

**PARISH** Elmton With Creswell Parish  
**APPLICATION** Installation and operation of a solar farm renewable energy generating station comprising: ground-mounted photovoltaic solar arrays, substation, inverter/transformer units, site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements  
**LOCATION** Land To South Of Frithwood Farm Cottage Frithwood Lane Elmton  
**APPLICANT** Ms Michelle Howley C/o Agent C/o Agent OX14 4SH  
**APPLICATION NO.** 22/00583/FUL **FILE NO.** PP-10572833  
**CASE OFFICER** Mr Steve Phillipson  
**DATE RECEIVED** 9th November 2022

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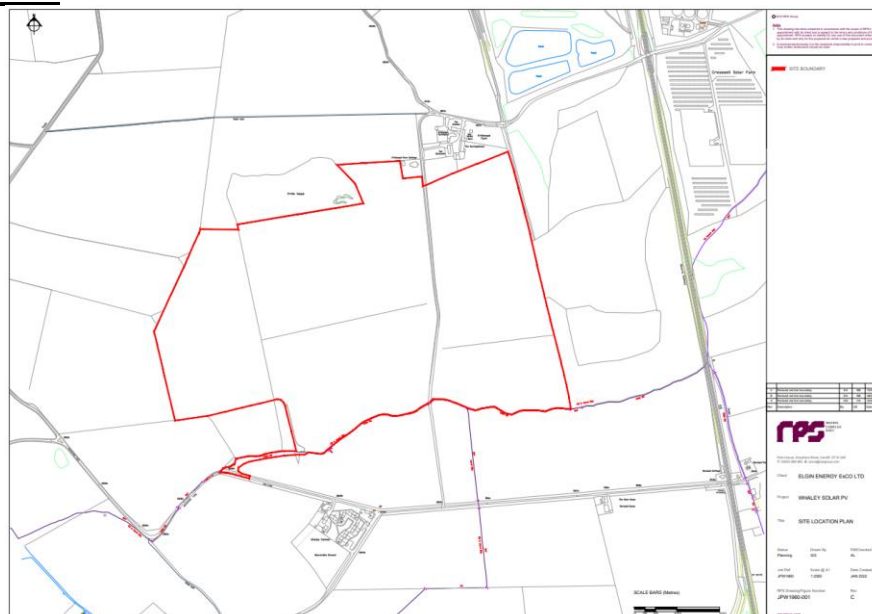
## SUMMARY

This is an application for a relatively large scale solar farm between Whaley and Creswell. Whilst the application has been significantly amended by negotiation to omit the area which contained the highest concentration of best and most versatile agricultural land (BVAL) it still contains about 10ha of it.

Local plan policy SC6 'Renewable Energy and Low Carbon Energy' is fundamental to this decision. SC6 allows solar farm development on agricultural land, but only allows large scale solar farms (BVAL) under 'exceptional circumstances'. The application comes before Planning Committee as there is a need to decide whether or not this bar has been met and so whether or not this proposal complies with the local plan.

The officer recommendation is that it has, due to the lack of alternative grid connection points in the District with capacity for this scale of solar farm and because most of the land within range of the connection point is also BVAL. Other impacts have been assessed but none of these warrant the refusal of planning permission because the harms identified are outweighed by the benefits of renewable energy and the need to tackle the climate emergency.

## Site Location Plan



## **SITE & SURROUNDINGS**

The site is comprised of approximately 46ha of arable agricultural land. It is located approximately 1 kilometre (km) to the south of Creswell, 500 metres (m) to the northeast of the village of Whaley, and around 800m northwest of the village of Whaley Thorns. The site is within the Parish of Elmton with Creswell.

The closest dwellings to the site are the small group of properties associated with the former Frithwood Farm and Frithwood Farm Cottage adjacent to the northern site boundary. The hamlet of Whaley Common is approximately 130m south of the site.

The land adjacent to the east is reclaimed pit tip and beyond that is Creswell Solar Farm, but otherwise the site is surrounded by agricultural land with two small woodlands adjacent at the southwest and northwest corners of the site.

The area of the site proposed to be developed with solar panels has been reduced during the course of the planning application to omit the two fields at the east side of the site. However, the original application site is comprised of 5 large fields separated by hedgerows. A well-used public footpath and bridleway known as the Archaeological Way (PROW No 9) which also serves as a farm access track, runs north south through the site.

The topography of the proposed site is gently sloping from west to east with undulations including a high point just to the south of Frith Wood.

A survey of the site has shown that the site comprises a mixture of grades 2, 3a and 3b agricultural land. The areas of higher quality grade 2 land are situated mainly on the eastern side of the site, on areas of higher land, and the lower quality areas are concentrated on the central and western part of the site.

All of the proposed development falls within Flood Zone 1 – land with the least potential for flooding. Land surrounding the site also falls within Flood Zone 1.

With regard to heritage designations, the site itself is not covered by any heritage designations. However, Frithwood Farm character area, part of the Elmton with Creswell Farmstead Conservation Area, is immediately adjacent to the north side of the site. Whaley conservation area is around 370m from the south-eastern boundary of the site.

In terms of ecological designations, there are none on the site itself, but there are several within close proximity to the site. Poulter Country Park lies approximately 0.75km to the south of the site at its closest point. It is designated as a Local Wildlife Site and protected green space. An area of ancient woodland ('Frith Wood') abuts the northern boundary of the site. There are three wildlife corridors in close proximity to the site. This includes the area of woodland immediately adjacent to the northern boundary of the site, the woodland immediately adjacent to the south-western corner of the site and the field parcel adjacent to the eastern boundary of the site.

Overall the site has a very quiet and pleasant rural character with open views of large hedgerow lined fields interspersed with occasional stands of woodland.

## PROPOSAL

Installation and operation of a solar farm renewable energy generating station.

The proposal as originally submitted was expected to have an export capacity of up to 25 Megawatts (MW) of renewable energy. Enough electricity to meet the demand of approximately 7000 average family homes. The reduction in scale and area agreed during the course of the application has reduced the estimated generating capacity to between 18-20MW.

The layout proposed for the application site is shown below, firstly as originally proposed, and secondly as amended by negotiation during the course of the application. The developable site area for the arrays has been reduced by about one third from approximately 46ha originally to approximately 31ha. This has been necessary in order to better meet local plan policy regarding renewable energy and the need to avoid the loss of best value agricultural land. Also to reduce impacts on the adjacent conservation area.

### Layout Originally Proposed



Layout Now Proposed as Amended - solar arrays restricted to west side of Bridleway.



**The proposals also include the following elements:**

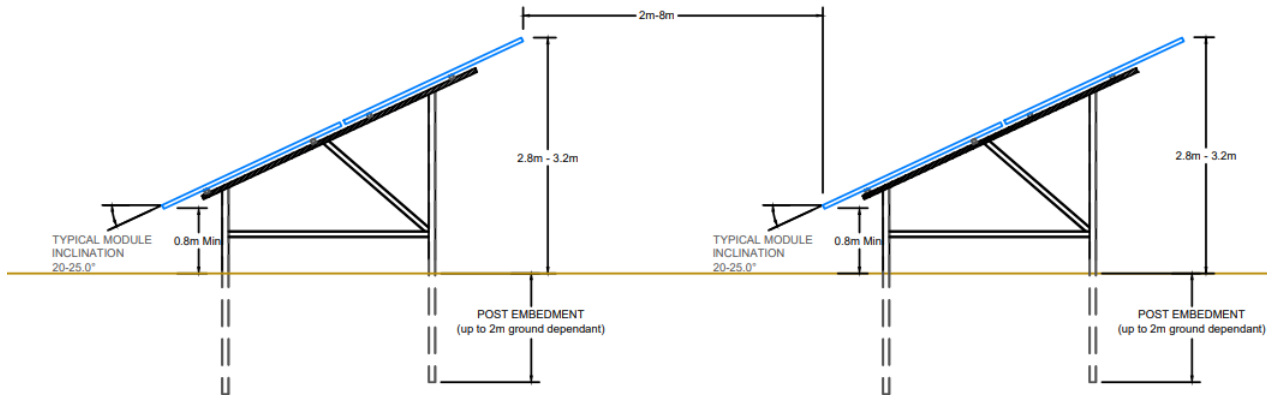
Ground-mounted photovoltaic solar arrays

These are 3.2m high with 2m-8m between arrays (the preferred mounting option is pile driven poles as show below, alternative is concrete pad).

The arrays would be oriented east-west across the Site, with the facades of the panels facing south. The positioning of the arrays responds to existing physical features such as ditches, trees and hedgerows with panels set back appropriate buffer distances as informed by technical guidance.

No earth moving or ground levelling will be required.

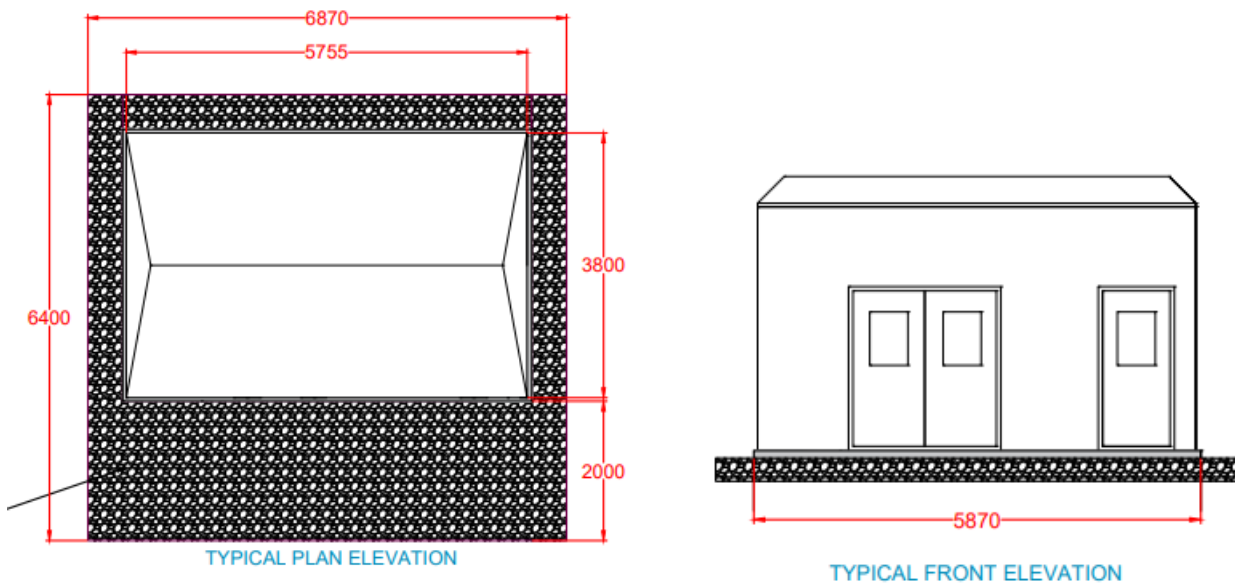




## Substation

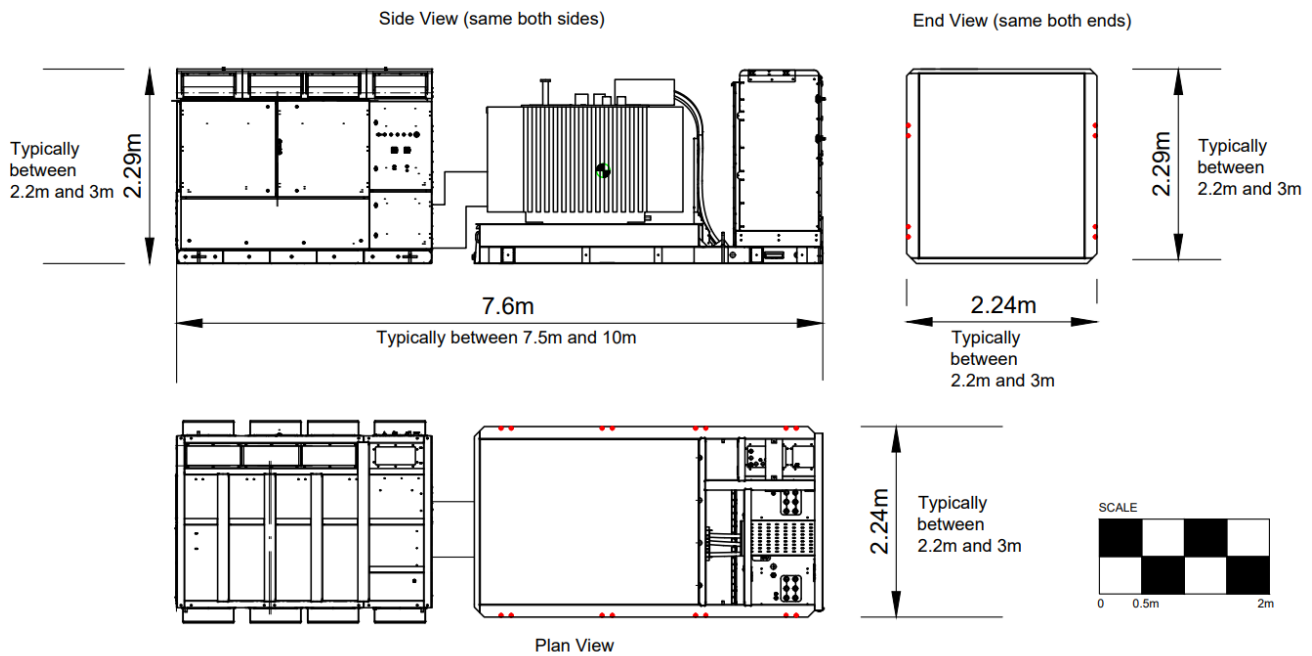
One Substation with compound (compound size approx. 20mx 20m) located behind (to the north side) of the woodland near to Mag Lane. An example detail of a substation unit is shown below 5.7m x 3.8m x 3.7 high. This would be a pre-fabricated metal container, typically finished in a grey or green colour.

The DNO Substation is designed and built by an Independent Connection Provider (IPC) on behalf of the DNO and is built to their specification and as such there are no confirmed details or dimensions available.



## Inverter/transformer units

5 Inverter/transformer units distributed across the solar farm. Inverters convert direct current (DC) generated by the PV panels into alternating current (AC). Transformers then convert low voltage output from the inverters to high voltage suitable for feeding into the network. Transformers are located next to the inverters inside the containerised solution.



Inverters are housed within pre-fabricated metal containers that are typically finished in a grey or green colour. Each unit measures c. 7.5m to 10.0m x 2.2 to 3.0m x 2.2 to 3.0m. (LxWxH). Inverters would be positioned on a gravel base atop blocks, leaving a gap of up to 500mm off ground level. This gives a total elevation of up to 3.57m. Inverter units have been located away from potential noise sensitive receptors.

### Other Cable Connections

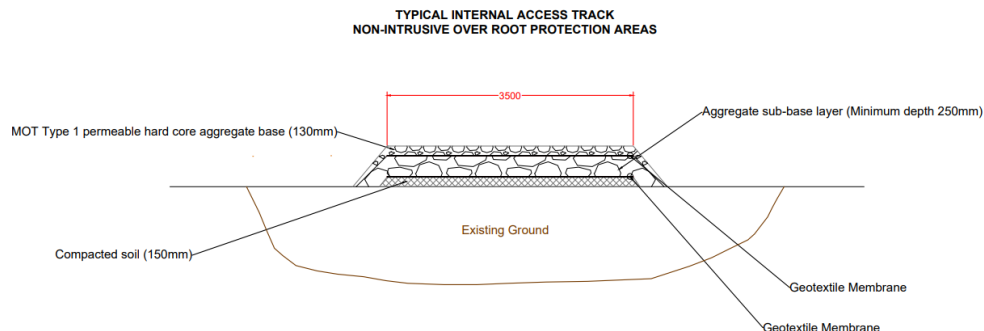
String Combiner Boxes are proposed to combine multiple strings of PV panels;

Underground and cable tray cabling to connect the panels and inverters to the proposed onsite customer switchgear units;

Connection to the national grid will be via underground cables on site. There will be no new overhead lines required to support the generating station.

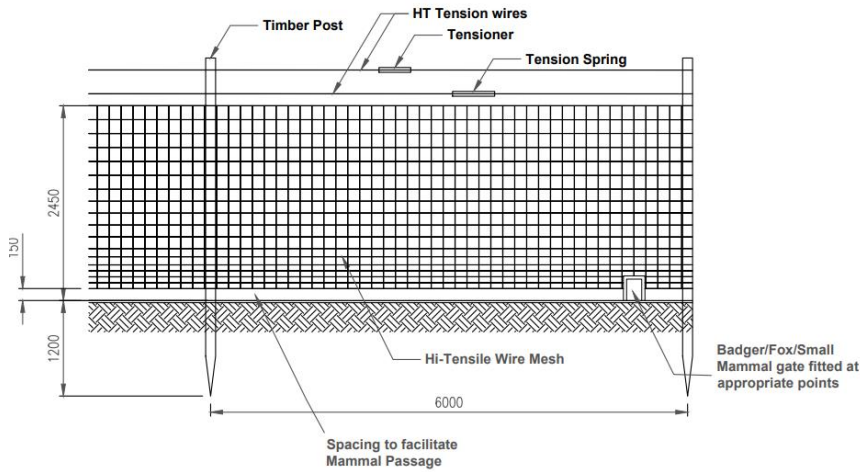
### Site Access Tracks

Compacted internal crushed stone tracks, rolled in layers to allow vehicular access from the highway and around the Site between field parcels. (The Root Protection version shown below)



## Fencing

Approx' 3m high Wire Mesh Security Fencing (deer fencing) with Badger/Fox gates fitted.

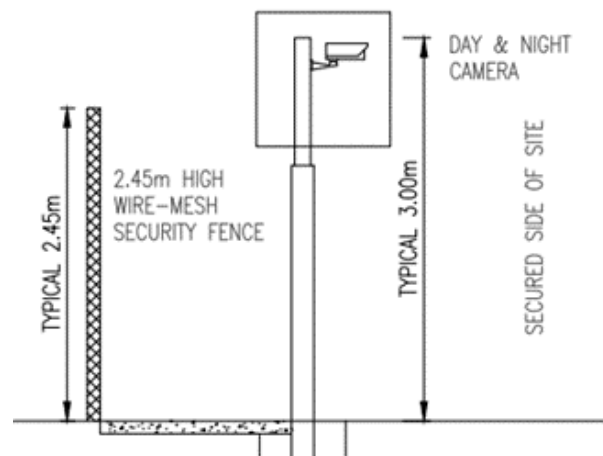


NTS



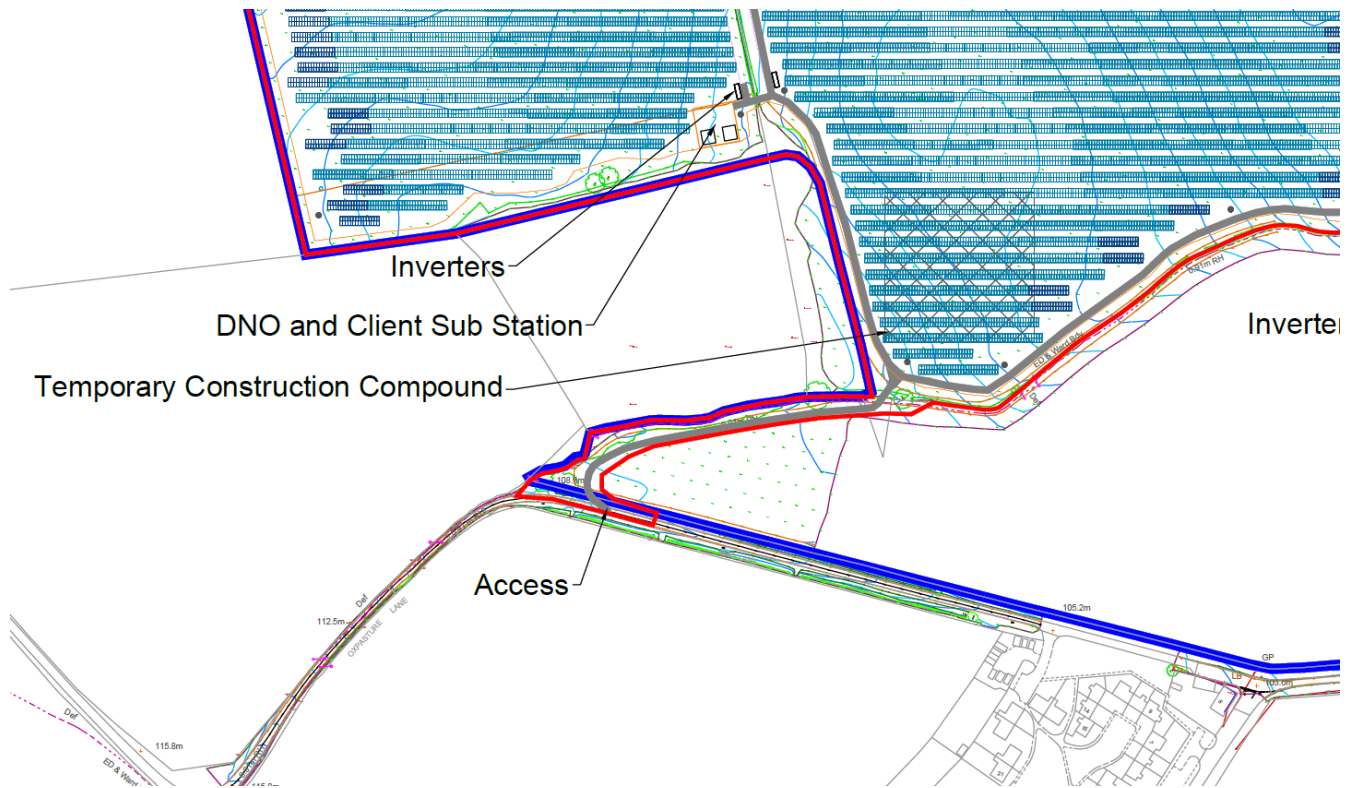
## CCTV

3m high CCTV day and night security and monitoring CCTV/infra-red cameras mounted on poles along the site perimeter. Cameras would be inward facing on poles of up to approximately 3m high, spaced at intervals along the fence line. Cameras would only monitor inside the site and not record any public or private land outside the perimeter. An intelligent sensor management system would manage the cameras. There would be no lighting within the site at night-time.



## Construction Compound

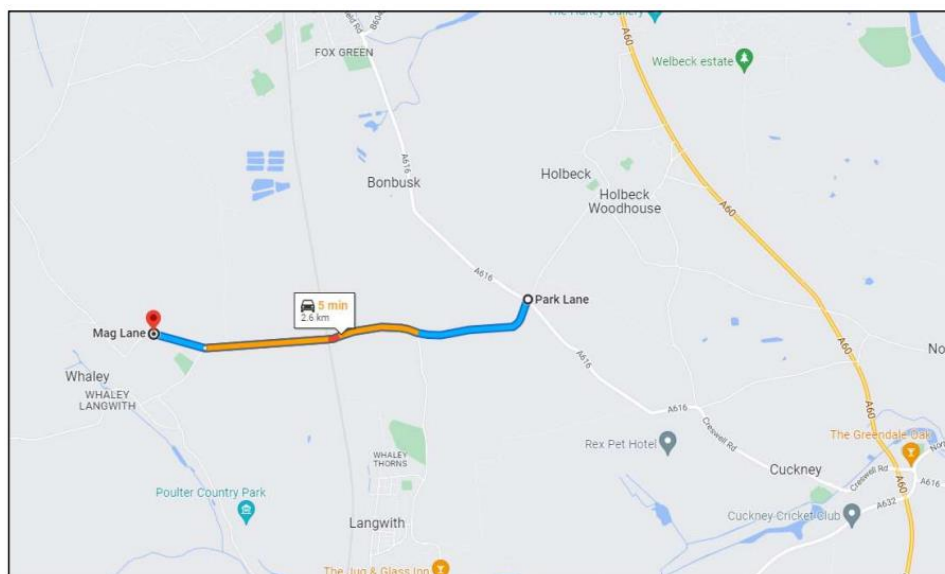
A temporary construction compound located at the southern extent of the site near the access point to avoid a requirement for HGV traffic to travel further into the Site.



**Access and Routing**

Site access will be taken from an existing access track at the south-western end of Mag Lane (see plan above). Access tracks will be provided within the layout to provide all weather access for maintenance purposes.

The designated routes for all construction vehicles associated with the construction period and traffic management measures are set out in in the submitted Construction Traffic Management Plan. An extract of this is shown below. All construction traffic will use the A619, A60, A616 and Mag Lane.





Visitors, delivery drivers and contractors will be advised of the route in advance of driving to the site. It is proposed that temporary signage is used to direct construction traffic to the site along the proposed construction traffic route utilising existing street furniture where available.

Appropriate mitigation measures will be provided throughout the construction phase in order to manage the arrival and departures of HGVs at the Site. The Applicant states that no construction traffic will be allowed to wait on the local highway network outside the Site. No construction worker vehicles will be allowed to park on verges outside the Site.

The applicant expects between 30 – 60 two way construction staff trips per day plus an average of 3 deliveries per day over a 16 -24 week construction period.

### Landscaping and Biodiversity Enhancements

The Applicant states that the landscaping scheme includes measures to avoid, reduce, or remedy significant adverse impacts and measures that would reduce the visual prominence of the solar arrays in local views through new and enhanced field boundary screen planting.

This includes hedge and tree retention, a minimum of 5m ecological buffer planting to the site perimeter and hedgerows with increased buffer separation at ecologically sensitive locations. New tree and hedge planting and species rich grassland and wildflower meadows. A short section of new landscape screening to the south side of Frithwood Farm Cottage is proposed.

The submitted Ecology Appraisal and Biodiversity Net Gain Assessment indicate that the proposed measures will secure the scheme's +230.83% for habitats and +32.75% for hedgerows net biodiversity benefit.

### Construction Phase Works

It is anticipated that the construction phase will last for approximately 16 - 24 weeks. Construction activities and deliveries will be carried out Monday to Friday 08:00-18:00 and between 08:00 and 13:00 on Saturdays. No construction activities or deliveries are proposed to occur on Sunday or Public Holidays. The Applicant states that where possible, construction deliveries will be coordinated to avoid construction vehicle movements during the traditional AM peak hour (08:00-09:00) and PM peak hour (17:00-18:00).

The Applicant states that deliveries will vary in amount per day during the construction period with an average of three deliveries (three inbound plus three outbound movements) per day over the 24-week period. The Applicant estimates that there may be up to a maximum of 60 staff on site per day. The Applicant's experience of similar developments elsewhere suggests that car sharing can reduce the number of cars on site to 30.

There will be sufficient space within the curtilage of the Site to ensure that no vehicles would have to wait on the surrounding highway network. No diversion of pedestrian routes, parking suspensions or closure of lanes are expected. Although final details related to the access may be subject to LCC Highways requirements outside of the planning process.

A temporary construction compound is proposed at the southern side of the site (See plan

above). It is likely to include the following:

- Temporary portable buildings to be used for offices, welfare and toilet facilities;
- Containerised storage areas;
- Parking for construction vehicles and workers vehicles;
- Temporary hardcore/gravel hardstanding;
- Temporary gated compound; and
- Wheel washing facilities.

### Maintenance

Solar farms require little maintenance, with activity limited to occasional visits to clean (using only distilled water), check and test the installation, with personnel using small vehicles (4x4 or transit van type) and to replace any defective components, should any equipment fail during the lifetime of the farm.

The ground around and beneath the arrays will be seeded with a species rich grass mix. The Applicant States that this will be managed by occasional mowing and/or grazing by sheep. Pesticide treatments will not be used as part of a grounds-keeping regime.

### Operational Life and Decommissioning

Permission is sought for a 40 year operating period. The Applicant states that if at any time during this 40 year period the owner decides to decommission, replace or refit the modules, or if required to by condition following a period of 12 months of non-continuous generation, an appropriate method statement for decommissioning will be prepared and submitted to LPA for consideration and agreement. The proposed development including the ground fixings are fully reversible and all structures can be removed from the site and the land fully returned to sole agricultural use.

Once operational, the site will no longer be capable of being utilised for arable farming but the Applicant states that it could be used for grazing and as such could retain an agricultural use, albeit less intensive than the current arable cropping regime. It is also argued that less intensive agricultural use will allow for recovery and soil condition improvement.

During operational use the development will be monitored remotely and will not require any permanent staff to be located on site. It is expected that quarterly visits will be required for cleaning of the solar panels and other routine maintenance, as well as potential call outs for remedial works when required. Once operational there would typically be up to two maintenance visit per month comprising a small van or car.

### Supporting Documents with the Application

- Planning Supporting Statement
- Agricultural Land Classification Assessment
- Arboricultural Impact Assessment
- Ecological Assessment (Phase 1 and Phase 2 Surveys)
- Biodiversity Net Gain Assessment.
- Flood Risk Assessment and Surface Water Drainage Strategy
- Geophysical Survey
- Heritage Statement

- Landscape and Visual Impact Assessment, Landscape Strategy Plan and Photomontages
- Noise Impact Assessment
- Topographical Survey
- Transport Statement and Construction Traffic Management Plan
- Design & Access Statement
- Statement of Community Involvement

## **AMENDMENTS**

The layout has been amended by negotiation during the course of the application. The developable site area for the arrays has been reduced by about one third from approximately 46ha originally to approximately 31ha. This has been necessary in order to better meet local plan policy regarding renewable energy and the need to avoid the loss of best value agricultural land. Also to reduce impacts on the adjacent conservation area.

## **EIA SCREENING OPINION**

A list of projects for which EIA may be required is set out in Schedules 1 and 2 of the EIA Regulations. Schedule 1 developments require EIA to be undertaken in all cases. The proposed development does not fall within Schedule 1 of the EIA Regulations and would not be classified as Schedule 1 development.

However, the proposed Development would be of a type that would fall under Schedule 2 Part 3 'Energy industry' (a) 'Industrial installations for the production of electricity, steam and hot water'. Also the relevant threshold for industrial installations for the production of electricity listed in Part 3(a) of Schedule 2 is the area of the development exceeds 0.5 ha. The proposed development would exceed this threshold.

Therefore, it is considered that the Proposed Development constitutes Schedule 2 development under the EIA Regulations.

A Schedule 2 development does not require EIA to be undertaken in all cases but must be considered against the criteria provided in Schedule 3 of the Regulations to determine whether significant effects on the environment are likely. Schedule 3 considers the characteristics and location of the development and the characteristics of the potential impact.

Taking in to account the following aspects of the development, as required in Schedule 3:-

- The size and design of the whole development;
- Cumulation with other existing development and/or approved projects;
- The use of natural resources, in particular land, soil, water and biodiversity;
- The production of waste;
- Pollution and nuisances;
- The risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; and
- The risks to human health (for example due to water contamination or air pollution);

It is considered that significant effects on the environment are unlikely.

In reaching this conclusion regard has been had for the characteristics of the potential impacts and potential mitigations in respect of:

The risk of flooding;  
Ground conditions;  
Loss of best value agricultural land;  
Traffic impacts and highway safety;  
Construction safety;  
Landscape and visual impacts;  
Impacts on ecology and biodiversity;  
Heritage, above and below ground;  
Noise and vibration;  
Air quality;  
Public amenity and use of PRow

The Proposed Development is not subject to any statutory designations and the proposed development site is not subject to any statutory or non-statutory ecological designations.

In conclusion, significant effects on the environment are unlikely and therefore it is not considered that this development is EIA development and so the production of an Environmental Statement is not required.

The planning application is nevertheless supported by detailed technical and environmental reports to address the likely impacts and mitigation required.

## **HISTORY**

None.

## **CONSULTATIONS**

### BDC Conservation Officer

10/11/2023 Comments on revised layout: Previous concerns raised have been partially addressed. The development in such close proximity to the conservation area will result in harm (considered to be less than substantial, at the lower end of the scale of harm).

My previous comments raised concerns about the harm caused to the character and appearance and wider landscape setting of the Frithwood Farm conservation and recommended that the area covered should be reduced.

The revised application has application has gone some way to addressing these concerns by omitting the land to the east side of the footpath and this is welcomed. However, there has been no amendment to the layout and location of solar arrays on the land to the south and west of the Farm Cottages.

It has been brought to my attention that planning permission was granted for the extension of the original garden around the cottages which has provided, to a small degree, a larger buffer zone around the cottages.

Conclusion: The removal of the fields to east of the footpath and immediately south of the traditional farmstead has removed some of the harm to the setting but it is still considered that



the scale and concentration of development in such close proximity to the designated asset will result in harm (considered to be less than substantial, at the lower end of the scale of harm). In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

14/06/2023 The following Conservation Officer comments relate to the original layout. Concerns raised.

There are no designated heritage assets within the proposal site. The Conservation Officer concurs with the conclusions of the Heritage Impact Statement that due to the local topography, presence of mature trees and intervening landform there will be no harm caused to the following designated assets: -

- Whaley Farm and The Oaks character area of the Elmton with Creswell Farmstead Conservation Area
- Creswell Conservation Area
- Whaley Conservation Area

However, she advises that there will be an impact on the character and appearance and setting of the Frithwood Farm Conservation Area.

*“The open landscape setting is considered to be an integral component of the significance of the Frithwood Farm complex and the wider Farmstead Conservation Area will be severely compromised by the proposed development. The impact is exacerbated by the sheer size and volume of the proposed solar farm and associated paraphernalia including 2.4 high fencing and cctv mounted on 3m poles.*

*Views to and from the Conservation Area will be affected by the development.*

*At present there are extensive views towards the conservation area from the public right of way (viewpoint 7 and 8). In these views the isolated farm complex sits nestled in the landscape surrounded by gently rolling agricultural fields with fragmented hedgerows and the established woodland area to the northwest of the site.*

*Given the close proximity of the application site to the former farm complex and farm cottages, there are clear and extensive views across the rolling agricultural fields from the former farmstead and the semi-detached farm cottages to the south and west. These open views will be fundamentally altered by the proposed development.*

*It is considered that the proposed development would represent a harmful intrusion into the landscape setting of the conservation area and as a direct result would have an impact on the character and appearance of the conservation area.*

*In accordance with paragraph 199 the NPPF, therefore, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). In this instance, as the asset is a Conservation Area, which is of high significance, the weight should be considerable. Under section 72 of the Planning (LBCA) Act 1990 the decision maker must pay special attention in the exercise of planning functions to the desirability of*

*preserving or enhancing the character or appearance of a conservation area.*

*In my view, the proposed development will not preserve or enhance the character of the Conservation Area. It will cause moderate harm which is considered to be less than substantial. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.*

*In terms of mitigating the harm caused to the setting consideration should be given to the reduction in the area covered by the application site, in particular the fields immediately to the south of the former farmstead and the area to the south and west of the Farm cottages. “*

The Conservation Officer concludes that the development will have an impact on the character and appearance and setting of the Frithwood Farm Conservation Area but that the level of harm caused to the significance and setting of the heritage asset will be NPPF “less than substantial”. In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal.

#### BDC Urban Design and Landscape Officer

15/06/2023 Comments relate to the original layout:

Overall, it is considered that the solar farm is located within a landscape which has an intrinsic character associated with the Limestone Farmlands character area which is relatively rural. It is not a designated valued landscape and does not have strong conservation or historical significance. There are local recreational and pockets of tranquillity within the landscape. It is considered that this solar farm does not significantly affect the intrinsic quality of the area to an extent that is could not be accommodated within the landscape. My assessment is that provided improvements are made in the detailed layout and additional attempts to soften the edges are made, that the solar farm can be mitigated within the landscape.

#### BDC Environmental Health Officer

23/10/2023 Confirms that previous comments 17/01/2023 still apply.

17/01/2023 More information requested.

“The noise assessment makes the assumption that the inverters will run at at -16dB below typical levels during the noise sensitive early morning period 5-7am as they will be under less load, based on noise data from similar installations. We don’t know if this is representative in the case of the units under consideration here, and unless the claim can be backed up by manufacturers data, I suggest the modelling should be reworked to include a worse-case scenario assuming that the devices can in fact reach their peak noise levels at 6am.”

#### Council for the Protection of Rural England CPRE (unofficial consultee)

11/05/2023 Objects (Comments relate to the original layout)

CPRE say that there are committed to supporting solar energy but will always oppose harmful developments. They say that solar photovoltaics are an important part of our energy supply in

the climate emergency, but huge greenfield sites which damage our countryside ignore the huge potential of roof-mounted solar.

They support schemes that minimise landscape impacts, secure real nature recovery opportunities and enjoy the support of local communities. But they believe that schemes that fail to meet these expectations must be refused.

CPRE are opposed to building solar farms on good farmland. They do not believe that there are sufficient “exceptional” circumstances to justify the building of this solar farm, which they believe, goes against Bolsover Planning Policy on Renewable Energy “Policy SC6 Renewable and Low Carbon Energy.

They believe that the size of the proposed Solar farm of 45 hectares (*original size*), would significantly industrialise this very quiet and rural area and would have a significant impact on the landscape to both residents and users of the countryside in this area and of the Archaeological Way.

They also object due to proximity to 5 conservation areas.

#### DCC Archaeology

24/10/2023. No objections to the revised layout subject to conditions.

Notes that the revision reduces the amount of archaeological work necessary. He would prefer evaluation trenching to be undertaken pre-determination but has accepted that evaluation trenching and subsequent mitigation could be conditioned into any planning consent under para 205.

A condition is recommended requiring a tiered approach to further archaeological works. This should include:-

- Correlation of previous fieldwalking data and artefact scatters to the existing survey of the site.
- Metal detector survey of the proposed development area and recording.
- Archaeological evaluation trenching/geoarch prospection.
- Archaeological mitigation, where and if required.

12/04/2023. Second comments on the Original Layout:

The County Archaeologist advised that the site quite clearly contains archaeological remains the inference being that these could include Mesolithic through to Roman remains. Experience has shown that the archaeology of these field systems elsewhere can be complex and multiperiod producing archaeology from the Mesolithic. Neolithic, pre-Roman Iron Age, Roman period and also, importantly, the hitherto elusive early medieval period (6th and 7th cent AD). To my mind the significance and sensitivity of the archaeology has not in reality been fully addressed and the archaeological resource not sufficiently characterised (nature, dating, function). There is also the possibility that mitigation measures may include large scale open area excavations with appropriate analysis and appropriate publication. Evaluation trenching pre-determination would certainly help the applicants scope out likely costs ranges for mitigation, better allowing appropriate resources and timescales to be identified in a calm and measured manor. While it is unlikely that palaeolithic and Mesolithic areas of occupation

will be identified their presence cannot be discounted.

However, if the applicant is so minded in terms of risk, DCC advise that there is no reason why archaeological works and the resulting mitigation cannot be conditioned into any planning consent.

17/01/2023 First comments on original layout:

The DCC Archaeologist advised that the site encompasses an area of considerable archaeological interest and potential and so requested additional evaluation trenching works be undertaken under Para 194 of NPPF, to supplement the desk based assessment and geophysical survey, and that this work be undertaken pre-determination.

### DCC Flood Risk Team

29/06/2023 No objections subject to conditions.

Conditions advised include the agreement of a detailed design and associated management and maintenance plan of the surface water drainage for the site including during construction phase; a soil management plan which must demonstrate how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning; and a verification report to prove construction in accordance with the approved scheme.

### DCC Highways

10/11/2023 No objections subject to conditions regarding the provision of the approved access, parking and turning facilities; and HGV routing to be as per route one identified in the Construction Traffic Management Plan (CTMP).

This was a response to the additional highways technical information note provided by the Applicant in response to the initial concerns raised by the Highway Authority. DCC has now confirmed that they consider that the measures identified in the CTMP will be sufficient to mitigate the concerns raised previously and that the proposed development will not be contrary to paragraphs 110 and 111 of the NPPF such that it would warrant an objection.

01/06/2023 Previously required further clarification required on the Transport Assessment. Clarification on the locations of passing places and their suitability in terms of forward visibility and the ability of the verge to accommodate vehicular traffic on Mag Lane.

### DCC Public Rights of Way

12/01/2023 Comments made regarding the original layout and informative notes advised.

Elmton Public Bridleway No. 9 runs through the proposed development site, with Bolsover Public Bridleway No. 38 connecting to it at the boundary of the site. Elmton Public Footpath No. 6 and Bolsover Public Footpath No. 49 are also close enough to be affected by the proposals from a visual perspective.

The visual impact of the proposed development on the users of these routes must be



seriously considered when making a decision on these proposals. For Elmton BW 9, there would, at the very least, be a change from seeing open fields through gaps in the hedgerow, or over the top of the hedgerow, to only really seeing hedgerow with some views of solar panels. A less open perspective from the bridleway may affect users' enjoyment of the route.

Informative notes are requested regarding the need to keep Elmton BW 9 open, unobstructed and on its legal alignment and there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.

DCC Landscape Officer

24/05/2023 Unable to provide comments.

Derbyshire Wildlife Trust

01/03/2023 Comments relate to the original layout proposed.

We have reviewed the Ecological Appraisal (RPS, June 2022), Biodiversity Net Gain Assessment (RPS, November 2022 and the Illustrative Landscape Masterplan No. 100 A. (RPS, May 2022).

Protected Species:

We advise that a sufficient level of protected species survey has been undertaken, in accordance with standard guidelines.

Farmland bird species that use hedgerow, tree and scrub habitat are unlikely to be adversely impacted due to retention and enhancement proposals, however there will be a net loss of area for ground nesting birds. Breeding bird surveys recorded seven skylark territories on site, all of which will support solar panel arrays based on current proposals. Whilst this number of birds is of no more than local importance in geographical terms, we advise that a best practice approach should be taken to mitigating for skylarks. In the case of solar farms, it is reasonable to expect skylark plots to be accommodated between panels to retain some breeding opportunity on site. In addition, the ecological buffer zone could incorporate some areas of specific planting / wild bird mixtures for foraging farmland birds. Given that this seems to be the only outstanding area where adequate mitigation / compensation has not been provided and that it can be easily accommodated, we would seek to see these measures incorporated within proposals.

Bats are unlikely to be adversely affected due to retention and enhancement proposals for onsite habitats, including hedgerows, trees, woodland edge and species-rich grassland. If the offsite woodland blocks are within the same ownership as the application area, bat boxes could be installed at the woodland edge to provide further enhancements. There is also no net loss of habitat predicted for common amphibians or reptiles and these species can be safeguarded during construction through implementation of a Construction Environmental Management Plan (CEMP: Biodiversity).

Badger setts are present on and adjacent to the application area. These can be retained within proposals. We welcome the provision for gaps beneath perimeter fencing to maintain connectivity across the site for badgers and retain the setts in situ. Brown hare are also likely

to use gaps suitable for badger and can therefore continue to use onsite habitats around the solar arrays. It is essential that sufficient gaps are provided and that they are located on existing badger paths, in addition to other places around the boundary.

#### Habitats:

Frith Wood comprises a Plantation on an Ancient Woodland Site (PAWS). In accordance with Natural England advice, a 15 m boundary should be maintained between the woodland edge and any development to safeguard to woodland. Currently it appears that the ecological buffer zone adjacent to the woodland is only 5 m, as proposed for the rest of the site boundaries. There is opportunity to achieve net gains in hedgerow habitat as the existing hedgerow network onsite is recorded as gappy and regularly flailed. A relaxation in management and gapping up existing hedges would provide significant benefits. We welcome the proposals to seed the majority of the site with tussock mix beneath the panels and wildflower mix within the ecological buffer zone. This is likely to benefit pollinators and other wildlife.

#### Biodiversity Net Gain:

DEFRA Biodiversity Metric 3.1 has been used to calculate net losses / gains at the site, based on current proposals. A gain of +230.83% for habitat and +32.75 % for hedgerows is currently predicted, with all trading rules satisfied. This is largely due to the change from arable land to tussocky grassland with wildflower margins, along with other enhancements.

Conditions are recommended requiring:

An updated badger survey;

A Construction Environmental Management Plan (CEMP: Biodiversity); and

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) to manage the biodiversity value of onsite habitats.

#### Natural England

02/11/2023 Comments relate to the revised layout. No objections as amended, subject to conditions.

Following re-consultation on the revised layout Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Biodiversity Net Gain Natural England welcomes the proposed biodiversity enhancement stated within the submitted application documents, particular within chapter 3 of the Biodiversity Net Gain Assessment document. The inclusion of a wildlife buffer around the perimeter of the proposed development will enable the creation of a nature corridor which will be beneficial for many flora and fauna species. Resultantly, reducing the likelihood of isolated and fragmented habitats. Indeed, this planning buffer will be extremely valuable to provide a biodiversity pathway to the nearby areas of existing woodland. Also, the planting of additional trees as well as species rich grassland and wildflower meadows throughout the site will also provide a valued resource for flora and fauna.

07/07/2023 Initial comments. Whilst NE did not object on ecology grounds it was noted that the application would lead to the temporary loss of over 24ha of best and most versatile agricultural land. NE advised that the Council should consider whether this is an effective use

of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land. Then areas of poorer quality land should be preferred to those of a higher quality. NE also point to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013) and advise the Council to fully consider best and most versatile land issues in accordance with that guidance.

Conditions are recommended to safeguard soil quality and agricultural land including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former agricultural land quality.

Advises that general guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

### Police Designing Out Crime Officer

19/10/2023 Following re-consultation on the revised layout, confirms that the reduction in scale does not alter views expressed in their previous response on the 11th of January.

11/01/2023 No objections subject to a condition requiring a scheme of security measures to be agreed.

Thefts from solar farms nationally are on the increase, with the scale of offending suggesting the work of organised crime groups on an industrial scale. A recent example occurred not too far from the application site, in Nottinghamshire, where panels were removed from a farm which was under construction, and a security guard held under duress whilst the theft took place.

Consequently, its important to provide a risk commensurate security provision for sites, both during and post construction.

Security will be very much reliant upon the suggested CCTV system, which on the face of details submitted is deficient in certain areas.

### Ramblers Association

21/10/2023 No change to previous comments following re-consultation on the revised layout.

08/01/2023 Objects to the proposal from an aesthetic public enjoyment point of view.

"We note with concern that this proposal will have a direct detrimental effect on Elmton BW 9 and Bolsover BW 38. From the drawings provided it is perceived that the definitive line and general character of the previously mentioned bridleways will be preserved locally by providing the corridor as indicated on the drawing. Whilst this will preserve the bridleways from a convenience point of view, the proposal fails when the aspect of aesthetics is considered. Essentially the site will obscure what is currently a large expanse of open agricultural farmland. Additionally, and due to the fairly flat nature of the land in this area, the

solar farm will severely detract from the views from the previously mentioned bridleways and a number of other footpaths in the area.”

## **PUBLICITY**

Advertised in the press and 2 site notices posted. 28 properties consulted and 17 objections received on the following grounds:

### Principal:

- Brownfield sites should be used instead of taking farmland out of food production.
- The site should be located on lower quality agricultural land not best value land.
- Solar farms should not be at the expense of food production.
- The large scale of the proposal.
- Contrary to Local Plan Policies (SC16 Conservation Areas; SC6 Renewable and Low Carbon Energy; SC9 Biodiversity and Geodiversity).

### Residential Amenity:

- Visual impacts and detrimental effect on property, its rural location and character.
- Frithwood Farm will be almost surrounded by solar panels.
- The solar site will abut directly on two sides of our property changing the views from their current aspects of open countryside and replacing these views with an industrial view of large photovoltaic cells, a number of substations, chain link fencing and potentially intrusive CCTV cameras; all causing substantial detriment to rural amenity.
- The inhabitants of Whaley Common will be directly affected as the farm is on their doorstep.
- Effecting people's mental health and quality of life.
- Noise from construction, inverters and operation.

### Landscape:

- Impact on the landscape in general.
- Impact on views from Poulter Country Park.
- Will completely ruin the outlook and view both from Mag Lane and all along the Archaeological Way.
- Negative visual impact of 2.4 metre fencing and the industrial solar panels on the aesthetics of the environment for those living in and enjoying the rural area.

### Noise:

- Potential for noise from the substations.
- Currently a very quiet rural area.
- Disturbance during construction.
- Impact on health and well being of residents nearby.

### Impact on Bridleway/Footpath:

- Adverse effect on use of Bridleway/footpath/cycle path.
- Currently this is a pleasurable ride but a solar farm would make the route feel industrial and would create more hazards for horses.



## Highway Impacts

- Additional Traffic on narrow country lanes dangerous to walkers and horse riders.
- Danger of construction traffic on roads which are not suitable for such traffic and the irreparable damage caused to verges and hedge ways.
- Lack of passing places on Frithwood Lane.
- Horse rides would be forced to use more dangerous alternative roads.
- The proposed access point is on a bend presenting safety risk.
- The local roads around this site are used by many local horse riders and cyclists to access miles of safe off road tracks at poulter park.

## Heritage:

- Impact on underground archaeology.
- Impact on Conservation areas.

## Biodiversity:

- Disruption to wildlife.
- Impacts on Owls, Buzzards, Brown Hares, Yellow Hammer, Skylark, Green Woodpecker, deer, Lapwings, Red Kites.
- Close proximity to ancient woodland and archaeological way.
- Fences obstructing wildlife corridors.

## Light

- If the site requires permanent floodlights to facilitate 24 hour CCTV to deter criminal activity this will cause further disturbance and light pollution to the local communities [*It should be noted that floodlights are not currently proposed; infra-red CCTV cameras are proposed*].

## Flooding

- It is unclear whether the damage caused to the soil substructure by the construction of this development would negatively impact on the local water table and increase the flooding risks.

## Other:

- Potential increase of crime associated with solar farms.
- Impact on property values.
- The location of solar farm sites must be carefully thought about as it has to include the approval of local residents so that they do not begin to resent the initiatives that will hugely affect global warming and climate change. We have to take everyone with us and make it a positive action for all.
- Norwood Farm will have its CL camping site spoiled.
- Insufficient consultation on the application.
- To describe a 40 year permission as “temporary” is ridiculous.
- There will be no job opportunities.

## Comments After Re-consultation on Reduced Site Area:

One representation explains that the reduced site area of the proposal has not changed the

impacts on the resident's property [*as summarised above*], which will still be surrounded on two sides by the panels. Given the amount of land in possession of the land owner the resident feels that other sites must be available with no impact on local residents.

A second representation notes the overall size has reduced but cannot see how that has changed the concerns previously raised.

Notes the comments of The Police that the proposal will increase the risk of Crime in the locality and so raises concerns that if normal security lights need to be used [*as oppose to the infra-red CCTV system proposed*] potential light pollution from security lights would adversely affect the environment and nocturnal wildlife e.g. bats and owls.

## **POLICY**

### Local Plan for Bolsover District ("the adopted Local Plan")

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 'Sustainable Development'
- SS9: 'Development in the Countryside'
- SC2: 'Sustainable Design and Construction'
- SC3: 'High-quality development'
- SC6: 'Renewable and Low Carbon Energy'
- SC7: 'Flood Risk'
- SC8: 'Landscape Character'
- SC9: 'Biodiversity and Geodiversity' - Policy Map includes identification of Wildlife Corridors and Stepping Stones allocation for the two woodlands.
- SC10: 'Trees, Woodland and Hedgerows'
- SC11: 'Environmental Quality'
- SC13: 'Water Quality'
- SC16: 'Development Impacting Upon Conservation Areas'
- SC18: 'Scheduled Monuments and Archaeology'
- ITCR1: 'Strategic Green Infrastructure Network'
- ITCR2: 'The Multi-User Trails Network' (Protected Trail 'k')
- ITCR3: 'Protection of Footpaths and Bridleways'
- ITCR10: 'Supporting Sustainable Transport Patterns'
- II2: 'Employment and Skills'

### National Planning Policy Framework ("the Framework")

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: - Achieving sustainable development.

- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 92 - 103: Promoting healthy and safe communities.
- Paragraphs 104 - 113: Promoting sustainable transport.
- Paragraph 152, 154, 157 and 158: Meeting the challenge of climate change.
- Paragraph 159 - 169: Planning and Flood Risk.
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment.
- Paragraphs 183-188: Ground conditions and pollution.
- Paragraphs 194 - 208: Conserving and enhancing the historic environment.

## Supplementary Planning Documents

Elmton with Creswell Farmsteads Conservation Area Appraisal March 2020

### Planning Practice Guidance

Renewable and Low Carbon Energy 18/06/2015

This Government Guidance sets out what the particular planning considerations are for large scale ground mounted solar photovoltaic farms. An extract of this is copied below:

*“The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.*

*Particular factors a local planning authority will need to consider include:*

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.....*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal’s visual impact, the effect on landscape of glint and glare .... and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause*

- *substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect....”*

(Paragraph: 013 Reference ID: 5-013-20150327

Revision date: 27 03 2015)

### Statutory Duties

Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 72 PL (LBCA) Act 1990 - requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

### Other Guidance and Material Considerations

Historic England 2021 *Commercial renewable energy development and the historic environment Historic England Advice Note 15*. Swindon. Historic England (CD10.7).

The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) 2017

National Policy Statements (NPS) EN1 and EN3 for the delivery of major energy infrastructure are also material considerations.

The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Whilst NPSs EN-1 and EN-3 do not specifically refer to solar generated power they reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity. Notwithstanding the replacement EN-3 is in draft consultation form and therefore the draft carries limited weight.

The draft for Renewable Energy Infrastructure (EN-3) begins by stating that ‘Electricity generation from renewable sources of energy is an essential element of the transition to net zero’. It also contains a section dedicated to solar which details factors that influence site selection by applicants, these are:

- Irradiance and site topography
- Proximity of a site to dwellings
- Capacity of a site
- Grid connection
- Agricultural land classification and land type
- Accessibility

With specific regard to agricultural land classification and land type the draft NPS states that although ground mounted Solar PV projects should aim to utilise previously developed land, or agricultural land preferably of classification 3b, 4, and 5, land type should not be a predominating factor in determining the suitability of the site location.

Government’s Net Zero Strategy: Build Back Greener (2021) which also has relevance. It



explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable energy generation such as solar.

The Government's British Energy Security Strategy (April 2022)

The Government published the British Energy Security Strategy on 6 April 2022. The Strategy demonstrates the Government's support for renewable energy in general and solar energy in particular. The strategy states a fivefold increase in deployment of solar generating capacity is expected by 2035. The Government will consult on amending planning rules to strengthen policy in favour of development on non-protected land, while ensuring communities continue to have a say and environmental protections remain in place, and will continue supporting the effective use of land by encouraging large scale projects to locate on previously developed, or lower value land, where possible, and ensure projects are designed to avoid, mitigate, and where necessary, compensate for the impacts of using greenfield sites.

Vision Bolsover

The plan sets out the Council's ambitions to help secure partnership and investment across the Bolsover District. A key priority listed in the plan is to reduce the District's carbon footprint.

BDC Carbon Reduction Plan (2019-2030)

The plan sets out the Council's ambitions for reducing carbon emissions up to 2030. It states: *'We need to reduce our reliance on climate damaging energy... We need to access renewable power such as solar... Our council is committed to this challenge and the principle of carbon reduction.'*

## **ASSESSMENT**

### **Key issues**

It is considered that the key issues in the determination of this application are:

- the principle of the development including loss or agricultural land and benefits of renewable energy
- the impacts on the conservation area and heritage assets
- the landscape and visual impact of the proposed development
- impacts on the amenity of users of public footpaths/bridleways
- the impacts on residential amenity
- traffic impacts and highway safety;
- impacts on biodiversity

These issues are addressed in turn in the following sections of this report:

### **The Principle of Development**

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. Relevant Local Plan policies are listed above in the policy section of this report. However, the most relevant policy regarding the principle of development is policy SC6 'Renewable Energy and Low Carbon Energy'.

Policy SC6 states that development proposals for the generation of renewable energy (except large wind turbines) will be granted unless either individually or cumulatively with other renewable energy development, there would be significant harm to factors including:

- a) the visual appearance and character of the area;
- b) the amenity of local residents, either individually or cumulatively with other renewable energy development particularly from noise, dust, odour, traffic or visual intrusion;
- c) ecology, protected species, sites of biodiversity value, ancient woodland and veteran trees;
- d) harm to the historic environment;
- e) airport radar and telecommunication systems.

SC6 gives significant weight to the wider environmental and economic benefits. However, it states that proposals for large scale photovoltaic solar panels on Grades 1, 2 and 3a agricultural Land will only be permitted under exceptional circumstances. The local plan introduction policy SC6 makes it clear that the Council will support solar farms on lower grade agricultural land, as oppose to policy SS9 'Development in the Countryside' which is silent on the matter.

Criteria a – e of SC6 will be considered below in the relevant sections of this report.

What is important to note at this stage in the assessment, is that whilst significant weight must be given to the wider environmental and economic benefits of renewable energy, it is clear policy SC6 will only allow large scale photovoltaic solar panels on Grades 1, 2 and 3a. Agricultural Land in exceptional circumstances.

Since there will always be wider environmental and economic benefits of renewable energy with every application for a solar farm, it follows that these renewable energy benefits alone cannot be deemed to be exceptional circumstances that would justify a decision to be made contrary to policy. Other material considerations must come into play.

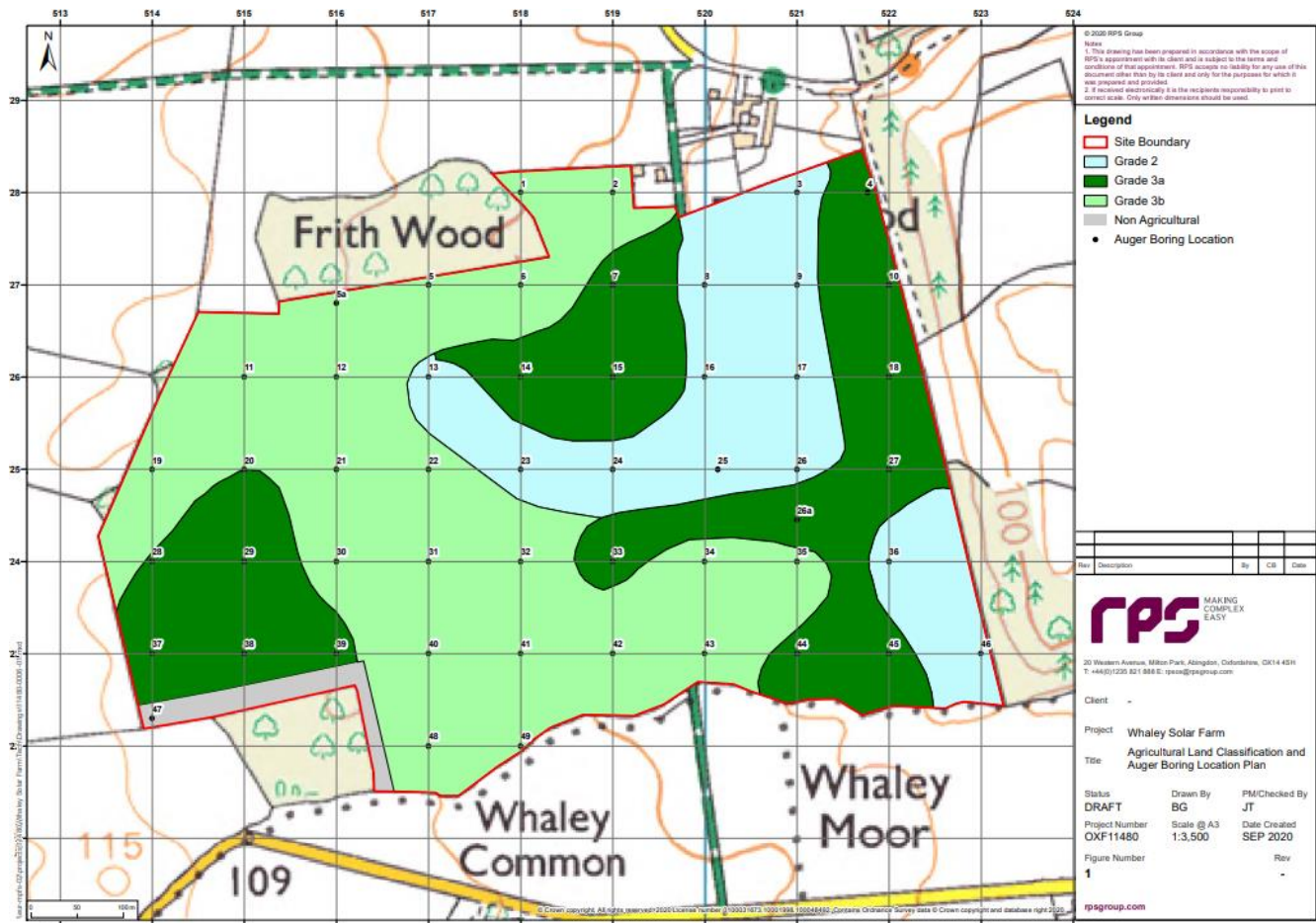
This proposal does require the use of grades 2 and 3a agricultural land and so, on the face of it, the proposal is contrary to policy SC6 unless there are exceptional circumstances. Therefore, this application must be determined by Planning Committee in accordance with the Council's procedures.

With regard to Government planning guidance and policy. The National Planning Practice Guidance (NPPG) explains that where a proposal involves greenfield land, consideration should be given to whether the use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. This approach is also reflected in the Framework, which states where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Framework paragraph 174 requires the economic and other benefits of the best and most versatile land to be recognised in planning decisions. The NPPG also provides a link to the Written Ministerial Statement (WMS) of 25 March 2015 regarding unjustified use of agricultural land and expects any proposal for a solar farm involving BMV to be justified by the most compelling evidence.

Loss of Best and most Versatile Agricultural Land (BVAL)

The site is not brownfield which is the preferred choice for solar farms. It is almost all agricultural land, and whilst the proposals do, in theory, allow sheep grazing to be undertaken and so prevent the total loss to agriculture, this may not happen, and even if it did it would be significantly less productive agriculture than the arable land use now present on site.

The national agricultural land classification map, which is at a very large scale (1:250,000) and produced in the 1960's and 70's shows all of the site to be grade 2 agricultural land. However, the Applicant has submitted a consultant's report which has examined this site in much more detail. It concludes, in relation to the original site area proposed, that 21% of the site is grade 2, 32% of the site is grade 3a and 47% is lower grade land. Hence the original proposal would have involved the loss 53% BVAL or 24.4ha. A plan showing the agricultural land classification is copied below. BVAL is shown blue (grade 2) and dark green (3a). The light green area is not classed as BVAL. This plan shows that the highest concentration of BVAL is situated at the east side of the site.



In order to reduce the loss of BVAL in the proposal the application has been amended by negotiation, to omit all of that land to the east side of the bridleway which crosses north-south through the site.

This amendment has reduced the area of BVAL which would be lost, from approximately 24.4ha to 11ha (by area a reduction from 53% to 24%). Although it should be noted that by

the Applicant's measurements, the new layout results in the partial temporary loss of 8.6 ha (18.6% by area).

Whilst there is a little discrepancy in the measurement of the area of BVAL affected (taking a mid point we could assume that approximately 10ha of BVAL would be affected), the amendment has resulted in a significant reduction in the scale of the impact. However, 10ha is still a significant area of BVAL and so Committee Members must also be satisfied that there are exceptional circumstances to justify approval of the amended proposal.

The Applicant argues that the reasons why it is necessary to use some BVAL are:-

#### Lack of Options for Grid Capacity

The Applicant states that only some sites prove viable from a grid connection perspective. Solar farms require a viable grid connection with sufficient export capacity to export the electricity generated by the solar farm to the wider grid networks. The grid has approximately 300 major substations, but only perhaps some 10% of these are suitable for Solar PV development.

Through discussions with the grid network operator (western power networks) it was determined that the Whitwell, located 3km north of the proposed solar farm, has 25MW of available capacity. Furthermore, a connection date of 2024 is achievable for the proposed solar farm. Other new connections planned for this area of the grid will not be able to export to the grid until beyond 2032 as to facilitate new connections will require planning and upgrading of the grid network.

Other connection options were also considered. Shirebrook Substation (5.5km to the south – see attached file) was ruled out as it had no available connection capacity. The Applicant also looked into the possibility of connecting straight into the 33kv line 2km to the west of the proposed solar farm but they were advised by the Network Operator that the overhead lines in this area had reached their thermal capacity rating allowance (meaning they have reached the allowed number of generators i.e. solar farms connected directly to the overhead line).

The cost of the connecting cable relative to the power generated, and the reduction in efficiency of the scheme due to losses associated with increased cable length are both significant commercial constraints. A radius of 5km from the Whitwell Substation Point of Connection (POC) has been considered in this instance.

#### Land Ownership and Availability

The Applicant states that sites of this scale, are rarely if ever promoted on the open market. Developers and landowners are brought together through complex networks of land agents and direct contacts. In this case, the landowner in question (Chatsworth Estates) controls a lot of land within the 5km radius of the Whitwell connection point. Of the sites that did not have long term tenancies or other legal impediments, the site at Frithwood farm was assessed as having the least environmental impact.

## Other Planning Constraints

The Applicant says that most of the land within the 5km POC is covered by planning constraints restricting opportunities. Of note most of the search area is grade 2 agricultural land.

The Applicant concludes that other sites within 5km of the POC are not known to be available for large scale solar development, and very few areas are free from the usual planning constraints. Those that are not considered to be suitable would have a high visual impact or would impact other receptors in a detrimental way. In this context, the choice and use of the site at Frithwood Farm to utilise the spare capacity at Whitwell Substation can be considered to be SC6 'exceptional'.

## Planning Officer Comments on Agricultural Land

An officer review of spare grid capacity using the National Grid web site for Bolsover District has been undertaken but this search did not locate an alternative point of grid connection which currently has adequate capacity for this scale of solar farm. Only much smaller ones.

If the Council wishes to play a positive role in enabling larger scale renewable solar energy in the District, then until grid connection capacity is improved elsewhere, it is likely that the site will need to be within a reasonable distance from the Whitwell sub-station, which also means the loss of some BVAL is inevitable. This is because all of the land within the District to the east side of the limestone ridge is classed as BVAL on the national agricultural land classification map. It is considered that this could amount to SC6 "exceptional circumstances" to allow large scale solar on a site which partially contains BVAL.

There have been quite a few planning appeal decisions over recent years regarding solar farms and the impact on BVAL. The vast majority (but not all) of these decisions have allowed solar farms on sites where some BVAL has been used.

In the Parsonage Road appeal decision (S62A/22/0000004) 76% of the site is classified as BMV.

Minchens Lane appeal APP/H1705/W/22/3304561 where 53% of the site is classified as BVAL.

Berden Hall Farm appeal (S62A/22/0006), approximately 72% was BVAL

Gunthorpe Road appeal (APP/A2525/W/22/3295140) 100% grade 1 BVAL

Hence the majority of Planning Inspectorate decisions tend to allow the benefits of renewable energy and the need to deal with the climate emergency (as declared by UK Government May 2019) to outweigh the loss of BVAL.

Whilst local plan policy SC6 is very strongly worded in favour of the protection of BVAL (more so than the relevant policies in the appeals referred to above), it is considered that the revisions agreed to the proposal, reducing the amount of BVAL affected to about 20% by site area, are enough to reduce the conflict with policy to a point where the benefits of renewable energy can outweigh the harm and that a refusal on this ground is unlikely to be supported at appeal.

Furthermore, the local plan does not identify any suitable preferred sites for the location of large scale solar farms in the District.

### Other Relevant Policy

Policy SS1 d) of the local plan says that in order to contribute to sustainable development in Bolsover District development proposals should.....promote high standards of low carbon and energy efficient design and renewable energy production where possible and appropriate.

Policy SC2 c) of the local plan says that the Council will permit proposals for new development where it ....supports and promotes the efficient use of energy and resources including renewable energy schemes...

### Conclusions on The Principle of Development and Agricultural Land

Given the proposed connection to the intended substation, and lack of alternatives with grid capacity, it is considered unlikely that a proposal of this size could be located on previously developed land within the search area or entirely avoid the use of some BVAL (without resorting to a contrived site shape that would make parts of the remaining fields difficult to farm practically). To stick rigidly to the wording of policy SC6 could effectively rule out opportunities for large scale solar within the District at present. This would significantly limit the contribution that Bolsover District is able to make towards the Climate Emergency.

Given that one of the overarching aims of the local plan is to encourage renewable energy to help tackle climate change and that the application has been amended to omit the highest concentration of best value land in favour of lower value agricultural land, it is considered that the circumstances summarised above could amount to SC6 "exceptional circumstances" that would allow the development to be acceptable in principle.

### **Impacts on Heritage Assets**

#### Archaeology

It can be seen from the County Archaeologists comments above that the site has significant potential to contain important archaeology. The reduced site area has omitted an area of particular interest and the amount of further investigation work necessary. Although the County Archaeologist would prefer evaluation trenching to be undertaken pre-determination he has accepted that evaluation trenching and subsequent mitigation could be conditioned into any planning consent under para 205.

Given the uncertain planning policy position set out above regarding the loss of BVAL and the uncertain outcome of this application, it is considered that it would be unreasonable to insist that further evaluation trenching is undertaken before a decision is made, since this may incur abortive costs to the Applicant. Therefore it is considered to be appropriate to require that further evaluation trenching is required by condition if planning permission is granted. This work must be done prior to commencement and so may delay the start of work on site.

## Above Ground Heritage Assets

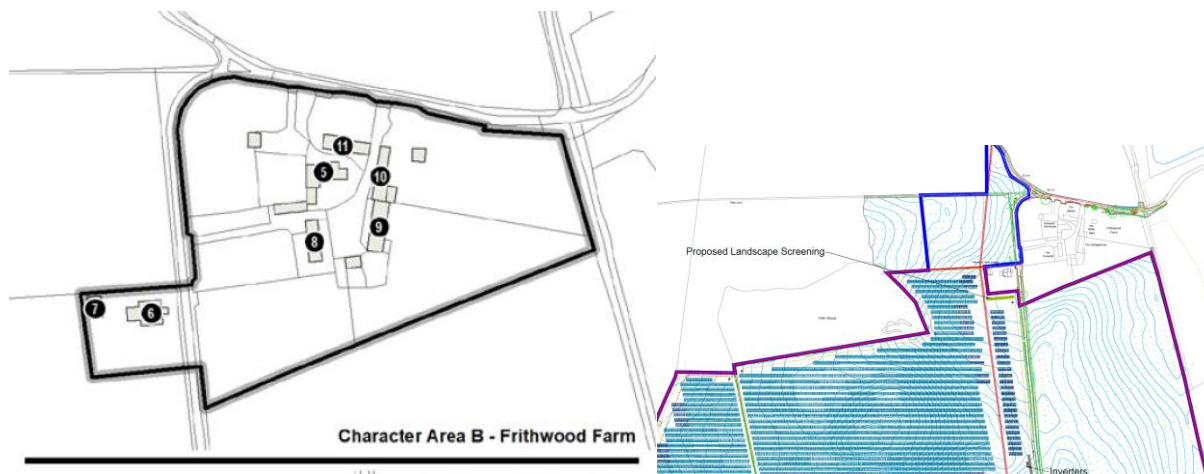
No listed buildings are materially affected by the proposal.

The Applicant has submitted a Heritage Statement which concludes that no designated heritage assets would be physically impacted by any part of the proposed development. There would be 'less than substantial' harm to the significance of a conservation Area as a result of change within its setting, although the harm would be fully reversible due to the time-limited nature of the proposal.

Following consultation with the Conservation Officer the following heritage assets are within the vicinity of the site but are not considered to be affected by the proposals:

- Whaley Farm and The Oaks character area of the Elmton with Creswell Farmstead Conservation Area
- Creswell Conservation Area
- Whaley Conservation Area

However, she advises that there will be an impact on the character and appearance and setting of the Frithwood Farm Conservation Area. This conservation area is located adjacent to the north east side of the site. See plans below.



The amended layout has removed all of the arrays from the south east boundary of the conservation area which has significantly reduced the setting impact that would have resulted from the original proposal. However, the part of the conservation area which extends around Frithwood Farm Cottage at the southwest corner of the conservation is still adjacent to it. The rural setting of Frithwood Farm conservation area will be adversely affected by the urbanising appearance of the large-scale solar farm adjacent to it.

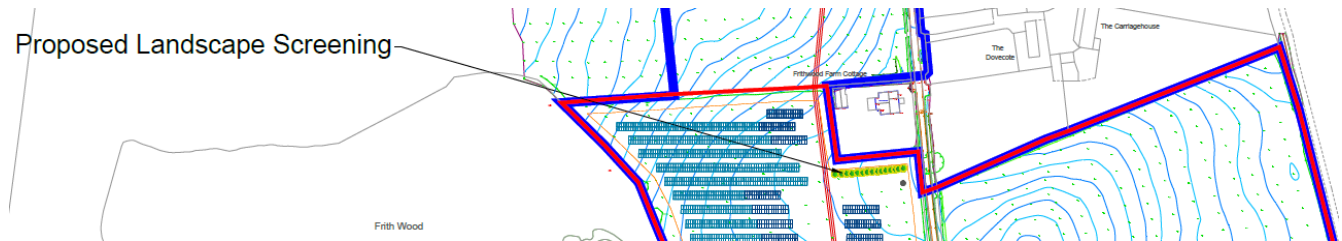
Policy SC16 will allow proposals where they preserve or enhance the character and appearance of the area and its setting. Therefore there is some conflict with policy SC16.

The Conservation Officer advises that the scale and concentration of development in such close proximity to the designated asset will result in harm (considered to be less than substantial, and at the lower end of the scale of harm). In accordance with NPPF guidance



paragraph 202 this harm should be weighed against the public benefits of the proposal.

A small amount of mitigation is proposed by means of screen planting close to the southern side boundary of Frithwood Farm Cottage. This would take some years to mature but would eventually restrict intervisibility between the two sites. This can be required by condition.



Also, the southern boundary of Frithwood Farm Cottages is not its historic boundary. This is because the residential garden boundary was moved southwards (with planning permission) into the adjacent field some years ago i.e. the garden to the south side of the Cottages is larger than it originally and historically was.

### Conclusions on Heritage Impacts

Underground archaeology can be further investigated and recorded by pre-commencement condition.

The proposal will result in harm (considered to be less than substantial, and at the lower end of the scale of harm) to Frithwood Farm Conservation Area. In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal.

Whilst there is a statutory duty which requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area”, it is considered that the benefits of large scale renewable energy production must be given very significant weight which is a public benefit capable of outweighing the potential harm caused.

### **Landscape and Visual Impact of the Proposed Development**

The application is accompanied by landscape and visual impact assessment (LVIA). It relates to the layout as originally proposed rather than the reduced site area as amended, and so the impacts reported in that assessment will now also be reduced.

The following landscape character effects of the initial layout proposed are predicted in the LVIA:-

*“The proposed solar park will be located within the Limestone Farmlands LCT. The host LCTs is considered to have Low to Medium sensitivity to the Proposed Development.*

*Construction of the Proposed Development will involve negligible intrusive works for a relatively short period (about 24 weeks although not at the same intensity for the entire time); no large cranes or plant will be required. The magnitude of direct, temporary impact on*

*landscape character attributable to construction is assessed as Small. The significance of temporary construction effects on the host LCT is judged to be Negligible to Minor adverse, which is not significant.*

*During operation the magnitude of direct impact on the Limestone Farmlands LCT is assessed as Negligible beneficial and reversible, which taking account of the LCT Low sensitivity will result in Neutral to Minor beneficial / positive significance of landscape character effects, which is not significant.*

*Regarding the Application Site's physical features, bearing in mind that the Low sensitivity hedgerows and trees will be retained and enhanced, and the intensively farmed arable land below the solar panels converted to species rich / wildflower grassland, the direct landscape impact will be Small beneficial magnitude and positive for the duration of operation of the Proposed Development and potentially beyond. The significance of the landscape effects is judged to be Minor beneficial / positive (not significant) in the long term."*

The following visual effects are predicted in the submitted LVIA from representative viewpoints:-

*Viewpoints 7 and 8, are located along the PRow that runs within the Proposed Development. Viewpoints 1, 2, 4 and 9, located within 245 m of the Application Site and Viewpoints 3, 5 and 10 that are slightly more distant (within 470 m). Viewpoints 6 and 11 are located within 700 m from the Application Site.*

*Views obtained by high sensitivity recreational users of PRow Bolsover BW38 and Elnton BW9, located immediately to the south and within the Proposed Development respectively will largely have views of the Proposed Development screened by existing hedgerows. Views obtained by users of close proximity PRow's Elmonton BW6 and Bolsover FP49 will be affected by construction to varying degrees. Effects on all of the above PRow's during construction would be Minor to Moderate adverse which is not significant.*

*At winter Year 1, views of the Proposed Development will have a slightly reduced visual impacts than during construction, however the magnitude of change would remain Small for all four of the PRow's (detailed above) at completion. Effects will be reduced to Negligible by summer Year 10 and effects would be Minor adverse which is not significant for all four of the PRow's.*

*Views obtained by vehicle users on Mag Lane, the lane (unnamed) located to the south of Mag Lane and Oxpasture Lane will be affected by construction to varying degrees. Given the fleeting nature of views available in combination with partial screening of low-level views and Low receptor sensitivity, effects would be Negligible to Minor adverse at construction, winter Year 1 and summer Year 10 which is not significant.*

*Medium sensitivity cyclists traveling along the Poulther Greenway (running through the Application Site and along Mag Lane) will experience Moderate adverse effects during construction. By summer Year 10 effects will be Negligible to Minor which will be not significant. In addition, medium sensitivity cyclists traveling along the Creswell Frithwood Trail and Archaeological Way will experience Negligible to Minor adverse effects during construction, winter Year 1 and summer Year 10.*

*Representative Viewpoints 1, 2 and 4, located on Mag Lane include Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Minor and Moderate adverse temporary effect during construction, which is not significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effects will be Minor and negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoint 3, located on Oxpasture Lane includes Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Minor and Moderate adverse temporary effect, during construction, which is not Significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Minor adverse which is not Significant in the long term.*

*Representative Viewpoint 5, is located on elevated ground to the south-west of the Application Site along PRow Elmton BW9. High sensitivity users of PRow will experience Minor to Moderate adverse effect, during construction, which is not significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Minor adverse which is not significant in the long term.*

*Representative Viewpoints 6, located on Whaley Road includes Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Negligible to Minor and Minor adverse temporary effect, during construction, which is not significant. The establishment of the proposed landscape mitigation will slightly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoints 7 and 8, located within the Proposed Development and along PRow Elmton BW9 include High sensitivity recreational users of the PRow and Medium sensitivity cyclists. PRow users will experience Major adverse visual effects which is significant and cyclists Moderate adverse effects, which is not significant during construction. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts associated with the visibility of the solar panels for receptors at Viewpoint 7 and on balance, by summer Year 10 the residual visual effect will be Minor adverse visual effects for PRow users and cyclists which is not significant. However, receptors at Viewpoint 8 will only experience slightly reduce visual impacts by summer Year 10 as this viewpoint is located at a field gate where views will remain more open, on balance, by year 10 the residual visual effect will be Moderate adverse visual effects for PRow users and cyclists which is not significant in the long term.*

*Representative Viewpoints 9 and 11, located along Cresswell Frithwood Trail and Archaeological Way include Medium sensitivity cyclists that will experience Minor adverse temporary effect during construction, which is not Significant. The establishment of the proposed landscape mitigation will reduced adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoint 10, located to the north-west of the Application Site along PRow Elmton BW6 will experience Minor to Moderate adverse temporary effect during construction, which is not significant. The establishment of the proposed landscape mitigation reduced adverse visual impacts. On balance, by summer Year 10 the residual visual effect will be Minor adverse which is not significant in the long term.”*

No significant cumulative visual effects with other planned solar farms are predicted in the LVIA.

The submitted LVIA and the proposal itself has been reviewed by the Urban Design Officer (who also has a Landscape Architecture qualification). Her comments relate to the scheme as originally submitted. She advises that the LVIA has been undertaken in accordance with the Landscape Institutes 'Guidelines for Landscape and Visual Impact Assessment' (GLVIA3), April 2013, and that, in broad terms, she agrees with its findings.

However, she makes several recommendations to further reduce the visual impacts. These include:-

- Widening scrub planting to woodland edges up to 15m around ancient woodland.
- Creating a wider buffer to the northern edge of woodland. 15m rather than 5m in line with ecology officers' comments.
- Widen hedge/scrub planting offset slightly from fence to reduce magnitude of views and soften edge to settlement boundary.
- Provide more tree groups on south side of the central E-W hedgerow to reduce impact on views of upper slope and ridge.
- Soften vertical up and down runs of hard-edge lines of Arrays.
- Widen and improve the link between the two woodlands to create habitat/wildlife links.
- Review opportunity to relocate inverters away from public right of way to reduce impact on users of PROW and multiuser trail.
- Check root protection zone around existing mature trees on southern boundary where track lies close to hedge.

She advises that, in her view, provided improvements are made in the detailed layout and additional attempts to soften the edges are made, that the solar farm can be mitigated within the landscape. The design is sensitive to existing field patterns and enhances the existing hedges and trees within the area.

The Applicant has indicated that the suggested changes are acceptable in principle, however, at the time of writing this committee report, a detailed response from the Applicant and a revised landscape masterplan, was awaited on the extent to which the changes sought above are agreed.

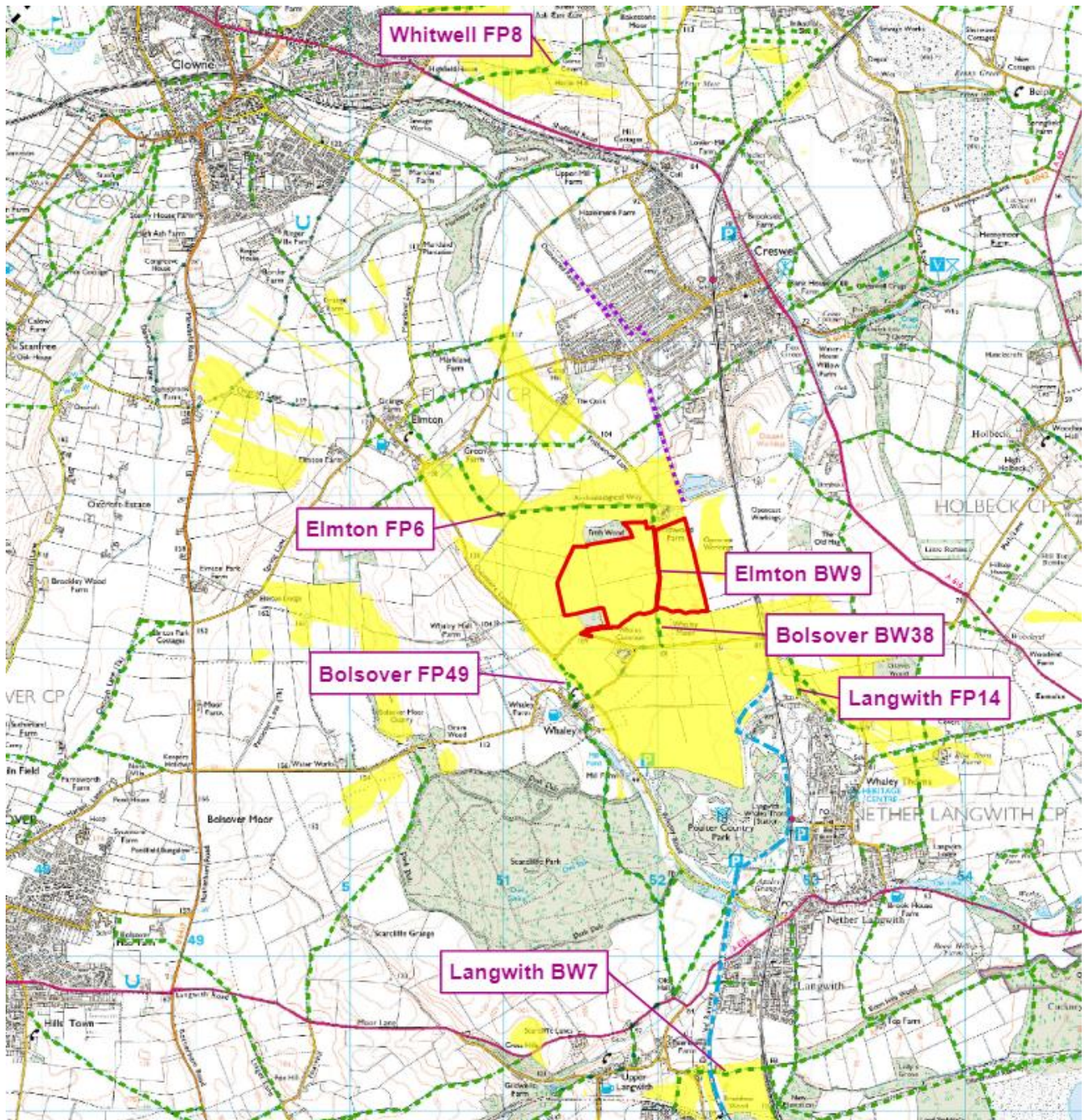
Committee Members will be updated on this issue on the supplementary update report.

### **Impacts on Rights of Way**

A plan showing public rights of way (green dashed lines) and the zone of theoretical visibility (shaded yellow) is shown below. The zone of theoretical visibility accounts for landform but not topographical features such as trees, hedges, houses etc so in practice the true zone of



visibility will be much less.



Elmonton BW9 Bridleway/Bolsover BW 38 runs north/south through centre of the site. This is also part of the Poulter Greenway a key cycle route which runs along the Bridleway. The path links with Elmonton FR6 which continues northwest from Frithwood Farm to Elmonton. Bolsover BW 49 runs from Whaley to Mag Lane south of the site. The Frithwood trail also links in from Creswell to Frithwood Farm and links to public footpaths through the site.

The bridleway transecting the site is also part the Archaeological way an 11-mile trail between Pleasley Pit Country Park and Creswell Crags. This section of the Archaeological way is a



key diversion into open countryside between Nether Langwith and Creswell.

An photo of hedgerow lined BW9 heading south is shown below.



The Ramblers Association accept that the routes of the existing paths will not be affected by the proposal but they object to the proposal from an aesthetic public enjoyment point of view.

The DCC Rights of Way Officer does not object as such but advises that the visual impact of the proposed development on the users of these routes must be seriously considered when making a decision on these proposals. For Elmton BW 9, there would, at the very least, be a change from seeing open fields through gaps in the hedgerow, or over the top of the hedgerow, to only really seeing hedgerow with some views of solar panels. The proposal to allow the hedges at the side BW9 to grow and be maintained at 3m height means a less open perspective from the bridleway which may affect users' enjoyment of the route.

Council for the Protection of Rural England also object on grounds including impact on users of the rights of way.

The Urban Design/Landscape Officer considers that the proposed solar farm will have limited effect on views from surrounding footpaths, except for the direct and very instantaneous views through the occasional gap and field gate in the hedges at the side of the bridleway.

These hedges are mature and high enough to screen views in general.

### Conclusions on Rights of Way

The proposal does not interfere with the route of any of the existing rights of way which are all retained. As such it is considered that the proposal complies with policy ITCR3.

Impacts on views from more distant routes are not considered to be significant.

Now that the proposed layout has been amended, and all of the proposed solar arrays removed from the fields to the east side of the bridleway, it is considered that the amenity impacts on users of the adjacent route will be significantly reduced. Instead of passing through a solar farm, RoW users will pass adjacent to it. Given the presence of existing mature boundary hedgerows, the remaining visual/amenity impact on walkers and cyclists will be limited to glimpses through field gates and gaps in the hedgerow. The solar arrays may be more visible over the top of hedges to riders on horseback, but proposals to allow the hedgerows to grow to 3m should also limit the visual impact on horse riders.

The downside to raising the height of the hedge from 2m to 3m is greater enclosure which will have some impact on the character of the route but on balance it is considered that this suggested mitigation is preferred.

The area is currently very tranquil at present and the location of one of the inverters half way down the site and adjacent to BW9, will be noticeable because they make some noise during the day (although much less than wind turbines). This will also have some adverse impact on the pleasant tranquillity of the route. However, the amended proposal has reduced the number of inverters adjacent to BW9 from 4 to 1. And so this effect should only be temporary when passing the one inverter.

Overall, the adverse visual and noise impacts on rights of way users is considered to be moderately adverse but outweighed by the benefits of renewable energy.

### **Residential Amenity**

Policy SC6 states that development proposals for the generation of renewable energy (except large wind turbines) will be granted unless either individually or cumulatively with other renewable energy development, there would be significant harm to factors including.....  
b) the amenity of local residents, either individually or cumulatively with other renewable energy development particularly from noise, dust, odour, traffic or visual intrusion.

Policy SC11 'Environmental Quality (Amenity)', states that developments likely to cause loss of amenity through light, noise, dust, odour or vibration, or loss of privacy must be supported by a relevant assessment. If necessary, mitigation must be put in place. A significant loss of amenity must not occur through the construction or operation of the development.

### Noise

Noise will occur during construction (up to 24 weeks but likely to be less due to the reduced site area as amended), and during the operational phase.



Noise sources during operation of the solar farm result from the inverters, transformers and sub-station.

However, as amended, the closest inverter to Frithwood Farm Cottage is 280m away, and the closest to dwellings at Whaley Common 300m away.

The Applicant has submitted a Noise Impact Assessment. It concludes that the BS4142 estimate of impact indicates that no adverse impacts are likely to occur at any of the noise sensitive receptors (dwellings) considered within the assessment. The operation of the solar farm would result in low specific sound levels at noise sensitive receptors and the rating levels would not exceed the background sound level at all times.

The Environmental Health Officer has been consulted on the noise assessment and, at the time of writing this report, additional information was awaited from the Applicant regarding noise from the inverters, in particular the amount of noise they make early in the morning when light levels are low.

Committee members will be updated on this issue in the supplementary update report.

Also, the submitted noise assessment doesn't address noise during construction. This will only be temporary but given the presence of bedrock close to the surface there is potential for temporary noise impacts from construction and pole driving activities for the panel mounts. Therefore, a condition requiring a construction management plan, including the submission of a noise report and mitigation methods to cover the construction phase, is considered to be necessary.

#### Dust

It is considered that dust is unlikely to be a material factor to this decision. Dust during construction can be dealt with in the construction management plan to be required by condition. Otherwise for 40years the proposed use is likely to result in a reduction in dust relative to arable farming.

#### Odour

No impact likely.

#### Traffic

See the Traffic and Highway Safety section of this report below.

Traffic impacts on amenity enjoyed at individual dwellings is considered to be very unlikely to be material.

#### Visual Intrusion

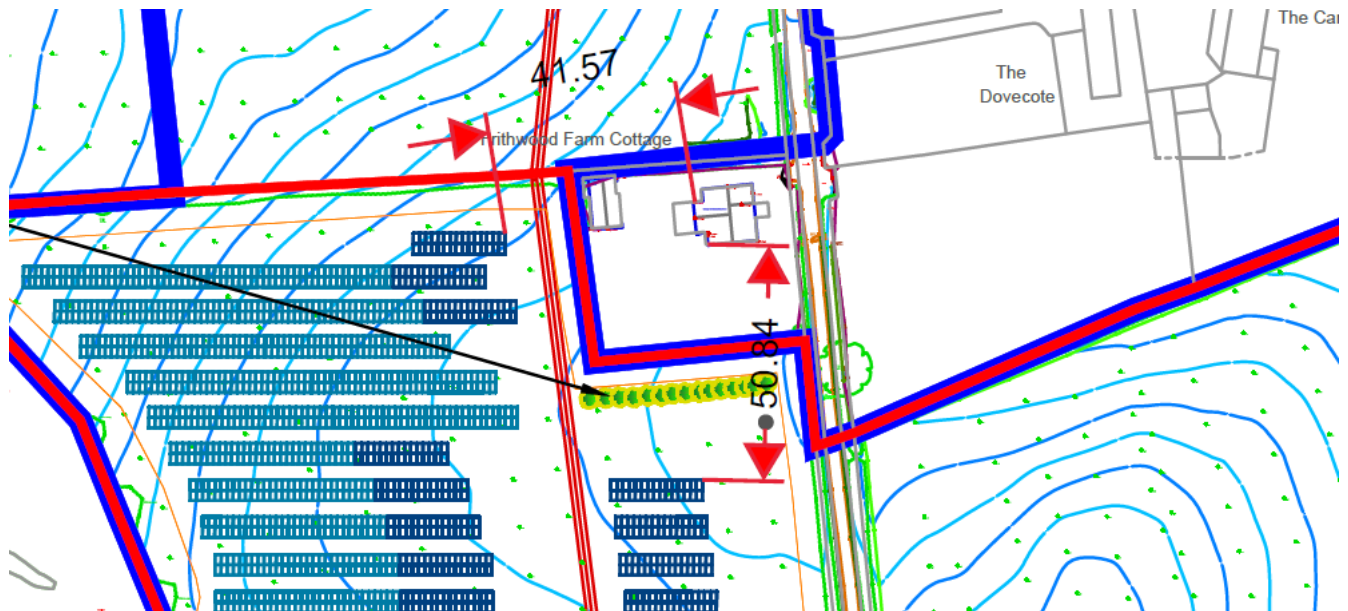
It is considered that the main, impact on residential amenity caused by the visual impact of the proposal would occur at Frithwood Farm Cottage. Solar arrays would be sited on two sides of it and the residents of that dwelling object.

They say that:

*"The solar site will abut directly on two sides of our property changing the views from their current aspects of open countryside and replacing these views with an industrial view of large*

*photovoltaic cells, a number of substations, chain link fencing and potentially intrusive CCTV cameras; all causing substantial detriment to rural amenity.”*

It is considered that the proposal will have an impact on the rural character of the land adjacent to this property to the south and west sides. However, there will not be any overbearing or loss of light impacts because the arrays are only 3.2m high and are proposed to be sited approximately 40m distant to the west of that dwelling and 50m to the south.



The garden to Frithwood Farm Cottage is relatively large and additional screen planting by way of a new hedge with hedgerow trees is proposed to the side of it which will reduce intervisibility.

There is no such thing as a right to a view and as far as material planning considerations go impacts on views from private property is not a significant issue because it is a private matter rather than a matter of public interest. Planning decisions must be made in the public interest.

It is only where amenity and living conditions would also be affected in some other more direct way, such as loss of light, overlooking or where a development is overbearing (not the case here) that significant weight can be given to the visual impacts.

With regard to privacy any CCTV cameras will need to point away from dwellings. This can be controlled by condition.

For similar reasons any impact on views from other private dwellings on the former Frithwood Farm complex and impact on view from private dwellings at Whaley Common are not material planning considerations.

#### Conclusions of Residential Amenity

No impacts have been identified on amenity enjoyed at existing dwellings that could warrant the refusal of planning permission. (Provisional, subject to noise info update)

## **Traffic Impacts and Highway Safety**

As set out above in the Proposal section of this report the site access will be taken from an existing access track at the south-western end of Mag Lane and the designated routes for all construction vehicles associated with the construction period is to turn east along Mag Lane, over the Norwood Crossing, A616, A60, A619.

The applicant expects between 30 – 60 two way construction staff trips per day plus an average of 3 deliveries per day over the construction period. This has been estimated to range between 16-24 weeks.

Traffic during the operational period is not significant. This would typically be up to two maintenance visit per month comprising a small van or car.

The County Highways Officer has no objections subject to conditions regarding the provision of the approved access, parking and turning facilities on site; and HGV routing and management to be as per route one identified in the Construction Traffic Management Plan (CMTP).

Subject to the conditions as recommended, it is considered that there are no highway safety or traffic capacity issues such as to warrant the refusal of planning permission.

## **Biodiversity and Ecology**

The submitted Ecology Appraisal and Biodiversity Net Gain Assessment indicate that the proposed landscaping and biodiversity enhancement measures will secure the scheme's +230.83% for habitats and +32.75% for hedgerows net biodiversity benefit.

These supporting documents relate to the application as originally proposed. The reduced site area, as amended, means that the above estimates will not be accurate and the biodiversity net gain will probably be less than stated because there is less site area to enhance. However, the amendment development will have less impact on badgers as more activity was recorded on the eastern half of the site.

Natural England has largely welcomed the proposals from a biodiversity point of view. They welcome the proposed biodiversity enhancements proposed. They advise that the inclusion of a wildlife buffer around the perimeter of the proposed development will enable the creation of a nature corridor which will be beneficial for many flora and fauna species. Resultantly, reducing the likelihood of isolated and fragmented habitats and provide a biodiversity pathway to the nearby areas of existing woodland. The planting of additional trees as well as species rich grassland and wildflower meadows throughout the site will also provide a valued resource for flora and fauna.

Derbyshire Wildlife Trust are also happy with the proposals in general, although they have requested that some revision to the proposals is made to mitigating for skylarks.

It is considered that this can be incorporated into the requirements of a condition requiring a Landscape and Biodiversity Enhancement and Management Plan.

The Wildlife Trust also advise that a 15m boundary should be maintained between the Ancient Woodland edge and any development to safeguard the woodland, and that currently, it appears that the ecological buffer zone adjacent to the woodland is only 5m.

At the time of writing this report a response from the Applicant was awaited on the issue of the size of the buffer needed to the Ancient Woodland. Committee members will be updated on this issue in the supplementary update report.

## **OTHER PLANNING CONSIDERATIONS**

### **Impacts on airport radar**

Policy SC6 e) requires that for proposals for the generation of renewable energy, consideration be given to any significant impact on airport radar systems. No such impacts are expected in this case.

It is possible that reflections of the sun causing glint could be noticeable to aircraft pilots, but the proposed panels are to have an anti-reflective coating which should mitigate the effect on aircraft.

### **Glint and Glare**

It is considered to be appropriate to require a glint and glare assessment and mitigation scheme by planning condition. This is to ensure that no unacceptable reflections adversely affect amenity.

### **Surface Water Drainage**

The DCC Flood Risk Team has no objections subject to conditions. Therefore, it is considered that disposal of surface water does not constitute a significant constrain to the proposed development.

### **Soil Management**

The DCC Flood Risk Team and Natural England advise that procedures should be put in place to manage soil quality. This will aid drainage and prevent a deterioration in the quality of the land such that it can be fully restored to agriculture on decommissioning. A condition to this effect is recommended.

A consequence of this is the site compound is proposed to be on the southern boundary. This is because it is close to the access point so that HGVs don't have to travel further into the site causing unnecessary soil compaction. This does mean that the construction compound will be on the southern boundary and visible from Whaley Common. The separation distance from the proposed compound to Whaley Common is approximately 160m. Noise impacts can be mitigated by means of a condition controlling construction management.

### **Crime**

The Police recommend a condition requiring a scheme of security measures to be agreed. They advise that thefts from solar farms nationally are on the increase. A condition is recommended below.

### **Property Value**

Comments in representations about loss of property value are noted. However, this is not a

material planning consideration and so cannot be taken into account.

## **CONCLUSION / PLANNING BALANCE**

Consideration has been given to the key issues affecting the acceptability of this proposal for a solar farm. These include:-

- the principle of the development including loss or agricultural land and benefits of renewable energy
- the impacts on the conservation area and heritage assets
- the landscape and visual impact of the proposed development
- impacts on the amenity of users of public footpaths/bridleways
- the impacts on residential amenity
- traffic impacts and highway safety;
- impacts on biodiversity

Local plan policy SC6 'Renewable Energy and Low Carbon Energy' is fundamental to this decision. SC6 allows solar farm development on agricultural land, but only allows large scale solar farms on Grades 1, 2 and 3a agricultural Land (BVAL) under exceptional circumstances. This application has been significantly amended to omit the area of the site with the highest concentration of higher grade (2 and 3a) agricultural land, but the proposal still includes about 20% by area (about 10ha) of BVAL. Therefore, Committee Members should be satisfied that there are exceptional circumstances to justify approval.

Given the proposed connection to the intended substation, and lack of alternative substations in the District with grid capacity, it is considered unlikely that a proposal of this size could be located on previously developed land within the search area or entirely avoid the use of at least some BVAL. The majority of land in range of the grid connection point is BVAL and so to stick rigidly to the wording of policy SC6 could effectively rule out opportunities for large scale solar within the District at present. This would significantly limit the contribution that Bolsover District is able to make towards the Climate Emergency.

Given the lack of grid connection options and that one of the overarching aims of the local plan is to encourage renewable energy to help tackle climate change, and that the application has been amended to omit the highest concentration of BVAL, it is considered that these circumstances could amount to SC6 "exceptional circumstances" that would allow the development to be acceptable in principle.

The level of potential impacts identified in the key issues listed above and other technical issues are not so harmful as to justify the refusal of planning permission because the public benefits associated with large scale renewable energy production are considered to outweigh the harms.

Conditions are recommended to mitigate the impacts where appropriate.

## **RECOMMENDATION**

**The application be APPROVED subject to the following conditions (subject to minor wording revision being delegated to the Assistant Director of Planning and Planning**

## **Policy):-**

### **1. Time Period for Commencement**

The development shall be begun before the expiration of three years from the date of this permission.

### **2. List of approved plans**

including, inter alia, Revised Site Layout Plan 1146 - WHALEY 004 REV A

### **3. Temporary Permission**

Within 1 month of the date of first export of electricity, confirmation shall be given in writing to the local planning authority of the date of first export to the Grid. The development hereby permitted shall cease on or before the expiry of a 40-year period from the date of the first export of electricity and the local planning authority shall be notified of the cessation of electricity generation and storage in writing no later than 5 working days after the event. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work (the Decommissioning Scheme).

### **4. Decommissioning Scheme**

A Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority no later than 6 months prior to decommissioning and shall include provision for the dismantling and removal from the site of the solar PV panels, frames, any foundations, inverter housings and all associated structures, underground cabling, storage facilities and fencing and security measures. The decommissioning shall be carried out strictly in accordance with the approved scheme.

### **5. Early Decommissioning**

In the event the site ceases to generate and store electricity for supply to the electricity grid network for a period of 12 months, an Early Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority, no later than 3 months from the end of the 12-month period. The scheme shall include the same provisions referred to in Condition 4 and the decommissioning shall be carried out strictly in accordance with the approved scheme.

### **6. Updated Badger Survey**

Prior to the commencement of development, including other intrusive site surveys and preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken and the results and any appropriate mitigation/licensing requirements and programme of implementation shall be submitted to the Local Planning Authority for consideration and approval. Such approved measures must be implemented in full.

### **7. Construction Environmental Management Plan (CEMP: Biodiversity)**

No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on the recommendations in the Ecological Appraisal (RPS, June 2022 - but as relevant to the amended development area on the revised site layout plan 1146 - WHALEY 004 REV A) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction and cable laying to habitats and protected species, including trees, hedgerows, badger, bats, brown hare, nesting birds and herpetofauna.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

#### 8. LBEMP

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the submitted Biodiversity Metric (RPS 21/11/22 - but as relevant to the amended development area on the revised site layout plan 1146 - WHALEY 004 REV A) and to achieve no less than a +230.83 % net gain (*subject to amendment for revised site area*). The LBEMP shall combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 40-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25, 30, 35 and 40 years.
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Details of habitat enhancements for wildlife, including bat and bird boxes.
- j) A clear plan of fencing gaps for badger and brown hare.
- k) A clear plan of skylark plots and mitigation measures.
- l) Requirement for a statement of compliance upon completion of initial planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management



body(ies) responsible for its delivery. The approved plan must be implemented in accordance with the approved details.

#### 9. Archaeology

a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording

2. The programme for post investigation assessment

3. Provision to be made for analysis of the site investigation and recording

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation

5. Provision to be made for archive deposition of the analysis and records of the site investigation

6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

#### 10. Glint and Glare

Prior to the commencement of development, a Glint and Glare Assessment shall be undertaken by an appropriately qualified/experienced person, to assess the impacts of solar glint and glare on the amenity of nearby dwellings and on aircraft, and shall have been submitted to the local planning authority for consideration and approval. The assessment shall include any mitigation measures necessary to deal with any unacceptable adverse impacts identified. Any mitigation measures included in the approved assessment shall be implemented prior to installation of the relevant arrays and shall thereafter be maintained.

#### 11. Construction Management Plan (Amenity)

Prior to the start of construction, a construction management plan must have been submitted to and approved in writing by the Local Planning Authority. This must address:-

- Noise, dust and vibration management (with appropriate mitigation measures and monitoring regime;
- Working hours for noise generating activities;
- Locations of any stockpiles, storage compounds, unloading areas and areas for parking of site operatives;
- Method of prevention of debris being carried onto highway including wheel wash facility;

The approved plan must then be implemented throughout the construction of the development.

### 12. Construction Working Hours

For the duration of the construction and decommissioning periods, noise generating construction and deconstruction activities and deliveries received at or despatched from the site, shall only occur between the hours of 0800- and 1800-hours Monday to Friday, 0800- and 1330-hours on Saturday and not at all on Sundays and Bank Holidays other than with the prior written approval of the local planning authority.

### 13. Drainage Conditions

1. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. RPS, Revised FRA and Sustainable Drainage Strategy, ref: HLEF82417, ver-3, 27- March 2023 and including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.
- b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

14. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

15. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

16. Prior to the commencement of the development, a soil management plan must be submitted to and approved by the Local Planning Authority. Soil infiltration rates can vary widely depending on ground conditions such as soil compaction and ground cover. A soil management plan must demonstrate how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning.

17. Before the development is brought into use, a verification report, carried out by a qualified drainage engineer, must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

### 18. Highways

The development hereby approved shall not be brought into use until the site access, access track, parking and turning facilities have been provided, all as shown on the approved drawings contained within the Transport Assessment and the Construction Traffic

Management Plan.

#### 19. Construction Traffic

All construction traffic shall use the agreed route 1 option identified in the Construction Traffic Management Plan and Transport Assessment and all measures identified within the Construction Traffic Management Plan to mitigate the impact of construction traffic on the highway network shall be implemented. Written records must be kept to evidence compliance with the Construction Traffic Management Plan which must be made available to the Local Planning Authority on request.

#### 20. External Materials

Unless a dark green external finish is proposed, prior to their provision on site, the details of the external colour(s) of all buildings including the inverter/transformer stations, substation, string combiner boxes and any storage units and other any ancillary equipment, shall be submitted to and approved in writing by the Local Planning Authority. The approved detail shall be implemented and maintained.

#### 21. CCTV and Security

Fully details of the CCTV cameras and security measures for the site shall have been submitted to and approved in writing by the Local Planning Authority before the solar farm is brought into use. Thereafter the approved security measures shall be implemented. The CCTV security cameras to be used on site must be infra-red cameras as proposed and there must be no standard lighting within the site at night-time unless an exception to this has been approved in writing by the local planning authority and fully justified by details of luminance and fields of illumination.

#### 22. Screen Planting

Before the development is brought into use, the screen planting shown on the approved site layout plan 1146-WHALEY-004 Rev A, shall have been implemented and shall be maintained thereafter for the life of the development.

#### 23. Cabling

All cabling (with the exception of that connecting between solar arrays) shall be installed underground.

### **Equalities Statement**

*Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e., “the Public Sector Equality Duty”).*

*In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.*

### **Human Rights Statement**

*The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to*

*planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).*

*It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.*

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