

Town and Country Planning Act 1990
Appeal by Statkraft UK Limited
Land North of Little Cheveney Farm, Sheephurst Lane, Marden, Kent, TN12 9SD

Maidstone Borough Council Ref: 22/501335/FULL
PINS Reference: APP/U2235/W/23/3321094

Statement of Common Ground

Introduction

This document comprises the Statement of Common Ground ('SoCG') between Statkraft UK Ltd ('the Appellant') and Maidstone Borough Council ('the Council').

The SoCG details the matters of fact and agreement on issues arising between the Appellant and the Council, as relevant to the consideration of the appeal.

The SoCG is prepared jointly and agreed by the two parties.

Signed on behalf of the Appellant: *Eversheds Sutherland (International) LLP*

Date: 15 January 2024

Signed on behalf of the Council: 

Marion Geary, Principal; Planning Officer Maidstone Borough Council

Date: 15.01.24

Background

1. The proposal was submitted to the Council as a full planning application (Ref. 22/501335/FULL), and was validated on 1st June 2022.
2. The application's description of development was as follows:

“Installation of a renewable energy led generating station comprising of ground-mounted solar PV arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements” (“Application Scheme”)

3. The Application Scheme would generate up to 49.9 MW and is intended to be decommissioned after 37 years from first use.
4. There was an amendment made at application stage, which included removal of the ‘energy storage facility’ from the Application Scheme. This was explained in the Cover Letter uploaded to the Planning Portal on 1st September 2022, which stated that *“The reason for its removal is due to the current economic climate which makes an energy storage system of the size proposed at 15MW uneconomic”*.
5. The application was refused by the Council on 28th October 2022.

Site Description

6. The Appeal Site (‘Site’) is located at Land North of Little Cheveney Farm, Sheephurst Lane, Marden, Kent, TN12 9SD, approximately 850m west of Marden and 750m east of Claygate. The Site is approximately 74.5ha in area.
7. The Site is bounded to the north by a railway line, and to the east by the Lower Teise. The vast majority of the site lies in Flood Zone 3.

8. There is an area of Ancient Woodland to the west of the Site that would be bounded on three sides by the Site.
9. Two Public Rights of Way ('PRoWs') run through the Site: KM248 along the northern boundary and KM244 in the southeast corner. KM248/2 is to be diverted. Three further PRoWs lie within the vicinity of the Site (KM246, KM254, and KM257).

Documents that Informed the Council's Decision

10. The following plans were listed on the decision notice:
 - SKUKX-SHEEP-000-MCS-253 Edge of Park Switch Gear Station
 - SKUKX-SHEEP-000-MCS-252 Transformation Station
 - SKUKX-SHEEP-000-MCS-206 CCTV Elevation
 - SKUKX-SHEEP-000-MCS-204 Access Gate Elevation
 - SKUKX-SHEEP-000-MCS-203 Perimeter Fence Details
 - SKUKX-SHEEP-000-MCS-201 Internal Tracks
 - SKUKX-SHEEP-000-HVG-104 Monitoring Cabin
 - SCUKX-SHEEP-001-HGV-466 Rev A Main Building Elevation
 - SCUKX-SHEEP-001-HGV-465 Rev A Main Building Plant
 - IRA-JBAU-XX-XX-SK-C-0001 Rev P01 Section Through Lowest Site Elevation Highest Flood Depth
 - GGO-JBAU-XX-XX-DR-D-0001 Rev P02 Surface Water Drainage Strategy
 - AW0143-PL-002 Landscape Mitigation & Enhancement Plan
 - SKU-SHEEP-000-MCS-205 Solar Framework Elevation
 - 27899 - SK01 Rev A Proposed Site Areas
 - 27899 - 150 Rev D Proposed Solar Farm Site Location Plan
 - 27899 - 064 Rev C Proposed Site Overview Plan
 - 27899 - 063 Rev A Proposed Site Overview Plan
 - 27899 - 062 Rev B Proposed Site Overview Plan
 - 27899 - 061 Rev A Proposed Site Overview Plan
 - 27899 - 060 Rev B Proposed Site Overview Plan 14 Mar 2022
 - 27899 - 053 Rev A Proposed Solar Farm Footpath & Boundary Layout Plan 01 Sep 2022
 - 27899 - 050 Rev E Proposed Solar Farm Site Layout
 - 21-0354 SP02 Rev A Swept Path Analysis
 - 21-0354 SP01 Rev B Swept Path Analysis - Primary Site Access
 - 21-0354 SK04 Proposed Site Compound
 - 21-0354 SK03-A Construction Traffic Routing
11. The following documents were listed on the decision notice:
 - Agricultural Land Classification and Soil Resources
 - Agricultural Land Use Statement
 - Grid Connection Assessment
 - Landscape and Visual Impact Assessment

L VIA Appendix B- Photography, Verified Views and Methodology
Noise Impact Assessment
Outline Surface Water Drainage Strategy - Final Report
Sequential Analysis Study
Solar Photovoltaic Glint and Glare Study
Rights of Way Strategy - Technical Note
Statement of Community Involvement
Construction Method and Decommissioning Statement
Construction Method and Decommissioning Method Statement
Landscape and Ecological Management Plan
Sheepwash Solar Energy Farm Planning Design and Access Statement v2.0
Design and Access Statement incl Planning Statement
Construction Traffic Management Plan
Cover Letter
Detailed Response on Key Issues Landscape, Transport and Site Security
Letter Re CTMP
Response to Comments and Objections
Response to Environment Agency Comments
Utility Scale Solar Background Briefing
Biodiversity Net Gain Report
Ecological Impact Assessment
Heritage Statement

Appeal Documents

12. The following documents were submitted with the Appeal:

Grid Review Planning Report dated March 2023
Agricultural Appeal Statement dated April 2023
Ecological Response dated 19 April 2023
Updated Sequential Analysis Study dated 24 April 2023
Landscape Response to Appeal Scheme dated April 2023
Heritage Appeal Statement dated April 2023
Supplementary Noise Impact Assessment dated April 2023
Drawing AW0143-PL-0002 Rev A Proposed Mitigation, Landscape and Ecology Enhancements – Appeal Site (replaces previous version)

Appeal Amendments and Appeal Scheme

13. At the Case Management Conference held on 10 November 2023, the Inspector directed that the Appeal Amendments (as set out at Section 5 of the Appellant's Statement of Case) are accepted, subject to a re-consultation exercise being carried out by the Appellant.

14. The proposed development to be determined under this appeal therefore comprises the Application Scheme as amended by the Appeal Amendments, hereinafter referred to as the “Appeal Scheme”.
15. Accordingly, the following documents should also be relied upon for the Inspector’s decision:
Appeal Amendments Summary dated April 2023, together with Drawing SCUKXSHEEP-000-100P PV Layout Amendments
Biodiversity Net Gain Assessment dated April 2023
Ecological Impact Assessment dated April 2023
Landscape and Visual Impact Addendum dated April 2023
Carbon Emissions Statement dated April 2023
Supplementary Noise Impact Assessment dated April 2023
Outline Surface Water Drainage Strategy dated April 2023
Drawing SCUKX-SHEEP-000-100P PV Layout Overview Plan (replaces previous version)
Drawing AW0143-PL-003 Proposed Mitigation, Landscape & Ecology Enhancements – with Appeal Amendments.
16. The Appeal Scheme would generate up to 46.97MW and is intended to be decommissioned after 37 years from first use. The extent of the Appeal Site is unchanged.

Relevant Planning History

17. 21/503277/ENVSCR Screening Opinion: The proposed development is for a solar energy farm with a site area of approximately 78 hectares which would generate and store up to 60 megawatt (MW) of renewable energy to be exported to the Grid. EIA Not Required 05.07.2021.

Development Plan Policies

18. The Development Plan comprises the Maidstone Borough Local Plan (2017) and the Kent Minerals and Waste Local Plan (2020) and the Kent Minerals Sites Plan 2020.
19. The following development plan policies are most important for the determination of the appeal:
 - Policy SP17 Countryside;

- Policy SP18 Historic Environment;
- Policy DM1 Principles of good design;
- Policy DM3 Natural environment;
- Policy DM4 Development affecting designated and non-designated heritage assets;
- Policy DM24 Renewable and low carbon energy schemes;
- Policy DM30 Design principles in the countryside.

20. The above development plan policies are considered up to date and attract full weight. Policies DM1 and DM30 need to be read alongside the latest NPPF, e.g. paragraphs 131 and 135, which provide additional design considerations..

Other Material Considerations

21. The Council are in the process of preparing a Local Plan Review ('LPR'). A draft was submitted for examination in March 2022. The hearings have now concluded, and the consultation on the Main Modifications concluded on 13th November 2023. The LPR has now reached a more advanced stage of preparation since the determination of the application. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report. Thus in accordance with paragraph 48 of the National Planning Policy Framework ('NPPF'), the policies within the LPR can now be afforded moderate weight.

22. The following emerging policies are most important for the determination of the appeal:

- Policy LPRSP9 Development in the countryside
- Policy LPRSP14(A) Natural environment
- Policy LPRSP14(B) The historic environment
- Policy LPRSP15 Principles of good design
- Policy LPRINF3 Renewable and low carbon energy schemes
- Policy LPRENV 1 Historic Environment
- Policy LPRQ&D 4 Design principles in the countryside

23. Draft Policies LPRSP9; LPRSP14(A); LPRSP14(B); LPRENV1 are subject of main modifications in the current consultation.
24. The following should also be considered material considerations for the determination of the appeal:
- National Planning Policy Framework (2023);
 - National Planning Policy Guidance on renewable and low carbon energy (including Written Ministerial Statement 25th March 2015);
 - National Policy Statement for Energy (EN-1) (2023);
 - National Policy Statement for Renewable Energy Infrastructure (EN-3) (2023);
 - UK Renewable Energy Road Map (2011) and subsequent updates in 2012 and 2013;
 - UK Solar PV Strategy Part 1 (2013) and Part 2 (2014);
 - Clean Growth Strategy (2017);
 - UK 25 Year Environment Plan;
 - Climate Change Act 2008 (2050 Target Amendment) Order (2019);
 - Powering Up Britain: Energy Security Plan (2023);
 - Climate Change and Biodiversity in Maidstone (2020);
 - Planning Policy Advice Note: Large Scale (>50kW) Solar PV Arrays (2014).

Matters Agreed – Agricultural Land

25. Approximately 47% of the Site is classified as Grade 2 or 3a agricultural land. Land of this quality is defined as the Best and Most Versatile ('BMV') agricultural land. This equates to 35.1ha. 53% of the Site is not BMV agricultural land.
26. Of the land identified as 'BMV' agricultural land, 6.9ha is Grade 2 (9%) and 28.2ha is Grade 3a (38%).
27. The land would be taken out of use for the growing of arable crops for up to 37 years from the date of first export of electricity from the development to the grid plus the time taken for construction, awaiting grid connection and

decommissioning. It is agreed that the upper limit of a 37 year period of electricity export provided for by the agreed condition 4 does not include the time needed to construct the development and any time awaiting connection to the grid and post use decommissioning.

28. The development plan and the emerging local plan do not identify any sites for PV solar energy generation or other renewable energy development.

Matters Agreed - Landscape

29. The Site is located within the following published landscape character areas/types:
- National Character Area 121: Low Weald;
 - Kent Landscape Character Areas Low Weald Fruit Belt and Teise Valley; and
 - Maidstone Character Areas/Types Low Weald/Laddingford Low Weald and Valleys/Teise Valley.
30. The Site is not located within a designated landscape.
31. The Appeal Scheme would not give rise to any harm to the setting of the High Weald AONB. There was 'no comment' received from the High Weald AONB Unit.
32. The Site is not a "valued landscape" as identified in NPPF174(a). This does not mean, however, that the site is devoid of value.
33. For planning purposes, the Site is located within the countryside.
34. 37 years is a temporary and reversible development. However, it is agreed that "temporary" does not necessarily equate to "short-term".
35. Whilst the Appeal Scheme is reversible following the expiry of any time-limited planning permission, this would not include removal of the proposed landscape mitigation. However, the Appellant and the Council agree that it would not be appropriate to impose a condition which would require removal of the landscape mitigation.

36. Existing established landscape features within and to the boundaries of the Site have been retained and selectively enhanced within the landscape for the Appeal Scheme as per drawing AW0143-PL003 Proposed Mitigation, Landscape & Ecology Enhancements – with Appeal Amendments.
37. The permissive paths will provide greater accessibility to existing PRowS.
38. There are negligible cumulative effects.

Matters Agreed - Heritage

39. The Site lies in proximity of the following listed buildings (all Grade II):
 - Little Long End;
 - Little Cheveney Farm (farmhouse, barn and two Oasthouses);
 - Great Sheephurst Farm;
 - Turkey Farmhouse;
 - Longends Farmhouse.
40. The Site is not situated within a conservation area.
41. The Site is an area of archaeological potential and archaeological investigations and mitigation where necessary can be secured through an appropriately worded condition. It is agreed the development would cause no harm to archaeological remains subject to compliance with those conditions.
42. It is agreed that the heritage assets that are the subject of the reason for refusal are the Grade II listed Little Long End and Little Cheveney Farm (comprising all four separately listed structures).
43. No harm will be caused by the Appeal Scheme to the significance of the Grade II Listed Longends Farmhouse, Great Sheephurst and Turkey Farm House.

Matters Agreed - Ecology

44. It is agreed that if managed appropriately a Biodiversity Net Gain of over 20% could be achieved and the management plan could be agreed through an appropriately worded condition.

45. It is agreed that the ecological surveys are sufficient to understand the ecological interest of the Site.
46. It is agreed that if badger gates/openings are installed within the security fencing, the movement of badgers can be retained subject to the location of any soil storage bunds. This can be secured through an appropriately worded condition, the wording to which has been agreed by the Appellant and the Council as set out in the Ecology Statement of Common Ground dated 19 December 2023 ('Ecology SoCG').
47. It is agreed that, following further discussions, the Environment Agency have recommended a condition which is anticipated to resolve the objection relating to the Lesser Teise, the wording to which has been agreed by the Appellant and the Council as set out in the Ecology SoCG. This is likely to require a revision to the position of the perimeter fence in the South East corner of the site. If the fenceline cannot be amended, compensatory in-channel mitigation to the River Teise would need to be agreed by the parties. The Appellant has provided drawing SCUKK-SHEEP-000 100(Q) 100 General PV Layout which shows the revised fence alignment and the Council has agreed that this shows an acceptable revised fenceline alignment. The Council and the Appellant have agreed that this amendment would be non-material and could be secured by condition.
48. It is agreed that, following further discussions, a condition for the provision of the permissive path not closer than 15m from the extent of the Ancient Woodland and an agreement on buffer planting is anticipated to resolve the concern relating to Ancient Woodland. The wording for this condition has been agreed by the Appellant and the Council as set out in the Ecology SoCG.
49. It is agreed that, following further discussions, harm to the habitats of skylarks could be mitigated by a Skylark Mitigation Strategy secured via a Grampian condition. In the light of evidence of the willingness of the owner to make appropriate adjacent land available for skylark plots, there is a prospect of the mitigation being delivered. The Grampian condition would therefore be

consistent with the PPG on the use of conditions relating to land not in control of the applicant. The wording for this condition has been agreed by the Appellant and the Council as set out in the Ecology SoCG.

Matters Agreed - Noise

50. Following the receipt of Supplementary Noise Impact Assessment dated April 2023 (which made revisions to the original Noise Impact Assessment March 2022 considered with the application to reflect layout and equipment changes and additional assessment criteria), the Appellant and the Council have undertaken negotiations regarding RfR 5 relating to noise.
51. The Appellant and the Council have agreed a form of condition which would require post installation sound level assessments to be carried out to verify the sound levels specified in the Supplementary Noise Impact Assessment dated April 2023. The condition would require, in the event that the post installation sound level assessments should show the specified sound levels at the specified receptors to be exceeded, a scheme of proposed mitigation to be submitted for the approval of the Local Planning Authority and installed as approved.
52. Accordingly, the Council and the Appellant will not present evidence to the Inquiry in relation to RfR5.

Matters Agreed – Renewable Energy

53. The generation of renewable electricity by the Appeal Scheme is a public benefit that carries substantial weight.
54. Without prejudice to its relevance or otherwise, it is agreed as a matter of fact that no utility scale renewable energy schemes have been granted planning permission in the Borough since the Widehurst Solar Farm scheme.

Other Matters

55. The diversion of PRow KM248/2 would need to be authorised by an order made pursuant to a separate application for the diversion of that PRow.
56. The Council and the Appellant have agreed that the conditions contained in Appendix 1 would be appropriate in the event that the appeal is allowed and planning permission is granted for the Appeal Scheme,

Matters in Dispute

57. Whether the Appeal Scheme's use of the Best and Most Versatile agricultural land, equating to 47% of the site, is acceptable with respect to Local Plan Policy DM24 and other material considerations.
58. Whether, in the event planning permission is granted, there should be a constraint imposed on the use of some of the site for arable production post-decommissioning by means of condition. The parties agree that there would be no permanent loss of BMVAL as a result of the Appeal Scheme. However the Council notes the evidence of the appellant's landscape witness in regard of retaining landscaping post decommissioning. In such a circumstance, it is the position of the Council that that a further condition would need to be imposed requiring retention of some of the mitigation planting.
59. In relation to landscaping secured by agreed condition 9:
 - a. Whether it is necessary for the implementation of landscape mitigation to occur earlier than "prior to the first export of electricity from the development to the grid"; and.
 - b. , whether it is necessary and otherwise appropriate having regard to the tests for imposition of conditions in the NPPF to secure the retention of any of the mitigation landscaping post decommissioning.
60. Whether the approach to site selection is sufficient to justify the use of this Site for the development proposed.

61. Whether the Appeal Scheme would cause harm to the character and appearance of the countryside, and whether and over what timescale these impacts would be adequately mitigated.
62. Whether such mitigation would be sufficient to give rise to beneficial landscape and visual effects, or would itself be a source of harm.
63. Whether openness is a positive characteristic of the site and of its visual experience, particularly by users of PRowS.
64. Whether, via changes to their setting, the Appeal Scheme would cause harm to the significance of the designated heritage assets, namely Little Long End and Little Cheveney Farm (both Grade II Listed Buildings). If so, whether such harm would be outweighed by the benefits arising from the Appeal Scheme. Whether the agricultural land quality of the Borough is better than the England average. The amount of Grade 2 agricultural land in the Borough is approximately twice the national average.
65. Whether the long term break in intensive arable production for the lifetime of the Appeal Scheme would give rise to improvements in soil health and enhance biodiversity which are benefits arising from the Appeal Scheme.
66. Whether that part of PRow KM248/2 to the north east of the Site has, by default of users, diverted itself to the perimeter of the field and no longer cuts diagonally through the field. The making of a diversion order would form the legal mechanism to authorise the alignment being followed by users in practice.
67. The Greensand Ridge includes polytunnels and large scale horticultural/fruit packing buildings. The Council does not agree the relevance of this given that the Site is not located within or close to the Greensand Ridge.
68. Whether it is material to the determination of the appeal that the Council declared a climate change emergency in April 2019 and is seeking to make the Borough carbon neutral by 2030.

69. Whether the document 'Climate Change and Biodiversity in Maidstone' is material to the determination of the appeal, which states:

As well as substantially reducing carbon emissions this Council must also adapt to climate change (page 5);

Maidstone Borough Council recognised the climate change emergency as a way of acknowledging the need for urgent and effective actions throughout the next decade to reduce emissions (page 7);

Out aim for generating renewable energy: To take every opportunity to generate renewable energy across the borough (page 16).

70. Whether numerous renewable energy developments will be required if Maidstone is to meet its net zero target.

71. Whether the grant of planning permission by the Council for the following utility scale renewable energy schemes in the Borough is of relevance to the determination of this Appeal:

East Lenham Solar Farm, 1 November 2012, with an installed capacity of 6.6MW;

Widehurst Solar Farm, 3 March 2016, with an installed capacity of 5MW.

72. That a solar farm must be able to make a viable grid connection in order to be deliverable and that the Site has a grid offer.

73. Whether the management of soils within the Site is a matter that would be adequately controlled by condition.

73(a) The Appellant considers that this matter can adequately be controlled by proposed condition 32, but is willing to consider alternative conditions if proposed.

74. The relevance or otherwise of what may be proposed for the Site following the lifetime of the Appeal Scheme.

Appendix 1 – Schedule of Agreed Conditions

| Topic | Cond. No. | LPA Draft Condition | Appellant Comment | Council Comment |
|----------------|-----------|--|--|---|
| Implementation | 1 | The development hereby permitted shall be begun before the expiration of three years from the date of this decision. | | |
| Approved Plans | 2 | <p>The development hereby permitted shall be carried out in all respects in accordance with the following plans/drawings:</p> <ul style="list-style-type: none"> - 27899/150 Rev C: Proposed Solar Farm Site Location Plan - 27899/051 Rev A: Proposed Solar Farm Aerial Site Location Plan - 27899/053 Rev A: Proposed Solar Farm Footpath and Boundary Layout - SCUKK-SHEEP-000-100P PV Layout Overview Plan - AW0143-PL-003: Proposed Mitigation, Landscape & Ecology Enhancements – with Appeal Amendments - SKUKK-SHEEP-000-MCS-205 Solar Framework Elevation - 21-0354 SP02 Rev A: Plain Road / B2079 West End / Goudhurst Road / Sheephurst Lane Swept Path Analysis - 21-0354 SP01 Rev B: Sheephurst Lane Primary Site Access Swept Path Analysis - 21-0354 SK03 Rev A: Construction Traffic Routing - 21-0354 SL04: Sheephurst Lane Proposed Site Compound - SKUKK-SHEEP-000-MCS 206: CCTV Elevation - SCUKK-SHEEP-001-HVG 465: Main Building Plant - SCUKK-SHEEP-001HVG-466 Rev A: Main Building Elevation - SKUKK-SHEEP-000-HVG-104: Monitoring Cabin - SKUKK-SHEEP-000-MCS-201: Internal Tracks - SKUKK-SHEEP-000-MCS-203: Perimeter Fence Detail - SKUKK-SHEEP-000-MCS-204: Access Gate Elevation - SKUKK-SHEEP-000-MCS-205: Framework Elevation - SKUKK-SHEEP-000-MCS-252: Transformation Station - SKUKK-SHEEP-000-MCS-253: Edge of Park Switchgear Station | List of drawings reflects the Proposed Development with Appeal Amendments, as accepted by the Inspector. | SCUKK-SHEEP-000-100P PV Layout Overview Plan is not compatible with the Environment Agency requirements on a buffer to the River Teise- see conditions 18 and 33. |

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| Detailed design | 3 | Prior to their erection on site, details of the proposed layout, 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. The development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the proposed development. | | |
| Operational lifetime. | 4 | The planning permission hereby granted is for a period of 37 years from the date of first export of electricity from the development to the grid (First Export Date), after which the development hereby permitted shall be removed. Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event. | | |
| Decommissioning | 5 | Not less than 12 months before the expiry of this permission, a Decommissioning Method Statement (DMS) shall be submitted for the approval in writing by the Local Planning Authority. The DMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable. The development shall be decommissioned in accordance with the approved DMS. | | |
| Decommissioning | 6 | <p>Within 3 months of the development, or part thereof, ceasing to generate electricity for a period of 12 months prior to the 37 year period, a statement of decommissioning works (Early Decommissioning Method Statement (EDMS)) shall be submitted for the approval in writing by the Local Planning Authority. The EDMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable.</p> <p>The development shall be decommissioned in accordance with the EDMS.</p> | | |

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| Construction hours of operation | 7 | No vehicles except for light vehicles associated with the essential maintenance of the development in operation shall enter or leave the site on Sundays or Public or Bank Holidays or outside of the following hours: between 0730 and 1800 Monday to Friday and 0800 and 1300 on Saturdays. | It is unusual to restrict any vehicles to access the site outside of certain hours and therefore suggest that light vehicles (cars/minibuses) are excluded from this to allow for essential maintenance. | |
| Detailed design | 8 | No development shall take place until a scheme of measures to minimise the risk of crime that shall include details of the location and design of CCTV cameras has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is first brought in to use and thereafter retained and maintained for the lifetime of the development. | | |
| Detailed landscape planting | 9 | No development shall commence at the site until a fully detailed scheme of landscaping proposals including a timetable for the implementation of all landscaping works and a programme for its management and maintenance have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details during the planting season (October to March) and completed prior to the first export of electricity from the development to the grid. | <p>Ideally planting should be completed in the first planting season after first export of electricity – planting at the same time as construction is not ideal except in areas where there is separation from the works.</p> <p>Appellant's proposed alternative wording:</p> <p>No development shall commence at the site until a fully detailed scheme of landscaping proposals including a timetable for the implementation of all landscaping works and a programme for its management and maintenance for the lifetime of the development have been submitted to and approved in</p> | <p>Amendment not agreed by LPA:</p> <ol style="list-style-type: none"> 1. There may be an indeterminate period between construction completion and export of energy to the grid during which time there would be an unmitigated visual impact. 2. The timescale for retention of landscaping being only for the lifetime of the development is inconsistent with the proof of evidence of Allison Walters. The LPA would support a wording of the landscape |

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| | | | writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details during the first planting season (October to March) after the first export of electricity from the development to the grid. | condition that post decommissioning, secures partial retention of landscaping where that provides biodiversity/ecological benefits and results in no landscape harm. |
| Heritage - Archaeology | 10 | Prior to the commencement of development details of a specification and written timetable for archaeological and geo-archaeological field evaluation works shall have been submitted to and approved in writing by the Local Planning Authority. Should the results of the evaluation require further archaeological, geo-archaeological and Palaeolithic investigation, recording and reporting, a specification and timetable shall be submitted to and approved in writing by the Local Planning Authority prior to such investigation, and a programme for the post excavation assessment and its publication shall have been submitted to and approved in writing by the Local Planning Authority. | | |
| Land contamination | 11 | If during works of construction contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved. | | |
| Ecology - Kingfishers | 12 | No development shall commence until a scheme detailing the protection of kingfishers (a protected species under The Wildlife and Countryside Act 1981 (as amended)) and their associated habitat has been submitted to and approved by the Local Planning Authority. The plan must consider the whole duration of the development, from the construction | Added clarification that the nesting bird survey relates to Kingfisher and that surveys are pre-commencement rather than annual and that long term monitoring is not necessary. | Agreed |

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| | | <p>phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to and approved in writing by the Local Planning Authority. The kingfisher protection plan shall be carried out in accordance with a timetable for implementation as approved.</p> <p>The scheme shall include the following elements:</p> <ol style="list-style-type: none"> 1. Details of pre-commencement nesting bird surveys for Kingfisher 2. Sufficient buffer zones around any suspected nest sites 3. Any works within 10m of known nesting sites must be overseen by a suitable qualified and experienced Ecological Clerk of Works (ECoW) 4. | | |
| Flood Risk/ Drainage | 13 | <p>Development shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Outline Surface Water Drainage Strategy Final Report prepared by JBA Consulting dated April 2023 and the Flood Risk Assessment Final Report prepared by JBA Consulting dated March 2022 and Addendum dated December 2023 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.</p> <p>The drainage scheme shall demonstrate (with reference to published guidance):</p> <ol style="list-style-type: none"> 1. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters. 2. appropriate operational, maintenance and access requirements for each drainage feature or SuDS | | Agreed |

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| | | <p>component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.</p> <p>The drainage scheme shall be implemented in accordance with the approved details.</p> | | |
| Flood Risk/ Drainage | 14 | <p>Prior to the First Export Date a Verification Report, pertaining to the surface water management provision together with an operation and maintenance manual for the sustainable drainage scheme as constructed, prepared by a suitably competent person, shall be submitted to and approved by the Local Planning Authority. The Report shall contain information and evidence (including photographs) of surface water management features including details and locations of the landscape buffers within the development.</p> | | |
| Ecology - badgers | 15 | <p>Prior to the erection of temporary or long-term perimeter security fencing, details shall be submitted to and approved by the Local Planning Authority. The details shall show the incorporation of badger gates/gaps in the fencing aligned with the main and outlier setts as detailed in the Ecological Impact Assessment by Riverdale Ecology dated April 2023. The fencing shall be installed as approved and all badger gates/gaps retained during the construction, operation and decommissioning of the PV generating station. There shall be no soil storage bunds located between the main and outlier setts at any time.</p> | To reflect the Ecology SoCG 19.12.23. | Agreed |
| Permissive path | 16 | <p>Notwithstanding the layout hereby approved, the proposed permissive path on the western boundary shall be a marked or mown route only (not a sealed or otherwise engineered surface) and shall be aligned at least 15m from the boundary with the Ancient Woodland. Prior to commencement of development, details of the alignment of the permissive path shall be submitted to and approved in writing by the Local Planning Authority. A vegetated buffer will be maintained between the permissive footpath and the Ancient Woodland in accordance with the Drawing Number SCUKK-SHEEP-</p> | To reflect the Ecology SoCG 19.12.23. | Agreed |

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| | | 000-100P PV Layout Overview Plan comprising wildflower meadow grassland and retention of existing natural scrub directly adjacent to the Ancient Woodland. Management of the buffer will be detailed through the Landscape and Ecological Management Plan but will comprise low intensity management, specifically where directly adjacent to the Ancient Woodland, avoiding any management actions which could adversely affect the integrity of the Ancient Woodland. | | |
| PRoW Diversion | 17 | Prior to the commencement of development an application to divert the part of PRoW KM248/2 shown inside the approved solar farm on approved layout SCUKX-SHEEP-000 100 (P) to a new route around the north east perimeter of the solar farm shall be submitted to the Council. Following the making of a diversion order the diversion to PRoW KM248/2 shall be made available in accordance with the terms of the order. | | Agreed |
| River buffer | 18 | <p>No development shall take place until a scheme for the provision and management of a river buffer zone alongside the watercourse has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme unless revised details are approved. Buffer zones must be free from built development including formal landscaping and community orchards. The scheme shall include:</p> <ol style="list-style-type: none"> 1. plans showing the extent and layout of the buffer zone which shall be at least 8m in width 2. details of any proposed native planting scheme 3. details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan 4. details of any proposed footpaths, fencing, lighting, etc 5. details of the timings of any proposed works within the buffer zone, including the development of the footpath and any future landscaping/management | To reflect the Ecology SoCG 19.12.23. | Agreed but note that drawing SCUKK-SHEEP-000-100P is not compatible with point 1. |

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| | | 6. details of how any of the identified sensitive ecological features will be protected during and after works. | | |
| Noise | 19 | <p>Prior to commencement of development, details of a mitigation scheme and post installation sound level assessments shall be submitted to and approved by the local planning authority. The scheme shall be based upon the recommendations of dBc Consultation Ltd Report project ref 10253 dated 25th April 2023 and shall be installed as approved before first use of the Solar Energy Generating Station.</p> <p>Within 1 month of the First Export Date, post installation sound level assessments shall be undertaken and the results submitted to the local planning authority.</p> <p>If the results of the post installation sound level assessments show the specified sound levels at the specified receptors of the dBc Consultation Ltd Report are exceeded, further mitigation details and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the First Export. The approved further mitigation details shall be installed to the approved timetable and retained thereafter.</p> <p><i>(a) Within 1 month of first use of the Solar Energy Generating Station, post installation sound level assessments shall be undertaken and the results submitted to the local planning authority.</i></p> <p><i>(b) If the results of the post installation sound level assessments show the specified sound levels at the specified receptors of the dB Consultation Limited Report (Document Reference: dBC/Origin/10253/ML/04) are exceeded, details of proposed mitigation and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the first use of the Solar Energy</i></p> | Updated to reflect recently agreed wording. | Agreed |

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| | | <i>Generating Station. The approved mitigation details shall be installed to the approved timetable and retained thereafter.</i> | | |
| Flood Risk/ Drainage | 20 | There shall be no storage of any materials including soil or raising of ground levels within that part of the site affected by the modelled fluvial flood events (including a 35% allowance for climate change) as shown on PFA Consulting Drawing No. S714/07A | Please see Drawing No. S714/07 attached. | Agreed |
| LEMP | 21 | <p>A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the First Export Date. The content of the LEMP shall include the following.</p> <ol style="list-style-type: none"> 1. Description and evaluation of features to be managed; 2. Ecological trends and constraints on site that might influence management 3. Aims and objectives of management; 4. Appropriate management options for achieving aims and objectives; 5. Prescriptions for management actions, 6. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); 7. Details of the body or organisation responsible for implementation of the plan; 8. Details of annual habitat and species monitoring. 9. Details of how the monitoring will inform updates of the management plan. <p>The LEMP shall also include details of the mechanism(s) by which the long term implementation of the plan will be secured by the developer The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved</p> | | |

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| | | <p>scheme. The approved plan will be implemented in accordance with the approved details.</p> | | |
| CEMP | 22 | <p>No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include that:</p> <ol style="list-style-type: none"> 1. Prior to commencement of the development and prior to the First Export Date, highway condition surveys for highway access routes should be undertaken and submitted to the Local Planning and Highway Authorities. 2. Details of the routing of construction traffic to the site and any traffic management measure 3. Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases. 4. Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction; 5. Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction. 6. Provision of measures to prevent the discharge of surface water onto the highway. 7. Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction. <p>The approved CEMP will be implemented in accordance with the approved details.</p> | | |
| Construction Traffic Management Plan | 23 | <p>The construction of the development shall be carried out in accordance with the approved construction traffic management plan (CTMP) (Cotswold Transport Planning, March 2022), in all respects other than the traffic routing. All construction traffic shall use the A229,B2079, Underlyn Lane,</p> | <p>The CTMP doesn't reflect the route agreed by the Highways Authority so the wording has been amended to reflect their recommendations.</p> | <p>Agreed</p> |

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| | | Green Lane, B2162, Sheephurst Lane (northern end), unless otherwise agreed in writing by the Local Planning Authority. | | |
| Access arrangements | 24 | Prior to the commencement of the development, the access shown on the submitted plans drawing no. 21-0354 SP01 rev B shall be completed and thereafter maintained for the lifetime of the development. | | |
| Access arrangements | 25 | No development shall take place until the access point and visibility splays hereby permitted have been provided in accordance with drawing SK01 Rev A titled 'Sheephurst Lane Primary Site Access and the visibility splays shall be retained free of all obstruction to visibility above 0.9 metres thereafter. | | |
| Ecology - BNG | 26 | Prior to the commencement of the development, details including an implementation timetable of how the development will enhance biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved implementation timetable and maintained for the lifetime of the development. | | Agreed |
| Ecology- Skylark Mitigation | 27 | <p>Prior to commencement of the development, a Skylark Mitigation Strategy shall be submitted to for approval by the Local Planning Authority. The content of the Skylark Mitigation Strategy shall include the following:</p> <ul style="list-style-type: none"> a) Purpose and conservation objectives for the proposed Skylark nest plots; b) detailed methodology for the. Skylark nest plots following Countryside Stewardship Scheme option: 'AB4 Skylark Plots'; c) locations of the compensation measures by appropriate maps and/or plans; d) persons responsible for implementing the mitigation measure. | To reflect the Ecology SoCG 19.12.23. | Agreed |

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| | | <p>e) an annual monitoring schedule to certify the delivery of the Skylark Mitigation Strategy for the first five years of operation.</p> <p>f) a timetable for an assessment of the efficacy of the mitigation measures to be submitted for the approval of the Local Planning Authority.</p> <p>g) review, and if necessary, update of the Skylark Mitigation Strategy if indicated as necessary by the assessment of the efficacy of the mitigation measures including any need for further monitoring beyond 5 years.</p> <p>The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for the lifetime of the development.</p> | | |
| Ecology - Ecological Method Statement | 28 | <p>No development shall take place (including any ground works, site or vegetation clearance) until a Method Statement for ecological mitigation and enhancement has been submitted to and approved in writing by the local planning authority which shall accord with verification/update ecological surveys carried out within 3 years prior to commencement of development, presently being AW0143-PL-002 Proposed Mitigation, Landscape & Ecology Enhancements, the Biodiversity Net Gain Report Feb 2022, Ecological Impact Assessment Feb 2022. The content of the Method Statement shall specially set out the following:</p> <ol style="list-style-type: none"> 1. Purpose and objectives for the proposed works; 2. Detailed design(s) and/or working method(s) necessary to achieve stated objectives; 3. Extent and location of proposed works, shown on appropriate scale maps and plans; | | |

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| | | <ol style="list-style-type: none"> 4. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; 5. Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works; 6. Use of protective fences, exclusion barriers and warning signs; 7. Initial aftercare and long-term maintenance (where relevant); 8. Disposal of any wastes for implementing work. 9. Enhancement measures shall include the installation of log piles, bug hotels, bat boxes and bird nesting boxes, wildlife friendly gullies, fencing designed to enable wildlife movement, along with provision of generous native planting including suitable for pollinators. <p>The approved Statement will be implemented and thereafter retained.</p> | | |
| Lighting | 29 | <p>No development shall take place until a lighting design scheme including details of operation for the whole site has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The colour</p> | | |

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| | | <p>temperature of the lighting shall be at the red end of the spectrum.</p> <p>All external lighting shall be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.</p> | | |
| Arboriculture | 30 | All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved plans as being removed, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority. | | |
| Arboriculture | 31 | No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan. | | |
| Soils | 32 | No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no material loss of soil quality within the operational lifetime of the site and provides details of any movement of soils within the site, has been | | Agreed |

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| | | submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved. | | |
| | 33 | Notwithstanding the plans/drawings approved under Condition 2, a river buffer zone alongside the watercourse shall be provided in accordance with Drawing Number SCUKK-SHEEP-000-100(Q) 100 General PV Layout hereby approved and in accordance with Condition 18. | Please see Drawing Number SCUKK-SHEEP-000-100(Q) attached. | Agreed |