PLANNING COMMITTEE – 6th November 2025 **PART 5**

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

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Planning Inspectorate

Appeal Decision

Inquiry held on 5 August 2025

Site visit made on 6 August 2025

by Mr Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st September 2025

Appeal Ref: APP/V2255/W/25/3360089
Land on either side of Vigo Lane and Wrens Road, Sittingbourne, Kent, ME9 8LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Industria Solar Vigo Ltd against the decision of Swale Borough Council.
- The application Ref is 23/502210/FULL.
- The development proposed is construction of a solar farm together with a control building, switch room, substations and compound, point of connection equipment, storeroom, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements.

Decision

1. The appeal is allowed, and planning permission is granted for the construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, storeroom, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements on land either side of Vigo Lane and Wrens Road, Sittingbourne, ME9 8LA in accordance with the terms of the application, Ref 23/502210/FULL, and the plans submitted with it, subject to the conditions contained in the attached Schedule of Conditions (Annex A).

Preliminary Matters

2. Following the submission of amended plans (Option 2), public consultation by the appellant and no objection by the local planning authority (lpa), I confirmed, at the inquiry, that the appeal would proceed on the basis of Option 2. The Option 2 amendments include, moving panels away from the site boundaries, a partial reduction of the site boundary, reorientating panels, widening public footpaths, removing panels from Fields 5 and 6 to the east of Wrens Road and extra landscaping. This ruling is based on my conclusion that the amendments meet the substantive and procedural tests set out at S16 of the Procedural Guide: Planning Appeals – England September 2024 and that no party would be prejudiced by determining the appeal on this basis.

3. The lpa's position is that planning permission should be granted for the proposed development in its revised form, Option 2. The lpa did not produce evidence to substantiate the reasons for refusal (RfR). The lpa's participation in the inquiry was confined to an opening statement and the roundtable on conditions.

4. Further to Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017), this development is not an Environmental Impact Assessment (EIA) development. This conclusion is consistent with one made by the lpa.

Main Issues

5. These are, (1) the landscape and visual impact of the proposal, and (2) the effect on the supply of agricultural land.

Reasons

6. The development plan for the area is Bearing Fruits 2031: The Swale Borough Local Plan (LP) adopted July 2017.

Landscape and Visual Impact

7. LP Policies ST 1 and DM14 seek to ensure that development conserves and enhances the natural environment. The site sits immediately beyond the M2, which forms the southern boundary of the Kent Downs National Landscape (KDNL) and sits within its setting. Consistent with LP Policy DM 24, Framework paragraph 189 says that development within the setting of a National Landscape should be sensitively located and designed to avoid or minimise adverse impacts on that area.

8. The KDNL is an extensive area, the special components and characteristics of the landscape include dramatic landforms and views that create a distinctive landscape character and tranquillity and remoteness. The KDNL Joint Advisory Committee published an updated Setting Position Statement in 2024, which lists examples of adverse impacts development might have on the setting of the KDNL. These include significant impact on views in or out of the KDNL, loss of tranquillity through the introduction or increase of lighting, noise, or traffic movement, introduction of abrupt change of landscape character, and loss or harm to heritage assets and natural landscape. These matters align with the KDNL Management Plan 2021-2026.

9. The Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document 2011, locates the site within the Tunstall Farmlands Landscape Character Area (LCA). This LCA is an extensive area to the south of the Sittingbourne and straddles the M2. That part of the LCA to the south of the M2 lies within the KDNL. Key characteristics for this LCA consistent with the character of the site and the land to the south of the M2 are, areas of traditional orchard lost to agricultural intensification, fragmentation of hedgerows along lanes, internal field boundaries lost with enlargement of field sizes, narrow winding lanes and noise and pylons associated with M2 detracting from tranquillity.

10. Following a review of the landscape evidence, I have no reason to disagree with the following conclusions. These are, the value of the site and surrounding landscape north of the M2 is Medium, the value of the KDNL south of the M2 is High, the susceptibility and sensitivity of the site to change is Medium. The magnitude of effect on the landscape character of the site would be Medium albeit the effects would be highly localised. At Year 1, the effect on landscape character would Moderate Adverse. As the proposed hedgerow screening matures, Year 15 and beyond, the landscape effect would reduce to Slight Adverse.

11. On landscape impact, 3 factors are pertinent. First, the landscape impact would be temporary, and after decommissioning the agricultural landscape would be restored. Secondly, the current open arable landscape is the result of an increased emphasis on intensive arable farming. This emphasis has resulted in

the wholesale removal of hedges from a landscape that was traditionally a tight network of enclosed orchards and fields. Thirdly, surrounding the arrays with hedge and tree planting would be consistent the guidelines for the Tunstall Farmlands, which seek opportunities to diversify and restore hedgerows, recreating a more enclosed landscape,

12. Relevant views from the KDNL are from public footpath (FP) ZR137 to the north of the M2 (VP 16), Deans Hill (VP 7 & Photomontage 7) and Vigo Lane south of the M2 (VP15). From Deans Hill, parts of the site are visible in the context of a busy motorway and a backdrop that includes groups of large agricultural buildings, a row of pylons, wind turbines and the built-up edge of Sittingbourne. Where visible the arrays would be seen as narrow band in this already compromised landscape. Existing planting along the M2 margins would break up the appreciation of the arrays and as the planting along the southern boundary matures, views of the arrays would be materially reduced. From here, the visual impact of the scheme would be Slight Adverse. For users of FP ZR137 to the south of the M2 (VP16), views of the site are again limited by planting along the M2. At Year 1 the effect on the view would be Slight Adverse reducing to Negligible as the proposed planting matures. From Vigo Lane (VP 15), this is a glimpsed view at one point on a well hedged narrow road where opportunities to stop are limited. In this context, the assessment of a Medium to Low Adverse effect at Year 1 reducing to Slight to Moderate Adverse as the planting matures is reasonable.

13. Views into the KDNL from north of the motorway are largely confined to FPs ZR137, ZR138, Vigo Lane, ZR134 and Wrens Road (VPs 3 and 4). From these locations, whilst the arrays would be prominent in close views at Year 1 and progressively screened as the planting matures, they would sit below the rising ground within the KDNL resulting in localised Moderate Adverse effects at Year 1 reducing to Slight to Moderate as the planting matures.

14. Given the above impacts would be temporary, albeit for 40 years, the adverse landscape and visual effects need to be considered in the round. The impact of the proposal on the KDNL would, at Year 1, result in some highly localised Moderate Adverse effects reducing to Slight Adverse as the proposed planting matures. As such, the development would have a limited impact on the special characteristics and quality of the KDNL.

15. The site is crossed north to south and east to west by a network of public footpaths. Users of FP ZR137 that runs from Oad Street through a farmyard and doubles as a farm track giving access to land south of the M2. Where the FP passes the site, it has an open aspect to the east. FPs ZR138 and FP134 are narrow tracks running southwards across the arable fields from Oad Street to the boundary with the M2 and have open aspects to the east and west. All 3 FPs are linked east to west by what I understand to be a permissive path, the Toll Ride, and parts of FPs ZR134 and ZR138, all running parallel to the M2, which has an open aspect to the north. Notwithstanding the open aspects of these paths as they approach and skirt the M2, they are subject to high levels of traffic noise and cannot be described as tranquil.

16. The proposed width of FP ZR137 would be between 14 to 16m to the fence line and 12 to 14m to the new hedge on its eastern side. The width of FPZR138 where is crosses the site would have a width of some 16 to 26m between the fence lines and 12 to 22m between the new hedges. FP ZR134 where it crosses the site from

the north would be between 14 and 25m to the fence lines and 10 to 21m to the new hedges. Those parts of the permissive path and FPs ZR138 and ZR134 where they run along the boundary with the M2 would vary in width between 12 and 20m to the fence line and 10 to 12m to the new hedge.

17. At Year 1 the visual impact on FP users would be Substantially Adverse, reducing to Slight to Moderate adverse as the planting matures. That said, as the planting matures, wide green corridors bounded by tall hedgerows, similar in style to many roads within the area would be created. Overall, whilst there would be an effect on the amenity of these paths, it would not lead to walkers being oppressively enclosed.

18. Drawing these matters together, the development would result in some temporary landscape and visual harm within the setting of the KDNL, the scale of which would reduce as the proposed landscaping matures. The nature of this landscaping is something that would be covered by condition. The overall effect on the landscape and scenic beauty of the KDNL, which would be preserved, would be acceptable and no harm would be caused to other important aspects of the designated area.

Agricultural Land

19. The thrust of national policy[1], LP Policies DM 20 and DM31 and the Ipa's Renewal Energy Guidance Note 1 on the use of agricultural land is, that where significant development of agricultural land is shown to be necessary, areas of poorer quality land should be preferred to that of a higher quality with due weight given to the use of Best and Most Versatile (B&MV) agricultural land.

20. The development would use some 46.28ha of B&MV agricultural land for a period of 40 years. Although there is no requirement for a developer to undertake an alternative or sequential site assessment, the application was accompanied by an Alternative Site Assessment April 2023 (ASA). This robust study is material in assessing whether the use of agricultural land is necessary.

21. Site selection was largely driven by the need for a viable 132kV grid connection. The site is crossed by power lines capable of accepting the electricity generated, and the appellant has secured, on-site, a point of connection to the grid. The availability of an on-site connection not only maximises the amount of electricity captured but also minimises the environmental disturbance from a longer cable route. The search area extended to 3m from the proposed point of connection. This is within the generally acknowledged maximum distance for a connection before viability, both in terms of electricity transmission and cost, becomes questionable. A large part of the 3km search area falls within the National Landscape, which effectively limited the search area to land north of the M2. The ASA identified 5 potential sites. However, none would have a viable existing 132kV connection to the grid, some involved the use of Grade 1 agricultural land and were subject to other land use policy constraints that ruled out their suitability.

22. Whilst the proposal would take B&MV agricultural land out of productive use for 40 years, the ability to make a 132kV connection on-site, is a compelling reason to do so. Whilst the current intention is to leave the land under and around the arrays as

[1] Framework paragraph 187, Written Ministerial Statements 25 March 2015 & 15 May 2024, Planning Practice Guidance – Renewable and Low Carbon Energy, Paragraph: 013 Reference ID: 5-013-20150327, Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Renewable Energy Infrastructure (EN-3).

herb rich grassland, this would not prevent the landowner from using the land for sheep grazing; a common agricultural practice associated with solar farms. In this context, the land would not be permanently lost from agricultural production. Moreover, as the land would be "rested" from intensive arable use, soil and health/structure would improve for when the land would revert to agriculture following decommissioning. The implementation of a Soil Management Plan would ensure that where soil would need to be removed to allow for construction, this would be effectively managed so that it could be returned to agricultural use.

23. World events and climate change have brought food security into sharper focus. That said, the UK's food supply chain remains highly resilient with a high degree of food security being built on supplies from diverse sources. The appellant has produced an unchallenged assessment of the impact of taking the appeal site out of food production albeit temporarily. Here, the primary crop has been winter wheat, alternating with crops of oilseed rape, spring barley and oats. Based on the 10-year average yield data for the region, the yield from the areas to given over to solar panels would be less than 0.2% of the regional yield and 0.05% of the national yield for these crops. The temporary loss of these fields from food production would have a negligible effect on food production and security.

24. Drawing the above together, the proposal would result in a temporary loss of B&MV agricultural land from food production. That temporary loss would have no material impact on food security. The use of agricultural land has been shown to be necessary, and no areas of poorer quality land have been identified in preference to higher quality land.

Other Matters

25. LP Policy DM 14 (8), Framework paragraph198 and the Noise Policy Statement for England (NPSE), seek to avoid significant adverse impacts on health and quality of life. Planning Practice Guidance (PPG) – Noise identifies a noise hierarchy table. Of the 4 levels of noise effects identified, the No Observed Adverse Effect Level (NOAEL) is a situation where noise is perceptible but does not change behaviour or quality of life.

26. Noise monitoring was undertaken at 4 noise sensitive locations to the north and east of the site. Whilst I understand the concerns relating to the potential noise effects from the use of String Inverters, the noise assessments and my experience indicates that their effect diminishes rapidly with distance. Here, given the degree of separation between the panels and dwellings, which following the Option 2 amendments would be increased over the gaps referred to in the submitted Noise Statement, the potential for noise disturbance would be limited.

27. Following a reassessment, small increases in noise levels are predicted. However, noise levels from the development are predicted to be between 7dB nighttime and 18db daytime below the prevailing background noise, which is dominated by traffic noise from the M2 motorway. Given that background levels fluctuate naturally throughout the day due to time of day, weather and wind direction, the noise contribution from the development would be masked by existing conditions. Accordingly, the proposal would fall within the NOAEL category and not result in a material change to the acoustic environment and an as such no material unacceptable adverse effect on residents.

28. Heritage impacts would be restricted to changes within the setting of the Grade 2 listed Sutton Baron House and Sutton Barron Hall located to the north of the site. The impact on the significance of these assets would be indirect and limited to their wider setting resulting from the change of use of historically associated land. The parties agree that the potential for harm would be less than substantial. I have no reason to disagree and consider on that scale the degree of harm would be negligible. Framework paragraph 215 indicates this harm should be weighed against the public benefits of the proposal. Modern solar farms sit lightly on the ground and disturbance of potential archaeology can be acceptably mitigated by condition.

29. The solar farm would have an installed capacity of 40MW, sufficient to power some 11,500 homes, displacing some 8,152 tonnes of carbon dioxide per annum. This would be a significant benefit in mitigating the wider impacts of climate change. The Council, through its Climate and Ecological Emergency Action Plan 2020 has set an ambitious target of becoming a carbon neutral Council by 2030. Government strategy is to reach net zero by 2050 and current guidance confirms that solar power is crucial in meeting that target. Solar power is acknowledged as a key part of the strategy for energy security, net zero and clean growth with the expectation of a 5-fold increase in solar deployment by 2035. This project would make a material contribution to the imperative of mitigating climate change and achieving net-zero. Given the confirmed grid connection of 2029 and, as far as I am aware, there are no constraints that would prevent early implementation. The contribution of this scheme to securing energy security and mitigating climate change attracts substantial weight.

30. The biodiversity mitigation measures would provide substantial Biodiversity Net Gain (197.27% in habitat units and 289.77% in hedgerow units) as required by LP Policy DM 28 and Framework paragraph 187 (d). These gains and their maintenance are to be secured by condition. As a benefit, these gains attract significant weight.

31. The proposal would result in local economic benefits during construction, contribute to the economic stability and viability of the farm unit through diversification. These benefits attract moderate weight.

Planning Balance

32. When considering the effect of a proposal on the setting of a listed building, the decision-maker is required to have special regard to the desirability of preserving its setting. In line with Framework paragraph 212, when weighing the public benefits of the proposal, I have attached great weight to the asset's conservation. Here, the public benefits of this proposal in terms of clean energy generation and mitigating climate change (substantial), biodiversity net gain (significant), and local economic benefits (moderate) clearly outweigh the less than substantial harm at the very lowest end of that scale to the significance of the Grade 2 listed Sutton Baron House and Sutton Barron Hall,

33. The context for decisions on renewable energy proposals is provided by national policy on planning and renewable energy, development plan policy and the Council's declaration of a climate emergency. Addressing this climate crisis is a generational challenge. Delivering clean power by 2030 is a flagship policy initiative by the Government. Framework paragraph 161 supports the transition to

a low carbon future and the development of renewable energy infrastructure. Framework paragraph 168 (a) enjoins the decision maker to give significant weight to the benefits associated with renewable energy and the contribution to a net zero future.

34. The need for renewable energy provision and in particular solar energy is referred to in PPG and National Policy Statements (NPS). NPSs EN-1 and EN3 highlight that solar is one of the lowest cost ways of generating electricity and that a secure reliable, affordable, net zero consistent energy generating system in 2050 is likely to be composed predominantly of solar and wind. As such, solar is a key part of the Government's strategy for low-cost decarbonisation of the energy sector and has an important role in delivering greater energy independence. Solar energy, as a key element of the UK's energy policy, was highlighted in the June 2025 Solar Roadmap. This proposal, given a guaranteed grid connection, would make an early and material contribution to achieving local and national objectives.

35. Although most of the site is B&MV land, the proposal would, in addition to solar farming, ensure that the land remains available for food production. The appellant has properly assessed the quality of the agricultural land and based on the site selection criteria, properly justified the use of B&MV land. The proposal accords with national and development plan policies regarding the use of B&MV land.

36. The proposal sits within the setting of the KDNL and the setting of listed buildings. I have had at the forefront of my conclusion the statutory duty placed on the decision maker in this regard. The adverse landscape and visual impacts identified would be temporary and reversible and relate to highly localised harms that do not go beyond Moderate Adverse effects at Year 1 reducing to Slight Adverse as the proposed planting matures. Similarly, with regard to the setting of the listed buildings, there would be less than substantial harm at the very lowest level of that scale. Although I attach great/significant weight to these harms they would be clearly outweighed by the substantial/significant weight attached to the public benefits of this scheme in terms of clean energy generation, mitigating climate change, maintaining energy security and biodiversity gains. Thus, the effects of the proposal on the landscape and scenic beauty of the KDNL and the significance of the listed buildings would be acceptable.

37. As to the effect on users of the FPs across the site, the visual impacts would be Substantially Adverse, reducing to Slight to Moderate Adverse as the planting matures. I attach significant weight to these harms. Notwithstanding these conclusions, these harms can be acceptably mitigated by imposing conditions and are clearly outweighed by the benefits of the proposal, particularly the mitigation of climate change and substantial biodiversity gains. On balance the benefits of this proposal clearly outweigh the harms identified

Conclusion

38. For the above reasons, this proposal would not conflict with the development plan and would accord with the objectives of national planning and energy policy when read as a whole. Accordingly, having taken all other matters into consideration, the appeal is allowed.

Conditions

39. The agreed list[2] of conditions includes several pre-commencement conditions. The appellant supplied, written confirmation of their acceptance. Where necessary in the interests of precision and enforceability, I have amended several of the conditions.

40. Given the grid connection is for 2029, condition 1 provides for a 5-year window for implementation of the permission. In the interests of clarity and certainty, conditions 2 and 3 are necessary. In the interests of the appearance of the area, conditions 4 and 13 are reasonable and necessary. In the interests of maintaining and enhancing biodiversity, conditions 8, 9, 10, 11 and 16 are reasonable and necessary. In the interests of protecting neighbours' living conditions, condition 7 is reasonable and necessary. To mitigate the potential for flooding and to mitigate water pollution, conditions 12, 14 and 15 are reasonable and necessary. In the interests of highway safety, condition 6 is reasonably necessary. To mitigate the impact of the development on potential underground archaeology, condition 5 is reasonable and necessary. To mitigate the impact of the development on soil structure condition 17 is reasonable and necessary.

George Baird

INSPECTOR

[2] The supplied list of conditions contains an error in that the list jumps from Condition 16 to Condition 19. I have renumbered Condition 19 as Condition 17.

ANNEX A - SCHEDULE OF CONDITIONS

Time Limit

1. The development hereby permitted shall be commenced before the expiration of 5 years from the date of this permission.

Drawings

2. The development hereby permitted shall be carried out in accordance with the following approved plans, Site Location Plan (Drawing No: NT16093/001 Rev A), Existing Site Plan (Drawing No: NT16093/002 Rev A), Proposed Site Access Arrangements (Drawing NT16093-701 Rev B), Typical Fencing Detail (Drawing S3843-8312-0002 Rev R1.0), Access Track Detail (Drawing No: S3843-8312-0003 Rev R1.0), Cable Trench Detail (Drawing No: S3843-8312-0004 Rev R1.0), Client Substation Elevations (Drawing No: S3843-8312-0005 Rev R1.0), PV Panels and Elevations (Drawing No: S3843-8312-0006 Rev R3.0), Storage Cabin Elevations (Drawing No: S3843-8312-0007 Rev R2.0), CCTV Layout (Drawing No: S3843-8312-0008 Rev R5.0), 132kV - Substation Layout (Drawing No: S3843-8312-0011 Rev R4.0), LD11060/007(A) Landscape Strategy Plan Option 2 – Scale 1:2,500, A1 – Landscape, and LD11060/008(A) Illustrative Landscape Cross Sections Option 2 – Scale 1:250, A2 - Landscape

Temporary Permission

3. The planning permission hereby granted shall be for a temporary period only, to expire 40 years and 6 months after the first export date of the development except for the substation and its ancillary infrastructure, which will remain on the site in perpetuity. Written confirmation of the first export date shall be provided to the local planning authority within 14 days after the event.

Decommissioning

4. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the first export date, a Scheme for the Decommissioning of the solar farm (with the exception of the substation and its ancillary infrastructure which will be retained), and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to and approved in writing by the local planning authority.

   The solar farm shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales. The scheme shall also include the management and timing of any works and a Traffic Management Plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures.

Pre-commencement Conditions

Archaeology

5. A) No development shall take place until the applicant (or their agents or successors in title) have secured and have reported a programme of archaeological field evaluation works, in accordance with a specification and

written timetable which has been submitted to and approved by the local planning authority.

B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.

D) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall include:

a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development,

b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same,

c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

E) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

CTMP

6. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include the following:

a) Routing of construction and delivery vehicles to / from site,
b) Parking and turning areas for construction and delivery vehicles and site personnel,
c) Timing of deliveries,
d) Provision of wheel washing facilities,
e) Temporary traffic management/signage.

- Provision of measures to prevent the discharge of surface water onto the Oad Street and Vigo Lane.
- Use of a bound surface for the first 5 metres of the access from the edge of Oad Street and Vigo Lane.
- Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.6metres above carriageway level within the splays, prior to the use of the site commencing.

f) Details of safety measures in respect of interaction with Public Rights of Way (PRoW).

- Signage.
- Details of the approach to repair or reinstatement of any PRoW should this be directly affected.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

Construction Management Plan (CMS)

7. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include the following:

- Construction hours.
- Reporting of complaints.
- Temporary lighting.
- Dust management.

The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'.

The construction of the development shall thereafter be carried out in accordance with the approved CMS.

Biodiversity Method Statement

8. No development shall take place (including any ground works, site or vegetation clearance) until a Biodiversity Method Statement which details all precautionary mitigation methods to be implemented for the protection of protected and priority species, including, potential bat tree roosts, badger, hazel dormouse, reptiles, badger, breeding birds (including ground-nesting species) and wintering birds has been submitted to and approved in writing by the local planning authority. The approved Biodiversity Method Statement will inform the Construction Environment Management (Biodiversity) Plan to be submitted under condition 9 and will be based on the information within the Preliminary Ecological Appraisal, Wardell-Armstrong, April 2023, Breeding and Wintering Bird Surveys, Wardell-Armstrong April/June 2023, and the Hedgerow Assessment for Dormouse, Wardell-Armstrong, May 2023.

The Biodiversity Method Statement shall include the following:

• A schedule detailing seasonal timing for precautionary works and surveys.

• An update site walk-over within 3 months of commencement to:

* Confirm that the condition/management of the onsite habitats is consistent with that recorded during the ecological assessment, such that the potential for protected species to occur has not changed.

* Identify any additional badger setts. Should new setts be identified during the pre-works walk over and/or monitoring during the construction period, all required surveys and mitigation/licensing will be implemented prior to further works being undertaken in the vicinity of the sett/s.

- A Non-Licensed Method Statement for hazel dormouse, to include an update nut search survey during the period mid-August - December. If dormouse is confirmed prior to or during clearance, an appropriate mitigation scheme and licensing will be undertaken.
- Protection measures to avoid lighting impacts and damage of the Root Protection Area of tree T1 with moderate suitability features for roosting bats.
- Preliminary assessment followed by close-inspection, presence/likely absence surveys and mitigation (as required) of any trees on the fence-line which require removal or pruning for access purposes. Where roosting bats are confirmed, an appropriate mitigation scheme and licensing will be undertaken.
- Precautionary methods for reptiles during vegetation clearance.
- Precautionary methods to avoid capture of animals within open trenches and use of temporarily stored materials as refugia.
- Precautionary measures for badger and their setts.
- Procedure to be followed should a protected species be found within the construction area.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

CEMP (Biodiversity)

9. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Environment Management Plan for Biodiversity (CEMP (Biodiversity)) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

a) Purpose and objectives for the proposed works,
b) Reference to the Biodiversity Method Statement submitted and approved under condition 8,
c) The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs,
d) Detailed design(s) and/or working method(s) necessary to achieve stated objectives,
e) Sensitive lighting proposal with reference to the Bat Conservation Trust 'Guidance Note 8: Bats and Artificial Lighting 08/23',
f) Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats,
g) Reference to any environmental permits required and any relevant mitigation measures,
h) Reference to the arboricultural method statement to protect retained trees and hedgerows,
i) Timetable for implementation, demonstrating that mitigation works are aligned with the proposed phasing of construction,
j) Persons responsible for implementing the mitigation works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works,
k) Initial aftercare and reference to a long-term maintenance plan (where relevant),
l) Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

LEMP

10. No development shall take place (including any ground works, site or vegetation clearance) until a Landscape and Ecological Management (and Monitoring) Plan (LEMP) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP will be based on the information submitted within the Biodiversity Offsetting Assessment Biodiversity Net Gain Addendum (dated: 14 January 2025), Wardell-Armstrong. The Plan will include the following:

- Description and evaluation of features to be managed.
- Constraints on site that might influence management.
- Demonstrate the ability to deliver an overall biodiversity net gain of at least 175% and a net gain in hedgerow units of at least 250%.
- Aims and objectives of management, in alignment with the Biodiversity Net Gain habitat and condition targets.
- Details of additional biodiversity enhancements to be provided for priority and red/amber list bird species, bats, hazel dormouse, reptiles and invertebrates.
- Measures to be implemented to ensure habitat connectivity for protected and priority species (such as badger gates).
- Appropriate management prescriptions for achieving aims and objectives (including detailed grazing proposals where relevant).
- Information regarding remedial measures.
- Precautionary measures for protected species to be followed during operation (e.g. during replacement of damages panels or fencing).
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period, for the 40-year duration of the development.
- Details of the body or organisation responsible for implementation of the plan.
- Details of a long-term monitoring program for all habitats (in accordance with the BNG targets) and for breeding birds. The methodology for breeding bird surveys will align with that of the original surveys as documented within the Breeding Bird Survey, Wardell-Armstrong, April 2023 to enable meaningful comparison with the baseline. Locations will be detailed for fixed point photographs to evidence habitat creation/enhancement. A timetable for monitoring surveys will be included. Habitat/BNG and species monitoring including breeding bird surveys will be undertaken in years 3, 5, 10 and 15. Copies of all monitoring reports, including details of any proposed remedial measures and a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority.
- The LEMP will 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 details of the management body or bodies responsible for its delivery.

The LEMP shall thereafter be implemented in accordance with the approved details.

Landscaping

11. No development shall take place (including any ground works, site or vegetation clearance) until a scheme for hard and soft landscaping of the site in accordance with drawing number NT16093-LVA 116 Rev B – Landscape Strategy Plan (incorporating existing flora and using native species) and including locations

adjacent to the M2, A249 and PRoW network and a timetable for implementation has been submitted to and approved by the local planning authority.

Hard landscaping details shall include:

- existing and proposed finished ground levels,
- vehicle and pedestrian access and circulation areas,
- means of enclosure,
- updated details of CCTV equipment (to supersede drawing S3843-8312-0008 Rev R5.0), and
- all paving and external hard surfacing.

Soft landscape details shall include:

- details of planting plans,
- written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance), and
- schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

The hard and soft landscaping of the site shall be implemented in accordance with the approved details and shall be maintained and managed for the lifetime of the development hereby permitted.

Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

SUDs

12. No development shall take place (including any ground works, site or vegetation clearance) until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

    - That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
    - Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

    The drainage scheme shall be implemented in accordance with the approved details.

Materials

13. Prior to their erection on site, details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

SUDs Verification Report

14. Prior to the first export of energy from the site, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the local planning authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain:

- Information and evidence (including photographs) of details and locations of inlets. outlets and control structures.
- Landscape plan.
- Full as built drawings.
- Information pertinent to the installation of those items identified on the critical drainage assets drawing. and
- the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Unexpected Contamination

15. If, during development, contamination not previously identified is found to be present at the site then no further development unless otherwise agreed in writing with the local planning authority shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented in accordance with the approved details.

External Lighting

16. No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the local planning authority. The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document) and details how any impacts on areas likely to be used by breeding and wintering birds will be avoided. The lighting shall be installed in accordance with the approved scheme.

Soil Resources Management Plan

17. No development, except for Enabling Works, shall take place until a written Soil Resources Management Plan has been submitted to and approved in writing by the local planning authority. The submitted details shall include:

a) Areas of soil to be protected from earthworks and construction activities,
b) The areas and types of topsoil and subsoil to be stripped, stockpile locations,
c) The methods for stripping, stockpiling, re-spreading and ameliorating landscape soils, and,
d) Details for the sustainable re-use of soils.

The submitted Management Plan shall specifically take into account the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. The development shall proceed in accordance with the approved plan.

APPEARANCES

FOR THE APPELLANT

David Hardy Partner, CMS Cameron McKenna Nabarro Olswang LLP.

He called.

Stephen Fidgett BSc (Hons) Dip TP MRTPI.
Director, Union4 Planning Limited

Lucy Green BSc (Hons) Dip LA CMLI.
Technical Director, Wardell Armstrong.

Duncan Rose BSc (Hons), MSc, M.I.Soil Sci.
Associate Director, Wardell Armstrong.

FOR THE LOCAL PLANNING AUTHORITY

Matthew Henderson Counsel, instructed by Swale Borough Council

He called:

Ben Oates, BRTP (Hons)
Principal Planning Officer Swale Borough Council

INTERESTED PERSONS

Cllr Small, Borden Parish Council.
Mr J Browse.
Mr P Sewell.
Mr P Willmott.

DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1 - Technical Note, Public Rights of Way submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

Doc 2 - Agreed list of suggested planning conditions.