



Penderfyniadau  
Cynllunio ac  
Amgylchedd **Cymru**

Planning &  
Environment  
Decisions **Wales**

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## **Adroddiad**

**gan** Melissa Hall BA(Hons), BTP, MSc,  
MRTPI

**Arolygydd a benodir gan Weinidogion  
Cymru**

**Dyddiad: 01/07/2022**

## **Report**

**by** Melissa Hall BA(Hons), BTP, MSc,  
MRTPI

**an Inspector appointed by the Welsh  
Ministers**

**Date: 01/07/2022**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**Section 62D**

**APPLICATION BY: STATKRAFT UK LIMITED**

**FOR:**

**AT: LAND AT GWERNIGRON FARM, THE ROE, ST ASAPH, DENBIGHSHIRE**

**REFERENCE: DNS/3247619**

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**LIST OF ABBREVIATIONS**

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
BMP	Biodiversity Management Plan
BMVAL	Best and Most Versatile Agricultural Land
CEMP	Construction Environmental Management Plan
CMDS	Construction Method and Decommissioning Statement
CMS	Construction Method Statement
CTMP	Construction Traffic Management Plan
DCC	Denbighshire County Council
DMS	Decommissioning Method Statement
DNS	Development of National Significance
EIA	Environmental Impact Assessment
ES	Environmental Statement
FCA	Flood Consequences Assessment
FW	Future Wales: The National Plan 2040
GCN	Great Crested Newts
LDP	Local Development Plan
LEMP	Landscape Environmental Management Plan
LIR	Local Impact Report
LWS	Local Wildlife Site
NRW	Natural Resources Wales
PEDW	Planning and Environment Decisions Wales
PINS(W)	Planning Inspectorate (Wales)
PPW	Planning Policy Wales
RAMs	Reasonable Avoidance Measures
SAC	Special Area of Conservation
SAS	Sequential Analysis Study
SMP	Soil Management Plan
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SoCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
TAN	Technical Advice Note
WG	Welsh Government
WGCC	Welsh Government Department for Climate Change

WGEI	Welsh Government Department for Economy and Infrastructure
WW	Welsh Water
ZTV	Zone of Theoretical Visibility

**DNS Application Ref: DNS/3247619**

**Site Address: Land at Gwernigron Farm, The Roe, St Asaph, Denbighshire**

- The application, dated 18 March 2021, was made under section 62D of the Town and Country Planning Act 1990 (as amended by the Planning (Wales) Act 2015).
- The application is made by Statkraft UK Limited.
- The application was confirmed as valid on 22 June 2021.
- A site visit took place on 6 May 2022.
- Hearings were held on 27 and 28 April 2022.
- The development proposed is described as the construction of a solar farm and energy storage hybrid park, together with all associated works, equipment and necessary infrastructure.
- The development would be for a temporary period with an operational lifespan of 37 years.

**Secondary Consent Applications:**

- No secondary consent applications are being made.

**Summary of Recommendation: That planning permission be allowed.**

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**Procedural and Preliminary Matters**

1. In accordance with Article 5 of The Developments of National Significance (Procedure) (Wales) Order 2016, the applicant notified the Planning Inspectorate (Wales)(PINS(W)) on behalf of the Welsh Ministers of the proposed development on 20 March 2020. [*The functions of PINS(W) transferred to Welsh Government on 1 October 2021 as a new service called Planning and Environment Decisions Wales (PEDW)*]
  2. Further to the applicant's request, made pursuant to regulation 31(1) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (2017 EIA Regulations), PINS(W) provided a Screening Direction on 17 March 2020 confirming that the proposal is "Environmental Impact Assessment (EIA) Development".
  3. A Scoping Direction, prepared in accordance with regulation 33 of the 2017 EIA Regulations, was issued on 3 June 2020. As part of the scoping process PINS(W) consulted with the relevant statutory consultation bodies, including Natural Resources Wales (NRW), Denbighshire County Council (DCC) and Cadw. The responses received have been taken into account in the Scoping Direction.
  4. The application was submitted on 12 January 2021. PINS(W) wrote to the applicant on 1 June 2021 confirming that the submitted Environmental Statement (ES) was complete for the purposes of the 2017 EIA Regulations and on 22 June 2021 giving official notice of the acceptance of the application under Article 15(2) of the Development of National Significance (DNS) Procedure Order. [*PINS(W) wrote to the applicant on 6 April 2021 identifying issues in respect of the initial ES submission insofar as it related to the question of whether the ES was complete for the purposes of the relevant EIA regulations. In a response dated 15 April 2021, the applicant sought to address a number of the issues, including those relating to the accuracy and consistency of the submitted information. It is the subsequent submission on which the ES was found to be complete for the purposes of the EIA Regulations*]
  5. On confirmation of the validity of the application, PINS (W) undertook the specified consultation and publicity measures required by the Order. The application was
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publicised in line with the DNS regulations and interested parties were asked to submit representations.

6. The application originally sought secondary consents alongside the DNS application in respect of: (i) Authorisation under section 57 of the Town and Country Planning Act 1990 (the Act) for the construction and operation of a battery storage facility; (ii) Authorisation under section 248(2) of the 1990 Act for a temporary construction access to be provided from the A525; and (iii) Authorisation under section 251(1) of the 1990 Act for the diversion of Public Rights of Way (PRoW) 208/20 and 201/8 which cross the site. However, the applicant subsequently confirmed that the decision had been taken to no longer apply for secondary consents, but instead to progress the stopping up and diversion of the PRoW, together with the temporary traffic calming measures and access requirements, separately with DCC. I refer to both matters later in this report. With regard to the Battery Storage facility, I am satisfied that it is ancillary to the main generating station and it can therefore be considered as part of this DNS application.
7. Statkraft UK Limited subsequently acquired Solar Century Holdings Limited, resulting in a change to the name of the applicant from that shown on the application form to that detailed above and as confirmed in an email from the applicant dated 10 August 2021.
8. A formal request for Further Information under Regulation 24 of the EIA Regulations and Regulation 15(2) of the DNS Regulations was made on 10 August 2021. The information sought from the applicant related to matters of Best and Most Versatile Agricultural Land (BMVAL), highways, health and safety, flood risk, protected landscapes, the setting of heritage assets, ecology, additional issues raised in the Council's Local Impact Report (LIR) and the schedule of suggested conditions.
9. The application was suspended on 12 August 2021 until 4 November 2021 to allow sufficient time for the submission of the additional information. However, in the intervening period, the applicant submitted a Notification of Intention to Vary Development of National Significance ("the Variation") which was accepted on 12 August 2021. The applicant confirmed that the purpose of the variation to the layout was to respond to representations received by NRW, Clwydian Range and Dee Valley AONB Joint Committee, Welsh Government Climate Change (WGCC), Welsh Government Department of Economy and Infrastructure (WGEI) and DCC with regard to its LIR. The amendments to the scheme comprised:
  - The removal of rows of panels from the south-eastern parcel of land on higher quality agricultural land, the southern site boundary adjacent to the A55 and in the central part of the northern section of the development;
  - The setting back of panels along the eastern boundary to allow for additional screening;
  - Additional hedgerow and tree planting across the site, necessitating the removal of panels to facilitate the additional planting; and
  - Clarification of the temporary nature of the site compound to the south of Gwernigrion Farmhouse.
10. As a consequence of the variation to the scheme, the revised layout reduced the area of land covered by the solar panels and battery storage from 106ha to 63ha. The installed capacity of the scheme reduced from 65MW to 47.5MW. In addition, the applicant has clarified that the second construction access originally proposed (utilising one of the existing agricultural field gates along the north-eastern site boundary with the A525) would no longer be required given the reduction in the scale of the solar array. Hence, access to the site would be gained solely via a modified version of the existing priority T-junction serving Gwernigrion Farmhouse, accessed directly from the A525.

11. The application was subsequently suspended until 17 December 2021 to allow sufficient time for publicity and consultation on the Further Information and the Variation. However, owing to the applicant's request to submit an update to the Construction Method and Decommissioning Statement (CMDs) previously issued on 21 September 2021, together with a further request to submit updated information in relation to socio-economic benefits and an overview of the evolution of the energy context since the submission of the application, I concluded that it would be helpful to the Examination to request such submissions as Further Information under Regulation 15(2) of the DNS Regulations. The suspension period was extended to 7 March 2022 accordingly.
12. Having considered the representations, the ES, the Further Information and the other application documents, I concluded that it was necessary to hold hearing sessions in respect of the following:
  - Best and Most Versatile Agricultural Land
  - Other Matters and Conditions
13. Participants of the hearing sessions were invited to provide hearing statements in advance of the relevant sessions. Statements were submitted on behalf of the applicant and WG's Department for Climate Change (WGCC).
14. Although the applicant submitted Statements of Common Ground (SoCG) with DCC (including a schedule of draft planning conditions), Welsh Water (WW) and WGCC prior to the Hearing sessions, they were in draft form only. At the Hearing session, DCC confirmed that it had not had sight of the draft SoCG prior to PEDW's exchange of statements. Meanwhile, WGCC confirmed that whilst it broadly agreed with the content of the relevant SoCG, it would have not expressed the matters in the same terms. Although I cannot afford the same weight to draft SoCG as those which are agreed, they nonetheless formed a useful basis for discussion at the Hearing sessions.
15. At the Hearing sessions it was evident that:
  - The figures in relation to the total area of BMVAL affected by the development were inconsistent and / or inaccurate across the various submissions dealing with this matter.
  - The Schedule of Suggested Planning Conditions submitted by the applicant and accompanying the SoCG with DCC, required further consideration and re-drafting.
16. As a consequence of the above, further submissions made after the Hearing sessions consisted of: (i) An updated Schedule of Conditions, (ii) Copies of previous decisions relating to renewable energy schemes dealing with the issue of a condition seeking to secure details of a financial bond and (iii) Clarification / correction of the figures in relation to BMV land take. The parties participating in the Hearing sessions were provided with the opportunity to make additional representations in respect of the same.
17. The responses from interested parties pointed to further discrepancies in the 'corrected' figures. I have since clarified the position with the applicant, who has confirmed that some of the figures were presented incorrectly while others, such as those relating to the number of pile foundations, cannot be accurately predicted at this stage. I am satisfied that any remaining deficiencies in the submissions in this regard do not seriously undermine its robustness as a tool to assist the decision maker. In any event, whilst my assessment of the scheme is informed by the figures provided, it is not the sole means on which my consideration of the issues has been based.
18. Notwithstanding the submission of the updated Schedule of Conditions, the previous iteration contained additional conditions relating to (i) the access / highway works and (ii) restrictions on the timing of deliveries to the construction compounds. I have



therefore had regard to the suggested conditions in both the SoCG and the subsequent updated schedule.

19. The need for Habitats Regulations Assessment is set out within Article 6 of EC Habitats Directive 1992, which is transposed into British law by the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). The Competent Authority will need to decide whether 'likely significant effects' on a European protected site, alone or in-combination with other plans or projects, can be ruled out based on the information provided by the parties. The Competent Authority may agree to the project only after ascertaining that it would not adversely affect the integrity of a European site. For reasons explained later in this report, the proposal is not likely to have any significant effect on any SSSI, SAC, SPA or Ramsar site and, as such, no further action is required under the Habitats Regulations.

## **The Site and Surroundings**

20. The application site comprises approximately 156 ha in total, which includes an area of land extending south of the A55 to allow for the laying of underground grid connection cables. It is located in the order of 2km east of Bodelwyddan and 2.5km south of Rhuddlan, and it is bounded to the south by the A55 and to the east by the A525. It lies within the administrative boundary of Denbighshire County Council.
21. The site is located to the west of the River Elwy and is comprised of a number of fields, bounded by hedgerows, post and wire fences and/or ditches. Mature trees are scattered throughout the fields and within the hedgerows. The fields themselves consist of intensively managed arable and sheep grazed pastoral farmland. An area of Ancient Semi Natural Woodland is located within the site to the north-west of Gwernigron Farm House along with two large areas of semi-natural and plantation broadleaved woodland present in the western section of the site. The site supports a number of ponds, and a small stream flows along (and immediately adjacent to) the south-western boundary.
22. There are three DCC PRoW which intersect the site (201/8, 208/18 and 208/20). PRoW 201/8 is a footpath which routes south-east to north-west through the centre of the site. PRoW 208/18 is a bridleway which routes east to south-west across the southern section of the site. PRoW 208/20 is a footpath which routes east to west within the southern section of the site. Additionally, Sustrans National Route 84 runs adjacent to the eastern site boundary, along the A525.
23. The site is situated partly within a C1 flood risk area as defined in Technical Advice Note (TAN)15: Development and Flood Risk (2004).
24. The site does not lie within or adjacent to any statutory or non-statutory designated sites for nature conservation. Nevertheless, there are designated sites within 10km of the application site [*The application site's distance from designated sites differs throughout the applicant's submissions, including discrepancies between that shown in Paragraph 3.6 of the Planning Statement and in Table 6.5 of Chapter 6: Biodiversity of the ES. I have relied on the distances given in the Biodiversity Chapter of the ES for the purposes of this report*], including Elwy Valley Woods Special Area of Conservation (SAC) (approximately 1.79km south), Coedydd ac ogofau Elwy a Meirchion Site of Special Scientific Interest (SSSI) (approximately 1.79km south-west), Moel Hiraddug Bryn Gop SSSI (approximately 3.79km north-east), Maes Hiraddug SSSI (approximately 4.57km north-east), Liverpool Bay Special Protection Area (SPA) (approximately 5.86km north), Dee Estuary SSSI/Ramsar/SPA/SAC (approximately 8.84km north-east) and Rhuddlan Pond Local Nature Reserve (approximately 1.17km north).
25. Non-designated sites of local nature conservation interest within 2km include Coed Cord Local Wildlife Site (LWS)(approximately 200m south), Clwyd Estuary LWS

(approximately 485m north), Vale of Clwyd Grasslands LWS (approximately 684m east) and Coed Fron and Eyri Hall Wood LWS (approximately 1.30km south).

26. In terms of protected and notable species, the site supports species of conservation value including birds, bats, hazel dormouse and great crested newts. Whilst no confirmed water vole or otter presence was identified from survey, a ditch along the western site boundary remains wet and provides suitable habitat. Meanwhile, the woodland edge, field margins, ponds and areas of tall ruderal habitat within the site provide potentially suitable habitat (albeit limited in extent) for common and widespread reptile species. Additionally, the findings of a badger survey are provided separately in a confidential Badger Report.
27. Although the site itself is not located within any international or national statutory or non-statutory landscape designations, the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) is located approximately 3.6 km to the east.
28. The Grade II Listed Gwernigron Farmhouse and its Grade II\* Listed Dovecote is excluded from, albeit surrounded by, the application site. Meanwhile the Grade II Listed Plas Coch, and the Grade II Listed Talardy Hotel and its Grade II Listed garden wall and greenhouse, lie beyond the eastern boundary of the site. Designated historic assets further afield include the Grade II Listed Pengwern Hall (approximately 525m to the north), the Grade 1 Listed and Scheduled Monument Rhuddlan Castle (approximately 1.5km to the north) and the Grade II\* Listed Bodelwyddan Castle (approximately 2km to the south-west) and its historic park and garden (approximately 1.1km to the south-west).
29. St Asaph Conservation Area (CA) is located approximately 400m south-east of the site whilst the Rhuddlan Conservation Area is located within 2km to the north. Furthermore, there are areas of the application site of potential archaeological interest.
30. There are a cluster of dwellings at Gwernigron Farm (which consist of Gwernigron Farmhouse and 11 residential properties in converted former outbuildings), a further dwelling known as Wern Bach and Plas Coch Care Home to the east and the Talardy Hotel and three residential dwellings (Tudor Lodge, Parkfield, and Dolhyfryd to the south-eastern site boundary). There are two further dwellings to the north-east, known as Blairmore House and Glyn Derw Farm, which are situated in relatively close proximity to the site boundary whereas Pengwern Farm lies to the north-west.
31. The National Grid Bodelwyddan Substation (to which the solar energy farm proposes to connect) lies to the south of the B5381 Glascoed Road. It is adjacent to two further substations which serve the respective Gwynt y Mor and Burbo Bank Extension offshore windfarms.

## **The Proposal**

32. Chapter 4 of the Environmental Statement gives a detailed description of the proposed solar farm and energy storage hybrid park, together with all associated works, equipment and necessary infrastructure. In summary, however, the scheme comprises fixed solar PV panels (up to 3 metres at the highest point), a battery storage compound, approximately 15 internal substations at various locations around the arrays, internal access tracks, landscaping, security fencing, security measures, communications and monitoring equipment and ancillary infrastructure.
33. A grid connection route corridor is included as part of the application, which would require underground cabling to connect the site to the substation. The works would involve horizontal directional drilling under the A55 to enable connection from the site to the substation.

34. The actual area for the solar development (within the security fencing) is in the order of 63ha and the total area for the battery storage compound is 0.47ha. PRow 208/20 and 201/8 would need to be diverted in order to accommodate the proposed layout and panels in areas identified as being archaeologically sensitive would be set on concrete ballast foundations (rather than the pile driven framework that would be used across the majority of the solar arrays) to avoid disturbance of below ground features.
35. There would be two temporary construction compounds for construction traffic; the first would be located near the site entrance which would allow for HGVs to unload, turn, and leave in a forward gear, as well as providing some parking for site operatives and visitors, site security and storage for plant and materials. The second compound, located within the existing yard to the south-west of Gwernigrn Farm, would be utilised during the construction phase and would contain temporary cabin site offices, canteen areas, a drying room, welfare facilities, an offloading and refuelling area, skips/waste area and parking for small vehicles with electric vehicle charging points.
36. The proposal incorporates landscape planting and habitat creation. The Detailed Planting Plan at Figure 5.11 of the ES includes new native species rich hedge planting and hedgerow trees together with the infilling of existing and gappy hedgerows, native woodland understorey planting, floristically enhanced grassland within the proposed solar panel compartments and species-rich tussocky grassland located in large land parcels around the site and along field margins surrounding the solar compartment fence. New wildlife ponds would also be located within the proposed areas of new species rich tussocky grassland.
37. The Construction Traffic Management Plan (CTMP) at Appendix 7.1 of the ES details the construction access, which would be via one access junction served by the A525 on the south-eastern site boundary. The site access is an existing priority T-junction serving Gwernigrn Farmhouse and other residences. However, improvement works consisting of the widening of the bellmouth at this junction would be required to allow construction vehicles to use the access.
38. The CTMP envisages that the construction programme would take approximately seven months (up to 27 weeks) based on the construction of similar developments. It is estimated that construction could generate an average of 12 deliveries per day (or 24 two-way vehicular movements), with a likelihood that deliveries would decrease as construction progresses. In addition to HGV movements, there would be a number of construction movements associated with smaller vehicles such as the collection of skips for waste management, the transfer of materials and plant between areas of the site and the transport of construction workers and subcontractors. It is envisaged that site worker vehicles would consist of 4 x minibus and 2 large vans for the mechanical installer and 23 private vehicles for installers, on a daily basis.
39. The application proposal is for a temporary period with an operational lifespan of 37 years. Following cessation of renewable energy generation at the site, the site would be decommissioned.

## **Planning Policy**

40. On its publication in February 2021, Future Wales: The National Plan 2040 (FW) became part of the development plan. It acknowledges the impacts of a climate emergency and an ecological emergency and identifies key priorities, risks and opportunities to achieve the sustainable management of natural resources, including addressing the climate emergency and reversing biodiversity decline.

41. With regard to climate change, FW recognises Wales' potential for solar generation, the Welsh Government's support for large scale renewable projects and the role of the planning system in providing a strong lead for renewable energy development.
42. Policy 17 expresses the Welsh Government's strong support for the principle of developing renewable and low carbon energy from all technologies and at all scales to meet Wales' future energy needs. It requires that, in determining planning applications, decision-makers give significant weight to the need to meet Wales' international commitments and the national target to generate 70% of consumed electricity by renewable means by 2030 (my emphasis). However, it also makes clear that proposals should ensure there are no significant unacceptable detrimental impact on the surrounding natural environment and local communities and that the development delivers positive social, environmental, cultural and economic benefits.
43. Policy 18 provides detailed criteria for the assessment of proposals for renewable and low carbon energy development. The policy allows for the assessment of the impact of proposals on matters such as: the surrounding landscape, particularly in relation to the setting of National Parks and Areas of Outstanding Natural Beauty; the amenity of nearby communities and individual dwellings; internationally and / or nationally designated sites of ecological importance; statutorily protected built heritage assets; the transport network; noise and reflected light levels; effective decommissioning of the development at the end of its lifetime; and the cumulative effects of existing and consented renewable energy schemes.
44. FW also recognises the urgent need to reverse biodiversity decline and provide an opportunity to promote green growth and innovation to create sustainable jobs, sustain a more resource efficient economy and maintain healthy, active, sustainable and connected communities. Specifically, it identifies BMVAL as a national natural resource under Policy 9.
45. Planning Policy Wales (PPW) has been updated to align with the requirements of FW. It describes the benefits of renewable and low carbon developments, as part of the overall commitment to tackle the climate emergency and increase energy security. In this context it explains that the planning system should integrate development with the provision of additional electricity grid network infrastructure, optimise energy storage and maximise renewable and low carbon energy generation.
46. PPW also outlines national policy towards safeguarding Wales' BMVAL. It states that considerable weight should be given to protecting BMVAL from development, because of its special importance (my emphasis). It is explicitly stated that land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.
47. On 1 March 2022, the Minister for Climate Change issued a letter to Chief Planning Officers clarifying that, where BMVAL is identified within a proposed solar PV array development, considerable weight should be given to protecting such land from development, because of its special importance, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.
48. Additionally, the Environment (Wales) Act 2016 includes a requirement on Welsh Ministers to reduce emissions in Wales by at least 80% by 2050 whereas the Well-being of Future Generations (Wales) Act 2015 is concerned with improving the economic, social, environment and cultural well-being of Wales.

49. PPW is supplemented by Technical Advice Notes (TANs), which provide topic specific detail. Of particular relevance to the proposed development are TAN 5: Nature Conservation and Planning (2009), TAN 6: Planning for Sustainable Rural Communities (2010), TAN 15: Development and Flood Risk (2004), TAN 18: Transport (2007) and TAN 24: The Historic Environment (2017).
50. I am also aware of WG's Practice Guidance 'Planning Implications of Renewable Energy and Low Carbon Energy (February 2011) and 'Planning for Renewable and Low Carbon Energy – A Toolkit for planners' (September 2015).
51. Alongside FW, the development plan comprises the Denbighshire Local Development Plan 2006-2021 (LDP) which was adopted in 2013. The policies of most relevance are: PSE 5 - Rural Economy; Policy PSE 15 - Safeguarding Minerals; Policy VOE 1 - Key Areas of Importance; Policy VOE 2 - Area of Outstanding Natural Beauty and Area of Outstanding Beauty; Policy VOE 5 - Conservation of Natural Resources; Policy VOE 10 - Renewable Energy Technologies; Policy ASA 3 - Parking Standards.
52. The development plan is supported by supplementary planning guidance (SPG) which have been adopted by DCC. Of particular relevance are: Archaeology; Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB); Conservation and Enhancement of Biodiversity; Listed Buildings; Parking Requirements in New Developments; Planning Obligations; Renewable Energy; and Trees and Landscaping.

### **The Case for the Applicant**

53. Accompanying the submitted application is an ES with a Non-Technical Summary, which describes the site and its designations, the proposed development, the planning policy context, consultations, site selection and alternatives, the need for the project and its benefits. It also provides chapters that consider the scheme's effect on landscape and visual impact, biodiversity, traffic and transport, human health, air quality and risk of major accidents.
54. A number of other documents have been submitted in support of the application including a Planning Statement, Design and Access Statement, Agricultural Land Classification Study, Sequential Analysis Study (SAS), Flood Consequences Assessment (FCA), Noise Assessment, Tree Survey and Arboricultural Impact Assessment, Heritage Statement and a Glint and Glare Study. Subsequent submissions have also been made which provide details of socio-economic benefits and an overview of the evolution of the energy context since the submission of the application.
55. Evidence of particular relevance to the determination of the proposal is summarised as follows and is based on the scheme as varied and the applicant's most recent submissions:  
*Landscape and Visual Impact*
56. Chapter 5 of the ES has assessed the likely significant effects of the proposed development upon the receiving environment, which consists of landscape elements associated with the application site, LANDMAP aspect areas, the Clwydian Range and Dee Valley AONB and visual receptors.
57. During the construction phase, the scheme would include extensive hedgerow and tree planting, partly to mitigate the potential visual effects but also to enhance the landscape framework across the site. In terms of direct change to the fabric of the site, the proposed planting would result in major beneficial effects upon the tree resource and moderate beneficial effects upon the hedgerow resource. These are judged to be significant.

58. During the operational phase of the development, none of the aspect area have been assessed as subject to significant effects. Any potential landscape character effects upon the NLCA 08: North Wales Coast and NLCA 11: Vale of Clwyd would not be significant.
59. Due to the distance, clear separation in terms of character, and nature of the proposed development, the Clwydian Range and Dee Valley AONB has been assessed as not experiencing any significant effects. None of its Special Qualities have been assessed as subject to significant effects.
60. With regard to viewpoint assessment only two out of thirteen identified viewpoints have been assessed are subject to significant effects: Viewpoint 1 and Viewpoint 2. Both viewpoints are located within the site. The proposed mitigation measures are likely to reduce the visibility of the solar panels and the associated infrastructure, but unlikely to mitigate against significant visual effects. The effects on remaining viewpoints have been assessed and are not considered significant.
61. In terms of visual receptors, none of those located within the surrounding landscape have been considered to be subject to significant visual effects. Receptors travelling along the PRoWs that cross the site would experience locally some significant visual effects due to proximity and direct nature of views.
62. At Year 1 it is likely that significant visual effects would occur at the properties associated with the Gwernigron Farm house, Plas Coch, Wern Bach, and the properties overlooking the south eastern corner of the proposed development. Once the proposed mitigation measures have matured, however, it is predicted that the proposed native woodland, hedgerow and tree planting would mitigate against these significant effects.
63. The positive management of existing hedgerows together with the new hedgerow, native woodland and tree planting has been included to reduce the visual effects and reduce the potential change upon the landscape character and visual amenity of the nearby receptors. Additional native woodland, hedgerow planting and hedgerow tree planting along the northern and eastern boundaries, and some of the internal boundaries within the site, would help strengthen the landscape framework.
64. Following the successful implementation and establishment of the proposed planting it has been concluded that none of the LANDMAP aspect areas would experience significant landscape character effects.
65. Overall, the proposed development has been considered as responding well to the characteristic of the receiving environment, mitigating visual effects, whilst not compromising the requirements and technical aspects of this solar energy scheme.

#### *Biodiversity*

66. Chapter 6 of the ES has gathered information from desk study and habitat and species surveys to establish the likely presence or likely absence of protected or notable species, identify statutory and non-statutory designated sites for nature conservation in the vicinity of the application site and evaluate the overall conservation status of the land within and adjacent to the application site. The findings can be summarised as follows:
  - The site supports a bird assemblage typical of a farmland setting, including species of conservation value, but did not support notable numbers of ground nesting bird species.
  - Local records show a range of bat species present within 2km of the site. Foraging and commuting opportunities for bats along boundary hedgerows and woodlands

exist within the site. A number of trees within the site were assessed as having bat roost potential.

- There are records of hazel dormouse within 2km of the site and two from within the site boundaries (likely associated with woodland and mature hedgerows).
  - Whilst otter and water vole have been recorded in the wider area, no evidence confirming otter or water vole presence within the site was recorded from survey. However, a ditch along the western site boundary remains wet and provides suitable habitat.
  - There are records of great crested newt, including a single record from the site itself and for ponds within 250m of the site and several records from within Prince's Gorse woodland to the south-west.
  - The woodland edge, field margins, ponds and areas of tall ruderal habitat within the site provide potentially suitable habitat (albeit limited in extent) for common and widespread reptile species.
67. The assessment concluded that there was the potential for significant adverse effects on great crested newts, during the construction phase only. Specific mitigation measures have been identified as a result. No other significant adverse effects were identified on statutory or non-statutory designed sites or habitats, or on protected or notable species or other species in relation to the proposed development, or in combination with other proposed developments in the wider landscape.
68. The design of the development includes a range of inherent elements which avoid or reduce the potential for adverse ecological impacts, including siting the solar arrays within lower value habitats (arable and semi-improved pasture) and avoiding higher value features such as ponds, hedgerows and woodlands. Biodiversity protection measures have been included as part of the design, such as:
- Retaining and protecting on-site ponds to maintain aquatic habitat for amphibians, specifically great crested newts.
  - Maintaining suitable exclusion buffers around streams/ditches, woodland, hedgerows, trees and ponds.
  - Hedgerows and trees will be retained and protected during construction and operation in-line with BS 5837:2012 Trees in relation to design, demolition and construction.
  - Avoiding light spill (the operational facility would not be lit) to protect dark corridors for wildlife and flightlines and foraging areas used by bats, in particular watercourses and ditches, woodland edges and the hedgerow network.
69. Specific mitigation measures would be set in place in relation to GCN, the only ecological receptor considered at risk of experiencing significant adverse effects (during the construction phase). Additional measures have been identified to ensure legislative compliance and the protection of wildlife, including pre-commencement/construction surveys for species such as badger, otter and water vole, along with nesting bird checks should initial vegetation removal be required during the bird breeding season. Should evidence of such species be confirmed, works posing a potential risk to them would only be permitted to proceed under suitable mitigation measures.
70. Landscape proposals for the development have been designed to provide an overall biodiversity gain and ensure that there would be no net loss of habitats of ecological value.

71. With embedded design measures and mitigation in place, the proposed development would not result in any significant adverse effect on any habitats or species, or on statutory and non-statutory designated sites. Minor positive effects are anticipated in relation to foraging, commuting, roosting and breeding bats and birds as well as for badgers, hazel dormice and reptiles, if present, as a result of habitat creation and diversification.

*Arboriculture*

72. The submitted Arboricultural Impact Assessment concludes that:
- None of the individually surveyed trees require removal to implement the proposed development, with the overwhelming majority of the arboricultural resource being retained.
  - The retained trees and tree groups would be successfully integrated into the proposed development and could be protected, in line with the relevant guidance, throughout the construction and operation of the solar farm.
  - The extent of the required removals would be limited to a maximum of 25m of hedgerow and a 5m x 10m section of young trees to allow for the installation of District Network Operator access tracks and construction tracks.
  - In the event of planning permission being granted, an arboricultural method statement and finalised tree protection plan may be required (based on the final approved design and construction details) in order to inform, in more detail, the construction process.

*Traffic and Transport*

73. Chapter 7 of the ES deals with traffic and transport impacts associated with the construction phase of the proposed development.
74. The construction access would be provided via one access junction served by the A525 on the south-eastern site boundary. The A525 is subject to a 40mph speed limit in the vicinity of the existing access. The access is shown within the CTMP to be safe with associated improvements and visibility shown to be achievable for construction traffic.
75. Appropriate streetworks are proposed to provide safe and suitable access for vehicles accessing and egressing from the proposed access. It is anticipated that the operational speed of this lane would be determined through liaison with DCC or via a suitably worded planning condition.
76. It is not anticipated that the trips generated by the construction of the development proposals would have a significant impact on the local and strategic road networks. Neither is it considered that the level of traffic during the construction phase would have a significant impact on the safety or operation of the local highway network.
77. There would be a minor adverse effect on users of the PRoW which pass through the site. This would be temporary in nature and limited to the construction phase.
78. During the installation of the underground grid connection cables there may be minor disturbance to the users of the public highway as there would be minimal vehicles associated with this element of the works and appropriate signage and traffic controls would be provided as necessary.
79. It is not anticipated that the development would have a significant impact on the A55 with regards to vehicles exiting the highway (due to incident) given the proximity of the proposed development along the southern boundary, the level of existing vegetation and the levels differences/existing barrier restraints on sections of the A55 that fronts the southern boundary of the site.



80. Mitigation measures would be agreed between the appointed contractor and DCC as the Highway Authority. It is envisaged that such mitigation measures would be secured via a suitably worded planning condition requiring compliance with the CTMP.
81. It is concluded that through compliance with a CTMP there are unlikely to be any significant transport effects associated with the construction phase of the proposed development.

#### *Human Health*

82. Chapter 8 of the ES assesses the likely significant effects of the proposed development on human health, in particular, with regard to noise, air quality (construction phase); and electrical risks (transmission and storage of electricity).
83. Noise emissions from solar electrical equipment and battery energy storage equipment has been assessed for its impact on both day and night environment. There would be no significant noise related issues associated with the proposed development due to the proposed mitigation measures during the construction period. The operation of the solar farm and energy storage facility would generate acceptable levels of noise at surrounding properties both during the day and night-time periods. Therefore, there would not be any risk to human health as a result of noise.
84. The key considerations in terms of air quality are the emissions associated with the construction phase traffic of the development. The construction works have the potential to generate additional vehicles on the local road network, with the main air pollutants of concern related to road traffic emissions being nitrogen oxides, ammonia, nutrient nitrogen deposition and acid nitrogen deposition. There would be no significant air quality related issues associated with the proposed development because of the relatively low number of vehicle movements associated with the development's construction. Therefore, there would not be any risk to the population and human health as a result of air quality.
85. The potential for the energy storage component to pose a fire risk was assessed. Based on the design of the scheme and safety checks which are proposed, it is not considered that there would be any risk to human health as a result of the generation or storage of electricity on the proposed site.
86. A series of mitigation measures would be included within a Construction Management Plan to reduce potential noise and air quality emissions associated with the construction period. The measures which would be put in place to address any safety concerns around the energy storage component of the project have been addressed within an 'Energy Storage Safety Management Plan'.
87. The development is not considered likely to cause a significant accident or disaster risk during either the construction, operation and decommissioning phases. The development would have the ability to generate and store electricity. An Energy Storage Safety Management Plan sets out the safety processes which will be implemented to ensure that any potential fire risk at the site would not lead to a major incident. The battery energy storage facility would consist of Lithium Iron Phosphate storage modules, a popular Lithium Ion technology that is well known for being inherently safe (compared to other types of lithium).
88. The design of the scheme as well as the measures set out in the Energy Storage Safety Management Plan would ensure there are no significant risks to human health as a result of the proposed development.

*Air Quality*

89. Chapter 9 of the ES assesses the likely significant air quality effects associated with the construction phase of the proposed development.
90. The nearest internationally-designated site is Liverpool Bay SPA whilst the nearest locally-designated site, an unnamed Ancient Woodland, is located 300m east of the application site. Rhuddlan Pond LNR and an unnamed Ancient Woodland are within 200m of the main roads used by construction vehicles.
91. The CTMP confirms that the construction period would last up to 27 weeks. On this basis, any effect from construction traffic on designated ecological sites would be transient, any changes to ambient air quality conditions would re-equilibrate within a short period of time following completion of the construction phase, and there would be no long-term deterioration in conditions.
92. On this basis, the impact of the construction of the proposed solar farm can be considered to be neutral in terms of local air quality and no further assessment is needed.

*Risk of Major Accidents*

93. Chapter 10 of the ES assesses the potential risk of major accidents as a result of the proposed development.
94. A series of potential risks from the storage of electricity on site are set out in an Energy Storage Safety Management Plan, which is at Appendix 10.1 of the ES, where appropriate mitigation measures are outlined to ensure any potential risks of major accidents are appropriately mitigated. The Management Plan confirms the safety processes which would be implemented to ensure that the potential fire risk at the site would not lead to a major incident.
95. The Energy Storage Safety Management Plan would be reviewed and updated at a more detailed stage of the design in consultation with North Wales Fire and Rescue Service, incorporating supplier and industry recommendations and in accordance with current and future UK regulations and guidelines.

*Flooding*

96. The supporting documents include a Flood Risk Justification Test. This report confirms that the proposed development is not considered to be 'highly vulnerable' development, as defined by TAN 15. Rather, it would constitute 'less vulnerable' development. Additionally, a consultation version of TAN 15 was published in October 2019 and this draft document identifies 'renewable energy generation facilities' as 'less vulnerable development'. 'Less vulnerable' forms of development are permitted in flood zones C1 and C2 providing that they are determined by the planning authority as justified in these areas.
97. An FCA has also been submitted, which concludes that the proposal would be safe from all forms of flooding and provide a betterment in terms of downstream flood risk and pollution. The risk of flooding would be appropriately mitigated through raising the solar panel edges and vulnerable infrastructure by 300mm above the predicted 1 in 100 year +30% flood levels in the event of a breach of the earth embankments on the Afon Elwy. The measures would also serve to mitigate the risk of flooding from a reservoir breach or groundwater flooding.

### *Glint and Glare*

98. A Glint and Glare Study was submitted in support of the application. It finds that:
- Solar reflections are predicted towards all 35 of the assessed road receptors along the A55; however, effects would not be experienced in practice due to existing screening in the form of vegetation along the southern boundary, which would completely obstruct all views of the reflecting panels for a road user.
  - Solar reflections are predicted towards 14 out of the 27 assessed road receptors along the A525; however, effects would not be experienced in practice due to intervening dwellings and proposed planting along the eastern boundary, which would completely obstruct all views of the reflecting panels for a road user.
  - Solar reflections are predicted towards 35 out of the 55 assessed dwellings, however only two of these dwellings would not be entirely screened by vegetation or other surrounding dwellings. The impact upon dwellings 39 and 40 is considered low due to the additional screening that would significantly reduce views of the reflecting panels from the dwellings.
  - It is understood that views of the proposed development within the ANOB are only possible for pedestrians at approximately 3.9 kilometres or further from the panels. It can therefore be concluded that views would not be materially affected by the effects of glint and glare as the significance of the reflection would be substantially reduced at this distance. The impact upon views within the surrounding AONB is predicted to be low.
99. Overall, no significant impact upon any of the assessed ground-based receptors has been identified and, as such, no mitigation is recommended.

### *Heritage*

100. The submitted Heritage Statement records and assesses potential impacts of the proposed development in terms of archaeology and built heritage.
101. In respect of archaeology, three historic assets are recorded within the site: the cropmarks of a former field system, the site of a First World War tented camp and a Royal Observer Corps post.
102. Areas of the site containing probable archaeological features of greatest potential interest were identified for preservation in situ through the use of above-ground foundations for solar arrays. The Royal Observer Corps post would also be retained. Consequently, it is considered that the potential for harm to the most significant archaeological assets would be appropriately mitigated through design.
103. Turning to built heritage, a settings assessment has been undertaken for all designated historic assets within a 5km radius of the site. The key assets which would be sensitive to changes to their setting as a result of the proposed development are as follows:
- The areas of land to the south and east of the site make a special contribution to the significance of the Grade II Listed Gwernigron Farmhouse due to the historic association of landholding and their featuring in key views from the asset and key views towards the asset from the track.
  - The area of the site immediately to the east of the Grade II\* Listed Gwernigron Dovecote contributes to its significance due to key views of the asset being afforded from within this field and across the field from the farm track.

- A small part of the eastern area of the site contributes to the significance of Plas Coch due to the historic association of the land holding and the glimpsed visibility of this part of the site from the first floor windows of the rear elevation of the house.
- The northern and central areas of the site contribute to significance of Pengwern Hall due to the historic association of land ownership and the visibility of this part of the site in the mid-ground of views from the first floor windows of the primary elevation of the Hall.

104. Development exclusion zones and planting would seek to preserve a sense of the immediate open agricultural setting of the Grade II Listed Gwernigron Farmhouse. There would be visibility of panels to the south-east, in views towards and from the asset. There may also be glimpses of the temporary construction compound to the west, in views towards the asset. This visible change to the landscape character would result in a small degree of harm to the significance of the asset. With the exclusion of solar arrays to the east and the planting of a new hedgerow to screen the arrays to the north, the proposal would result in no harm to the significance of Gwernigron Farmhouse.

105. Whilst the south-eastern area of the site maybe visible from the primary elevation of the house, this land was never seemingly part of its holding. The proposal would result in negligible harm to its significance.

106. The proposal would result in a small degree of harm to the significance of Pengwern Hall.

*Best and Most Versatile Agricultural Land*

107. The combination of the updated Land Research Associates 'Agricultural Quality of Land at St Asaph' report dated September 2021, the Written Response of the Applicant on Solar PV and Best and Most Versatile Agricultural Land by 39 Essex Chambers dated September 2021 and the Soil Position Statement of September 2021 provide the evidential basis for the assessment of the quality of the agricultural land within the application site and the impact of the proposed development on soil resources.

108. The Agricultural Land Classification (ALC) survey demonstrates that land within the application site which is to be developed for solar assets comprises of 33% of subgrade 3a land, and 2% of Grade 2 land.

109. The main points arising are summarised below:

- Panels have been removed from areas with the highest grade of BMVAL in response to comments issued by the Welsh Government Department for Climate Change, in particular those relating to concern regarding adverse impacts to the soil and use of BMVAL as a finite resource.
- Agricultural land at a solar farm can continue in agricultural production by grazing sheep or other small livestock. The use of grazing to manage vegetation is preferable for the solar farm operator as it is cheaper than mowing and / or spraying herbicide, and there is no risk of damage from vehicles striking solar panels, or from stone throw by cylinder mowers or flails. The consent is temporary, time limited and easily reversed. The agricultural land resource can therefore resume the full range of management options that it has prior to development. The agricultural land resource, including the BMVAL, would therefore be conserved as a finite resource for the future.
- The solar farm design gives weight to the presence of BMVAL. The design has no solar PV or associated infrastructure on the Grade 1 land and only a marginal incursion onto the northern tip of the Grade 2 land. Aerial photos show almost all the

Grade 1 land and the majority of the Grade 2 land to be present in two fields that will retain their extent with no encroachment of the solar farm. The design therefore has clearly given considerable weight to the presence of the most scarce Grade 1 and Grade 2 agricultural land. The solar farm proposed would not threaten loss of extent or quality of this BMVAL resource.

- WGCC notes that a decommissioning plan is proposed but has not been provided. This is not a deficiency as construction and decommissioning plans for any development are not normally submitted as part of a planning application, but are agreed as a condition of consent.
- Solar farms with temporary consent on agricultural land typically secure the mount by attaching to narrow steel piles driven into the ground by a vibration pile driver. The vibration reduces friction between the pile and the soil making it easier to push down into the soil. The same plant can be used to pull up the pile, and is considerably smaller than the pile driving plant typically seen on construction sites preparing foundations or retaining structures. In some instances where there is a concern piles may damage buried archaeology, the mounting frames have been secured on the surface with a weight, typically concrete railway sleepers.
- WGCC's own evidence base on the impact of solar photovoltaic sites on agricultural land and soils suggests that, although more research would be welcome, the decommissioning of solar farms does not present a significant risk to agricultural land quality. The decommissioning of other temporary consent developments such as glasshouses for protected cropping, is achieved without loss of ALC grade.
- In the unlikely event that a future food security crisis takes precedence over our current climate crisis, the solar farm can revert to arable production with greater speed and ease than a golf course.

110. Having regard to local and national planning policy, and based on the appeal decisions cited, the approach to assessing a proposed development can be set out as follows:

- Is there an overriding need for the development?

The proposed development would deliver very important public benefits by enabling a solar farm with a capacity of approximately 47.5MW capable of delivering enough electricity to power over 20,000 homes. Encouraging such development is of "paramount importance" in ensuring low carbon electricity becomes the "main source of energy in Wales" to address the national "recognised need to optimise renewable and low carbon energy generation" to help Wales achieve its binding Net Zero targets. The legislative and policy basis for this need has been set out in detail in the submissions. There is, as the Council has recognised, a clear and overriding need for the provision of renewable energy.

The reversible nature of the site means that, in accordance with PPW, the BMVAL will be conserved and returned to full use after the end of the site's operational life. It would therefore deliver much-needed energy and does so in a policy compliant way so as to avoid any long-term harm to the BMVAL at the site.

- Is there no other suitable alternative site?

It must be established that there are no suitable alternative locations for development. The SAS detailed below provides clear evidence of a robust and reasoned assessment of alternative sites as well as compelling reasons for the selection of the site in this case given that there is no available previously developed land or available/deliverable land of a lower agricultural value which could accommodate the proposed development in the area.

*Sequential Analysis Study*

111. A detailed consideration of alternative locations for the proposed solar scheme are set out in the SAS which accompanies the application submission. The Sequential Assessment Report confirms that there is no available previously developed land and that there is no available or deliverable land of lower agricultural land designation which could accommodate the proposed development. Alternative locations have therefore been considered and no suitable alternatives have been identified.
112. This study has been prepared to demonstrate the proposed development's compliance with planning policy relating to the use of BMVAL for solar farm development.
113. Paragraph 3.59 of PPW states that BMVAL should only be developed if there is an overriding need for the development. The overriding need for this development derived from the legally binding requirements to reduce carbon emissions and increase renewable energy generation is set out in further detail the accompanying Planning Statement and Written Response provided by 39 Essex Chambers.
114. Policy 3.59 of PPW requires applications on Grades 1, 2 and 3A agricultural land to demonstrate that there is no previously developed land or land of lower agricultural quality which could accommodate the proposed development (unless environmentally constrained).
115. The SAS demonstrates the proposal's compliance with the requirements of Paragraph 3.59 of PPW, and concludes that:
  - (i) There is no available previously developed land; and
  - (ii) There is no available or deliverable land of a lower agricultural land designation which could accommodate the proposed development instead of land at Gwernigron Farm.
116. The Written Response of the Applicant on Solar PV and Best and Most Versatile Agricultural Land by 39 Essex Chambers provides further clarification in respect of the consideration of alternative sites; 30 alternative sites were assessed based on the deliverability of each on the basis of criteria including: current land usage, adjacent land usage, topography, output, distance to grid connection, access, land designation and availability.
117. The search area was determined on a robust basis. The key consideration was access to the National Grid through a substation with sufficient capacity for the proposed scheme. The Electricity System Operator confirmed that Bodelwyddan Substation had sufficient capacity for the development. In the absence of national or local guidance on the extent of the assessment area, it was considered that land within 5km of Bodelwyddan Substation should be considered as a suitable area in which to assess alternative sites. This is because, as a general rule, the further the point of connection from the development site, the less feasible providing the connection is, due to the additional costs of cables, installation, third-party landowner negotiations, environmental management and mitigation. Costs become prohibitive beyond 3km from the point of connection with sites beyond 3km and up to 5km only being suitable if an exceptionally uncomplicated route can be identified.
118. Of the 30 alternative sites assessed, Gwernigron Farm was identified as the only suitable site for the development due to its size, distance to grid connection, topography and availability for development. It is important to note that no alternative sites were rejected solely due to an inability to confirm availability.

### *Evolution of the Energy Context*

119. The submitted Energy Context Update dated 31 January 2022 suggests that the unprecedented scale and pace of delivery of low carbon energy generation and storage required beyond the current rates of deployment to decarbonise the UK's power system by 2035 is a critical material component for consideration in the planning balance.
120. It defines the context in terms of national and international legislation (such as the European Union 2030 Energy and Climate Change Framework, October 2014 and the Energy Act (2013)), national and local planning policy, and other material considerations (including the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3), July 2011, the WG Policy Statement: Preparing for a Climate Change, March 2013, the Clean Growth Strategy, October 2017, WG Climate Change Declaration, April 2019 and the National Infrastructure Strategy, November 2020 etc).
121. Since the submission of the planning application in May 2020, the adopted LDP expired in December 2021. The absence of an up-to-date Development Plan and relationship with the current national policy context and other material considerations is a relevant consideration for the determination of this application.
122. Such is the speed of legislative and policy evolution pertaining to the energy sector since the submission of the application, new material planning considerations have emerged. These include the Carbon Budget Order (June 2021), Smart Systems and Flexibility Plan (July 2021), National Grid Future Energy Scenario Report (July 2021), Sixth Assessment Report (August 2021), Planning for New Energy Infrastructure: A Review of Energy National Policy Statements (September 2021) and Net Zero Wales Carbon Budget 2 (October 2021).

### *Benefits of the Project*

123. The Economic Benefits Statement dated January 2022 identifies the main quantifiable benefits for the construction and operational phases as:
  - Construction phase employment (up to 233 temporary jobs, both direct jobs on-site and in the wider supply chain),
  - Permanent employment (eight full-time equivalent jobs),
  - Contribution to economic output associated with the permanent and construction phase employment,
  - Business rates revenue,
  - Powering around 16,293 homes per annum,
  - A Community Benefits Fund; and
  - Supporting the Welsh Government's pledge to become net zero and the COP26 aim of reducing carbon emissions.

## **Consultation Responses**

*Responses were received from interested parties, including WG, WW, Cadw, Health and Safety Executive, NRW and the Clwydian Range and Dee Valley AONB Joint Committee in respect of the initial DNS public consultation exercise. However, following the submission of Further Information and a Variation to the scheme, interested parties were re-consulted. The main points in relation to the scheme as amended are summarised below.*

*Natural Resources Wales (REPS004, REPS(2)008 & REPS(3)004*

124. The revised Glint and Glare Assessment, Landscape and Visual Impact Assessment and detailed planting proposals provide sufficient information about the development's likely effects upon views from the AONB and puts forward appropriate mitigation to bring about the development's visual integration within these views.
125. NRW concurs with the conclusions of the Glint and Glare Assessment that there would be a low effect on the AONB and the Landscape and Visual Assessment which concludes that visual effects upon AONB views would not be significant.
126. Planting proposals set out in the Detailed Planting Plan would help strengthen the development's landscape integration within AONB views. An appropriately worded condition regarding timing and implementation of the planting proposals should be attached to any permission granted.
127. The flood risk posed to the site in the 'design event' (the 1% Annual Exceedance Probability breach event with an allowance for climate change) has been adequately mitigated, by ensuring that all solar panels and substations will be raised at least 300 mm above the design flood level, and the containers, office and welfare facilities within the site compound would be sited 300 mm above ground level, which is above the predicted flood depths at this location. NRW is satisfied that the mitigation measures proposed will appropriately manage the flood risk posed to the site. It is also satisfied that the proposal would be unlikely to adversely impact on flood risk elsewhere.
128. NRW's previous concern related to the lack of clarity around the undeveloped easement provided for access purposes along Pengwern Drain (which is a main river). As the FCA now confirms that there would be no built infrastructure within 20 metres of the top of bank of Pengwern Drain, NRW is satisfied that the updated proposal provides a suitable easement which would allow for continuous maintenance to be undertaken.
129. The proposal has the potential to cause disturbance to Great Crested Newts (GCN) and / or loss or damage to their resting places. As construction of the development is likely to cause a breach of species protection legislation, it is advised that construction is carried out under derogation licence issued by NRW. Detailed GCN Reasonable Avoidance Measures (RAMs) should be set out in a Construction Environmental Management Plan (CEMP) as suggested in the draft condition. A further condition requiring the submission and approval of a GCN Conservation Plan is also required.
130. In terms of the Biodiversity Management Plan (BMP), Version 5 has not appropriately considered NRW's advice. Consequently it is requested that a condition is attached to any planning permission requiring the submission and approval of a revised BMP.
131. In view of the information contained within the ES, and that detailed RAMs are included within the CEMP and, where appropriate, mitigation or enhancement measures are implemented in line with that detailed in the BMP, it is considered that the development is not likely to be detrimental to the maintenance of the population of bats, hazel dormice, otters and water voles at a favourable conservation status in their natural range.
132. It is advised that the CEMP should provide detailed pollution prevention measures with regard to the battery storage units. It is noted that the ES considers the risk of a major accident. A fire at the battery storage area could result in contaminated run off to the nearby ground and watercourses. The design of the battery storage areas should minimise the escape of contaminated fire water into the environment. The CEMP should include detailed measures of industry best practice with respect to addressing risks of pollution incidents from battery storage.



*Welsh Government (Economy and Infrastructure) (REPS001 & REPS(3)002)*

133. WG as highway authority for the A55 trunk road does not issue a direction in respect of this application. This is on the understanding that DCC's suggested conditions relating to the submission of a detailed Construction Method Statement (CMS) and details of external lighting are included and no alterations are proposed that would impact the risk assessment completed in line with DMRB CD377.

*Welsh Government (Climate Change) (REPS003, REPS(2)004, REPS(3)005 & REPS(3)005a)*

134. Having considered the amended proposal and additional information in light of its planning policy for the protection of BMVAL, WGCC expresses a conditional objection to the proposal in terms of the long term national agricultural interest for the following reasons:
- The potential loss of 43.1ha of confirmed BMVAL is a matter of national significance.
  - The proposal has failed to give considerable weight to protecting BMVAL because of its special importance.
  - There remains significant risk that, once developed, its return to agriculture as BMVAL would not be possible.
  - The applicant's arguments of overriding need and possible alternative sites are insufficient.

135. The main points in relation to the submissions are as follows:

*The updated soil position statement*

- If all confirmed areas of BMVAL were to be removed from the red line boundary of the application site, WGCC would withdraw its objection. It is noted that the applicant has stated that the minimum site area required to deliver a viable scheme has been determined to be 44.5ha. Accordingly, the scheme would still be viable with the removal of the BMVAL from the application site area.
- In terms of the updated Soil Position Statement, WGCC draws attention to the planning policy position including PPW, the Dear CPO letter of 2 March 2022, the Well-being of Future Generations (Wales) Act 2015 and FW insofar as conflict is alleged.
- It goes on to discuss the relevance of the Welsh Government 2021-22/03 Soil Policy Evidence Programme, which was suspended on 14 January 22 and not accepted due to the declaration of a conflict of interest by the author.
- It also comments on the applicant's submissions in respect of The British Soil Society of Soil Science note on Soil Carbon and the Glastir whole farm sustainable land management scheme.
- Although it notes that the consent for the development would be temporary, the period that the development would be present and operational would be long term and generational.
- The applicant seems only to regard Grade 1 and 2 land, even though BMVAL is Grades 1, 2 and 3a. Separation in this way misunderstands the policy.
- The development on BMVAL would significantly affect the agricultural status of the site so that it would not be available for food production both now and for future generations thereby undermining the objective in section 3(2)a of the Environment Wales Act 2016.

*The updated CMDS*

- The applicant has not clarified what material it intends to use in respect of the geotextile permeable separation layer.
- There are discrepancies in the submissions regarding the area of BMVAL land take in relation to the permanent and temporary access tracks.
- To ensure the integrity of the topsoil stockpile generated by the access track stripping, it would need to be appropriately stored. The applicant's suggestion of spreading the topsoil to either side of the access track would be unacceptable for the reasons set out in the expert evidence provided by Dr Bruce Lascelles.
- Clarification of the location of the existing hardstanding at the site is required.
- A Soil Resources Plan is required to include full details of the soil resources present and how each soil type present would be handled.
- A significant number of piles would be driven into the ground and there is a significant risk that the integrity of the soil where each pile would be installed would be damaged during the decommissioning process.
- Although the applicant proposes a three year aftercare period, a programme usually five years should be required.
- WGCC would not be supportive of any plans to landscape the land, particularly as it concerns BMVAL.

*Recent DNS decision*

- Finally, WGCC draws attention to the recent decision in respect of a DNS for Solar PV involving BMVAL at Blackberry Lane (Ref DNS/324506) insofar as it takes account of the long term benefits of protecting BMVAL, supporting WG's objective of continuing to value and protect agricultural land.

*Cadw (REPS010, REPS(2)002 & REPS(3)001)*

136. Cadw agrees with the conclusions of the revised heritage desk-based assessment that the proposed mitigation measures to protect the non-designated archaeological sites are appropriate and their implementation will ensure that the impact on the archaeological sites will therefore not be significant.
137. It also concurs with the conclusions that the impact on the settings of scheduled monuments FL004 Rhuddlan Castle and FL015 Twthill and listed buildings Plas Coch, Gwernigron Dovecote, Rhuddlan Castle and Bodelwyddan Castle, along with its' historic park and garden, will be negligible or none. Cadw also agrees that the development will have a small impact on the setting of the Grade II Listed Pengwern Hall, which will constitute a small degree of harm, but this will be at the lower end of less than substantial harm to the significance of the listed buildings.
138. Cadw slightly disagree with the conclusions of the revised heritage desk-based assessment with regard to the Grade II listed building Gwernigron Farmhouse. Rather, it is considered that the construction of the solar farm in the fields surrounding the farmhouse, which were farmed from it, will alter the way it is experienced understood and appreciated. The removal of solar panels from the area immediately to the south of the farmhouse's main elevation and principle view, along with the retention of an existing hedgerow and the planting of a new one, would reduce the impact. However, the construction compound to the south of the farmhouse, whilst not directly visible in the principle view, would increase noise and movement in the vicinity of the building, although it is noted that this will be removed after the solar farm has been constructed.

It therefore agrees with the conclusions of the assessment that due to the changes to the setting of the Gwernigrn Farmhouse, the proposed solar farm would cause harm to significance of the listed building. However, the impact would be of a moderate rather than small scale and therefore would be closer to the middle of the scale of less than substantial harm to the significance of the listed buildings, but this is not a level which would lead to Cadw objecting to the proposal.

*Welsh Water (REPS(2)003, REPS(3)003)*

139. Having regard to the Proposed Site Layout and Detailed Planting Plan, it is unclear whether the battery storage compound and the adjoining swale and attenuation basin would be located within the protection zone of the public rising main when measured 3 metres either side of the centreline. WW advises that no operational development including SuDS features would be permitted within the protection zone of the public sewer and rising main measured 3 metres either side of the centreline.
140. It is also noted that native hedge planting and a native woodland are proposed on top or within the protection zones of the public rising main and foul sewer as well as within the easements of the public watermain crossing the site. WW therefore advises that a tree should not be planted directly over its assets or within the protection zones and easements.

*Clwyd-Powys Archaeological Trust (REPS005)*

141. The Trust has been involved with the applicants and their consultants at the pre-planning stage in the iterative process of the layout design with regard to mitigating impacts to identified sub-surface and non-designated archaeology. This process has been successful in preserving areas of significant archaeology revealed by the geophysical survey. It is noted that the preservation in-situ mitigation is supported in the draft conditions, and this is welcomed.
142. There are areas outside the preservation in-situ zones where there is still a potential for previously unidentified archaeology of all periods, which may be associated in some cases with the sites being preserved. The areas of more extensive ground disturbance associated with the construction of the site compounds, the battery storage compound and the laying of cables crossing the Roman Road alongside Glascoed Road, all have the potential to reveal unrecorded archaeology during the initial topsoil stripping and subsoil removal works. An additional condition is therefore requested in relation to the need for an archaeological watching brief.

*Health and Safety Executive (REPS007 & REPS(2)001)*

143. There are currently no Major Hazard Installations in the vicinity of the application site. With reference to the Site Layout drawing (Drawing No P19-2023\_15 Rev K), this indicates no population(s), either temporary or permanent would be introduced within any HSE land use planning public safety zones, which are associated with either Major Hazard Installations or Major Accident Hazard Pipelines. In relation to this particular aspect, HSE would not advise against the proposed development.

*AONB Joint Committee (REPS002 & REPS(2)007)*

144. The Joint Committee considers that the amended proposals are a considerable improvement over the originally submitted scheme. Although there will be some impact on views from the higher ground of the AONB, the significant reduction in the area of panels together with the additional landscape planting along the A525 and further tree/hedge planting to break up the visual mass of panels will assist in the visual integration of the development into the landscape and mitigate the impact on the AONB. In addition, the inclusion of potential AONB impacts in the revised Glint and Glare Study is welcomed. The conclusions indicate that the effects of reflectivity on views from the

AONB will be limited and predict that the overall impact on the AONB will be low. Finally, the committee would recommend that if consent is granted the proposed landscaping scheme should be implemented in its entirety at the earliest possible opportunity and maintained thereafter to ensure that the landscape benefits of the scheme are secured from the outset.

*Denbighshire County Council (REPS008 & REPS(2)005)*

145. No objection to the proposal, subject to the issues raised in the Local Impact Report being fully addressed, and the imposition of the suggested conditions set out in Part D of the Council's Local Impact Report should planning permission be granted. However additional comments provided by Councillor Peter Scott (St Asaph West Ward) are made in respect of the principle of development, the impact on historic buildings in the surrounding area, drainage and flood risk, the speed limit on the A525 adjacent to the access, highway safety, the maturity of the planting and long term maintenance, noise / nuisance and working hours, light reflection from the panels and a financial bond.

With respect to the impact of the proposal on visual amenity and landscape character, in the LIR, the Council took the view that, owing to the scale and extent of the proposal, the proposal had the potential to adversely impact on visual amenity of the local area and on views from the AONB. The Council previously expressed the view that a more comprehensive landscaping scheme was needed to mitigate impacts, and in particular, to include more woodland and hedgerow planting within and around the site to break up the massing of the panels. The LIR also considered the glint and glare assessment hadn't fully assessed impact on the AONB. It is noted that an amended glint and glare assessment has been submitted which has now considered the impact upon the AONB. The site layout has also been amended to remove blocks of panels in the south and east of the site and the landscaping scheme has been amended to include additional planting within the site. DCC considers the amended layout would go some way to help break up the massing of the proposal when viewed from higher ground within the AONB, and it will also help to soften views of the site from local vantage points. Therefore, the amended layout and enhanced landscaping now proposed is considered to be acceptable mitigation to offset harm to visual and landscape amenity.

*Other Representations (public responses) (REPS006)*

146. A joint letter from two interested parties raises concern that habitat would be unduly disturbed and seeks assurances that thorough ecological surveys have been undertaken. There are adjacent fields that would suit better the solar panels to be installed and that such alternatives should be properly considered in the first instance.

## **Local Impact Report**

*DCC's LIR was received prior to the submission of the Variation and Further Information by the applicant.*

147. The Council's Local Impact Report (LIR) provides, amongst other things, a description of the planning history of the site, the relevant national and local policies, an assessment of the likely impact of the development in relation to the principle of development, BMVAL, visual amenity and landscape character, ecology, public amenity, built heritage, traffic and transport, PRoW, flood risk and drainage, mineral safeguarding and socio-economic effects. It also provides commentary on the applicant's initial set of draft conditions and sets out a schedule of DCC's suggested conditions. The main points are summarised below:

*Planning History*

148. The LIR explains that there is no relevant planning history pertaining to energy generation within the application site.

*Local Planning Policy*

149. The LIR sets out the wording of the LDP policies that the Council considers to be of most relevance to the proposed development. In addition, reference is also made to relevant SPG including those relating to renewable energy, biodiversity, archaeology, listed buildings and the AONB.

150. The Council further considers that the following technical and guidance documents are material planning considerations:

- Welsh Government LANDMAP: the all-Wales Geographical Information (GIS) based resource for assessing landscape character and quality.
- Cadw guidance document 'Setting of Historic Assets in Wales Guidance' (May 2017)

*Principle of Development*

151. The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021 has set an amended target of reducing carbon emissions in Wales to net zero by 2050. Planning Policy Wales provides strategic policy support for renewable energy developments of all scales. FW forms part of the adopted development plan for the County. Policy 17 sets out strong support to the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. Policy 18 states proposals for renewable and low carbon energy projects qualifying as DNS will be permitted, subject to compliance with the policy criteria. LDP Policy VOE 10 supports renewable energy proposals subject to meeting the criteria listed and the adopted Renewable Energy SPG provides further guidance on solar energy developments. DCC declared a Climate and Ecological Emergency in July 2019 and aims to become a net carbon zero and ecologically positive council by 2030.

152. The proposal would have strategic benefits in terms of increased renewable energy generation, contribute to the de-carbonisation of the energy supply network and assist in combating the climate emergency.

153. In light of the above, the LIR concludes that the principle of a solar energy farm park of the scale proposed is considered to be in general accord with national and local planning policies.

154. It therefore considers that the construction phase of development would have a neutral impact whereas the operational phase would have a positive impact.

*Best and Most Versatile Agricultural Land*

155. On reviewing the applicant's Consultation Report, DCC notes that WGCC in its pre-application consultation response raised significant concerns with the accuracy of the ALC assessment undertaken. The applicant proposes a condition to secure a Soil Management Plan (SMP), which would be sufficient to address concerns raised.

156. However, DCC disagrees this is a matter which can be resolved by condition; an accurate agricultural land classification assessment for the site should be undertaken and agreed with the Welsh Government Agricultural Unit prior to the determination of the application, as it is essential to establish the correct area of best and most versatile agricultural land that would be lost in order to fully assess the impact of the development. DCC also considers a condition is necessary requiring the land to be restored at the end of the lifetime of the solar energy farm in accordance with a scheme

to be agreed with the local planning authority, in order to ensure the land reverts back to agricultural land in the long term.

157. It therefore considers that both the construction and operational phases of the development would have negative impacts.

*Landscape and Visual Impact*

158. The proposal would effectively 'urbanise' an extensive tract of green, open countryside which currently separates the settlements of St Asaph and Bodelwyddan. When considered with the Bodelwyddan Key Strategic Site allocated in the Denbighshire LDP together with further development and the extension of the St. Asaph Business Park, the cumulative effect of this urban coalescence would be magnified.
159. The proposal would have a detrimental impact on visual amenity of a number of receptors and, due to the scale of the development, local landscape character would also be detrimentally impacted notwithstanding the existing and proposed landscaping.
160. The proposal would also have an impact on the setting of protected landscapes as a result of the intervisibility between the site and an extensive area of higher ground which lies within the AONB to the east, north-east and south-east of the site. The ability to 'experience space and freedom and uninterrupted and extensive views from high places' is one of the defined Special Qualities of the AONB set out in the AONB Management Plan. The proposal would undermine this special quality, without sufficient mitigation. Whilst it is accepted that the impact would diminish with distance, the sheer scale and extent of the proposal would result in some negative change to the view from the protected landscape, especially when the proposal is viewed in combination with other development. Middle distance views into the Vale of Clwyd from the higher ground of the AONB would be affected as the open and undeveloped character of a large tract of open countryside would be changed. The very extensive arrays of solar panels would contrast with and appear anomalous in the landscape, particularly if glint and glare is an issue. It is noted the glint and glare study only assessed the impact within a 1km buffer zone around the site and did not include any receptors within the AONB, and therefore the impact on the AONB has not been fully assessed.
161. Current landscaping proposals are not considered to be sufficient to mitigate the impact on local views, and on views from the higher ground of the AONB and therefore a more extensive landscaping scheme is required, which should further reinforce and extend the existing landscape framework to help break up views of the massed areas of solar panels. A long term Landscape Management Plan should also be required to ensure landscaping is managed for the lifetime of the development. Both matters should be the subject of conditions.
162. Details of operational lighting have not been finalised, and a lighting assessment and lighting plan should also be secured by condition to ensure that any operational external lighting is designed and managed to minimise any impacts on visual amenity of local area, the AONB's dark sky, and nocturnal wildlife in the vicinity of the site. Lighting also needs to be carefully designed to ensure no detriment highway safety.
163. The colour and finish of ancillary infrastructure and buildings would also have an influence on visual amenity and it is noted that elevation plans do not provide detail on colour and finish of the 40ft substation container, 40ft battery storage container and the customer switchgear building, and fencing details only partially provide details of materials and colours. A condition would therefore be required to control the colour and finish of ancillary infrastructure and buildings.
164. DCC considers that the proposal would have a detrimental impact on visual amenity, local landscape character and the setting of the AONB and conditions would be

necessary to secure suitable mitigation. However, it is considered that conditions cannot completely mitigate all detrimental impacts, and there would still be residual harm to visual amenity and landscape character as a result of the development.

165. It therefore considers that both the construction and operational phases of the development would have negative impacts.

*Ecology*

166. DCC is in general agreement with the conclusions of the ES, however in order to ensure compliance with Planning Policy Wales and the new duties set out in the Environment (Wales) Act, the development is required to incorporate biodiversity enhancements measures in addition to necessary ecological mitigation and compensation, in order to achieve a net gain to biodiversity interests of the site.
167. Landscaping plans submitted with the application are not sufficiently detailed. A condition is therefore required to secure details of landscaping, to include planting schedules and species lists, and all new hedgerow planting should comprise a mix of species rich native hedgerow.
168. DCC also considers that conditions are required to ensure a Construction Environmental Management Plan (CEMP) and long-term Biodiversity Management Plan.
169. It therefore considers that the construction phase of development would have a negative impact whereas the operational phase would have a positive impact.

*Amenity*

170. Impacts on residential amenity can arise from construction disturbance, noise, glint and glare and operational lighting.
171. DCC questions the logic of siting a compound in such close proximity to the complex of dwellings, and thus residential receptors, at Gwernigran Farm. The use of the site compound would therefore need to be carefully controlled, and the hours of work would also need to be limited to protect residential amenity. Conditions should be imposed to require the site compound to be removed and the land restored following completion of construction works.
172. A condition should be imposed to secure the submission of a CMS.
173. The applicant's draft condition 7 proposes to allow deliveries to the site between the hours of 7am and 7pm. Due to close proximity to individual dwellings, the Council consider unacceptable harm to amenity would arise if construction were to be permitted during such a period. Rather, it suggests that construction works should be limited to 8am – 6m Monday to Friday and 8am – 1pm Saturdays only.
174. In the interests of protecting residential amenity, conditions should be imposed to ensure noise experienced at the nearest properties do not exceed the predicted noise levels contained in Table 5.2 of the submitted Noise Assessment.
175. DCC considers that conditions are required to secure details of landscaping, and that the resultant landscaping scheme and management plan should ensure hedgerows which screen dwellings identified in the Glint and Glare Study should be retained and maintained at a height which provides sufficient screening.
176. DCC agrees with the conclusions of the ES with regards to air quality insofar as potential impacts would be limited to the construction phase and would not be significant. Measures to mitigate harm to air quality can be contained in the Construction Method Statement.

177. It therefore considers that both the construction and operational phases of the development would have negative impacts.

*Heritage*

178. In terms of construction impacts, it is noted that the site compound area which is proposed would be sited in very close proximity to the Gwernigron Farm listed buildings. Due to the close proximity, DCC considers that it would have a major detrimental impact on the setting of these listed buildings. It is therefore essential for conditions to be imposed to ensure the site compound area is removed and the land restored on completion of works to ensure the detrimental impact on setting is limited to the construction phase only.
179. In terms of operational impacts, the vast majority of the land around Gwernigron Farm is flat and as the solar panel structures are fairly low to the ground, this would help reduce the overall visual impact in general from the main viewpoints around the farmstead. The farmhouse, curtilage buildings and Dovecote are also considered to be fairly well screened with existing trees and hedgerows at present, but would obviously be less so in the winter months. Thus, the impact would not be completely mitigated by existing planting.
180. There are also existing strips of woodland and large hedgerows around the proposed site in general which would provide some further natural screening and break up the expanse of solar panels, and a reasonable green buffer would be left around the immediate vicinity of the farmstead. The introduction of further planting of trees and hedges to provide screening and break up the mass of the development would also be important and full detailing should be secured by condition.
181. As the development proposed involves temporary structures and the site would revert back to agricultural use when its lifespan ends after 37 years, so impact on setting is not permanent, subject to conditions being imposed to ensure the land is restored following the expiration of the 37 years.
182. The Heritage Statement also confirms geophysical survey and archaeological trial trenches have revealed sub-surface archaeological remains within the site boundary. Due to archaeological interest, DCC considers it necessary to impose a condition requiring an archaeological watching brief to be conducted during the construction phase.
183. It therefore considers that both the construction and operational phases of the development would have negative impacts.

*Traffic and Transportation*

184. DCC agrees with the conclusions of the Traffic and Transport chapter of the ES that adverse impacts to highway network would be limited to the construction phase and would not be significant. Adverse impacts to highway conditions could be satisfactorily managed / minimised through the imposition of conditions to secure a CTMP and a CMS.
185. The site plans do not provide sufficient level of detail in relation to the siting, design and construction of the proposed new and temporary site accesses, and therefore conditions are also required to ensure that the necessary detail is submitted and approved prior to the commencement of development.
186. It therefore considers that the construction phase of development would have a negative impact whereas the operational phase would have a neutral impact.



*Public Rights of Way*

187. Whilst the Highway Authority has agreed to the principle of the PRow diversions shown on the site plans, the diversions would still require separate, formal approval from the Local Highway Authority under the provisions of Section 257 of the Town and County Planning Act 1990, and no PRow should be interrupted until a Diversion Order has been confirmed by the Local Highway Authority.
188. During the construction phase, it is essential that clear, bilingual signage is erected along the route of the temporary diversion and that necessary measures are put in place to protect the health and safety of PRow users during the construction phase. The applicant has proposed a PRow management plan is secured by condition and DCC would be supportive of such a condition.
189. It therefore considers that the construction phase of development would have a negative impact whereas the operational phase would have a neutral impact.

*Mineral Safeguarding*

190. As the solar farm would be a temporary development, once decommissioned the site's former agricultural use could be restored, with no likely significant lasting adverse impacts on the site. Neither would it permanently sterilise the sand and gravel resource that lies beneath it. Once decommissioned, the sand and gravel resource would be available for future extraction should the need arise.
191. Should consent be given for the proposal, a condition should be imposed to ensure that once the solar farms is no longer producing electricity, or it is no longer required for energy production, that it is decommissioned, equipment dismantled and removed, and the site is restored fully to ensure that the mineral resource beneath the site is made accessible should it be required in the future.
192. It therefore considers that both the construction and operational phases of the development would have neutral impacts.

*Socio-Economic*

193. The proposal would generate supply chain and employment opportunities, however jobs during the construction and operational phase may not be drawn from the local area due to tendering procedures, but would nevertheless provide wider economic benefits at a strategic scale.
194. There is the potential for positive social and economic effects which align with the objectives of the LDP including the aim of delivering sustainable development.
195. It therefore considers that both the construction and operational phases of the development would have positive impacts.

*Planning Conditions*

196. DCC considers that conditions would be necessary to ensure the impacts of the proposal are adequately managed and mitigated should planning permission be granted.
197. It has reviewed and provided comments on the applicant's Draft Planning Conditions which have been submitted with the application, which relate to a standard time limit for the commencement of development and compliance with approved plans, the duration of the permission and decommissioning, drainage, arboriculture, the submission of a CMP, SMP, BMP and a CEMP, restrictions on hours of working, external lighting, landscaping, noise, archaeology, PRow and highway works.

## Statements of Common Ground

198. Although the SoCG have been submitted in draft form only, it is evident that there is broad agreement between the main parties in respect of the following matters.

*SoCG with Denbighshire County Council (including planning conditions)*

199. Matters not in dispute: Principle of the development; landscape character and visual amenity; biodiversity; some aspects of BMVAL; residential amenity; traffic and transport; PRoW; flood risk and drainage; mineral safeguarding; socio-economic benefits; arboriculture; risk of pollution; noise; health and safety; impact on WW assets; decommissioning and restoration; benefits of the proposed development and planning balance.

200. Matters in dispute: The extent to which the development would impact upon BMVAL.

201. The updated draft Schedule of Conditions consolidates the previous draft highlighting those conditions which are already considered to be agreed, those requiring further comment and agreement, and also the wording of additional conditions proposed since the last consultation period for comment by DCC.

*SoCG with Welsh Water*

202. Matters not in dispute: The Detailed Planting Plan has been amended to include acceptable species where planting is proposed across a Dwr Cymru easement. The suggested conditions would ensure the provision of further detailed information at construction stage to ensure that Dwr Cymru assets would be protected.

203. Matters in dispute: None

*SoCG with Welsh Government (Climate Change)*

204. Matters not in dispute: The Agricultural Land Classification ('ALC') Assessment prepared by LRA Associates Ltd is an accurate reflection of the land quality at the site; The solar farm would be a temporary form of development, as controlled by planning condition; The land would continue to have an agricultural use throughout the operational phase of the solar farm.

205. Matters in dispute: Whether the proposed development would result in 'loss' of BMVAL; Whether the ALC Grade can be maintained during the construction, operational, and decommissioning phases; The extent to which soil health would be enhanced over the lifetime of the scheme relative to the 'business as usual' continuation of typical arable land management as existing at this site; Whether the lack of availability of alternative suitable sites has been adequately and robustly demonstrated; Whether overriding need for renewable energy has been demonstrated; The extent to which the Sequential Analysis Study (SAS) has been prepared in accordance with relevant national and local planning policy requirements and guidance; Whether viability is a relevant planning issue and the use of agricultural land proposed has been justified within the planning application; The significance of the lack of availability of the site for the production of food; Whether there is compelling evidence which demonstrates that it is possible to restore BMVAL at sites used formerly for glass houses, orchards, and quarry/landfill sites; whether the installation and removal of piles could be carried out without leading to mixing of soil horizons; The extent to which the land would be managed to enhance soil quality, biodiversity, ecosystem services and overall resilience; Whether the development would present a risk of acceptance of permanent development at the site given that any future planning application would be determined in accordance with the development plan unless there are material considerations that indicate otherwise.

## Appraisal

206. The main considerations are:

- The effect on the landscape character and visual amenity of the area;
- the effect on heritage assets;
- whether the development is acceptable in terms of flood risk;
- the effect on the ecology of the area;
- the effect on traffic flows and highway safety, particularly during the construction phase;
- whether the development would result in a loss of BMVAL; and
- whether any harm identified in relation to the foregoing and any other consideration would be outweighed by the benefits of the scheme, in particular its contribution to renewable energy generation and combating the climate change emergency.

### Landscape Character and Visual Amenity

207. The ES includes a Landscape and Visual Impact Assessment (LVIA), which has been prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment 2013 and the LANDMAP methodology 2016. It is informed by a Zone of Theoretical Visibility (ZTV) which is based upon the topography across the local landscape and defines the area within which to assess the potential significant landscape and visual effects. These maps are supported by a series of representative viewpoints for which photomontages depicting the appearance of the scheme have been prepared.

208. No significant concerns have been raised by any of the main parties in respect of the updated LVIA, which takes account of the changes to the proposed layout (consisting of the omission of some rows of panels from the developable area) and the inclusion of additional planting/ landscaping. The LVIA, together with other relevant evidence and my observations at the site visit, inform my assessment of this aspect of the proposal.

209. The LVIA has assessed the construction, operational and decommissioning phases of the development. I accept that the construction and decommissioning phases would, at certain times, have a greater impact than during its operation. However, as construction and decommissioning are likely to be relatively short-lived (including any temporary compounds required for the construction phase of the development), I have focussed mainly on the operational period of the project.

#### *Landscape Character*

210. The northern and western extent of the site falls within National Landscape Character Area (NLCA) 08: North Wales and Coasts. The key characteristics of relevance include '*... a broad flat coastal plain centred on Rhyl, including the small estuary of the River Clwyd, including a network of medium scale pastoral fields of regular pattern, with ditches and, to a lesser extent mixed, managed hedgerow, and occasionally interspersed with small stands of mixed farm woodland*'.

211. The eastern and southern extent of the site falls within NLCA 11: Vale of Clwyd, which is described as '*...largely rural and agricultural, whose patchwork of mixed pastures and arable fields are enclosed with mature and often well-managed hedgerows....*'

212. The LANDMAP evaluation of the aspect areas within which the site is located is 'moderate' in relation to the Geological Landscape and the Visual and Sensory layers, but 'low' in relation to the Landscape Habitats layer. In relation to the Historic

Landscape layer, I note that no overall evaluation is provided due to '*a lack of a detailed assessment on NRW's website*'. Whilst the evidence on which to base the assessment of the historic landscape character in this main consideration is relatively scant, its value as the setting to historic assets is also covered under my assessment of Heritage matters that follows.

213. The fields within the site vary in scale and form. The eastern part is characterised by medium to large scale, geometric and strongly rectilinear fields. Some of the fields west of Gwernigron Farm, are slightly elongated and elevated in part, with their boundaries more sinuous. Internally, the field boundaries are formed of a mix of post and wire fencing and hedgerows of varying quality interspersed with trees in places. Other vegetation located within the site includes standalone trees and broadleaved woodland. There are a number of small ponds, located across the site.
214. Notwithstanding the presence of a complex of farm buildings associated with Gwernigron Farm positioned at the centre of the application site, together with other sporadic built form beyond the site boundaries, it is a predominantly rural, agricultural landscape with the buildings benefitting from some degree of screening provided by boundary vegetation.
215. The LVIA states that the field pattern is generally defined by hedgerows, ditches and other linear belts of vegetation. It recognises the topography of the application site as simple, level and low lying, forming part of the wider surrounding vale landscape.
216. Accordingly, and in terms of the aspect areas assessed against the Geological Landscape LANDMAP layer as having medium sensitivity and an overall 'moderate' evaluation, the LVIA concludes that the low-lying profile of the solar panels is such that they tend to follow and reflect the landform. The medium to large scale of the landform, being part of the larger vale landscape, is capable of absorbing the proposed development. The solar panels would respond to the underlying topography, following the level and simple landform. As such, the perception of the scale and experience of the landform would not be significantly changed.
217. In terms of the Visual and Sensory layer, the applicable aspect area has been classified as flat open lowland farmland with a landscape that is settled and ordinary. Although it is acknowledged in the LVIA that the proposed development would add to the complexity of this aspect area, being a new form of development, it considers that it would not be incompatible with the agricultural landscape. It adds that the development would utilise the least visually sensitive parts of this aspect area given the site's location adjacent to the A55 corridor and very close to the settlement edge of St Asaph.
218. Turning to the Historic Landscape, the LVIA explains that the south-easternmost part of the Bodelwyddan aspect area impacted by the development is a relatively isolated parcel, with the majority of this aspect area separated by the adjacent Pengwern aspect area. It goes on to describe the main focus of the Pengwern aspect area as the parkland and designed landscape associated with the house (I have taken this to mean the Grade II Listed Pengwern Hall) which lies on the northern outskirts of this aspect area. The assessment in the LVIA concludes that the location of the application site in the southern part of the aspect area, that is, away from this asset, would mean that the introduction of solar panels is unlikely to be evident from around Pengwern and its adjacent fields. Meanwhile, the submitted Heritage Statement considers that the northern and central areas of the application site would be visible in the mid-ground of views from the first-floor windows of the primary elevation of the Hall, thereby calling into question the extent of the site's visibility in the landscape from within this aspect area. Be that as it may, the LVIA concludes that the proposed development would not

affect the existing field boundaries and, in that respect, the field pattern and its contribution to the historic dimension of this landscape would be retained. I agree.

219. However, in my opinion, the largely undeveloped and open nature of the fields themselves is also characteristic of the overall field pattern, which of itself, would be sensitive to change. Thus, whilst I accept that there would be gaps between the rows of solar panels together with buffers around the boundaries where additional woodland, hedgerow and tree planting is proposed partly to enhance the landscape framework across the site, there is no doubt in my mind that the surface of the affected fields would be densely packed with solar arrays for the most part. Furthermore, I do not agree that the panels could be properly described as low-lying; with an assessed maximum height in the order of 3m, I do not consider that they would be absorbed as seamlessly into the landform as has been suggested. It therefore follows that the vast and continuous rows of such modern precision-engineered structures, arranged in a regimented form, would result in the loss of open fields and would represent an uncharacteristic element in the predominantly rural, agricultural landscape for a period of 37 years.
220. The LVIA recognises that the positioning of the solar arrays on the field surfaces would have an impact. However, it considers that due to their light footprint only the metal frames would have direct effect on the ground cover. As the grassland beneath the solar panels would be supplemented by an appropriate grass mix to enhance biodiversity, this could be regarded as a beneficial change in landscape character terms.
221. It further asserts that the internal access tracks would be constructed with a local stone to reflect the geology of the local landscape. In doing so, they would resemble the existing access track that link the various parcels of the application site while utilising the existing field gates, where possible, to minimise vegetation removal. Although some very limited removal of structural vegetation would be required to accommodate short sections of the proposed access tracks, the retention of the majority of the hedgerow in the site (which represents a traditional but typical field boundary treatment) would result in no significant change in landscape character terms.
222. I also accept that improvements to field boundary vegetation, including additional hedgerow and hedgerow tree planting, would assist in assimilating the development into its surroundings, balancing any adverse direct effects brought about by the proposed infrastructure and further reduce any limited inter-visibility with historic landscape features.
223. Be that as it may, the development would remain visible in part, particularly from close quarters. However, when seen, it would be contained within the existing fields, appear as part of a well vegetated landform which includes wooded margins, where views would be filtered and restricted in the longer term such that it is unlikely to be seen in the landscape at its full extent.
224. Turning to the landscape character of the AONB. The special qualities of the AONB have been categorised in the Clwydian Range AONB Management Plan 2014 – 2019. Specifically in terms of landscape character and landscape quality, the special qualities are identified as tranquillity, remoteness and wildness, and space and freedom.
225. I note the findings in the LVIA that the proposed development, which would be positioned some 3.6km away from the AONB at its closest point, would not have any direct effects upon its landscape character and special qualities. It asserts that there is an unmistakable difference in landscape character terms between the rising slopes and elevated, often exposed, uplands of the AONB and the level and low lying vale associated with the River Clwyd.

226. I agree that the variation in the built form and elements of infrastructure which are present across the landscape that surrounds the AONB, together with the changes in the topographical profile of the landscape, creates strong separation between the AONB and the application site. Hence, any visual change introduced by the proposed development would read as part of a different landscape. The enclosure provided by the field boundaries of the application site would ensure that the proposed development would be visually curtailed. The landscaping mitigation measures, which include new native hedge, hedgerow trees and woodland planting in the eastern parts of the site, would further break up areas of panels and filter longer distance views from within the AONB.

*Visual Amenity*

227. The solar arrays would be seen in the context of the simple, level and low-lying land, the existing field pattern and the field boundary vegetation. The developed areas would be densely packed with solar panels which would be fixed to a metal framework and inclined. In archaeologically sensitive areas of the site, the ballast framework would be less lightweight, consisting of compacted aggregate, a pre-cast concrete slab, lintels and concrete railway sleepers at the base.
228. Breaches of field boundaries to create access tracks would be limited, but where this would occur, only short sections would be affected, and the tracks would be constructed using a local stone to reflect the geology of the area.
229. The proposed battery storage facility would be located in the far corner of a triangular shaped field in the southern part of the site, relatively close to boundary hedgerows to the south and west, and adjacent to the A55. Substation and transformer units would be distributed at various locations throughout the site, positioned adjacent to the new access tracks.
230. I do not consider that the utilitarian design of the battery storage containers, customer switchgear building, substation and transformer units together with any associated fencing could be described as aesthetically pleasing. However, I accept that appropriate finishes in a dark recessive colour would assist with assimilating these elements into the surrounding rural environment and that this matter could be controlled by condition.
231. That being said, the development would be screened from the A55 to the south and the A525 and Sustrans National Route 84 to the east by the existing dense vegetation along the site boundaries. Whilst LVIA Viewpoint 4 from PRoW 201/13 to the north-east of the site alongside the A525 demonstrates that the closest field is visible through a gap in roadside hedgerows, the existing field access gate would be closed off and the hedgerow allowed to establish and grow to close the gap. Views of the development from other sections of both highways would be short-lived and transient, and would be sufficiently mitigated by the screening effects of vegetation such that the impacts would be modest.
232. To the north, the application site is separated from Rhuddlan Road and the A525 by a large expanse of agricultural land and the buildings associated with Pengwern College and Pengwern Farm to the north-west together with Blairmore House and Glyn Derw Farm to the north-east. With the exception of the potential visual impact associated with views of the development for receptors that are sensitive to such effects (for example, the residential properties), given the separation distances that I have described together with the topography of the site and its surroundings, I do not consider that there would be any significant adverse visual impact associated with any viewpoints from the north.
233. In addition to the LVIA assessed viewpoints from PRoW 201/7, I observed that there are glimpses of the westernmost part of the application site from the single width, winding

Nant-y-Faenol Road. Only small parts of the development would be visible in the western fields as this part of the site would be largely left for grazing with only a limited number of panels set back from the field margins and screening provided by vegetation. The remaining parts of the development would be screened or considerably restricted, and more distant. Hence, any views of the development from these vantage points would have no more than a minimal visual impact.

234. Long distance views from within the Clwydian Range and Dee Valley AONB are available from roads, PRow footpaths and bridleways and the open access land which covers Y Foel to the south of Dyserth. To this end, the LVIA includes an assessment from several viewpoints from within the AONB. My own observations of the site from higher ground in the AONB reinforce DCC's concerns that the proposal has the potential to affect the open and undeveloped character of a large tract of open countryside and that the extensive areas of solar panels would contrast with the landscape. Nevertheless, due to the distance, clear separation in terms of character, and additional landscaping that has been proposed (including more substantial planting along the A525, additional blocks of woodland planting and the retention and reinforcement of the existing landscaping), I am satisfied that the extensive and considered landscaping scheme would assist in breaking-up and softening views of the dense areas of solar panels. I therefore concur with the assessment in the LVIA that the AONB would not experience any significant effects and none of its Special Qualities would be affected.
235. Nevertheless, the LVIA accepts that, from close quarters, people travelling along the PRow which cross the site would experience locally some significant visual effects due to proximity and the direct nature of views. PRow 208/18 is shown to be retained on its existing alignment whereas PRow 201/8 and 208/20 would need to be diverted.
236. At the Hearing session and as detailed in the submitted Hearing Statement, the applicant confirmed the position regarding the PRow. Consultation undertaken to date suggests that the proposal would be acceptable (subject to consultation to be carried out at the time of the local consent application). The applicant's stated intention is to progress this application with the local authority in parallel with the DNS application so that the Order can be confirmed (or otherwise) upon determination of the DNS application. I note that no draft Order has been submitted to date. However, the merits of the stopping up and diversion of the PRow under the terms of the 1990 Act are not before me given that this component was omitted from the secondary consenting regime.
237. Clearly, based on the existing alignment of PRow 201/8 and 208/20, both footpaths would be obstructed by the siting of the solar panels along large sections of their length. Nevertheless, I am satisfied that physically alternative routes are available within the applicant's land ownership. Whilst I do not seek to comment on the merits of an application for the stopping up or diversion of the PRow, such a course of action would be necessary to accommodate the planned development.
238. In this context, users of the footpaths would be faced with rows of solar panels and perimeter fencing and/ or ancillary infrastructure / containers as they crossed the site, substantially increasing the apparent presence of man-made features to such an extent that the development would appear monolithic and imposing. This would be a major adverse impact on visual amenity significantly affecting the receptors' ability to enjoy the tranquillity and rural character of the area and potentially affecting their well-being. Although the LVIA also concludes that the effects are predicted to be significant despite the proposed mitigation measures, this finding is tempered by the fact that most users of the footpaths would be moving and the solar arrays would have a limited and temporary impact as part of a longer journey.

239. Furthermore, the LVIA recognises that, at Year 1 of the operational phase, it is likely that significant visual effects would occur at the properties associated with Gwernigrn Farm House, Plas Coch, Wern Bach and the properties overlooking the south eastern corner of the proposed development. Based on my observations at my site visit, I also consider that there would be potential for adverse visual impact for the occupants of Glyn Derw Farm and Blairmore House to the north-east, particularly from any first floor habitable room windows overlooking the site given their close proximity. However, with the layers of intervening vegetation and once the additional planting has matured, the visibility of the development from the majority of these receptors would be reduced. In this context, and whilst the development may still be perceived, I consider it unlikely that the panels would remain so dominant as to represent a significant adverse visual impact for residents.
240. Paragraph 5.9.21 of PPW advises that developers should, wherever possible, consider how to avoid, or otherwise minimise, adverse impacts through careful consideration of location, scale, design and other measures. The applicant explains that the Variation of the scheme specifically included the removal of some rows of solar panels, which would not only provide a greater setback from field boundaries but would, in turn, allow for the addition of substantial woodland planting along the eastern boundary with the A525 and additional mitigation planting throughout the site to break up areas of panels and filter long distance views. I also acknowledge that additional tree and understorey planting to the south is proposed, which would provide screening of the battery storage facility from longer distance views from within the AONB. I am therefore satisfied that the scheme is generally compliant with this policy advice.
241. For the above reasons, and although the proposed scheme would have a localised adverse effect on landscape character and visual amenity, there would be no significant harm to the character and appearance of the wider area, including the landscape character of the AONB and its special qualities consistent with the requirements of FW Policy 18(1), LDP Policies VOE 10 and VOE 2 and the Clwydian Range and Dee Valley AONB SPG.
242. I also note DCC's observations in the Landscape Character and Visual Impact section of its LIR that the proposal would effectively 'urbanise' an extensive tract of green, open countryside which currently separates the settlements of St Asaph and Bodelwyddan and, when taken together with other key sites, would magnify the cumulative effect of this urban coalescence. I recognise that the application site lies beyond settlement boundaries identified in the LDP and, as such, is in the open countryside for planning policy purposes. Whilst the development would therefore be contrary to LDP Policies designed to protect the character and appearance of the countryside and avoid coalescence of settlements, given the thrust of Policy 18 of FW which has been designed specifically to deal with DNS projects, together with the clear support for renewable energy schemes at this scale and the virtual inevitability of their siting in such open countryside locations, I consider that there is a clear justification for developing this site in breach of the restrictive strategy in the LDP.

### **Heritage**

243. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.



244. Paragraph 1.25 of TAN 24 advises that the setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated embracing present and past relationships to the surrounding landscape.
245. The application is supported by a Heritage Statement which assesses the settings of designated historic assets within 5km of the application site; it identifies seven assets potentially sensitive to changes to their setting arising from the proposed development. A subsequent Built Heritage Addendum is intended to clarify the impacts of the proposed temporary construction compound and the updated landscaping / planting scheme.
246. Gwernigron Farmhouse is Grade II Listed as '*A well-preserved substantial farmhouse of the late C17 with modifications giving it a coherent character in the C19*'. A Grade II\* Listed Dovecote stands within the complex of farm buildings, and is listed as a '*A well preserved and restored example of a large sub-medieval dovecote, and a fine example of a type characteristic of the north-east of Wales*'.
247. The Heritage Statement assesses the significance of both the Farmhouse and the Dovecote as principally deriving from the architectural and historic interest of their built form and fabric and that setting contributes to their respective significance to a lesser degree. Nevertheless, it also acknowledges that the areas of the application site immediately to the south and east make a clear contribution to the significance of these heritage assets through setting, due to the historical association of landholding, their intervisibility and key views both from the assets and towards the assets from the track.
248. The Heritage Statement concludes that the development would result in a small degree of harm to the significance of the Farmhouse, derived from the visible change to the historic agricultural landscape character of the site as experienced on the approach from the east and in the periphery of views from the asset. It considers that the development would result in no harm to the significance of the Dovecote, due to the exclusion of development from the southern part of the field immediately to the east of the Farmhouse and Dovecote and from the western part of the field on the south side of the access track.
249. Cadw disagrees with the conclusions of the Heritage Statement insofar as it considers that the siting of solar panels in the fields surrounding the Farmhouse, which were farmed from it, would alter the way it is experienced understood and appreciated. It argues that the resultant impact would be of a moderate rather than small scale, which would therefore be closer to the middle of the scale of less than substantial harm to the significance of the listed buildings.
250. I note that Cadw's assessment of harm is also based on the impact of the construction compound to the south of the Farmhouse. However, I do not agree that this element would increase the level of harm to the significance of the building's setting. This area of land forms part of the farmyard, which is an active part of current agricultural operations and includes an area of hardstanding with a large modern barn at its south end. Hence, in my opinion the addition of a temporary construction compound largely confined to the existing hardstanding, which would be dismantled once construction is complete and the area returned to its current state for the operational phase of the development, would not contribute harm to the setting of the Listed Buildings.
251. Notwithstanding this, I share Cadw's view that the removal of solar panels from the area of land immediately to the south of the farmhouse's main elevation and principle view, together with the retention of existing vegetation and additional landscaping, would reduce the impact on the setting of the Farmhouse. Be that as it may, the omission of panels from a discreet section of the site and additional screening could not wholly mitigate the change to the historic agricultural landscape character that contributes to

the significance of the setting. In this context, I am of the opinion that the development would result in moderate harm to the setting of this heritage asset.

252. The Grade II Listed Pengwern Hall is a fine late-Georgian mansion, preserved in a manner which enables much of its original character to be appreciated. It is the northern and central areas of the application site that contribute to the significance of Pengwern Hall through setting, due to the historical association of land ownership and the apparent visibility of this part of the site in the mid-ground of views from the first-floor windows of the primary elevation of the Hall. For this reason, the siting of solar panels and ancillary structures on this part of the site, even with mitigation planting, would result in a small degree of harm to its significance.
253. Turning to another heritage asset, the listing description for Plas Coch provides no history or reason for the designation but describes an entrance range dated 1667 with mid C19 alterations, a later Georgian range parallel to the rear, a 19<sup>th</sup> Century range to the left, a modern range set back to the right and many later alterations / additions in association with the conversion to a residential home use. The Heritage Statement summarises the elements of the setting of Plas Coch that contribute to its significance; of relevance here is views towards the asset from its access drive and grounds and views from its primary south-east facing elevation across its forecourt and paddock. Although it is recognised that there may be some visibility of a very small portion of the south-eastern part of the application site in views from the primary elevation of Plas Coch, this area of land seemingly never comprised part of the holdings of Plas Coch and therefore makes no contribution to the significance of the asset through setting. Whilst there could also be some glimpsed visibility of the solar arrays in the field to the north of Plas Coch through the existing hedgerow, I concur that, on balance, the proposed development would result in negligible harm to the significance of this asset.
254. There is no known historical association or intervisibility between the site and the Grade II Listed Talardy Hotel (with its Grade II Listed walled garden and Grade II Listed greenhouse) located outside the south-eastern corner of the site at the junction of the A55 and the A525. There is intervisibility only between the south-eastern part of the site and the large, detached, two-storey accommodation block to the west of the Talardy Hotel, built sometime between 2016 and 2018. Thus, the application site makes no contribution to the significance of the three assets at Talardy Hotel.
255. The impact of the development on the settings of the Grade I Listed Rhuddlan Castle and the Grade II\* Bodelwyddan Castle, along with its historic park and garden, has been assessed as negligible or none.
256. Furthermore, the site does not appear to be co-visible in the mid-ranging views of the Grade II\* Bodelwyddan Church from the A55 dual carriageway. There are glimpses of the Church spire from within the western part of the site, albeit these are incidental and do not contribute to the significance of the asset.
257. In summary, therefore, whilst the development would preserve the settings of designated heritage assets for the most part, there would be moderate harm to the setting of the Grade II Listed Gwerngron Farmhouse and a small degree of harm to the setting of the Grade II Listed Pengwern Hall. However, I acknowledge Cadw's response that this would amount to less than substantial harm to the significance of the heritage assets.
258. Consequently, the proposal would cause a degree of harm to the settings of two designated heritage assets thereby engaging the duty to have special regard to the desirability of preserving the setting of a listed building and conflicting with LDP Policy VOE 1. However, having regard to the temporary and reversible nature of the development, I conclude that it would not have an unacceptable adverse impact on

statutorily protected built heritage assets as required by FW Policy 18(6). Furthermore, given that the character and appearance of the St Asaph and Rhuddlan CAs is derived from the historic street pattern, built form, and open areas within their boundaries, I am satisfied that the proposal would not offend the duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA.

### **Flood Risk**

259. Approximately half the site falls within zone C1 on the TAN 15 Development Advice Maps, which is defined as an area at risk of flooding served by significant flood defence infrastructure. At the southern margins of the land in zone C1, and on slightly elevated ground, are areas of the site falling within zone B. The remaining southern and western parts of the site fall within zone A.
260. Paragraph 11.1 of TAN 15 advises that '*Where a site falls partially within zone C it will be a matter for the planning authority to judge whether to apply section 6, although it is probable that an assessment in accordance with section 7 and appendix 1 will be required*'. In this case, DCC has stated in its LIR that it defers to comments from NRW on matters relating to flood risk. However, NRW is also silent on this particular issue.
261. Given that a significant portion of the site lies within zone C, I am of the opinion that Section 6 of TAN 15 should apply. Paragraph 6.2 is therefore of relevance here. It is explicit that only development that is not 'highly vulnerable' should be permitted within zones C1 and C2, and only if it is justified in that location. Development will only be justified if it can be demonstrated that:
- (i) its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
  - (ii) its location in zone C is necessary to contribute to key employment objectives supported by the local authority to sustain an existing settlement or region; and,
  - (iii) it concurs with the aims of PPW and meets the definition of previously developed land; and,
  - (iv) the potential consequences of a flooding event for the particular type of development have been considered, and found to be acceptable.
262. The applicant's Flood Risk Justification Test contends that the proposal would constitute a 'Less Vulnerable' form of development. With reference to Figure 2 of TAN 15, which identifies the vulnerability of different land uses from 'Highly Vulnerable' to 'Less Vulnerable', it is argued that not all types of development fall within the categories identified and there is no reference to solar generation or any form of renewable energy. Furthermore, the applicant considers that the '*especially vulnerable industrial development (e.g. power stations)*' referenced in Figure 2 is not applicable to the proposed solar development. It is also asserted that the site's characteristics and the specifics of the proposal are such that it is more akin to 'General Industrial' or 'Utilities Infrastructure' forms of development, which are treated as 'Less Vulnerable' for the purposes of Figure 2 of TAN 15.
263. Whilst I also acknowledge the applicant's contention that such an approach would be consistent with the consultation version of TAN 15 (October 2019), which defines renewable energy generation facilities as 'Less Vulnerable' development, it has not yet been published nor does it supersede the 2004 published version at this time.

264. It is no part of the appellant's case that the proposal would satisfy any of the first three of the above TAN 15 justification tests. Nevertheless, Para 5.3 of the TAN explains that some uses should be treated as exceptions to the general rule in relation to the vulnerability of uses to flooding because they are required in such a location by virtue of their nature, albeit the examples given in the TAN are uses requiring a waterside location, such as boatyards and marinas. Be that as it may, such exceptions would not be subject to the first parts of the justification test but would be subject to the acceptability of consequences part of the test (iv above).
265. To this end, I have been provided with a copy of the Inspector's report in respect of a previous DNS application for a solar scheme on land on the Caldicot Levels to the south of the Llanwern Steelworks (Ref. APP/G6935/A/16/3150137), in which it was concluded that the proposal needed to be located in this area primarily due to the availability and proximity to a grid connection and the high number of hours of sunshine. In the absence in TAN 15 of any consideration of renewable energy installations, the Inspector considered these circumstances to present an alternative and strong justification for the proposed development's location in this area.
266. In the context of the above, it seems to me that there are robust reasons for locating the proposed development within this zone, not least the availability and proximity to a grid connection and the lack of a sequentially preferable site that could accommodate the development (as detailed in the submitted SAS), thereby constituting an exception to (i) – (iii) of the justification tests.
267. In response to (iv) of the TAN 15 justification tests, the application is accompanied by an FCA. It concludes that the proposal would be safe from all forms of flooding and provide a betterment in terms of downstream flood risk and pollution. The risk of flooding would be appropriately mitigated through raising the solar panel edges and vulnerable infrastructure by 300mm above the predicted 1 in 100 year +30% flood levels in the event of a breach of the earth embankments on the Afon Elwy. The measures would also serve to mitigate the risk of flooding from a reservoir breach or groundwater flooding. Panel stanchions and foundation pads for the substation containers would be suitably designed to withstand the predicted flood velocities. These elements would have a negligible effect on flood flows which would be spatially localised and not propagate beyond the site boundaries.
268. For these reasons, I consider that the consequences of flooding would be effectively mitigated, the risk to site users would be minimised and there would be no increase in the consequences of flooding elsewhere. NRW has also confirmed that it is satisfied with the mitigation measures outlined within the FCA, subject to such measures being secured through appropriately worded conditions.
269. The proposal would therefore be consistent with the flood risk policy set out in PPW and TAN 15 to ensure the risks of flooding are assessed and managed.

### **Ecology**

270. PPW identifies the planning system's key role in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms would be in place to both protect against loss and to secure enhancement. It identifies the importance of supporting biodiversity, ensuring the protection of statutorily designated sites and protected and priority species, and to secure the enhancement of, and improvements to, ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks. Policy 9 of FW identifies the importance of enhancing biodiversity and the resilience of ecosystems. The objectives of PPW and the requirements of FW reflect the duties set out in the Environment (Wales) Act to incorporate biodiversity enhancement measures in addition

to necessary ecological mitigation and compensation, in order to achieve a net gain to biodiversity interests of a site.

271. The site supports a range of flora and fauna, as detailed in Chapter 6 of the ES and the accompanying surveys, and as summarised at paragraphs 66-71 above. The applicant's note on Biodiversity Net Gain provides further context in relation to the biodiversity opportunities offered by the proposed development.
272. The applicant's submissions confirm that the nearest European protected sites to the development are Coedydd ac Ogofau Elwy a Meirchion SSSI and Elwy Valley Woods SAC. The distance of these and other designated sites from the proposed development, with substantial intervening built development and an absence of functionally linked habitat within the site, means that there is no pathway for direct or indirect effects. In addition, the Air Quality chapter of the ES confirms that there are no nature conservation designated sites along the proposed construction traffic route which would be affected by the emissions generated by construction traffic.
273. In its letter dated 9 December 2021, NRW advises that it has not identified any pathway for effects on the SAC and that the proposal would not damage the SSSI interest. It further considers that there is no functional link between the development site and the Liverpool Bay SPA and the Dee Estuary SPA/Ramsar sites. NRW therefore concludes that, from the information provided, the proposal is not likely to have a significant effect on any SSSI, SAC, SPA or Ramsar site. I am therefore satisfied that the proposed development would not adversely affect the integrity of a European site or have a significant effect on any of the nature conservation designated sites.
274. The ES assessment concludes that there is potential for significant adverse effects on GCN, a European Protected Species (EPS), during the construction phase only with positive effects throughout the operation phase as a result of proposed habitat enhancements. NRW considers that construction is likely to cause a breach of species protection legislation and therefore advises that work is carried out under a derogation licence. I am satisfied that such an approach would provide adequate protection and, together with the mitigation measures discussed below, would reduce the potential for medium or long-term cumulative adverse effects to the on-site and wider GCN population.
275. No other significant adverse effects were identified on statutory or non-statutory designated sites or habitats, or on protected or notable species, including bats, birds, or other species in relation to the proposed development, or in-combination with other proposed developments in the wider landscape.
276. Habitat management practices (hedgerows, trees and grassland, both initial and long term) and enhancement measures are proposed that would maintain and improve habitat quality and functionality and biodiversity resilience through protecting and enhancing potentially important wildlife corridors. For example, the creation of extensive grassland habitats on fields which were formerly used for arable farming would provide increased habitat diversity for invertebrates and foraging, shelter and breeding opportunities for other wildlife. The new ponds within the site have been designed as GCN aquatic habitat enhancement and would be surrounded by extensive areas of grassland habitats to maximise habitat connectivity to existing and newly created aquatic and terrestrial habitats throughout the site. New hibernacula would be created within the species-rich tussocky grassland in relatively close proximity to the newly created pond habitats. Furthermore, additional bird nesting and bat roost provision would be made within the site and enhanced opportunities for dispersal, foraging and shelter for Hazel Dormice would be provided by the strengthened and extended hedgerow network and woodland understorey shrub planting.

277. The submitted Outline BMP sets out the framework for the aforementioned habitat and species protection, enhancement measures and the ecological management practices. Provided the thrust of these measures are detailed in the BMP to be secured through a suitably worded condition, I consider that the aim of maintaining and developing wildlife habitats to provide a net-gain for local biodiversity would be met.
278. As the method of construction would require careful control to minimise any adverse ecological impacts, the role of the CEMP in identifying construction phase measures to safeguard protected and notable species and retained habitats, is especially important. I consider that the CEMP could be secured by condition, in line with responses provided by Natural Resources Wales (NRW).
279. Together, the CEMP, the Landscape Ecological Management Plan (LEMP), the BMP and the Decommissioning Method Statement (DMS) would provide a satisfactory framework and a consistent approach to biodiversity protection, management and monitoring throughout the construction, operational and decommissioning phases of the proposed development.
280. Based on the conclusions in the ES, and the implementation of the proposed mitigation measures secured by condition, I am satisfied that the proposed development would not adversely affect the integrity of any European site and there would be no unacceptable impacts on protected habitats and species. The proposed development would therefore comply with LDP Policy VOE 5 which requires an assessment of potential impacts on protected species or designated sites of nature conservation and with Policy VOE 10 which supports renewable energy developments providing they *inter alia* demonstrate no unacceptable impact upon nature conservation. It would accord with FW Policy 18 which requires no unacceptable adverse impacts on internationally designated sites, national statutory designated sites for nature conservation, protected habitats and species. It would also be consistent with the objectives of TAN 5 to protect nature conservation interests and with PPW, FW and the Environment Wales Act to also incorporate biodiversity enhancement measures in order to achieve a net gain to biodiversity interests of the site.

### **Highway Safety**

281. The construction phase of the development would inevitably result in additional traffic movements associated with deliveries and personnel travelling to and from the site. ES Chapter 7 and the submitted CTMP explains how the transport impact would be managed and minimised during the construction period.
282. I do not consider that the trips generated by the construction of the development would have a significant impact on the local and strategic road networks. Whilst it is evident that there would be some increase in demand for delivery, parking and storage facilities, which would involve the use of public roads, these would be short-term impacts only and the roads to and from the site are considered suitable to accommodate construction type vehicles.
283. I viewed the proposed site access at my visit, considering its acceptability in the context of the modifications required to make it suitable for HGVs which would enter and exit the site in a forward gear. I am satisfied that the access, once modified, would have sufficient forward visibility and would provide a suitable route for construction vehicles. Accordingly, a condition is suggested at Appendix A requiring details of the modification of the existing access to the site to be submitted to and approved in writing by the LPA prior to the commencement of these works.
284. The CTMP identifies the management of the PRow that route across the site, which are to be diverted under separate applications to DCC. Whilst I understand that the diversions have been designed to maximise the separation between vehicles accessing

the site and pedestrians, the CTMP identifies that when construction plant and machinery are accessing the site, a banksman would be employed to control both pedestrian movements and traffic control throughout the duration of the construction phase. I consider such a measure to be appropriate in the interests of avoiding vehicular and pedestrian conflict for users of the PRoW.

285. Once operational, the development would not give rise to significant traffic movements with visits for maintenance purposes using light vans anticipated approximately 10-20 times per year. I am therefore satisfied that the infrequent use of the upgraded access for future demand associated with the operational phase of the development would be acceptable.
286. Turning to the temporary traffic calming measures and access requirements, it is the applicant's stated intention to progress such works with DCC's Highway Authority as streetworks applications. However, given the need for this scheme to demonstrate that the means of access to serve the development would be acceptable in highway safety terms, the broad details of the proposed construction access arrangements are provided in the draft CTMP (Environmental Statement Appendix 7.1 dated September 2021). The updated September iteration of this document also confirms that: (i) that the sole access would be via the existing access off the A525 serving Gwernigron Farm, which would be modified and (ii) it has been updated to respond to the request for further information by (WGEI).
287. As I understand it, the applicant submitted a DMRB CD 377 compliant Risk Assessment and entered into further discussion with WGEI to resolve any outstanding issues. In its response of 1st March 2022, WGEI confirms that it does not object to the application, subject to the inclusion of suitably worded conditions.
288. I also note that no in principle objection has been received from DCC or WGEI, subject to the inclusion of suitably worded conditions relating to a CTMP, a CMS and details of external lighting. Although a draft CTMP has already been submitted, a condition requiring a revised CTMP would enable the applicant to resolve detailed matters that may be the cause of concern. Conditions requiring the submission of a CMS and any external lighting are included in the schedule of conditions at Appendix A.
289. Additionally, I am satisfied that a safe means of access can be achieved subject to an appropriately worded condition (as set out within the Conditions Schedule at Appendix A (Condition 5)).
290. Consequently, the proposal would not give rise to any significant highway safety concerns either during or post construction. It would therefore accord with FW Policy 18 (9) to have no unacceptable adverse impacts on the transport network through transportation during its construction and/or ongoing operation, LDP Policy ASA 3 to provide adequate parking and the objectives of PPW and TAN 18 to ensure that the development is served by a safe means of access.

### **Best and Most Versatile Agricultural Land**

291. The applicant has confirmed that, despite subsequent submissions indicating otherwise, the Land Research Associates 'Agricultural Quality of Land at St Asaph' report, dated September 2021, accurately quantifies that 43.1ha of the application site is made up of BMVAL.
292. It is noted that the amount of BMVAL affected by the above ground equipment/ features and installations requiring groundworks (which is the land to be developed) differs from the total land area by ALC grading on which no engineering or landscaping would take place (referred to as the 'undeveloped land'), as detailed in the January 2022 iteration of the CMDS, 'the Elwy: Layout Plan Land Area Calculations Paper submitted following my

request at Hearing Session 1 to address a number of discrepancies and the applicant's subsequent written response on 1 June 2022 which sought to correct the remaining errors. Given the clear discrepancies in the calculations which limits the extent to which these figures can be relied upon, I have taken the area of BMVAL to be affected by the development to be the 20.8ha detailed in the Land Research Associates 'Agricultural Quality of Land at St Asaph' report rather than the lower figure of 12.16ha cited in the applicant's written response of 1 June 2022. The proposal therefore exceeds the 20ha threshold over which the development of BMVAL for alternative uses is considered to be nationally significant for the purposes of Paragraph (p) of Schedule 5 to the Developments of National Significance (Procedure) (Wales) Order 2016.

293. PPW explains that agricultural land of grades 1, 2 and 3a is the best and most versatile, and should be conserved as a finite resource for the future. The guidance makes clear that, when considering the search sequence and development management decisions, considerable weight should be given to protecting such land from development, because of its special importance and that grades 1, 2 and 3a agricultural land should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades are unavailable. Further guidance in relation to BMVAL is contained in TAN 6 which suggests that once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as BMV land is seldom practicable. In addition, local guidance contained in DCC's Renewable Energy SPG makes clear that where development is proposed on higher grade agricultural land, it should be demonstrated to be capable of removal and restoration.
294. In the letter to Chief Planning Officers, dated 2 March 2022, the Minister for Climate Change restates the guidance in PPW that where BMV land is identified within a proposed solar PV array development, BMVAL should be conserved as a finite national resource for the future and considerable weight should be given to protecting such land from development, because of its special importance, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.
295. The January 2022 iteration of the CMDS provided details of the built elements of the proposals that would have an impact on BMVAL. Owing to discrepancies in the associated technical calculations, the 'Elwy: Layout Plan Land Area Calculations' Paper purported to provide accurate calculations based on the most recent iteration of the proposed site layout CAD drawing (which reflects the use of greater efficiency panels and the omission of temporary access tracks from the scheme) and was accompanied by a May 2022 version of the CMDS (albeit still dated January 2022). In any event, it describes the built elements affecting BMVAL on the site as including solar panels mounted on framework, access tracks and power stations and the elements of the installation requiring groundworks and potential soil impacts such as cable trenches, PV tables, supporting metal piles and shallow foundations for transformers, power stations etc.
296. Following further concerns raised by interested parties regarding the accuracy of the calculations and figures provided in the Paper, the applicant's written response of 1 June 2022 sought to correct the errors. Amongst other things, it explains the reasons for the inconsistencies in the submissions regarding the number of piles required to support the panel framework; as the total number of panels and the framework required to support them would only be finalised once a procurement contract is in place, and the number of piles required to support the solar panels is dependent on the system design and technical requirement together with ground conditions, it would be inappropriate to indicate a specific number of piles at this stage of design. Be that as it may, I note that Paragraph 3.35 of the January 2022 iteration of the CMDS states the use of 17,544



piles, paragraph 3.33 of the updated CMDS submitted in May 2022 suggests a total number of 27,300 piles whereas paragraph 17 of Technical Annex 1 to the applicant's Hearing Statement states the use of 30,048 piles. Meanwhile, the applicant's latest review of the calculations outlined in the written response of 1 June 2022 is based on a project of a similar scale currently under construction, which estimates the number of piles to be circa 24,000. Since I cannot discount the higher figure, I have based my assessment of impact on the figure of some 30,000 piles (whilst also recognising that a reasonable tolerance should be borne in mind) with mitigation measures secured through the CMDS and the SMP.

297. Drawing No. SCUKX-GWERN-001-100 shows the relationship of the physical works with areas of BMVAL. When read with the corresponding detail provided in the CMDS, it is evident that topsoil would be stripped in areas of BMVAL for the purposes of track construction, the permanent access, the temporary parking/offloading area of the main construction compound and to accommodate hard standings for substations/transformer substations. The CMDS goes on to identify the method of storing or spreading the topsoil for each component.
298. It also makes clear that only a limited amount of topsoil and subsoil would need to be excavated at the site associated with the construction of cable trenches, post holes and the placement of transformers, which would be separately stockpiled before replacement, and trenching operations would be undertaken during dry weather in the summer months so as to avoid soil structural damage.
299. It clarifies that most of the panels would be supported by steel piles driven to a 1.5m depth by a specialist pile driving device, which would be operated only from access tracks and ground protection mats to prevent compaction. Meanwhile, any minor topsoil compaction resulting from the pressure of the above ground ballast framework (used in relation to archaeologically sensitive areas of the site) would be extremely localised and fully remediable on decommissioning.
300. The CMDS also explains that the operational phase of the solar energy farm represents a benign low impact activity with negligible impact on the quality of the underlying soil and thus the potential for compaction of the soils would be very low. Whilst I do not dispute this, I also consider that there would be potential for soil damage during the operational phase of the development arising from the storage of soils. This matter would rely on controls established via the SMP to minimise that risk.
301. The CMDS goes on to state that when the operational phase ends, the solar energy farm would require decommissioning and that all works associated with the removal and recycling or disposal of solar array infrastructure including modules, mounting structures, cabling, inverters and transformers would be removed and recycled or disposed of in accordance with legislation, regulations and best practice that are current at the time of decommissioning.
302. The basis of WGCC's objection is threefold: (i) the proposal has failed to give considerable weight to protecting BMVAL; (ii) there remains a significant risk that, once developed, its return to agriculture as BMVAL would not be possible; and (iii) the department views the arguments of overriding need and possible alternative sites as insufficient to justify the scheme on BMVAL.
303. In its representations, WGCC asserts that the proposal would not only prevent 43.1ha of BMVAL (despite not all of this land being under panel) being available for food production and non-food uses both now and for future generations (at 37 years, the project spans more than one generation), but would risk the permanent loss of a nationally significant amount of BMVAL. In reference to the commissioned expert evidence of Dr Bruce Lascelles, the impact of solar development on BMVAL having

regard to TAN 6, the new IEMA guidance and the recent Dear Chief Planning Officers letter from the Welsh Ministers, is outlined. In short, WGCC is not convinced that the applicant's submissions demonstrate that the development would not result in damage to agricultural soils leading to permanent loss of BMVAL.

304. I am aware that BMVAL is a finite resource and it is not possible to recreate it once lost. In this context, the need to be satisfied that the resource can be protected during the construction, operation and decommissioning of the solar farm is of principal importance.
305. At the Hearing session, oral submissions were made by both the applicant's and WGCC's experts regarding this matter, which I have considered alongside the written submissions in respect of the same. In particular, the risk of damage to agricultural soils from solar sites was explored, as was soil health and the fragility of soils. Discussions also focussed on whether it is appropriate to draw comparisons between solar and other forms of development, such as golf courses, in assessing the risk of damage to soils and the potential loss of BMVAL.
306. There was much discussion regarding the nature and content of planning conditions that would be designed to protect the soils through the submission and approval of a SMP and through control of the construction and decommissioning phases of the development.
307. WGCC raised specific concerns with regard to the ability of a CMDS and a SMP to properly address such matters. In doing so, it pointed to several components of the CMDS as drafted in January 2022, which would not adequately protect the soil resource including: (i) the lack of detail in relation to the material from which the geotextile permeable separation layer would be made to establish whether it would be successful in protecting the soil; (ii) the appropriate storage of the topsoil stockpile to protect its integrity; (iii) the unacceptability of the suggestion to spread topsoil due to a risk of increased waterlogging and anaerobic conditions in the deeper topsoil layer which would be detrimental and potentially affect the ALC grade by introducing or exacerbating a wetness limitation; (iv) the need for a Soil Resources Plan, which would detail the soil resources present and how each soil type present would be handled; and (v) the suggestion of a three-year aftercare period whereas a programme, usually for five years, is required to reach a satisfactory standard of agricultural after use.
308. In the context of the above, I am mindful that the structure of agricultural soil is fragile and easily damaged and that the construction of a development of the scale proposed is likely to result in a substantial amount of ground disturbance across the application site which, for example, could arise from the engineering operations and the machinery required for the installation of the piles and the excavation of trenches, access tracks and foundations across the site. In my view, the impact of these operations and the nature of the vehicles and equipment required are not comparable to agricultural practices and have the potential to significantly damage the structure of the soil unless properly managed.
309. Although I note the specific concerns in respect of the detail in the CMDS, I consider that an approach which secures the submission of a CMS, together with a separate outline DMS prior to the commencement of development and a detailed DMS prior to decommissioning, thus leaving the precise requirements of the scheme to be determined at an appropriate time, to be entirely reasonable particularly in light of potential for technological advances during the intervening 37 years. The applicant is nonetheless agreeable to incorporating into the relevant conditions (namely those requiring the submission of the detailed DMS and SMP), the variations suggested by Dr Lascelles to improve the approach to be taken.

310. I am therefore satisfied that the technical details necessary to minimise the risk of damage to the soil resource and the likelihood of permanent loss of BMVAL could be delivered by the CMS, the outline and detailed DMS and the SMP, secured by way of conditions.
311. Notwithstanding the above, WGCC submits that the siting of the development on BMVAL would significantly affect the agricultural status of the site so that it would not be available for food production both now and for future generations thereby undermining the objective in section 3(2)a of the Environment (Wales) Act 2016.
312. I do not dispute that the development of a solar farm would mean that the land would be taken out of production to an extent, in particular for the cultivation of food crops, for a period of 37 years. The use of parts of the site for other agricultural uses, such as the grazing of livestock, cannot to my mind, compensate for the failure to use the BMVAL efficiently even for a temporary period.
313. Staying with the matter of the temporary nature of the development, I am mindful of the guidance contained in TAN 6 which advises that restoring land to BMV quality is seldom practicable. However, I note the applicant's contention that a reliance on TAN 6 in this regard is misplaced given that the guidance in paragraph 6.2.2 was provided at a time when, it is agreed, there was no evidence base in respect of the potential to return solar PV developments to agricultural use.
314. Nevertheless, because the proposal would be temporary and the proposed mitigation would ensure that it would not degrade the quality of the land over the time it would be in place, I find that it would not result in any irreversible or permanent loss of agricultural land.
315. My attention has been drawn to the Minister's recent decision of October 2021 in respect of a DNS application for a solar farm at Blackberry Lane (Ref DNS/3245065 refers). In that case, the Inspector considered that the development of a solar park on the application site would mean that the land would be unavailable for the cultivation of food crops for a period of 40 years. She was also unconvinced that, despite the evidence presented regarding decommissioning of the site, the land could be effectively restored to BMV quality and that it would not be lost for future arable food production given the nature and scale of the disturbance. The Minister refused the application noting the Inspector's consideration of this matter and concluding that '*...the proposed development would be likely to result in the loss of BMVAL and, in doing so, would have an impact on the objective of ensuring future food security*'. Nevertheless, there are notable differences between the proposal the subject of the Blackberry Lane decision and the Elwy proposal; the proposal would make a more significant contribution to urgent climate change objectives owing to its greater generating capacity and the amount of BMVAL affected by the Elwy proposal is less (at just over 20ha of land under panel and for associated infrastructure or services or 43.1ha of BMVAL in the application site area) than that associated with the Blackberry Lane proposal. Additionally, in the Blackberry Lane case the Inspector found a lack of confidence in the mitigation. However, in light of the evidence of detailed mitigation measures before me, I am persuaded that the impact on BMVAL would not extend beyond the time limits of the permission and the associated aftercare.
316. In view of the above, I consider that the revised layout of the scheme demonstrates that BMVAL has been avoided as far as is feasible and, together with the CMS, DMS and SMP, has given considerable weight to the impact on BMVAL, which is to be conserved as a finite resource.
317. It is also important to note that national planning policy does not prohibit the use of any particular grade of agricultural land for solar panels. Rather, the tests are those set out

in PPW, namely to demonstrate that there is an overriding need and that lower grade land is not available.

318. Simply put, 'overriding need' is not defined in planning policy and guidance. Thus, in terms of the approach to be taken to establishing whether this test would be met, it seems to me that the need can be local or national and is not restricted to identifying a single site which is deemed to be the best and/or only option. In my opinion, such a large-scale contribution to renewable energy in the context of strong national policy support is capable of constituting need.
319. In assessing whether a need is an overriding one, it seems reasonable to consider the extent of harm that would be caused to the BMV resource, both in terms of the very limited agricultural use that could co-exist with the solar farm and the length of time of that reduced use. Based on a reasonable assumption that land quality would be reinstated at the end of the lifetime of the development (through the controls established by the CMP, the DMS and the SMP), the limited time period that the land would be taken out of food production and the extent to which the scheme would contribute to renewable energy, I consider that an overriding need has been demonstrated.
320. I have had regard to WGCC's stated position that whilst it is fully cognisant of the need to meet legally binding Net Zero targets, it also needs to ensure that Wales can adapt to changes in climate. BMVAL is needed to ensure food security. In my opinion, the reversible nature of the development means that it would align with the thrust of national planning policy to conserve BMV for the future.
321. Planning policy requires the applicant to demonstrate not only the overriding need for the development, but also that lower grade land is not available. To this end, I note WGCC's assertion that what this means in effect is that '*...it has to be at the proposed location*'. It is WGCC's position that the nature of solar development is such that it can be sited in a variety of locations.
322. In seeking to demonstrate that 'lower grade land is not available' in this case, the application was supported by a SAS which assesses 30 alternative sites. Gwernigrion Farm is identified as the only suitable site for the development due to its size, proximity to grid connection, topography and availability for development. [*The applicant has subsequently confirmed that no alternative sites were rejected solely due to an inability to confirm availability*]
323. WGCC argues that the SAS is flawed for a number of reasons relating to the extent of the search area, the size of the site, the availability of sites and the discounting of sites based on the weight attributed to other designations over BMVAL.
324. No party has relied on any national guidance on the extent of the search area for the development of a solar farm or how potential sites should be selected. However, in terms of local guidance DCC's Renewable Energy SPG helpfully advises that '*...applicants are expected to submit a SAS of other sites in the County within a reasonable and justifiable distance*'. Hence, any approach to search area, the test of reasonableness and proportionality must surely apply, else it may become an insurmountable obstacle.
325. In respect of this matter, the Blackberry Lane decision (Ref DNS/3245065) found that the approach taken by the applicant to the definition of the search area and the site selection process was logical, structured and comprehensive and, in the case of the site selection process, had appropriate regard to the need to consider suitable alternative sites. In that case, interested parties raised concern that the search area was limited to the Council's administrative boundary (rather than the whole of Wales) and that once the initial selection process identified that the application site included a substantial area of BMVAL, further analysis of alternative sites should have been undertaken. However,

the Inspector found that '*...the approach to be taken is one for individual developers to determine based on the requirements of national planning policy and consideration of the relevant practical, social, economic and environmental issues*'. The Inspector went on to conclude that '*...PPW does not place a requirement on developers to revisit the site selection process and identify additional alternative sites, where a preferred site is found to be constrained*'. This approach was accepted by the Minister in the subsequent decision letter.

326. In this case, the applicant has confirmed that the key consideration in determining the search area was access to the National Grid through a substation with sufficient capacity for the proposed scheme (the Electricity System Operator confirmed that Bodelwyddan Substation had sufficient capacity for the development). With that established, it was decided that land within 5km of Bodelwyddan Substation should be considered as a suitable area in which to assess alternative sites; this is because, as a general rule, the further the point of connection from the development site, the less feasible providing the connection is, due to the additional costs of cables, installation, third-party landowner negotiations, environmental management and mitigation. In my opinion, given that the viability of the proposal (and indeed of any PV proposal) is dependent on the distance to a grid connection point, the cost of the connecting cable relative to the power generated is a significant constraint.
327. I acknowledge the criticisms relating to the lack of explanation for ruling out alternative sites based on the land being unavailable. Although I agree that it is unclear what offers were made to landowners and on what terms, the applicant explained at the Hearing session that such information is commercially sensitive. However, on balance, I do not consider that in this case the omission of a fully detailed explanation of the circumstances that resulted in each of the alternative sites being unavailable seriously undermines the site selection process overall.
328. In response to WGCC's argument that the applicant has failed to consider the availability of smaller sites, or a number of smaller sites, I heard from the applicant that a site comprised of multiple owners would be much more difficult to assemble. In terms of the question of removing the panels from the BMVAL land in its entirety and developing a smaller site (the applicant identified that a minimum land requirement of 49.25ha would be needed, as corrected by the Addendum to the information previously submitted on 6 May 2022), I am persuaded that there is no ability to remove 43.1ha of land from the development and still have a viable scheme owing to the cost of the grid connection, the minimum land required for the solar arrays (taking into account topography and distance between the panels for land management), and the additional land take for ancillary equipment, landscaping and biodiversity measures. Neither would it be possible to remove the solar panels from the BMVAL and place elsewhere on the site on lower grade agricultural land owing to physical constraints (such as topography) which, when combined with protective designations constraints, create a significant barrier to the development of the other land. I note that PPW identifies such designations as potentially justifying choosing BMVAL ahead of lower quality land.
329. WGCC also states that it is not clear why sites have been discounted for being in the Green Belt but less weight has been given to protecting BMVAL. To my mind, as FW Policy 17 requires that there should be no significant unacceptable detrimental impact on the surrounding natural environment and local communities and there is no moratorium in national policy on the development of renewable energy schemes on BMVAL, the applicant's approach seems a reasonable one.
330. Having regard to the advice in DCC's Renewable Energy SPG regarding site selection and mindful of the earlier Blackberry Lane DNS decision, together with absence of any national planning policy advice advising otherwise, I consider that the search area was

determined on an adequately robust basis and the site selection process was sound overall. In light of this, I conclude that the use of BMVAL on the application site, rather than lower quality agricultural land or previously developed land elsewhere, has been shown to be necessary.

331. Thus, to conclude on this matter, I do not consider that the proposal would result in significant adverse impact on BMVAL, subject to appropriate measures secured by condition to protect soils during the construction, operation and decommissioning of the development. I am satisfied that the scheme has been designed to minimise the use of BMVAL, that there is an overriding need for the development and that land in lower agricultural grades is unavailable. Whilst I accept that there would be some conflict with the objectives of PPW insofar as the use of the BMVAL would be lost to food production for the 37-year lifetime of the development, detailed mitigation has been designed to limit the impact to a time limited one which, overall, would be consistent with the aims of PPW to conserve BMVAL as a finite resource for the future.

### **Benefits of the Scheme**

332. The submissions state that the scheme is capable of delivering enough electricity to power between 16,000 - 20,000 homes per annum over its operational lifespan. This represents a substantial contribution to the production of energy from a renewable resource and to the reduction in greenhouse gas emissions in the context of the Welsh Government targets and its commitment to address the climate emergency. Additionally, the battery storage facility would ensure that the supply of energy generated by the panels can be controlled to reduce the miss-match between peak demand and supply; the benefits of an increased use of energy storage to provide a balance in this respect is recognised in PPW.
333. I acknowledge the pace of the legislative and policy evolution pertaining to the energy sector and the strong support to the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In particular, Policy 17 of FW explains that in determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales' international commitments and Welsh Government's target to generate 70% of consumed electricity by renewable means by 2030.
334. I also recognise the positive contribution that the development would make towards job creation, economic output, business rates revenue and powering homes, as outlined in the submitted Economic Benefits Statement.

### **Other Matters**

#### *Glint and glare*

335. The submitted Glint and Glare Study considers the possible effects of glint and glare upon road users, dwellings and the AONB.
336. Although the Study predicts solar reflection towards a number of the assessed road receptors and dwellings, I agree that it would be screened by existing and / or proposed landscaping or other surrounding dwellings in most cases.
337. In respect of the AONB, views are not predicted to be materially affected by the proposed development mainly due to distance, the limited duration of effects, the intensity of any solar reflection (comparable to reflections from still water) and the development occupying only a small percentage of the observer's lateral field of vision. Hence, the overall impact upon observers in the AONB would be considered low.
338. I have no reason to disagree with the findings of the Glint and Glare Study. Consequently, and subject to a condition to secure details of landscaping, which would

ensure that the existing landscaping identified in the Study would be retained and any new landscaping would provide sufficient additional screening, I do not consider that the residual glint effects on residential properties, roads and the AONB would be so significant as to have an unacceptable impact.

339. The proposal would therefore comply with LDP Policy VOE 10, which is supportive of renewable energy developments providing they *inter alia* demonstrate no unacceptable impact upon the interests of landscape, public health and amenity.

#### *Archaeology*

340. Dealing firstly with archaeological remains. Paragraph 6.1.24 of PPW sets out a presumption in favour of the physical protection *in situ* of nationally important archaeological remains.
341. In this case, the design of the scheme takes into account areas of the site containing probable archaeological features of greatest potential interest insofar as it uses above-ground foundations for the solar arrays affected. However, there are also areas outside the preservation in-situ zones where there is still a potential for previously unidentified archaeology of all periods.
342. I am therefore satisfied that, subject to conditions requiring an archaeological watching brief and a detailed archaeological mitigation strategy which incorporates soil protection measures in accordance with the SMP, the archaeological resource would be adequately protected. It would therefore accord with the objectives of PPW and TAN 24 in this regard.

#### *Amenity*

343. There would be no significant noise related issues associated with the construction phase of the proposed development due to the proposed mitigation measures, which include conditions restricting the timing of deliveries and hours of work. A further condition is recommended requiring the submission of a CMS which would include measures to minimise noise and vibration from directional drilling activities associated with the laying of cables under the A55.
344. The submitted Noise Assessment demonstrates that the operation of the solar farm and battery storage facility would generate acceptable levels of noise at surrounding properties both during the day and night-time periods. Be that as it may, and in the interests of protecting the amenities of residents, a condition is recommended to ensure noise experienced at the nearest properties do not exceed the predicted noise levels.
345. Due to the short-term nature and relatively low number of vehicle movements associated with the construction phase, and the even lower number of vehicular movements associated with the operational phase, there would be no significant air quality related issues associated with the proposed development that would have an adverse effect on the amenities of neighbouring residents.

### **Conditions and Obligations**

346. The applicant's suggested list of conditions, as presented in its SoCG with DCC, formed the basis of discussion at the second Hearing session. Following concerns raised regarding the content and wording of the suggested conditions, the applicant subsequently provided an updated list of suggested conditions which are intended to align with the discussions with DCC, NRW and WGCC at the Hearing session and which, subject to further refinement, are set in the list of recommended conditions in Appendix A.

347. In the event that the Welsh Ministers decide to approve the application, I consider the conditions at Appendix A to satisfy the tests set out in Circular 016/2014: *The Use of Planning Conditions in Development Management* (“the Circular”).
348. For the most part, the conditions would ensure that the development avoids or, where that is not possible, mitigates as far as is reasonable, the potentially harmful effects of the scheme. The reasons for imposing each of the recommended conditions are, in most cases, discussed in the corresponding sections of this report and summarised in Appendix A. However, for ease of reference, the reasons are also summarised below.
349. Condition 1 is necessary to comply with section 91 of the 1990 Act and Condition 2 would ensure that the development is constructed in accordance with the submitted plans. Condition 3 establishes the duration of the permission given that it will be a temporary development to be removed at the end of its 37-year lifespan in accordance with the Decommissioning Method Statement agreed under Condition 9.
350. Condition 4 requiring the submission and approval of details relating to the colour and finish of the approved fencing, deer fencing, acoustic screening, CCTV poles, substation container/s, battery storage container/s, and the customer switchgear building is necessary to protect landscape character and minimise the visual impact of the development.
351. Condition 5 is required to ensure that the development will be served by a safe and satisfactory means of access.
352. So as to ensure public protection, satisfactory living conditions for residents, the control and prevention of pollution, protection of soils and the safety and free flow of traffic on the adjoining highway, Condition 6 requires the submission of a detailed CMS, which is to include an updated CTMP. Although the wording of this condition as suggested by the applicant requires details of external lighting, I do not consider it necessary to duplicate the requirements of another condition which deals specifically with this matter. Whilst it is reasonable that this condition requires the submission of an outline Decommissioning Method Statement at an early stage, the wording does not need to specify the detailed content to the extent suggested in the applicant’s updated Schedule of Conditions. The applicant will be aware of the requirements to satisfy this component of the condition based on the submissions made to the Hearing session. I have therefore simplified the wording of this component of the condition to ensure conciseness.
353. In order to protect the high quality soils from damage, Condition 7 requires the submission of a SMP which sets out the soil management practices pre-construction and during construction. Although WGCC has suggested that this condition should include the provision that the supervising scientist must have the authority and ability to stop work immediately if the relevant conditions are not being followed, I do not consider such a measure to be appropriate since compliance with conditions and enforcement matters are for the Local Planning Authority. In any event, component (ix) of this condition requires the identification of roles and responsibilities in relation to the implementation of the SMP and the supervision of all associated activities by a suitably qualified and experienced soil scientist. Consequently, a provision that work should cease in the event that the supervising scientist identifies any actions that would depart from or undermine the objectives of the approved management plan could form part of the submitted detail.
354. Condition 8 relates to a Soil Monitoring and Aftercare Plan. Whilst WGCC suggested that such a condition should also include a requirement to submit details of the physical characteristics of the land to be restored to what they were when the land was last used for agriculture (including drainage where relevant), details of the restoration are to be



provided under Condition 9 and I would expect the suitability of the site for agricultural use to form part of that scheme. Hence, such a requirement is already covered and need not be repeated here. Likewise, I do not consider that the condition needs to specify routine site meetings to review performance, given that any shortcomings identified by the monitoring report could be dealt with at the relevant time and frequency as appropriate.

355. To ensure that the site is properly restored at the end of its 37-year lifetime the approval and implementation of a detailed Decommissioning Method Statement is sought under Condition 9, with a requirement that such works are undertaken earlier should the solar PV or battery storage element cease to export electricity to the grid prematurely under Condition 10. I have, however, reworded the condition in the interests of precision. I have not included WGCC's suggestion to include a separate requirement within this condition for any soil removal, replacement and handling to be supervised by a suitably qualified soil scientist, given that Condition 7 requires details of roles and responsibilities in relation to the implementation of the SMP and the supervision of all associated activities. Similarly, I have not specified the exact details required in relation to (i) on-site investigation and sampling of soils both pre-decommissioning and during decommissioning works or (ii) the number and results of test piles from each of the three soil types, given that the extent of such investigations can be determined by the LPA when it is agreeing (or otherwise) to the details submitted in respect of the Decommissioning Soil Management Plan. Additionally, the applicant will be aware of the requirements to satisfy this component of the condition based on WGCC's submissions made to the most recent iteration of the Schedule of Suggested Planning Conditions.
356. Condition 11 requires the submission of details of a mechanism to ensure restoration of the site. In considering whether such a condition would meet the Circular tests, my attention has been drawn to paragraph 5.9.30 of PPW which makes clear that operators should ensure that sufficient finance is set aside to enable them to meet restoration obligations and that an authority may require financial guarantees by way of a Section 106 planning obligation/agreement to ensure that restoration will be fully achieved. I have also been provided with copies of planning permissions granted by an LPA, Scottish Ministers, a Reporter to the Scottish Ministers, an appeal decision and Inspector Reports with associated Ministerial Decisions in relation to other applications for solar and wind energy developments, which consider whether a financial bond would be necessary. I note that both Welsh Minister's decisions and the appeal decision concluded that such a condition would not be required given that there was no reason to believe that the developer would not fulfil their responsibilities via a condition dealing with the decommissioning and restoration of the site. In light of the foregoing, and given the risks to realising the efficient use of the land for agricultural purposes if the site were not properly restored, I consider that such a condition is reasonable in this instance. Whilst I note the applicant's suggested wording, having regard to paragraph 4.22 of the Circular, I have amended the wording of the condition to require a mechanism to ensure robust arrangements are in place to ensure restoration in the event that the developer is not in a position to do so at that time. One such mechanism may be details of a financial bond.
357. Conditions 12 and 13 deal with the hours of operation in respect of construction and decommissioning works and deliveries, which are necessary to protect the living conditions of residents. Whilst a condition controlling hours for deliveries is not shown in the applicant's updated Schedule of conditions, such a condition is indicated in paragraph 6.2 of the CTMP. I consider it to be necessary in the interest of highway safety and the living conditions of residents. I have also removed the reference to 'unless otherwise agreed' from both conditions on the basis that it creates uncertainty.

358. Conditions relating to the submission, approval and implementation of a GCN Conservation Plan (Condition 14), a BMP (Condition 15), a CEMP (Condition 16) and a LEMP (Condition 17) are required to protect, mitigate and enhance nature conservation interests. Specifically in terms of the LEMP, the condition would also protect known existing infrastructure assets at the site.
359. Conditions requiring the landscaping scheme (Condition 18) and tree protection measured (Condition 19) to be implemented are required in the interest of visual amenity, ecological mitigation and enhancement. Meanwhile, the submission and approval of details of external lighting (Condition 20) is necessary in the interests of visual amenity, landscape character, ecology, residential amenity and highway safety.
360. To protect the amenities of residents, Conditions 21 and 22 seek to control the noise emitted from the development and the means by which a breach can be identified and mitigated.
361. Given the archaeologically sensitive parts of the site, and to protect archaeological remains, it is reasonable to impose conditions requiring the submission and approval of a detailed archaeological mitigation strategy and an archaeological watching brief. Meanwhile, Condition 25 requires geological site investigations to be carried out in the interest of appraising and safeguarding mineral resources. Finally, Conditions 26 and 27 seek to ensure that WW assets are not impacted upon by the development.
362. I was also asked to consider a Grampian condition in respect of the PRoW, which would read:

*'Prior to the commencement of the development, Public Rights of Way 201/8 and 208/20 shall be stopped up and an appropriate alternative route shall be provided.*

*Reason: In the interests of managing impacts on the Public Right of Way network.'*

I do not consider such a condition to be necessary given that the grant of planning permission does not entitle developers to obstruct a PRoW. It cannot be assumed that because planning permission has been granted that an Order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development should not therefore be started and the PRoW should be kept open for public use, unless or until the necessary Order has been confirmed. To this extent, this matter is controlled by other legislation. Moreover, I have been given no compelling reason for attaching a condition requiring a PRoW Management Plan which would seek to control matters that are not within the scope of this permission.

### **Planning Balance and Overall Conclusion**

363. Decisions are required to be made in accordance with the development plan unless material considerations indicate otherwise. Future Wales is the national development plan for Wales and, along with the local development plan, is given primacy in the planning system in Wales.
364. The scheme would have a harmful effect on landscape character and visual amenity, in particular from close-range views from PRoW within and immediately adjacent to the application site. Taking into account the specific and localised nature of the impacts and that they would be largely reversible, but also mindful that it would be experienced by residents and visitors for a considerable period of time, I afford these harms minor weight.
365. Similarly, in discharging the duty to have special regard to the desirability of preserving a listed building or its setting, I must conclude that the development would cause varying degrees of harm to the settings of two heritage assets. Nevertheless, I do not

consider that the harm would be significant in the context of the time limited nature and reversibility of the development. I therefore give this matter moderate weight.

366. In nature conservation terms, there is found to be no functional link and no pathway for direct or indirect effects in relation to any designated European sites. Whilst there is potential for significant adverse effects on an EPS, the suggested approach of obtaining a derogation licence together with on-site mitigation and a management plan secured by condition would reduce the potential for medium and long term cumulative effects. Additionally, conditions securing mitigation and enhancement to important ecological features and habitats, identifying avoidance and pollution control measures during construction, and controlling external lighting would ensure that the development would protect nature conservation interests and incorporate biodiversity enhancements. The site lies within a C1 flood zone and there are archaeologically sensitive areas of the site. Taking into account that I have found no significant harm associated with these matters, or with highway safety and the amenities of neighbouring residents, subject to conditions, I consider these matters to be neutral in the planning balance.
367. FW together with PPW make clear that one of the primary objectives of the planning system is to contribute towards the delivery of sustainable development and, in doing so, improve the social, economic, environmental and cultural wellbeing of Wales. A central requirement of both documents is the need to achieve the decarbonisation of energy, build resilience to the impacts of climate change and ensure that Wales focuses on generating the energy it needs to support its communities and industries over the next twenty years. In this regard the proposed development would align with, and support, the requirements of FW and PPW.
368. The main benefit arising from the scheme would be its contribution to the production of renewable energy and consequential reduction in CO2 emissions. The on-site storage of power generated from the panels provides benefits in terms controlling the rate of flow to the grid, enabling the peaks and flows of production to be evened out so as to align better with consumption. The scheme would also provide local economic and employment benefits. I afford these benefits considerable weight in the light of the support for such contributions in policies 17 and 18 of FW which sets out Welsh Government's approach to promoting the increased production of renewable energy in a way that seeks to strike an appropriate balance with the protection of other relevant interests.
369. Although parts of the site could continue to be used for grazing, I must weigh in the balance that the temporary (37 year) removal of BMVAL from food production is a factor against the scheme, albeit measures could be secured by condition to ensure that this highest quality agricultural land would not be lost permanently. To this end, I also note that WGCC's position on food production is not reflected in paragraph 3.58 of PPW, which makes clear that such land '*...should be conserved as a finite resource for the future*' (my emphasis).
370. The climate change emergency results in a pressing need for renewable energy today and I am therefore mindful of the contribution that the development would make to addressing the global energy crisis.
371. Given the limited amount of BMVAL affected by the development, it is my opinion that its short-term unavailability for food production would be outweighed by the use of the site for the production of renewable energy at a considerable scale and to meet an urgent need.
372. In view of the above, I consider that the development would conserve BMVAL for the future in accordance with PPW and would make a weighty contribution to the Welsh Government's climate change objectives and renewable energy targets, satisfying

Policies 9, 17 and 18 of FW, the wellbeing goals of the Well-being of Future Generations (Wales) Act 2015 and supported by the Environment (Wales) Act 2016.

373. I acknowledge that there are relatively minor conflicts with local and national planning policy and guidance. Nevertheless, as FW is the most recently adopted part of the development plan and contains the most directly relevant policy to renewable energy projects of national significance, I conclude that the proposal complies with the development plan as a whole. There are no material planning considerations that indicate that this application should be determined other than in accordance with the development plan.

### **Recommendation**

374. For the aforementioned reasons, and taking into account all matters raised, I recommend that planning permission be granted subject to the conditions attached at Appendix A.

*Melissa Hall*

Inspector

## **APPENDIX A: SCHEDULE OF RECOMMENDED PLANNING CONDITIONS**

- 1) The development shall begin no later than five years from the date of this permission.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 2) The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission –
  - Site Location Plan, drawing number P19-2023\_31, Rev A
  - Site Layout Plan, drawing number P19\_2023\_15, Rev L
  - PRoW Plan, P19-2023\_33, Rev B
  - Temporary Access Tracks and Compounds, P19-2023\_34, Rev B
  - Archaeologically Sensitive Areas, P19-2023\_35, Rev B
  - Detailed Planting Plan, P19-2023\_26, Rev P, April 2022
  - General PV Layout, SCUKX-GWERN-001-100, Rev H
  - Fixed Tilt Framework Elevations, SCUKX-GWERN-001-213
  - 40ft Substation and External Transformer Elevations and Plan SCUKX-GWERN-001-282, Rev B
  - 40ft Battery Storage Container Elevations and Plan with Aerials, SCUKX-GWERN-001-283, Rev B
  - Customer Switchgear Building at POC, SCUKX-GWERN-001-284, Rev B
  - Permanent Access Track Section Details, SCUKX-GWERN-001-200, Rev A
  - Deer Fencing Elevation, SCUKX-GWERN-001-203, Rev B
  - Weld Mesh Fence Elevation (2m), SCUKX-GWERN-001-203, Rev B
  - Fencing Gate Elevation (2m), SCUKX-GWERN-001-203, Rev A
  - CCTV Elevations, SCUKX-GWERN-001-250, Rev A
  - Acoustic Screening Elevation Detail, SCUKX-GWERN-001-203.3, Rev A
  - Ballast Framework Elevations, SCUKX-GWERN-001-213.2, Rev A
  - CCTV Trench, SCUKX-GWERN-001-216
  - LV Trench, SCUKX-GWERN-001-216
  - MV Trench, SCUKX-GWERN-001-216
  - Flood Risk Consequences Assessment, Rev 06, 9th September 2021
  - Heritage Statement, May 2021
  - Arboricultural Impact Assessment and Tree Protection Plan, December 2020
  - Glint and Glare Study, 8th September 2021
  - CD377 Road Restraints Risk Assessment Process (RRRAP) Report
  - Environmental Statement Chapters 1-12 and associated AppendicesReason: To ensure a satisfactory standard of development and to comply with Paragraph 4.16 of Welsh Government Circular 016/2014.

- 3) This permission hereby granted shall endure for a period of 37 years from the date when electricity is first exported from the development to the electricity grid. Written confirmation of the first export date shall be sent to the local planning authority within one month of the first export date.

Reason: To establish the duration of this permission which justifies the temporary loss of the BMVAL resource and the landscape and heritage harms.

- 4) Prior to their installation, details of the colour and finish of the approved fencing, deer fencing, acoustic screening, CCTV poles, substation container/s, battery storage container/s, and the customer switchgear building/s shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of landscape character and visual amenity, in accordance with LDP Policies VOE 1, VOE 2 and VOE 10 and FW Policies 17 and 18.

- 5) Notwithstanding the submitted details, no works in connection with the upgrading of the existing access to the site shall be undertaken without the details first having been submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed prior to the commencement of the development hereby permitted.

Reason: To ensure the development is served by a safe and satisfactory access, and in the interests of the free and safe movement of traffic on the adjacent highway, in accordance with FW Policy 18.

- 6) Notwithstanding the submitted CMDS dated May 2022, no site clearance or construction works shall commence until the written approval of the Local Planning Authority has been obtained for a detailed Construction Method Statement. The Statement shall provide details of:

- (i) the hours of site works and deliveries;
- (ii) the location and general arrangements of the site compounds area, storage areas and temporary access tracks, and measures to reinstate the land following completion of the construction works;
- (iii) an updated Construction Traffic Management Plan, including details of works to the access, the proposed routing of HGV and delivery vehicles, management of junctions, detailing and siting of bilingual directional signing along public roads and detail of how access will be made to the PRoW during construction and operation;
- (iv) the arrangements for the parking of vehicles of site operatives and visitors;
- (v) the location of areas designated for the loading, unloading, and storage of plant and materials;
- (vi) the proposals for security fencing or hoardings around the site;
- (vii) pollution prevention and control measures, including measures to control the emission of dust and dirt, and to prevent pollution of watercourses;
- (viii) the disposal of surface and foul water;
- (ix) measures to minimise noise and disturbance to neighbouring residential properties / properties in the vicinity of the site;
- (x) wheel washing facilities;
- (xi) direction drilling / piling methods and measures to mitigate noise and vibration;

- (xii) the recording of the existing condition of the site, to provide baseline for future restoration of the site;
- (xiii) communications protocol setting out procedures for communicating with the local community throughout the construction phase and the management of complaints.
- (xiv) measures to protect soils, including the timing of construction works, as detailed within the separate Soil Management Plan;
- (xv) measures relating to biodiversity, as detailed within the separate Biodiversity Management Plan;
- (xvi) provision of a Site Waste Management Plan; and
- (xvii) an outline Decommissioning Method Statement.

The development shall be carried out strictly in accordance with the approved Construction Method Statement.

Reason: In the interests of public protection and residential amenity, pollution prevention and control, protection of soils, and the safety and free flow of traffic on the adjoining highway, in accordance with LDP Policies VOE 1 and VOE 5 and FW Policies 17 and 18.

- 7) Prior to the commencement of development, a Soil Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The SMP shall include the following:
- (i) A Soil Resources Report containing soil survey maps at a scale appropriate for site management, including: details of the extent and depth of topsoil units; the distribution of different soil types; the distribution of Agricultural Land Classification grades; and any features of interest identified in the related archaeological and ecological surveys.
  - (ii) A map of proposed areas and thickness of each soil type and soil layer to be stripped and stored separately (as informed by the Soil Resources Report) and all areas where soils will be left in-situ and the ground protected from tracking over.
  - (iii) A map showing the location of soil stockpiles labelled with their content (e.g. Topsoil type A, Topsoil type B), anticipated size, height and volume; including expected timeframe for the material to be in stockpile and how stockpiles will be protected and managed.
  - (iv) A works programme showing how all soil handling and trafficking operations will be undertaken during the period of May to October (inclusive) and which makes allowance for potential poor weather / ground conditions stoppages.
  - (v) A map showing where each soil type and soil layer will be reused.
  - (vi) The methodology for the testing of soil plasticity prior to soil handling which will inform when works are stopped/recommenced.
  - (vii) Details of appropriate equipment and methods for stripping, stockpiling, re-spreading and ameliorating soil compaction in accordance with good practice techniques to minimise the risk of soil compaction.
  - (viii) Details of how construction activities will be managed across the site to minimise impact on soils.
  - (ix) Identification of roles and responsibilities in relation to the implementation of the SMP and the supervision of all associated activities by a suitably qualified and experienced soil scientist who has achieved the Soil Professional Competence

Standard 1 (Foundation skills in field soil investigation, description and interpretation) and 6 (Soil science in soil handling and restoration) as set out by the British Society of Soil Science.

The development shall be carried out strictly in accordance with the approved Soil Management Plan.

Reason: To ensure the protection of soils as a resource for beneficial reuse, in accordance with FW Policies 9 and 18.

- 8) A Soil Monitoring and Aftercare Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include:
- (i) A detailed annual programme of soil and site monitoring over the full lifetime of the development (to include in-situ and stockpiled soils);
  - (ii) An annual report fully detailing the soil handling works undertaken;
  - (iii) A five year period of aftercare, specifying the steps to be taken, the period during which they are to be taken and the persons responsible for each of the steps.

Before the start of each calendar year once development has commenced, and every subsequent year during the aftercare period, a Report shall be submitted to the Local Planning Authority which provides a detailed record of monitoring and/or aftercare operations carried out in the preceding 12 month period together with details of the works to be undertaken over the forthcoming 12 month period. The Report shall identify a methodology and timetable for addressing any identified shortcomings arising from this work. The development shall be implemented in accordance with the approved Soil Monitoring and Aftercare Plan.

Reason: To ensure the protection of soils as a resource for beneficial reuse, in accordance with FW Policies 9 and 18.

- 9) No later than 12 months prior to the expiry of this permission, a detailed Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of all infrastructure, including surface and below ground elements of the development approved under this permission and shall include:
- (i) A Decommissioning Traffic Management Plan;
  - (ii) A Decommissioning Soil Management Plan;
  - (iii) Pre-decommissioning ecological surveys and, where appropriate, updates to the approved Landscape Ecological Management Plan and Biodiversity Management Plan;
  - (iv) A site wide restoration and aftercare scheme which builds upon the Soil Monitoring and Aftercare Plan approved under Condition 8.
  - (v) Details of the recycling and disposal of the decommissioned elements, which aligns with the approved Site Waste Management Plan.

The approved Decommissioning Method Statement shall be implemented within 12 months of the date of the approved details. Decommissioning and restoration shall be carried out strictly in accordance with the approved Decommissioning Method Statement.



Reason: To ensure that, upon expiry of the lifespan of the development, the development is removed and the land restored to its former condition and to control the environmental effects of the decommissioning process, in accordance with FW Policy 18.

- 10) If either the solar PV or battery storage element ceases to export electricity to the grid prior to the expiry of this permission for a continuous period of 12 months during the operational phase, the developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production for this period. A Decommissioning Method Statement required under Condition 9 of this permission in relation to the element for which power production has ceased shall be submitted to the Local Planning Authority within 3 months of notification for the written approval of the LPA. The scheme shall make provision for the removal of the infrastructure no longer in operation and the restoration of the site area affected. The approved Decommissioning Method Statement shall be implemented within 12 months of the date of the approved details. Decommissioning and restoration shall be carried out strictly in accordance with the approved Decommissioning Method Statement.

Reason: To ensure that, in the event that either the battery or solar element of the hybrid energy park failed to continue to operate for the duration of the permission, that appropriate provision is made to restore the land to its former condition in a timely manner and to control the environmental effects of the decommissioning process, in accordance with FW Policy 18.

- 11) No development shall commence until evidence of a mechanism to ensure the decommissioning and restoration of the site has been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the proper restoration of the site, in accordance with PPW.

- 12) Construction and decommissioning works shall not take place outside the hours of 08.00hr to 18.00hr Mondays to Fridays and 08.00hr to 13.00hr on Saturdays and at no time on Sundays, Public or Bank Holidays.

Reason: In the interests of residential amenity, in accordance with Policy VOE 1 of the LDP and FW Policies 17 and 18.

- 13) Deliveries to the construction compound shall only be made between 0700- 1900 Monday to Friday, with Saturday deliveries between 0830-1600. There shall be no such deliveries outside these times, on Sundays, Public or Bank Holidays.

Reason: In the interests of residential amenity, in accordance with LDP Policy VOE 1 and FW Policies 17 and 18.

- 14) No development shall commence until a Great Crested Newt ('GCN') Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to:

- (i) Details which build upon the principles outlined in the ecological report (Foy, D, 2021 Biodiversity Management Plan);
- (ii) Submission of further details and associated plans concerning GCN avoidance and mitigation measures, including, but not limited to: fence design, specifications and locations; considerations of access issues; monitoring and maintenance requirements; and supervised removal;
- (iii) Proposed timescales and reporting requirements;

- (iv) Submission of a long term site management (throughout the duration of operational and decommissioning phases of the proposal) that includes defined aims and objectives; habitat management prescriptions; contingency measures if fish or invasive non-native species (INNS) are detected; proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions; site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to the freehold tenure of the ecology; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan;
- (v) Details of timing, phasing and duration of construction activities and conservation measures;
- (vi) Timetable for implementation demonstrating that works are aligned with the proposed development;
- (vii) Ecological Compliance Audit, including key performance indicators;
- (viii) Persons responsible for implementing the works;
- (ix) Post construction monitoring and record dissemination throughout the operation and decommissioning phases of the proposal. All ponds (including SUDS water bodies) to be added to the Wales Great Crested Newt Monitoring Scheme, (see Cofnod) with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual abundance counts and Habitat Suitability Index (HSI) assessments. Each water body, including SUDS ponds, shall be individually numbered on site;
- (x) Submission of a biosecurity risk assessments for construction, operation and decommissioning phases of the proposal.

The Great Crested Newt Conservation Plan shall be carried out in accordance with the approved details.

Reason: In the interests of ecological mitigation and enhancement, in accordance with LDP Policies VOE 1, VOE 5 and VOE 10 and FW Policies 9, 17 and 18.

- 15) Notwithstanding the approved details, no development shall commence until a final Biodiversity Management Plan (BMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details during the construction and operational phases of development.

Reason: To ensure that an approved BMP is implemented, which protects species affected by the development and in the interests of ecological mitigation and enhancement in accordance with LDP Policies VOE 1, VOE 5 and VOE 10 and FW Policies 9, 17 and 18.

- 16) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:
- (i) Detailed Reasonable Avoidance Measures (RAMS) that address potential impacts of construction (and maintenance) works on protected species, including Great Crested Newts, bats and otter.

- (ii) Details of appropriate measures to control any Invasive Non-Native Species (INNS) on site; and measures that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.
- (iii) Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.

The development shall be carried out strictly in accordance with the approved details.

Reason: In the interests of ecological mitigation and enhancement in accordance with LDP Policies VOE 1, VOE 5 and VOE 10 and FW Policies 9, 17 and 18.

- 17) Prior to the commencement of development, a Landscape Ecological Management Plan ('LEMP') shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved LEMP.

Reason: In the interests of visual amenity, ecological mitigation and enhancement, and protection of known existing infrastructure assets at the site, in accordance with LDP Policies VOE 1, VOE 2, VOE 5 and VOE 10 and FW Policies 9, 17 and 18.

- 18) All planting comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding season following the commencement of development. Any trees or plants which within a period of 5 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 a size and species which have first been agreed in writing by the Local Planning Authority.

Reason: In the interests of landscape character and visual amenity, ecological mitigation and enhancement, in accordance with LDP Policies VOE 1, VOE 2, VOE 5 and VOE 10 and FW Policies 9, 17 and 18.

- 19) The development shall be carried out in accordance with the details submitted for the temporary protective fences to safeguard the trees and / or hedges as detailed in Tree Protection Plan contained within the submitted Arboricultural Impact Assessment which are to be retained on the site and erected in accordance with the current BSI 5837 and maintained to that standard until construction activity has been completed.

Reason: In the interests of arboriculture, in accordance with LDP Policy VOE 10.

- 20) No external lighting shall be installed until a site wide lighting assessment has been carried out, and details of the proposed lighting, including emergency/security lighting has been submitted to and approved in writing by the Local Planning Authority. The details shall include the design of the lighting and associated columns and / or means of fixture to buildings, their position, height, the means and intensity of illumination, hooding, the extent of illumination and the anticipated spread of light, and the hours of operation of the lights. The scheme shall be implemented strictly in accordance with the approved details.

Reason: In the interests of visual, landscape character and residential amenity and highway safety, in accordance with LDP Policies VOE 1, VOE 2 and VOE 10 and FW Policies 17 and 18.

- 21) The rated level of noise emitted from the development hereby approved shall not exceed the values set out in Table 1 below. Noise limits for dwellings which lawfully existed or had planning permission at the date of this permission and which are not listed in Table 1 are to be those of the physically closest location listed in Table 1, unless otherwise agreed in writing by the local planning authority.

Table 1

Location	Calculated Façade Noise Level at First Floor Level [dB LAeq,T]	
	Full daytime operation	Overnight Energy Storage Park
Green Gates Farm	41	41
Dwellings on Cwttir Lane	38	37
Dwellings on Pant Glas	27	26
Dwellings in The Roe	33	27
Wern Bach	34	27
Clyn Derw Farm	31	21
Gwernigron Farmhouse	35	31
Dwellings on Nant Y Faenol Road	27	26

Reason: In the interests of protecting residential amenity of occupiers of residential properties in the vicinity of the site, in accordance with LDP Policy VOE 10 and FW Policy 18.

- 22) In the event of any reasonable noise complaint being received by the Local Planning Authority, the Developer or their successors in Title, shall be required to undertake a full noise assessment to demonstrate compliance with the noise limits set out in Condition 21 above, and shall submit this within 28 days of notice issued by the Local Planning Authority.

Should such an assessment fail to demonstrate compliance, mitigation measures shall be submitted alongside the noise assessment and implemented in accordance with the submitted details within 28 days of approval by the Local Planning Authority.

Reason: In the interests of protected residential amenity or occupiers of residential properties in the vicinity of the site, in accordance with LDP Policy VOE 10 and FW Policy 18.

- 23) No development shall commence until a detailed archaeological mitigation strategy has been submitted to and approved by the Local Planning Authority. The development shall proceed strictly in accordance with the approved details.

The archaeological mitigation strategy will incorporate soil protection measures in accordance with the Soil Management Plan for any works affected Best and Most Versatile Agricultural Land as defined within the LRA Agricultural Land Classification Report.

Reason: In the interest of preservation of archaeological remains in accordance with LDP Policy VOE 1 and FW Policy 18.

- 24) The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs and will be completed in accordance with a written scheme of investigation, which has been submitted and approved in writing the Local Planning Authority. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust after approval by the Local Planning Authority, a copy of the report and resulting archive shall also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record and to the National Monuments Record, RCAHMW.

Reason: To secure preservation by record of any archaeological assets, in accordance with LDP Policy VOE 1 and FW Policy 18.

- 25) Prior to commencement of development, geological site investigations shall be carried out to assess ground conditions and objectively define the extent and quality of the geological deposits to inform the impact of the temporary sterilisation of the mineral at the site, and the results shall be submitted to and approved in writing by the local planning authority. The geological site investigations shall incorporate soil protection measures in accordance with the Soil Management Plan for any works affecting Best and Most Versatile Agricultural Land as defined within the LRA Agricultural Land Classification Report.

Reason: In the interests of appraising and safeguarding mineral resources, in accordance with LDP Policy PSE 15.

- 26) Prior to the commencement of the development, a Welsh Water Assets Management Plan shall be submitted to and approved in writing by the Local Planning Authority, to include the submission of detailed construction plans and landscaping planting and management measures proposed (as contained within the Landscape Ecological Management Plan), to ensure avoidance of impact upon Welsh Water Assets.

Reason: In the interest of ensuring that waste and clean water assets operated by Welsh Water are not adversely impacted upon by the development in accordance with LDP Policy VOE 10.

- 27) No development shall commence until confirmation of the grid connection route has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of ensuring that waste and clean water assets operated by Welsh Water situated within the grid connection corridor are not impacted upon by the development, in accordance with LDP Policy VOE 10.

## APPENDIX B: APPEARANCES

### FOR THE APPLICANT:

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Mr Daniel Stedman Jones BA(Hons), MA, PHD, GDL, BPTC	Barrister, 39 Essex Chambers
Ms Alexis Tysler BSc, MSc, MSc, MRTPI	Associate Planner, Pegasus Group
Mr Daniel Baird M.I. SoilSci	Daniel Baird Soil Consultancy
Mr Gareth Hawkins	Statkraft UK
Ms Donna Clarke LLB, MPhil	Statkraft UK

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### FOR THE LOCAL PLANNING AUTHORITY:

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Ms Denise Shaw BSc (Hons), MCD, MRTPI	Planning Officer, Denbighshire County Council
Mr Adrian Walls MIPROW	Highways Information Manager, Denbighshire County Council

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### INTERESTED PERSONS:

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Mr Ben Standing	Partner, Browne Jacobson LLP
Mr Arwel Williams MCIEEM	Agricultural Land Use & Soil Policy Advisor, Welsh Government
Mr James Cooke	Agricultural Land Use, Welsh Government
Dr Bruce Lascelles BSc (Joint Hons), PhD, EEnv, FISoilSci, MCIEEM	UK Director Sustainable Land Management, Arcadis
Mr Garmon Lewis	Development Planning Advisor, Natural Resources Wales

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## APPENDIX C: DOCUMENTS

### Documents submitted by applicant after application submission

1. Variation to the scheme September 2021, consisting of:
  - Cover Letter
  - Flood Consequences Assessment
  - Glint and Glare Study
  - Planning Statement
  - Design and Access Statement
  - Built Heritage Addendum
  - ES Contents
  - ES Statement of Competence
  - ES Non-Technical Summary
  - ES Chapter 1: Introduction
  - ES Chapter 2: Assessment Scope and Methodology
  - ES Chapter 4: Proposed Development and Alternatives
  - ES Chapter 5: Landscape and Visual
  - ES Chapter 6: Biodiversity
  - ES Chapter 7: Traffic and Transport
  - ES Chapter 11 Summary
  - ES Appendix 7.1 CTMP
  - ES Figure 4.1 Site Layout Plan, drawing number P19\_2023\_15, Rev K
  - ES Figure 4.2 PRoW Plan, P19-2023\_33
  - ES Figure 4.3 Temporary Access Tracks and Compounds, P19-2023\_34
  - ES Figure 4.4 Archaeologically Sensitive Areas, P19-2023\_35
  - ES Figure 5.11 Detailed Planting Plan, P19-2023\_26, Rev L
  - ES Figure 5.12 Photomontages
  -
2. Response to the request for additional information, September 2021:
  - Appendix 6.7 to the ES – Outline BMP
  - Site Layout Plan, drawing number P19\_2023\_15, Rev L
  - Detailed Planting Plan, P19-2023\_26, Rev M
  - PRoW Plan, P19-2023\_33, Rev A
  - Temporary Access Tracks and Compounds, P19-2023\_34, Rev A
  - Archaeologically Sensitive Areas, P19-2023\_35, Rev A
  - Updated Schedule of Draft Conditions
  - Pegasus written response to the request for Further Information.
  - Sequential Analysis Study
  - Updated Agricultural Quality of Land Report.
  - Written Response of the Applicant on Solar PV and Best and Most Versatile Agricultural Land' from Stephen Tromans QC, and Daniel Stedman Jones, 39 Essex Chambers
  - Updated CMDS and additional information consisting of Appendix A (showing the PV layout with BMVAL overlay)
  - Generalised PV Layout, drawing ref SCUKX-GWERN-001-100
  - Ballast Framework Elevation, drawing ref SCUKX-GWERN-001
  - CCTV Trench, drawing ref SCUKX-GWERN-001-216
  - LV Trench, drawing ref SCUKX-GWERN-001-216
  - MV Trench, drawing ref SCUKX-GWERN-001-216

- Note on biodiversity net gain and species appraisal
  - CD377 Road Restraints Risk Assessment Report
3. Response to the request for additional information, January 2022:
- Energy Context Update
  - Economic Benefits Report
  - Soil Position Statement
  - Updated CMDS and additional information consisting of Appendix A (showing the PV layout with BMVAL overlay)
  - Detailed Planting Plan, drawing ref P19-2023\_26, Rev N
  - Temporary Access Tracks and Compounds, drawing ref P19-2023\_34, Rev B
  - Archaeologically Sensitive Areas, drawing ref P19-2023\_35, Rev B
  - PRoW Plan, drawing ref P19-2023\_33, Rev B
4. Other documents:
- Hearing Statements (and Technical Annex 1-4 to Hearing Statement 1)
  - SoCG with DCC (including planning conditions), WW and WGCC.
  - Detailed Planting Plan, drawing ref P19-2023\_26, Rev P

#### **Documents submitted by applicant after the Hearing sessions**

1. An updated land calculations.
2. An updated CMDS, May 2022.
3. Updated Schedule of Draft Conditions v3.
4. Index of Decisions relating to a financial bond to cover decommissioning and restoration works (and copies of associated decisions in respect of Llantrisant Solar Farm, Berry Burn Wind Farm extension, Tom nan Clach Wind Farm, Tycroes Solar Farm, Blaenhiraeth Solar Farm, Mynydd Brombil Wind farm).
5. An addendum to the additional information.
6. Statkraft Response to Pedw Letter of 26/5/22 querying errors.

#### **Documents submitted by interested parties after initial application consultation and publicity period**

1. REPS(2)001- HSE, REPS(2)002 - Cadw, REPS(2)003 - WW, REPS(2)004 - WGCC, REPS(2)005 - DCC, REPS(2)006 - WGEI, REPS(2)007 - AONB Committee, REPS(2)008 - NRW
2. REPS(3)001 - Cadw, REPS(3)002 - WGEI, REPS(3)003 - WW, REPS(3)004 - NRW, REPS(3)005 - WGCC
3. Hearing Statement WGCC

#### **Documents submitted by interested parties after the Hearing sessions**

1. WGCC REPS(4)001 - Letter to PEDW responding to the applicant's post hearing submissions.
2. WGCC REPS(4)002 - Response to applicant's updated Schedule of Draft Conditions.
3. WGCC REPS(4)003 - Response to applicant's updated CMDS