this location. I do not concur with the appellant that only a small part of the solar farm would be visible or that it would be obscured during summer months. Although I accept that the wider landscape of the HCLCA would form the dominant view from this location, the effect long term would be moderate adverse and not significant.
27. VP6 and VP7 depict views from Mursley Road. To the south-west, the roadside hedge forms an important barrier to views and there is an imperative both from reasons of visual amenity and as noted later in this decision, from a heritage perspective that this section of hedgerow is retained or replaced, possibly by replanting the existing hedge subject to careful arboricultural practices. If it can be retained, there would only be a fleeting glance through the access road towards the solar farm and at some distance. Similarly, the views from Mursley Road west of the site would not be readily apparent with Norbury Coppice and roadside dwellings being visible to users of Mursley Road. The level of visual effect would be negligible and not significant from both viewpoints.
28. I was able to observe that there would be little likelihood that the proposed development would be visible from this pasture field as it is contained by dense hedgerows with the focus of views directed towards Norbury Coppice. The density of existing vegetation even in winter would mean that the proposed infrastructure would be barely discernible. Any levels of visual effect even in winter would be negligible at worse.
29. I undertook a separate unaccompanied inspection of VP9-11, inclusive. The views from VP9 from the PRow close to Little Horton Manor extends over a wide area comprising large open fields with Norbury Coppice forming the dominant feature at distance. Only a small central section of the solar farm would be visible but only as part of a much wider landscape that would include the water tower at Mursley in the distance beyond. It is likely that the solar farm would barely be discernible and the appellant's assessment of magnitude of change at a moderate adverse level would be the worst-case scenario and only at first commissioning.
30. Views of the solar farm from VP10 and VP11 would be almost entirely concealed through a combination of landform and mature hedgerows with Norbury Coppice visible in the centre of VP11 as well as the communication mast. However, any effects are negligible and not significant. I was asked to undertake one further inspection of views from Whaddon Road and carry out my own assessment of likely effects. At the most appropriate location, I was able to view the undulating landscape with Norbury Coppice dominating the area of the appeal site. The northernmost section of the solar farm would be noticeable at this location but as landscaping is proposed along the northern boundary and at that distance, the effects would be short term and moderate and not significant upon commissioning reducing to negligible at Year 10.

31. Drawing all the above together, there is an acknowledgement that a large-scale solar farm located in a countryside setting would have an adverse effect on landscape character and lead to visual impact. The appeal site is accessible by the public with two PRow crossing the site and which are generally accepted to be well-used recreational routes. I have not found that the landscape is a valued landscape in terms of the Framework and no prominent landmarks would be affected. Overall, due to the combination of landform, the predominantly heavy arable practices and existing screening, together with the ability to undertake landscape mitigation, the identified moderate adverse effects would be limited and would be localised. Outside the appeal site, there would be limited landscape harm and limited visual impact. As a temporary development, once the solar farm has been decommissioned, there would be no residual impacts. In fact, the additional planting that would take place as a consequence of the appeal development would lead to the enhancement of the landscape in the longer term and following decommissioning.
32. Consequently, I would conclude that on the first main issue, the proposed development would comply with Policies C3, BE2, NE4 of the Aylesbury Vale Local Plan (2021) which lend support to appropriate renewable energy developments provided they avoid unacceptable landscape and visual impacts are well designed to respect the physical characteristics of the site and surroundings and where adequate mitigation to overcome any adverse impact to the character of the receiving landscape is provided.

#### *Issue 2 – Heritage Impacts*

33. The site lies outside the designated Little Horwood Conservation Area (CA) but potentially within the setting of a small number of listed buildings (LB). There would be no direct physical impact on any LB; rather, the potential for harm would be indirect. The parties agreed that the wider landscape, which includes the appeal site enjoys the status as a non-designated heritage asset. It has been the subject of an Historic Landscape Characterisation (HLC) programme as part of a wider landscape characterisation process for Buckinghamshire and which has allowed the historic evolution of the landscape to be perceived and as an aid to understanding the landscape qualities of the area. The Council's Conservation Officer explained that the appeal site forms part of the formal enclosure of land following parliamentary acts during the late eighteenth century/early 1800s and the HLC records the three blocks of land forming the appeal site as Parliamentary Enclosure (Divided Allotments). Clearly, the wider landscape evident here owes much to the enclosure, the clearance of woodland and loss of commons and medieval open fields that occurred in the 1800s.
34. I am satisfied that the proposed development would not be visible in views from or towards any part of the current CA. The CA boundary has been the subject of a review<sup>1</sup> and the small intimate fields immediately to the east of Wood End added. However, these fields are enclosed by dense tree line hedges along their eastern boundaries. I would agree with the appellant that the setting and thus part of the significance of the CA would not be harmed by the proposed development.

#### Listed Building – Horwood Manor and Lodge together with non-designated heritage asset (NDHA) (Horwood House Park and Garden)

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<sup>1</sup> Little Horwood Conservation Area Review adopted by the Council's Cabinet on 11<sup>th</sup> February 2020



35. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or setting or any features of special architectural interest which it possesses. The Framework defines the setting of a heritage asset as its surroundings in which the asset is experienced, pointing out that the extent of the setting may change as the asset and its surroundings evolve.
36. Although listed separately, these buildings are strongly related and form part of the same complex. Dating from the early 1900s, Horwood House styled as a Jacobean mansion is set back from Mursley Road by a long avenue of lime trees and within formal gardens and beyond, parkland. Featuring Corinthian columns, entablature and pediment, semi octagonal bay windows and other artistic features designed to create a sense of grandeur, the overall composition and fine detailing adds to the building's significance as an historic asset. Historically, the mansion was approached through the archway of the Gate Lodge and down the tree-lined drive. Although by now a new access has been created to serve the mansion, the principal views from Horwood House draws the eye towards the archway of the Lodge along the long tree-lined approach drive. In relation to this appeal, I find the special interest of the Lodge listed building to be primarily associated with the functional and physical relationship between the two buildings as well as their quite separate architectural detailing.
37. The key element at issue is the extent to which the proposed solar farm would affect the setting of the two listed buildings and the NDHA. The Council argues that the setting of the two buildings relies in part on the views across open countryside to the east beyond Mursley Road, which would be compromised by the proposed solar farm causing harm to the setting of both listed buildings and its associated NDHA. An important part of the Council's argument is that the setting would also take in the main access into the site, the effects of which would be heightened by the improvements that may be necessary to facilitate visibility splays onto Mursley Road. Further, during winter months, the roadside hedges would allow partial views into the appeal site. The Council believes that this would cause less than substantial harm to the setting and thereby the significance of these listed buildings and would also be harmful to the setting of the NDHA associated with Horwood House.
38. Although I did not inspect inside Horwood House, I am satisfied that there is very little relationship between Horwood House and the appeal site and given the distance from the proposed development, there would be negligible change in the setting even if the roadside hedge had to be removed to facilitate access improvements. Any harm would therefore be confined to impacts on the setting of the Lodge from the use of and any improvements deemed necessary to the access road to incorporate a visibility splay in the direction of the village. There would be some harm to occupiers of the Lodge as the appeal site would be viewed from first floor rooms and I was able to observe the relationship at a distance of 200m from the closest part of the appeal site. There would also be similar harm to the NDHA.
39. From an inspection of the roadside hedgerow, I am not convinced that the required visibility splay to the north-west direction of 2.4m x 128m can be achieved without removing the section of hedge that is located directly

opposite the Lodge, despite the appellant's view that it could be retained or helped to be retained through the employment of a banksperson/signaller to control traffic. The removal would represent a key change to the setting of the Lodge and NDHA. The proposed solar farm would result in the loss of part of the rural setting to the Lodge and the historic park and garden as experienced by occupiers of the property and from those passing along Mursley Road. Consequently, some of the significance of the Lodge and the NDHA, which are derived from their wider rural setting, would be diminished by the development. I have already commented elsewhere that with the application of careful arboricultural practices, the hedge could be repositioned and replanted and this could be required as part of any landscaping scheme.

40. In the light of my findings above, the proposal would conflict with policies C3, BE1, BE2, NE4 of the VALP elements of which seek to conserve and enhance the setting of designated heritage assets as appropriate to their significance and protect against adverse impacts on elements that contribute to listed buildings' special architectural or historic interests, including their setting.
41. The harm I have found to the designated heritage asset comprising the Lodge would be 'less than substantial' in the terms of paragraph 202 of the National Planning Policy Framework (the Framework). I am conscious that the harm I have identified to the significance of the Lodge would arise from views at a distance. However, the extent of this harm would however be at the lowest spectrum of that harm. It would also cause some harm to the setting of the historic park and garden, a NDHA.
42. As per paragraph 202 of the Framework where a development 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. I carry out this heritage balance later in my decision. There is no similar requirement for NDHAs required by the Framework. Rather, the effects on the NDHA needs to be weighed in the balance.

#### *Little Horwood CA*

43. The Council suggests that the character of the CA focusses on its permeability and the wider undulating landscape, whilst the building materials utilised in the village were traditionally sourced from the immediate surroundings. Further, it was argued that there are visual connections with the wider landscape with the CA opening itself out to this landscape. From my site visit, I was able to observe that the proposed solar farm would not be visible in views from, to or across the CA. Whilst the landscape setting of the CA does offer up open and expansive views of the wider landscape, I was unable to view any part of the proposed development itself from within the CA and could not see any part of the CA from within the appeal site from walking the PRow network running through the proposed development. I would conclude that the significance derived from the setting of the CA would not be harmed by the proposal and thus both the character and appearance of the CA would be preserved.

#### Other Listed Buildings

44. A number of other listed buildings were identified by the Council as having the potential to be affected by the proposed development and these were listed in the Council's statement. The Council drew particular attention to Wood End Cottage, Apple Tree Cottage, 22 Wood End and Old Oaks all Grade II Listed

Buildings. Although the rural setting and adjoining fields contributed to the significance of these LBs, the immediate settings from each of those properties would not be affected by the proposed development. I was able to inspect the environs in the vicinity of those properties during my site visit both from the public highway adjoining these properties and looking in the general direction towards these properties from the PRoW within the site. I am satisfied that the development would not result in any harm to the special architectural or historic interest, including the settings of these listed buildings.

#### Non-designated heritage assets (NDHA)

45. The Council's description of the appeal site comprising a gently undulating pastoral landscape formed over centuries and displaying the hallmarks of a series of parliamentary enclosures is acknowledged; it is reasonable to assign the appeal site as forming part of a locally valued NDHA. Whilst the development would introduce alien features into the landscape, there would be no removal of those enclosures and thus the field patterns would remain. Nevertheless, there would be some harm to the heritage value of the NDHA from the construction and operation of the solar farm but, given that the development would be temporary and reversible, this harm would be negligible.

#### *Protected species – Great Crested Newts (GKN)*

46. The hearing was told that a District Level Licencing (DLL) scheme operates in Buckinghamshire and that the southern part of the site lies within a red risk zone for GKN identified under the Natural England DLL scheme. This is one of the highest risk zone categories defined in the Government's Planning Practice Guidance having great crested newt populations of regional, national or international importance. The DLL scheme is a relatively new strategic approach to authorising developments affecting GKN only and replaces the need for developers to carry out pre-development surveys for GCN. Instead of relying solely on site-specific mitigation and compensation, developers choosing DLL will make a 'Conservation Payment' which will be used to fund a net increase in GCN habitat elsewhere.
47. It was confirmed at the hearing that a DLL had been submitted to Nature Space Partnership only the day before. A third party objector pointed out that there was no indication that the application would be accepted given that normally, sites within an identified red zone would not be accepted for consideration under this process and that developers would need to carry out suitable surveys and apply for a Natural England licence in the normal way.
48. However, interim guidance from Natural England on DLL identifies five zones in terms of risk mapping for GCNs. The DLL scheme is not available as a licencing procedure in "Black Zones". "Red Zones" are defined as containing suitable habitats and most likely to comprise important areas for GKN. Within red zones, very high impacts may exclude such areas from the DLL scheme where this has followed detailed site assessment processes.
49. From the evidence accompanying the appeal and confirmed by the DLL report, there are five waterbodies onsite, three wet ditches and two ponds. One of the ditches and one of the ponds would be lost according to the DLL report as they would be adjacent to or lost to the proposed access tracks. The remaining

waterbodies onsite would be lost temporarily to the installation of solar panels and the increased pressures from constructing the appeal development.

50. The DLL report sets out the requirements should the appeal be allowed. This includes suggested conditions, which would need to be attached to any grant of planning permission. The Council confirms that, given the appellant has entered into the DLL scheme, the impacts on great crested newts can be satisfactorily dealt with via the District Licence process. The report details the conditions that need to be included if the appeal is allowed, which requires the subsequent written authorisation by the Council.
51. The detailed Ecological Assessment and protected species surveys have identified that with appropriate management and mitigation the proposed solar farm can protect and enhance the ecological value of this site in accordance with Paragraph 170 of the NPPF. This is reflected in the BNG (Biodiversity Net Gain) Assessment submitted with the application, which shows a gain of 10.85% in habitat units and 10.53% in hedgerow units. Accordingly, subject to conditions as recommended in the DLL scheme report, there would be no conflict with Policy NE1 of the VALP. Amongst other things, this policy seeks to protect and enhance biodiversity by preventing adverse effects on protected species and their habitats and by incorporating adequate mitigation and biodiversity net gain.

### **Other Matters**

52. A Glint & Glare Study was submitted post-hearing. Network Rail was consulted and the Council given a further opportunity to consider the Study's findings. The results of the Study revealed that any solar reflection from the solar panels would occur from outside the train driver's primary horizontal field of vision (30 degrees either side of the direction of travel). Furthermore, the proposed new railway line that is presently being laid is located in a dip in the landscape where there remains substantial existing tree and hedgerow coverage. This accords with my own observations carried out during my site visit although I noted that there had been recent clearance of vegetation close to the embankments to the railway line, but that significant new replacement planting had also taken place.
53. As a new railway line, no signals are presently in place. However, even if signals were proposed along this section, the report considers that they would inevitably follow the orientation of the railway line and be similarly screened and obstructed by existing and new vegetation and benefit from the cutting along this stretch. Accordingly, no significant impacts are predicted, and mitigation is not considered necessary.
54. I am satisfied from what I saw on site and the results of the Study that the appeal development will not pose unacceptable health and safety risks to users of the railway at this point.

### **Conditions**

55. The Council has suggested conditions in the event that the appeal was to be allowed and these have been assessed against the guidance contained in the PPG. I have amended some to provide greater clarity and have deleted two suggested conditions relating to badger surveys as condition 7 in the Schedule would afford adequate protection of such habitats. In addition to the standard

time limit for commencement, a condition is included to limit the operational period to reflect anticipated lifespan of the solar farm and to protect landscape character and visual amenity in the long term. In order to also protect landscape character and visual amenity conditions are included that require finishes and materials to be agreed, for landscaping to be carried out in accordance with an agreed scheme and for this to be subsequently maintained and subject to replanting if necessary, for lighting to be controlled and for the equipment and temporary structures together with compounds and access tracks to be removed following decommissioning. I also consider that the conditions recommended in relation to GCN in the DLL report should be included in full so that protected species are protected and appropriate mitigation carried out.

### *Heritage and planning balance*

56. I return now to the heritage balance. I have found 'less than substantial harm' to the setting of Horwood House Lodge, which is Grade II listed and also to Horwood House's parkland, a NDHA. Notwithstanding my findings, the Framework is clear that great weight should be given to the conservation of designated heritage assets and that impacts on NDHAs should be weighed in the balance.
57. I do not find that any harm would result from the appeal proposal on the settings of the CA or any of the other listed buildings that have been identified by the Council, including Horwood House itself. Nor do I find that unacceptable harm would arise in relation to the historic landscape as identified in the Council's evidence.
58. In the light of Government's pronouncements on tackling climate change and to ensure that tangible renewable energy schemes making worthwhile contributions come forward at appropriate locations, particularly those that do not cause unacceptable significant environmental effects, I consider that these constitute public benefits that carry significant weight in the heritage balance and which, in my view, outweighs the 'less than substantial harm' to the setting of the listed building in the vicinity of the appeal site.
59. I now turn to the planning balance which requires the decision-maker to weigh the benefits of the appeal scheme against the identified harms.
60. I recognise the time limited nature of the appeal proposal and this must carry moderate weight as a matter of principle.
61. Both national and development plan policy recognise that large scale renewable energy developments may result in some landscape and visual harm. Both adopt a positive approach indicating that such developments can be approved where the harm is outweighed by the benefits. The Council informs me that it has been supportive of a number of solar farms in the Aylesbury Vale area, which is testament to the contribution that this Council is making. In this case, I have found that through a combination of topography, existing vegetation and proposed additional landscaping mitigation, the adverse effect on landscape character and visual amenity would be limited and largely confined to the immediate setting. Additionally, there would be no residual effects post-commissioning with a real prospect that there would be landscape enhancement as a consequence of the scheme's planting regime. It would not have a significantly harmful impact on protected species.



62. As a consequence, despite the localised harms to landscape character and visual amenity which would conflict with development plan policies and the 'less than substantial harm' to the settings of a listed building, the national imperative to tackle climate change together with the identified benefits clearly and decisively outweigh these harms.

### **Conclusion**

63. Having regard to the above, I have found that the appeal scheme would make a substantial and potentially early contribution to renewable energy provision and would not conflict with national planning and development plan policies when read as a whole. It would therefore represent a sustainable form of development and therefore conclude that the appeal should be allowed.

*Gareth W Thomas*

INSPECTOR

## SCHEDULE OF CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development hereby permitted shall be for a temporary period only to expire 30 years after the date of first commercial export of electricity to the grid ("the date of first export"). Written confirmation of the date of first export shall be provided to the local planning authority within one month after the event.
3. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
  - JPW1240-007 Rev. G - Draft Solar PV Layout
  - JPW1240-008 Rev. A - Site Boundary Plan
  - JPW1240-009 Rev. A - Red Line Plan
  - JPW1240-011 - Temporary Construction Compound
  - JPW1240-012 - Temporary Construction Compound.
4. Notwithstanding the approved plans hereby approved in Condition 3, no development shall take place until full details of the final locations, design, finishes and materials including details of non-chrome, non-reflective material to be used for the panel arrays, inverters, substation control building, substations, CCTV cameras, fencing any other structure required for the operation of the site as solar farm shall be submitted to and approved in writing by the local planning authority. Subsequently the development shall be carried out in accordance with the approved details.
5. No development shall take place until the applicant, or their agents or successors in title, have undertaken a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.
6. No development shall take place, unless a Construction Traffic Management Plan (CTMP) is submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority, and the approved CTMP shall be adhered to throughout the construction period. The CTMP shall include the following details:
  - The routing of construction vehicles, including temporary directional signage where appropriate.
  - Co-ordination and management of deliveries to avoid multiple deliveries at the same time and spread HGV movements.
  - Delivery hours outside of highway network peak periods.
  - Traffic management within the site to include signage, speed limits, banksmen, and internal access track widths / passing places.
  - The parking of vehicles of site personnel, operatives, and visitors off the highway.
  - Construction Staff Travel Plan.
  - Loading and unloading of plant and materials and storage of plant and materials used in constructing the development off the highway.

- The erection and maintenance of security hoarding.
  - Wheel-washing facilities.
  - Before and after construction condition surveys of the highway and a commitment to rectify and repair any damage caused.
7. No development shall take place (including demolition, ground works, vegetation clearance) until, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat within the area shown in red on JPW1240-009 Rev A and to secure a habitat compensation and biodiversity net gain have been submitted to and approved in writing by the local planning authority. These Plans shall be in accordance with the provided mitigation and enhancement measures contained within Section 5 of the 'Ecological Assessment ECO00119' and 'Appendix G: Badger Survey and Results' (RPS, March 2020). Within the CEMP/HMP document, the following information shall be provided:
- a) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works;
  - b) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
  - c) Details of both species composition and abundance where planting is to occur;
  - d) Proposed management prescriptions for all habitats for a period of no less than 30 years
  - e) Details of biodiversity enhancement features and ecological buffer zones;
  - f) Assurances of achievability;
  - g) Timetable of delivery for all habitats; and
  - h) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

All ecological monitoring and all recommendations for the maintenance/amendment of future management shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and thereafter maintained in accordance with the approved CEMP and HMP.

8. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of hydrological and hydrogeological context for the development, has been submitted to and approved by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- Ground investigations, including infiltration in accordance with BRE365
  - In the event of infiltration being unviable, the developer shall demonstrate that an alternative means of surface water disposal is practicable subject to paragraph 080 of the PPG and where necessary provide the relevant permissions
  - Existing and proposed discharge rates and volumes

- Detailed drainage layout and pipe numbers, gradients and pie sizes complete, together with storage volumes of all SuDS components and details of any offside connections.
- 9 No development shall take place, until a “whole-life” maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component, along with details of landscape management/maintenance for the land surrounding the solar panels) during and following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.
- 10 No development shall take place, until details of footpath widths are provided in plan form, demonstrating a corridor for pedestrians of at least 6m and submitted to and agreed in writing by the local planning authority. The footpath shall be implemented in accordance with the approved details and shall be retained thereafter for the lifetime of the development.
- 11 Prior to commencement of any above ground works details of hard and soft landscape works (“the landscaping scheme”) shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include a statement setting out the design and mitigation objectives and how these will be delivered. It shall also include provision for the replanting of the existing hedgerow should access requirements result in its removal.

For hard landscape works, these details shall include;

- proposed finished levels or contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials; where relevant.

For Soft landscape works, the details shall include but not be limited to:

- planting plans (including mixed native hedging at a size no less than 600mm around the footpath and up to 1500mm along the footpath and up to 3500mm around the proposed compound)
- written specifications (including cultivation and other operations associated with plant and grass establishment)
- schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate
- implementation programme (including phasing of work where relevant)
- details of additional hedgerow planting at the entrance to the site

The hard landscape works shall be carried out as approved prior to the first export to the grid. For soft landscape works, the scheme shall be implemented no later than by the end of the first planting season following the date of first export and thereafter be maintained in accordance with the approved scheme.

- 12 In the event of any of the trees, shrubs or hedges so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, of a species shall be planted and properly maintained in a position within the next planting season.
- 13 Prior to the first operation of the development (first export of electricity to the grid), a maintenance schedule and a long-term management plan for the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall include:
- a) Details of long-term design principles and objectives (including maintaining the hedge around the footpath at a height of 1.5m and the planting along the canal at 3m)
  - b) Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme.
  - c) Summary plan detailing different management procedures for the types of landscape on site. The schedule and plan shall be implemented in accordance with the agreed programme.
- 14 At the end of the period of 30 years from the date of grid connection, the use hereby permitted shall cease and all materials and equipment brought on the land in connection with the use permitted shall be removed and the land restored to its previous state (greenfield, agricultural land) or as otherwise agreed, in accordance with details that have been submitted to and agreed in writing by the local planning authority prior to the decommissioning works taking place. Details shall include a method statement and timetable for the dismantling and removal of the solar pv development and of the associated above ground works and foundations to a depth of at least one meter below ground; and the details shall include a method statement, a traffic management plan, and a timetable for any necessary restoration works following removal of the solar pv development. The scheme shall be implemented in accordance with the approved details.
- 15 If within the 30 year period the solar pv development does not generate any electricity to the national grid for more than 6 months in a continuous period of 12 months, then details of a scheme, to repair or remove the solar pv development and all associated infrastructure, buildings, equipment and access points, shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 12 month period. If removal of the development is required, all development and associated equipment, infrastructure and access shall be removed within 12 months of the details being approved and the details shall include a method statement and timetable for the dismantling and removal of the solar pv development and of the associated above ground works and foundations to a depth of at least one meter below ground; and the details shall include a method statement, a traffic management plan, and a timetable for any necessary restoration works following removal of the solar pv development. The scheme shall be implemented in accordance with the approved details.



- 16 Alongside the scheme for decommissioning the site, an ecological assessment report detailing site recommendations for the site post decommissioning will be submitted to and approved in writing by the Local Planning Authority. Within 12 months of the approved details, the site will thereafter only be decommissioned in accordance with the approved details.
- 17 No external lighting or CCTV cameras other than those shown on the approved plans shall be installed during the operation of the site as a solar PV facility.
- 18 Should any unexpected contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing any such unexpected contamination, within that sub-phase or part thereof, is submitted to and agreed in writing by the Local Planning Authority or other regulating bodies and thereafter implemented in accordance with the details agreed.
- 19 All temporary construction yards and temporary access tracks required to provide temporary storage of materials, parking and access in conjunction with the development shall be removed within three months of the completion of the construction works. Following the decommissioning of the site, all temporary construction yards, temporary access tracks, compounds and parking associated with the development shall be removed and the land shall be restored to its former condition within three months of the cessation of the scheme.
- 20 No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and with the proposals detailed on plan "Land East of Mursley Road: Impact Plan for great crested newt district licensing (Version 1)" dated 19th October 2022.
- 21 No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the local planning authority and the local authority has provided authorisation for the development to proceed under the district newt licence.
- 22 No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR112 and in addition in compliance with the following:
  - Works to existing ponds onsite may only be undertaken during autumn/winter, unless otherwise in accordance with the GCN Mitigation Principles
  - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
  - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night

- searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (such fencing to be removed upon completion of the development)
- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development

- END OF CONDITIONS -

## **LIST OF APPEARANCES**

### **For the Appellant:**

Richard Boother Associate Director RPS  
Michelle Howley Project Manager Elgin Energy Esco Limited  
Paul Ellis Technical Director Landscape, RPS  
Mick Rawlings Director Historic Environment, RPS

### **For the Council:**

Ms Zenab Hearn Principal Planning Officer  
Ms Joanna Horton Team Leader, Heritage & Archaeology  
Carol Thorne Principal Landscape Architect  
Paul Horton Ecology Officer

### **Interested Parties:**

Simon Warner Simon Warner Associates  
Mr Miles Young Owner of Horwood House  
Little Horwood Parish Council  
Mursley Parish Council

DOCUMENTS SUBMITTED DURING THE HEARING:

- Doc A: Statement of Common Ground (signed version)
- Doc B: Little Horwood Conservation Area Review February 2020
- Doc C: Additional viewpoint suggestions and plan from the Council
- Doc D: Plan of Public Rights of Way
- Doc E: Understanding Historic Parks and Gardens in Buckinghamshire – Horwood House January 2019
- Doc F: Attendance List