CARE Suffolk CIC
Burstall Parish Council
Bramford Parish Council

Joint Written Representation

Bramford Green Limited appeal against the decision of Mid Suffolk District Council to refuse full planning application DC/20/05895

This document has been prepared as a Joint Written Representation in respect of the Bramford Green Limited appeal reference APP/W3520/W/23/3319970
Date: 3rd July 2023

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1. Introduction and Appeal Process

1.1 This Joint Written Representation is prepared and submitted on behalf of CARE Suffolk CIC, Burstall Parish Council, and Bramford Parish Council, ("the collective") against the appeal by Bramford Green Limited ("the Appellant") of the decision by Mid Suffolk District Council ("MSDC") to refuse permission of full planning application DC/20/05895.

1.2 We are local residents, all of whom are unpaid volunteers and/or Parish Councillors. Throughout the entire process we have always strived to provide valuable local knowledge and take a logical and critical thinking approach.

1.3 This Joint Written Representation builds upon the objections submitted by the collective and its individual members to the planning application, which now forms part of the evidence base to this appeal. This document does not seek to repeat all of the points made in those objections, only to summarise the key outstanding concerns. The Councillors of MSDC Planning Control Committee carefully reviewed the position of the Officers' Report and the material considerations in representations made to them by local residents and voted to refuse permission against the officer recommendation to approve on 15th February 2023. A decision notice was published on 17th February 2023. This prompted the present appeal by Bramford Green.

1.4 On 31st May 2023 the collective group of this Joint Written Statement were granted Rule 6 Party status. We felt compelled to participate in the Appeal process as there is a large body of evidence to support the view that additional material considerations were not given either due consideration or weight in the Officers Recommendation. Had they been given consideration it may have led to additional reasons for refusal, but also may have led to a refusal by Babergh of the cross-boundary portion of the application. At the time of submitting this the Babergh decision has been referred to the Local Government Ombudsman due to several incidences of misdirection to Committee Members during the Babergh Planning Meeting on 8th February 2023.

1.5 However, at the 21st June committee meeting, in an unusual closed-door session, the MSDC Planning Committee took private legal counsel, reviewed its position, and resolved not to defend this appeal. The Council has advised the high level reasons of its decision, but due to the confidential nature of the legal advice to the Planning Committee the Rule 6 Party has not had the benefit of seeing the specific legal advice so we do not know the detailed reasons MSDC will not defend its reasons for refusal. As a Rule 6 Party we have been materially disadvantaged in working out how to defend the appeal at an Inquiry by not seeing the specific legal advice or having the details behind the decision.

1.6 Since MSDC withdrew from the appeal we strongly feel the Inquiry route is no longer the most appropriate. We are local residents with local knowledge, so there are no longer "Expert Witnesses" for the Appellant to cross-examine in the sense we believe they meant in their Statement of Case (i.e. paid professionals). We agree there is a high level of public interest in this case, and yet the Inquiry is being held during the summer school holidays, during daytime working hours, and over parts of 2 weeks. Expecting people to take 2 weeks off work, to continue to pay for fulltime childcare, and not go on a summer holiday is unrealistic. Even some of our retired members are going to struggle to attend due to child care responsibilities for grandchildren. After speaking to other groups, including CPRE Devon who went through an Inquiry in 2022 without their Local Council, their advice was that the Inquiry was over the top and it could have been done a better way.

1.7 We discussed this concern with Case Officers and were advised on 29th June 2023 that the potential for other Appeal routes would only be available if we were to withdraw as a Rule 6 Party. After careful consideration, and after agreement with the Inspector on 30th June 2023 that under the circumstances we would be allowed an opportunity to submit a Written Representation, we withdrew as a Rule 6 Party on 1st July 2023 and submit this as our Joint Written Representation in objection to the Appeal.

2. Previous Objections and Evidence

2.1 The collective have previously prepared and submitted objections to the planning application as separate organisations. These have evolved over time and are listed at Appendix A at the end of this Written Representation. In general our primary concerns align with the reasons for refusal set out in the refusal reasons by MSDC although we believe there are additional reasons which continue to weigh against the application. In summary, in addition to the reasons for refusal recorded on the 17th February 2023 decision the collective considers these further reasons support the appeal being dismissed:

a. Harm to the setting of Grade I listed St Mary's Church in Flowton
b. Harm to the setting of non-designated heritage asset Flowton Hall
c. Harm to ecology
d. Increase of flood risk elsewhere
e. Unknown impact of noise on PROW receptors, including horse riders
f. Unknown impact of glint & glare on PROW receptors, including horse riders and helicopters
g. Public safety concerns for the Battery Energy Storage System
h. Significant cumulative impact

2.2 No responses from the Appellant have ever been received to public nor Parish Council comments during the application phase, which lasted over 2 years and had 5 rounds of public consultation. No approach has been made to the same parties to attempt to discuss and resolve issues or concerns during that time either. The Appellant answered a few questions from CARE Suffolk during the very first round of consultation and refused to engage thereafter. This lack of engagement with the community may have contributed to these additional material considerations going unnecessarily unresolved.

2.3 Similarly, there appears to be no way for the public to engage with the statutory consultees in order to resolve any concerns. Despite several attempts by members of the public, only two County level consultees were willing to engage with us – SCC PRoW and the Roadside Nature Reserve part of SCC Ecology.

3. Site Visit Viewpoints

We understand that as part of the Appeal process the Inspector will conduct a site visit. We ask that the Inspector consider the following viewpoints in addition to any others already of interest:

- Views from the bridleway along the southern boundary of the site towards the north west and towards St Mary's Church, Flowton (yellow dot on the map)
- Views along the proposed bridleway, which would have no screening (red dot on the map)
- Views from Tye Lane/Flowton Road between St Mary's Church Flowton and Flowton Hall looking towards the site
- Views from within the churchyard of St Mary's Church Flowton towards the site

We also ask that the Inspector travel the full length of Tye Lane/ Flowton Road from the B1113 to Pitlochry, Flowton, IP8 4LH and back again to understand the cumulative effect of all three solar farm proposals. If any help is needed identifying the fields we would be happy to assist.

4. Remaining Areas of Concern

MSDC has duly established its Local Plan, which includes the saved policies of Mid Suffolk Local Plan 1998, Core Strategy 2008 and Core Strategy Focused Review 2012. It includes policies for renewable energy developments in its district as part of its response to the challenge of climate change. Recognising that large-scale renewable energy schemes would be difficult to accommodate in the Mid Suffolk landscape (paragraph 3.7 accompanying policy FC1.1 of the Core Strategy 2012), the Local Plan supports smaller scale schemes that are appropriate to local conditions, particularly when integrated with the built environment (policy CS3 of the Core Strategy 2008 and it's supporting text).

This section of the Joint Written Representation sets out our main areas of concern and reasons why we ask the Inspector to dismiss the Appeal, and also where we disagree with the Appellant's reasons for Appeal.

4.1 BMV Land

Mid Suffolk Council refused the application with BMV land as one of the principal reasons as follows:

> *The presence of the development on Best and Most Versatile agricultural land would unacceptably reduce the availability of this land for the optimum purposes of agriculture. The benefits of the development are not considered to outweigh this impact and the development plan expects that particular protection will be given to such Best and Most Versatile agricultural land. On this basis the proposal would be contrary to policy CL11 of the adopted Mid Suffolk Local Plan and contrary to NPPF paragraphs 158(b) and 174(b).*

Our objection to the proposal on this topic is broadly similar to this and we agree with the policies cited for refusal. The application seeks to build on 35ha of greenfield arable agricultural land. Over 75% of it is classified as BMV land, **including Grade 2**, which Councillors at the Planning Committee Meeting on 15th February 2023 stated "they rarely see in Mid Suffolk".

Some of the BMV land and agricultural use of the site would be permanently lost as a result of this development. This is because the Appellant is requesting permanent permission for the substation as part of this Appeal, for unknown reasons, which they chose to site on Grade 2 land instead of lower grade land within the Appeal site. National Grid have advised us that they do not impose any time restraints of generation stations, and the choice to make the proposals substation permanent is a commercial decision made entirely by the developer. It is important to note at this point that the cross-boundary part of this application did not give permission for a permanent substation (Condition 3 of Babergh Decision Notice for DC/21/00060 dated 17th February 2023 – Appendix B).

We understand that the landowner intends to graze sheep on the panelled areas of the site, so it would not be lost entirely from agricultural use, but this is questionable because there is no means to maintain the grass for a flock and evidence at other sites suggests the damage to the soil structure from the construction phase of the solar arrays means the use of the site for any meaningful continued agricultural use will fail.

But the questions remain whether: this is the optimum agricultural use for these grades of land; whether harm would not befall to the existing condition of the BMV land; whether the soil could be returned to its current quality; and whether there is a demonstrable need for the proposal to be here on this BMV land.

There is no comparison of the current agricultural output to the proposed agricultural output. Low intensity grazing sheep is clearly of lower output than high yielding arable use on BMV land, representing a considerable period of time for the loss of full productivity of BMV agricultural land. This was given as reasons in paragraph 15 of recovered appeal APP/D0840/W/15/3140774 in Fraddam, Cornwall (Appendix C), paragraphs 15 & 18 of recovered appeal APP/D0840/W/15/3140774 in Bunkers Hill, Cornwall (Appendix F), and more recently in refusal s62A/2022/0011 at Maggots End, Manuden in May 2023 by Inspectors (Appendix I). There is no ALC assessment of the landowners other fields in order to demonstrate that lower quality land was indeed considered before BMV, only these fields were reported;

nor is there any indication of how the yield of the proposed land compares to the yield of landowners overall landholding, as it may indeed be removing the higher yielding fields from production.

According to the *Natural England Guide to assessing development proposals on agricultural land* (Appendix D) all grades of agricultural land are suitable for pasture, but only the higher grades are suitable for arable crops. Putting pasture on higher grades would be counter-productive to achieving an optimum output of food production on the UK's BMV land.

The Appellant claims that harm would not befall to the existing quality of the land. This is despite the glaringly obvious fact that to turn a field into a solar farm requires a significant length of time being a construction site. Land is cleared, levelled out or graded, soil is removed and/or compacted, and large areas are dug up and filled with cables and other infrastructure. Appendix 6 of the Appellants Agricultural Land Classification assessment lists three pages of soil studies to support their argument. Not one is in relation to soil quality under solar farms.

On 21st March 2023 we submitted a Freedom of Information (FOI) request to the Department for Levelling Up, Housing and Communities (DLUHC) regarding evidence they hold that soil quality is enhanced under solar farms. After escalating the issue to the Information Commissioners Office, our full question and their response is in Appendix E.

The DLUHC response listed five documents and each of them are directly relevant to solar farms. Each of the documents can be summarised as follows: the first item concludes that there was no real change in soil properties, and even then the properties that were assessed are not relevant to how the UK grades the quality of its soil - ALC 1988; the second and fourth items conclude that soil degrades under solar PV; the third item concludes that soil moisture may increase under panels, but that conflicts with the result in the second and fourth studies, and all other soil properties are degraded under solar PV; the fifth item was from written evidence from BEIS to Parliament, and it references two documents - one from Solar Energy UK and one from the NFU – but neither of those documents make any mention or assessment of soil quality, let alone from a scientific standpoint.

We have also submitted an FOI to Natural England on the issue who neglected to respond, and have so far not responded to a second stage request for an internal review and answer. The deadline for their response is 4th July 2023, sadly after the submission deadline of this Joint Written Representation.

The Appellant states they intend to demonstrate the ability to return the land to agricultural use at the end, but we have been unable to find the evidence which they rely on. And the question remains whether this would be any form of agricultural use, or the current form of arable agricultural use and more importantly, the current grade of agricultural BMV land and yield of arable output. In recovered appeal APP/D0840/W/15/3140774 at Bunkers Hill, Cornwall the Secretary of State gave little weight to reversibility in paragraph 15 (Appendix F).

In returning the land to agricultural use, there is no indication how toxins leeched from even intact solar panels would be assessed and removed from the soil. Appendix S was written by the Energy Institute and provided to us by Burstall Parish Council Chariman B C Gasper MSc. C.Eng. F.EI. F.I.Mech.E. who is a Fellow of the Energy Institute.

There also remains the uncertainty of whether this really is a time-limited proposal. The Appellant seeks permission for a permanent substation, has stated they may request extended permission near the end of the 40 year proposal, and the draft NPPF is amended to include consideration of re-powering of energy generation sites. Whilst there is nothing to suggest that solar PV will even be needed in 40 years' time, if the site is indeed returned to agricultural use we are reminded that the food security crisis is now.

An Alternative Site study was submitted by the Appellant but this appears limited and focuses on the substation and an arbitrary distance of 5km maximum for the connection to make the proposal viable. As yet no evidence has been put forward to substantiate this arbitrary distance. In the CARE Suffolk objection submitted 2nd March 2021 it was noted that the parent company of the Appellant, Enso Energy Limited, had submitted another similar sized solar farm application in Fobbing, Essex that claimed 10km was the maximum viable distance after no landowner came forward within 5km, and pointed out that the *"proposed connection is around 8.4km away and would appear significantly more*

costly having to pass through several built-up areas and road networks." A more detailed analysis of the Appellants site selection process is included in our previous objections, specifically those submitted in March 2021, and we find the study to be inadequate. Recovered appeal APP/D0840/W/15/3140774 at Bunkers Hill, Cornwall specifically mentioned an inadequate site selection process (Appendix F), as well as recovered appeals APP/W0530/W/15/3012014 & APP/W0530/W/15/3013863 in Sawston (Appendix H).

National Grid have previously indicated that this area is at capacity (Appendix G – National Grids Site Study for Norwich to Tilbury pylons). East Anglia are net exporters of green and low carbon energy already with the existing offshore windfarms and Sizewell B. And with more offshore wind, interconnectors, Sizewell C, other smaller local wind and solar, and the recently approved 500MW Longfield Solar Farm recently granted in Chelmsford all wanting to connect into an already constrained network, so a material consideration for this appeal, is there really a demonstrable need for this proposal to be ***here***?

The Appellant writes in their Statement of Case that they will draw support from recent appeal decision APP/H1705/W/22/3304561 in Bramley, Hampshire. Whilst we note that the appeal site did include a majority of BMV graded land (53% compared to the 75% here), including Grade 2 as there is for this proposal, there were no other reasons weighing against the proposal. For example: it was not in a designated Special Landscape Area as this proposal is; nor was it agreed to be a valued landscape for the purposes of the NPPF, as noted in the Appellants Statement of Case paragraph 9.11; and it was not within the setting of a Grade 1 listed building, only Grade 2.

4.2 Landscape

Mid Suffolk Council refused the application with landscape as one of the principal reasons as follows:

> *The industrial and utilitarian appearance of the development would result in a significant change in the character of the site and be visually intrusive in appearance for the duration of the development. This change would have unacceptable adverse impacts upon visual character and amenities including for public rights of way users and the community and for the benefit of tourists. The development would neither protect nor enhance this valued landscape forming part of the designated Special Landscape Area here. On this basis the proposal would fail to safeguard the landscape quality of this part of the District contrary to policy CL2 of the adopted Mid Suffolk Local Plan and compromising the landscape character and local distinctiveness of the site contrary to policy CS5 of the adopted Core Strategy. The proposal would be contrary to the principles of the NPPF including paragraphs 174(a) and (b) and Paragraph 158. The development would, for these reasons, not represent sustainable development under paragraph 11 of the NPPF.*

We agree with this reason for refusal, including the cited policies. Though we also consider it to be contrary to saved policy E10. The collective have individually considered landscape impact in detail in our previous objections, which we understand will be taken into consideration, and have very little to add here.

In previous objections we have demonstrated that the Appellant put other non-material considerations before landscape, specifically a close grid-connection. However, in recovered appeals APP/W0530/W/15/3012014 & APP/W0530/W/15/3013863 the Secretary of State clearly concluded that a nearby grid connection is not a material consideration and carries no weight in the planning balance (Appendix H).

A confusing conclusion by both the Officers Report and Appellants landscape reports describe a contained site that can be effectively screened. Yet it sits within a Special Landscape Area, a landscape character of open arable areas, and an agreed valued landscape as per the NPPF. And large parts of it, namely along the route of the proposed permissive bridleway, have no proposed screening anyway.

During the MSDC Planning Committee meeting on 15th February 2023 a question was asked about the designated Special Landscape Area (0h 48m). The map in Appendix T (from the Joint Babergh and Mid Suffolk Council Landscape Guidance 2015) was produced and it was stated that it covers about 10% of the district, and then by the Chief Planning

Officer that “they are Special Landscape Areas because they are not blanket coverage over costs and as Bron says they are mostly district…. they are a clear indicator that there is a landscape here that is worthy of particular consideration.”

For the existing landscape fabric the development itself would not have a significant impact on the hedge and tree elements, and it would have a beneficial impact on new hedge and tree planting if it were to successfully establish. Though there appears to be no reason why those benefits could not be implemented without the solar farm. However, the solar farm would have a significant effect of change on the arable field element, turning it into grassland under solar panels.

The development also seeks to add a large number of solar panel arrays sprawled across the landscape, which would introduce a new element into the landscape and would make the existing landscape character radically different. Over such a large area the proposed development would become a key and defining characteristic of the landscape, it would strongly contrast with the existing character, and the key characteristic of a rolling arable landscape would be lost for more than one generation. There is nothing to rule out that impact being permanent. The industrial features of the development would not assimilate into the existing landscape at all, it would overpower it and become a new industrialised landscape. This would be significantly harmful to the existing landscape character, and would multiplied if any combination of the other proposed solar farms were to be approved.

The Appellant intends to demonstrate as part of the Inquiry how the landscape and visual impact of this proposal would compare to other types of energy development in this location, but this is irrelevant, because the option here is arable agricultural fields which makes a strong positive contribution to the Suffolk landscape or an industrial scale solar farm.

We are yet again reminded of the uncertainty of whether this really is a time-limited proposal. The claim that because it may be reversed in 40 years’ time means the landscape impact is neutral is an unreasonable conclusion to reach. The requested 40 year permission is NOT temporary in the views of reasonable local people. This was also the point of view of the Councillors during the MSDC Committee Meeting who pointed out that 40 years of working did not feel temporary, and the majority of people in that room would not see the end of those 40 years. To them, and indeed many of the residents who submitted objections, the proposal would be permanent. At this massive scale and on this highly visible landscape, impact will be significant and last generations. In recovered appeal APP/D0840/W/15/3140774 in Fraddam, Cornwall (Appendix C) the Secretary of State deemed even 30 years not to be temporary.

4.3 Heritage

We have no concerns regarding archaeological impact, subject to the conditions suggested by the Council’s consultee.

Our concern for heritage is in relation to the harmful adverse impact on the setting of St Mary’s Church Flowton, a Grade 1 listed building, and Flowton Hall, which we believe to be a non-designated heritage asset.

We have explained the obvious failing in the Appellant’s heritage assessment of the impact on the setting of St Mary’s Church Flowton, where the desktop study inferred that there would be no inter-visibility and that no one actually visited the site to check this, which led to a material misjudgement from the Council’s statutory consultees who also failed to visit the site to check.

We have demonstrated in previous objections with photographic evidence that there are clear views from these heritage assets to the appeal site, and from the bridleway bounding the southern edge and proposed permissive bridleway back to both assets. Churches were often constructed in the landscape so that they could be seen from a wide area as a beacon on the landscape to its congregation. This view from the bridleway is the first view those travelling via the PROW network from the outskirts of Flowton parish will see of the church and is a distinct visual relationship between the church and the historic local network that would have been, and still is, used by the community. We understand that when the Inspector conducts his site visit that it will be during the summer months, and our photographic evidence was from the winter months to show the worst case scenario. We note the Appellant proposes a row of trees towards the south of the site which would screen views from the bridleway to the church. During the operational life of the development and once established this would provide screening from the development, but it would harm the view

towards the church. This harm would be permanent as the trees are proposed to remain after decommissioning, but should of course be balanced against the ecological benefit that the trees would provide in the Inspectors decision.

We also put forward evidence that MSDC stated in their consultation to the EA1/3 offshore windfarm substations nearby that the fields south of the Grade 1 listed church contribute positively to the significance of the church. This proposal is south of the church.

More recently National Grid started a second non-statutory consultation for their Norwich to Tilbury 400kV pylon proposal. The proposed route in the first consultation would have come to the south of Flowton village and in the fields to the south of the church. Within the consultation documents for the second consultation the proposed pylon route has been re-routed to the north of Flowton village, away from the setting of the church, and it specifically states the reason being the presence of the Grade 1 listed church (Appendix U).

For Flowton Hall we noted that the consultee Place Services has previously requested an assessment on potential impacts from the nearby solar farm application DC/21/04711 on non-designated heritage assets in that area, but failed to request it for this application. CARE Suffolk CIC flagged up this inconsistency, and provided evidence in line with Place Services criteria explaining why Flowton Hall is a non-designated heritage asset under NPPF and why the appeal scheme would could adversely impact on its setting. We also submitted evidence that MSDC determined the landscape in this area and in the setting of Flowton Hall is highly sensitive to development as slight as a new residential gate or fence (Appendix V).

The Officer's Report considered only the consultee responses in the heritage section of the report, which as above were based on misleading information from the Appellant and the omission of Flowton Hall, and so it is impossible to know if our previously submitted evidence for both heritage assets was properly considered. Had more accurate information been provided from the Appellant, it is possible that the Council may have reached the view that there was less than substantial harm to the setting of both designated and non-designated heritage assets, and giving great weight to that heritage harm under section 66 of the Listed Buildings and Conservation Areas Act and the line of cases since Barnwell Manor, [2014] EWCA Civ 137 that the benefits did not outweigh the heritage harm,.

4.4 Ecology

The reasons for refusal did not include ecology. We consider there are strong ecological reasons that are in play and warrant a refusal on ecology grounds.

The Appellant claims the proposal would result in improvements to existing hedgerows and the introduction of new hedgerow planting; existing grassland areas would in time be improved with the possible introduction of new native species; arable areas would be seeded with grassland and wildflower mixes; future management would be controlled by means of grazing or machine cutting; bat and bird boxes would be provided; and an area outside of the site plan would be set aside for the local population of skylarks.

Whilst some of these measures are intended to compensate and mitigate against the adverse impacts caused by the installation of a large solar PV array, and many of these could be implemented regardless of the proposal, they are still benefits (paragraph 16 of refusal s62A/2022/0011 by Inspectors in Maggots End, Manuden – Appendix I).

Although the appellant carried out ecological surveys in 2020 and 2022, very limited additional desk research was carried out and no account taken of advice from Natural England in their response 12th October 2020 to the EIA Scoping Opinion. No updated bird survey was carried out in 2022 before making an assessment on the Skylark mitigation areas, contrary to the advice in the Chartered Institute of Ecology and Environmental Management's Advice Note on the Lifespan of Ecological Reports and Surveys (Appendix W). The inadequacy of evidence provided means that it is impossible to tell whether any number of vulnerable species, especially invertebrates, have been ignored by the Appellant, and if the ecological benefits are as high as claimed.

Furthermore, little or no information has been provided on several key variables, such as the rate of growth of new habitat to a condition that would be attractive to wildlife (examples demonstrating growth rates of new screening in Appendices X & Y); the time that wildlife would take to colonise newly-planted habitat; the true biodiversity value of existing habitats before they are damaged during the planned construction phase; and so on. There are still outstanding questions relating to the ecological impact of the fencing of the site, and the suitability of the skylark mitigation areas, as well as how those areas would be secured for the lifetime of the development.

This undermines the appellant's claims for biodiversity net gain, about which there is already considerable and increasing scepticism (Appendix Z). The fundamental problem is that the metrics are calculated and quoted – to ludicrously unrealistic and therefore spurious degrees of accuracy – without any reference to many caveats, some of which are included in the metrics documentation itself.

For example, indirect impacts of a development are not taken into account; species are not explicitly included, but habitat types are used as a proxy for so-called biodiversity value; and any results need to be interpreted using ecological expertise and common sense.

All of these concerns have been raised in our previous objections and we understand these will be taken into consideration.

4.5 Flood Risk

We agree that the proposed development itself would not be at risk to flooding. However, we do not agree it naturally follows that this would not impact flooding elsewhere and therefore be contrary to NPPF paragraph 167.

None of us claim expertise in flood and drainage modelling but we do know our own area and we do not accept the claim that increasing the surface water runoff rate, and concentrating and draining that water into a watercourse that is mapped by the Environmental Agency as Flood Risk Zone 3 (Flowton Brook), is not an increase in flooding elsewhere. The conclusion is irrational and illogical.

It is local experience that the area of Flowton Brook floods at least once per year, sometimes more often as demonstrated in the CARE Suffolk objections. Increasing the rate at which surface water enters the Flowton Brook area will increase the speed at which the flooding starts. This will prolong the period of time the area is flooded for since the drainage away from this area remains unchanged, and is therefore an increase in flooding elsewhere compared to the current situation.

We understand the currently proposed outflow control from the substation and BESS area would be below the 1 in 100 year rate, but this is not of any use to an area that already floods multiple times a year at a significantly lower runoff rate. For 99 of the 100 years the surface water runoff rate would be increased, and drained into an area that already floods. It must be limited at the very least to the existing greenfield rate, or a lower rate.

We believe the flood risk concern could be overcome by a suitably proposed SuDS retention pond with an outflow control limiting drainage to the current greenfield runoff rate of 0.58l/s. There even exists the opportunity for the Appellant to create a larger retention pond to help lower the current greenfield runoff rate and reduce the existing flood risk for the community, as well as provide ecology benefits. Since the Appellant has not engaged with the public and Parish Councils during the entire application process on this topic, we believe this concern remains unnecessarily outstanding and is easily solvable.

4.6 Public Amenity (Glint & Glare and Noise)

There are only two issues that remain outstanding for Noise and Glint and Glare.

None of us claim expertise in either areas, but again we do know our local area and concern remains regarding some glaringly obvious omissions in the assessments. We note that the statutory consultees for both noise and glint & glare

provided no objection subject to conditions, but how can they provide an objection on something which was not assessed?

A crucial part of the assessment process is to identify all possible receptors. In both cases, glint & glare and noise, neither report has identified users of the PRoWs as receptors. This is pointed out in comments by other groups too, including the British Horse Society, and Suffolk Preservation Society, amongst others. There are PRoW footpaths that intersect the site, a permissive footpath within the site, a bridleway along the southern edge of the proposed site, and a proposed bridleway through the site.

Users of these PRoW and permitted routes would have the greatest impact on them simply because they are closest to and even within the proposal site area, compared to other receptors who were identified. Users of the new permitted bridleway would have an even greater risk from glint and glare as there is no proposed screening between the proposed permissive route and the solar arrays.

We recognise the improvement of PRoW connectivity from the proposed permissive bridleway, but that improvement is worthless if other factors deter users from using it. And there is nothing to indicate the improvement could not be implemented without the solar farm.

In terms of glint & glare, the report identified Wattisham Flying Station as a receptor, and assessed the runway for fixed wing aircraft. However, it failed to identify that Wattisham Flying Station is primarily a helicopter base for the Army Air Corps, with a permanently open pad for the Air Ambulance. Helicopters do not require a fixed flight path, which is what was assessed. They can, and do, land and take off from any direction. Furthermore it is well known locally that the Army Air Corps regularly fly over the proposed site and have used Bramford Substation for target practice. This was noted in several public objections during the application phase.

It should also be noted that all the noise assessments, including the cumulative assessments, are now rendered worthless by the completion of nearby Anesco BESS (DC/17/02746 & DC/19/01601). The noise assessment by the Appellant was carried out before the BESS was constructed and operational, so the noise was not included in any baseline. The cumulative noise assessment states in Table 2 it used noise levels *"estimated from relevant Noise Assessment*" but no actual noise assessment was produced by Anesco. Instead it simply stated that noise would not be heard by the nearest residential receptors. Further the baseline for receptor R3 for the cumulative noise assessment was informed by the Statkraft (DC/22/00683 & DC/22/01243) cumulative noise assessment which also failed to include noise from the Anesco BESS. However, now that the Anesco BESS has been built and is operational, those nearest residential receptors are being affected by noise to the extent that they are making complaints. That is quite a significant difference because the noise is much louder than expected. The Appellant is aware of this from an email sent 10th January 2023 by Planning Officers directly to Simon Chamberlayne (Appendix J), yet Anesco still isn't properly represented in the cumulative noise report.

The Appellant proposes to site noisy equipment, such as inverters and BESS near to existing PRoW routes, and the noise map of the proposed site indicates a significant increase in industrial noise along these routes, in some cases up to 15dB higher. This figure did not consider cumulative noise from other nearby developments such as Anesco either. Refused appeal APP/M1005/W/22/3299953 in Alfreton (Appendix K paragraph 29) considered this important at an increase of only 3dB.

This demonstrates the care that is needed when assessing noise in open landscapes like this where noise does have the potential to travel (as noted in several public objections during the application phase, including Elmsett Parish Council).

Planning Practice Guidance advises that local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on landscape: and that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their

setting. **Protecting local amenity is also an important consideration which should be given proper weight in planning decisions** [our empashis] (PPG Paragraphs 007 Reference ID: 5-007-20140306 & 013 Reference ID: 5-013-20150327).

It is impossible to examine these issues if there is no accurate assessment to discuss, let alone ascertain if the impact of glint & glare and noise is significant enough or not to refuse permission.

Additional Information:

- *Cypress Creek Solar Farm Inverter Noise: https://www.youtube.com/watch?v=l3X29ReBwEQ*
- *Solar Inverter Noise Impact: https://www.youtube.com/shorts/X3u89MNsEjQ*

4.7 Battery Energy Storage System (BESS)

The collective has serious unresolved concerns relating to the safety of the BESS component of this appeal scheme given the known history of serious environmental impacts arising from the presence of lithium-ion, lithium iron phosphate (LFP) or lithium nickel manganese cobalt oxide (NMC) batteries. A BESS site can ignite due to a number of reasons, as identified by the Liverpool Fire Service Fire Investigation Report into the thermal run event at a BESS site in 2020 (Incident: 018965 – 15092020 Address: Orsted BESS, Carnegie Road, Liverpool, L13 7HY).

Once a BESS site catches fire the event is commonly known as a "thermal run". The associated risks include:

- public safety in the event of a thermal runaway event arising from the proximity to nearby PRoWs and the release of toxic gases including hydrofluoric acid into the atmosphere;
- the availability (or lack of) mains water on site for defensive fire-fighting by Suffolk Fire and Rescue Services;
- and the release of contaminated water pollution (from fire-fighting) into the soil and water networks, and the effect of that on wildlife and the drinking water protection zone that this proposal is sited in (contrary to saved Local Plan policies E10 and SC4).

The National Fire Chiefs Council published a guidance note relating to large-scale BESS like this one in November 2022 (Appendix L). Many of these concerns have not in any way been adequately addressed by the Appellant, nor from statements made by MSDC Officers in relation to Hazardous Substances Consent, nor from a proposed condition for a Battery Safety Management Plan.

In any event, we recognise that at the present time there is a distinct lack of planning policy in relation to such concerns. However, the Department from Levelling Up Housing and Communities has very clearly indicated that a Hazardous Substances Consent under The Planning (Hazardous Substances) Consent Regulations 2015 would be needed in correspondence related to the appeal site dated 6th October 2022 (Appendix M). These risks from thermal runaway are supported by years of work done by Professor Paul Christensen and Dr Edmund Fordham, and evidence from various BESS fire events nationally and internationally.

4.8 Cumulative and Sequential Impact

The potential for cumulative impact in the area is very real due to the significant increase in the amount of electrical infrastructure proposed for the area, and this was raised during the EIA Screening and Scoping stages. Yet the Appellant provided no cumulative impact assessment to represent the sequential views of people travelling through the landscape, nor on disturbed and displaced wildlife. The Councils Landscape Officer considered the sequential impacts independently on 11th January 2023 but only on the footpaths at the site, and failed to understand wider routes and that of National Cycle Route 48, which travels along Tye Lane past all three proposed solar farms.

The area was already host to the Bramford substation, but in recent years that has been greatly extended. In addition to this the area has had the substations for both the EA1 and EA3 offshore windfarms built, three new standalone BESS applications approved (one of which is now built), the Bramford to Twinstead 400kV pylon proposal, the Norwich to Tilbury 400kV pylon proposal, and now three new solar farm proposals, including this one. In addition to this we are aware that there is a fourth solar farm proposal and two 300MW+ standalone BESS applications in pre-planning. This

represents significant industrialisation of the countryside and to deny any cumulative impact of such, as the Appellent claims, is illogical.

In addition to the three solar farms, there are also additional pylon routes proposed for the area. In relation to this application the most notable is the Norwich to Tilbury proposal (previously East Anglia GREEN) which connects into Bramford substation along the route, and National Grid stated in their Corridor and Preliminary Routeing and Siting Study Report April 2022 (relevant pages in Appendix G) for Landscape that *"There is high potential for the development of a 400kV OHL within this section to give rise to significant adverse effects on local landscape character in combination with the existing NG and DNO assets that converge at Bramford substation. This is because it is possible that this landscape has reached its capacity to accommodate such infrastructure."* This is National Grids assessment before the solar farms, including this proposal, are built.

There appears to be conflict between the Cumulative Impact Assessments of this proposal, and that of other proposals in the area. EDF (DC/21/04711) and Statkraft (DC/22/00683 & DC/22/01243) concluded that there would be cumulative impacts if any combination were to be approved. Appendix N paragraph 62 and Appendix O chapter 5.2 respectively. Where three different developers conclude there would be a cumulative impact, and one developer (the Appellant) claims there wouldn't, something has clearly been underestimated in the assessment.

4.9 Importance of Renewable Energy

The importance of renewable energy to transition to a low carbon future is not doubted. Whether the proposals will make a significant contribution and/or bring new jobs/economic benefits to the area meanwhile is less clear.

It seems more likely that this will involve moving existing jobs, rather than creating new ones, so as to take advantage of economies of scale. Regrettably no real evidence has been provided as to the purported economic benefits in any event, nor has any assessment been made of how those compare to the existing use of the land.

Since the amended scheme was proposed in August 2022 there appears to be no declaration of the claimed CO_2 saving in the new documentation, nor the annual amount of kWh expected to be generated. There is only a vague indication from the Officers Presentation to the Planning Committees which states an energy usage of approximately 7,450 homes per year and save 6,250 tonnes of CO_2 per year, but it is not known what figures were used to calculate these numbers or where they came from.

Before the amendment in August 2022 the Appellant used a calculation that seems to be standard throughout the industry, but its fallacy is unquestionable. The calculation uses three figures. A previous years CO_2 cost of the UK's energy mix. The expected annual output in kWh of the solar farm. And the number of operational years. These three figures are multiplied together to create the "carbon saving". However, this is misleading and was demonstrated in a previous objection by CARE Suffolk CIC, and a more accurate calculation was put forward with a significantly lower carbon saving. We have updated the calculations again and include them in Appendix R.

Prior to the reduction from 49.9MW to 30MW, the Appellant claimed they would produce 60,000MWh of electricity per year. This represents a 13.73% efficiency rate. Based on the MW change from 49.9MW to 30MW and the same efficient rate the new MWh/year figure would be 36,082MWh, or 36,082,440kWh to be more accurate.

According to UK Government research (Appendix P) ground-mounted solar farms have a CO_2 cost of around 75g per kWh. Over the 40 years proposed lifetime, this would be a CO_2 cost of 108,247 tonnes. This cost would be incurred before the solar farm even starts generating electricity.

The most recent figure for the UK's energy mix CO_2 footprint (Appendix Q) is 265g per kWh. If the proposals production were all compressed into that one year in the past then it would represent a significant saving. But it isn't. It is being produced in the future and over 40 years. And those 40 years should be at a declining energy mix rate down to zero in 2050. So each year it will be contributing a lower and lower saving.

If we assume a steady decline from the 265g in 2021 down to zero in 2050, that the proposal were to start generating electricity in 2024, and it consistently produced the expected kWh output each year, then the proposal will have paid back its CO_2 footprint by the end of 2043, and saved a total of 7,599 tonnes over its lifetime, an average of 190t/year.

This is of course still a saving, but much lower than the claimed 6,250 tonnes by the Appellent.

There is however some caveats to the UK Governments estimate of 75g per kWh. It does not include: the CO_2 costs associated with decommissioning because they are not known; the CO_2 costs associated with replacing all the solar panels around the 20-25 year mark; and the CO_2 costs of displacing UK grown food and having to grow and import that food from elsewhere. The calculated savings could quite quickly disappear if those inputs were known.

We have provided the spreadsheet and calculations we used as Appendix R in the event the Appellant wishes to provide more accurate kWh information to adjust it, or perhaps even provide their own CO_2 analysis.

The Appellant writes in its statement of case that they will draw support from policy CS13 of the Development Plan, but no such policy exists in the Mid Suffolk Local Plan.

4.10 Other Recent Appeals

The Appellant notes that they will draw support from other recent appeals for solar farms which have been allowed. We have discussed the Bramley appeal APP/H1705/W/22/3304561 in the BMV section above, and wish to provide brief comments on the other appeals and decisions here.

- Cleve Hill - EN010085 – this is an NSIP level application for a solar farm and BESS. Whilst some of the harms of the scheme run parallel to this application, the benefits of the scheme for low carbon energy generation far exceed this application.
- Halloughton – APP/B3030/W/21/3279533 – this was not in a designated landscape area, it was not a valued landscape for the purposes of the NPPF, it was agreed there would be no harm to PROWs, and there was no BMV graded land within the proposed site. There would be some less than substantial harm to heritage assets of Grade 2, and one Grade 2* and a Conservation Area. For some of the heritage assets the harmed views were only from private views, not public views.
- Langford - APP/Y/1138/W/22/3293104 – this did not include any BMV graded land, harm to one Grade 2* listed building was disputed amongst parties, the site was not within a designated landscape area nor a valued landscape for the purposes of the NPPF.
- Chelmsford - APP/W1525/W/22/3300222 – the site was not within any designated landscape area, nor a valued landscape for the purposes of the NPPF, only 2 Ha of the site was agreed to be Grade 3a BMV land and the rest was not BMV graded land, there was some dispute amongst parties over the impact on the setting of heritage assets with the highest being a Grade 2* building.
- Gillingham - APP/D1265/W/22/3300299 – this did not include any BMV graded land, and it is not within a designated landscape area nor a valued landscape for the purposes on the NPPF. There was agreed harm on the lower end to the setting of three Scheduled Monuments.
- Telford - APP/C3240/W/22/3293667 – this does not include any BMV graded land. But this was agreed to be a valued landscape for the purposes of the NPPF and is also in a designated Special Landscape Area. It should be noted that this decision was made the Under-Secretary of State and a case for Judicial Review has been lodged with the High Court by Telford & Wrekin Council at the time of submitting this Joint Written Representation.

In summary, all of the above appeal decisions had only one significant factor weighing against it. Yet here, there are several, including the use and loss of 75% BMV graded land, a Special Landscape Area, a valued landscape, and harm to the setting of heritage assets, amongst other more minor factors. There is considerably more weighing against this proposal, and we have also demonstrated throughout this Joint Written Representation that there are appeals being refused for similar reasons that are applicable here, some of which include more than one reason for refusal compared to the examples put forward by the Appellant.

5. Proposed Conditions and S106 Requirements

5.1 These were prepared by the collective whilst we were a Rule 6 Party in order to be submitted as part of our Statement of Case. Though we are no longer a Rule 6 Party, if the Inspector were minded to allow the Appeal, we ask that these conditions to control development and mitigate impact are considered in order to ensure the development proceeds as approved and that assurances and guarantees offered are secured and are enforceable.

- Public highways and verges between the site and the A1071 shall be inspected prior to the start of construction, and to be inspected regularly throughout the construction phase with any damage to be repaired within a suitable timescale as agreed with the local highways authority.
    i. Reason: Burstall Parish are already suffering such damage from the construction of nearby battery storage application DC/19/01601.
- A condition stating that permission is NOT granted for any type of fence other than deer fencing around the perimeter of the site.
- The permission shall expire 40 years after the first commercial export of electricity from the site or if the site does not provide a minimum of 20,000MWh of solar PV generated electricity in any one calendar year, whichever is sooner.
    i. Reason: to ensure the temporary nature of the development and that the site is returned to its optimum purpose of arable agriculture should the development site unsuccessfully provide meaningful electrical benefits promised for whatever reason.
- A decommissioning and restoration plan should be submitted to and approved by the Council prior to the first commercial export of electricity from the site, and reviewed periodically. The plan should detail how all equipment and infrastructure, above and below the ground, will be removed from the site, and how the land is to be returned to its pre-construction condition and soil quality, and how this is to be conducted so as to avoid disturbing biodiversity within the site.
    i. Reason: This is in order to protect ecology on the site and ensure no harm is done to the BMV land. Due to the above condition it is evident that a decommissioning plan may be needed prior to the intended 40 year operational period, and should be approved in advance.
- Within two years of the first commercial export of electricity from the site, a grazing management plan shall be submitted to and approved by the Council, and grazing shall commence. It should detail which parts of the site will be grazed, what months of the year, and how it will be managed, including the management for crossing any PRoWs or permitted routes.
    i. Reason: This is to ensure parts of the site do remain in agricultural use and thereby deriving multiple benefits from the site, and for public safety as livestock are moved around.
- Within one month of the first commercial export of electricity from the site, a surface water drainage verification report shall be submitted to the Council detailing and verifying that the surface water drainage and SuDS systems have been inspected and are built in accordance with the approved designs and drawings. The report shall include details of all drainage and SuDS components and pipework in an agreed form for inclusion on the Lead Local Flood Authority's Flood Risk Register.
    i. Reason: This is to ensure the surface water drainage and SuDS system has been built as approved and is fit for purpose to prevent the risk of flooding elsewhere, and to ensure that in the event of a flood event the LLFA are fully informed of the systems when managing any flood risk in the area.
- Prior to the erection/installation of any floodlighting or other means of external lighting at the site, details to include position, height, aiming points, lighting levels and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved. There shall be no other means of external lighting installed and/or operated on/at the site. All lighting must be switched off at night to maintain the areas dark skies, unless an emergency situation were to occur.
    i. Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity. It should be noted that the substation for EA1 offshore wind farm are required to switch their lights off at night time.

- No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the LPA. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP shall include: Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:- i. Temporary drainage systems ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses iii. Measures for managing any on or offsite flood risk associated with construction
    i. Reason: To ensure the development does not cause increased flood risk, or pollution of watercourses or groundwater as part of the Special Protection Zone for drinking water on the site or otherwise.
- Prior to any of the components of the Battery Energy Storage System arriving on site, an application for Hazardous Substances Consent shall be submitted to the Local Hazardous Substances Authority for assessment, and the results of such shall be implemented if the Authority deems HSC to be required. Should the results have a subsequent effect on other aspects of the development such as, but not exclusively, an increased permeable surface water area then mitigation measures such as SuDS features should be adjusted and consulted on accordingly.
    i. Reason: To ensure that the process is not missed given the constantly evolving situation regarding BESS and Hazardous Substances, and given that at the present time the Appellant is unable to confirm which technology will be used and therefore cannot absolutely say consent would not be needed, and to ensure mitigation measures remain fit for purpose.
- Prior to the commencement of development, a Skylark Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Skylark Mitigation Strategy shall include the following: a) Purpose and conservation objectives for the proposed measures; b) Detailed Methodology for measures to be delivered; c) Location of the proposed measures by appropriate maps and/or plans; and d) Mechanism for implementation & Monitoring of delivery. The Skylark Mitigation Strategy as may be approved shall be implemented in the first nesting season following commencement of the development and all features shall be retained for the lifetime of the project.
    i. Reason: To conserve and enhance protected and priority species and allow the Local Planning Authority to discharge its statutory duties.
- Any conditions proposed by consultees that relate to screening and ecology benefits shall be implemented and managed for the lifetime of the project.
    i. Reason: To ensure ecology benefits are maintained for the lifetime of the project, as well as protections for visual amenity and public safety.

5.2 Bramford Green Limited is a subsidiary which can be abandoned by its parent company and essentially go into liquidation if the market changes in the 40 year term. We ask the Inspector require a S106 Agreement be put in place to secure a fully funded ESCROW account held with an appropriate insured financial institution to cover: the full decommissioning and removal of the solar PV plant and all associated infrastructure; and full site restoration costs, including to the pre-construction soil quality and ALC grades. The costs of decommissioning and restoration works shall be agreed with the Council during construction, reviewed every two years, and the fund adjusted accordingly. We request this S106 agreement be made between the Council and either Bramford Green Limited or the freehold landowner. Failure to secure the S106 Agreement for the lifetime of the project, or maintain the agreed limit of the fund, would nullify any planning permission and decommissioning and reinstatement shall begin.

- Reason: Decommissioning and site restoration will be an expensive process, and there are no evident mechanisms proposed or in place to ensure that the owner of the development, as a Limited Company, will not cease to operate prior to the decommissioning and restoration phase, nor that the freehold landowner will have sufficient funds to cover such works.

6. Concluding Remarks

The Appellant has made very little effort to engage with the public since the application was submitted and address the concerns, some of which could be dealt with very reasonably.

It is of deep concern that this proposal will represent the loss of a valued public amenity, increased flood risk, ecological harm, harm to the landscape character and fabric of a valued landscape in a designated Special Landscape Area, harm to valued heritage assets, and the loss of BMV agricultural land for the optimum use of arable agriculture, all for a proposal that is likely to be less beneficial in helping reduce CO_2 emissions than claimed, and in an area where the electricity network is already heavily constrained and at its capacity.

We need more electricity production, we need lower carbon electricity, and we need a stable electricity system. Removing BMV land from its high yield arable production, and replacing it with the most carbon intensive and least efficient renewable energy, which is also unstable and unpredictable, is contrary to a strong and resilient society, and puts both our food security and energy security at risk.

Whilst the availability of a grid connection is important to the functioning of this type of proposal, it is not a material planning consideration and the Appellant has put this above all material planning considerations. The Appellant has proceeded with this site choice regardless of the planning constraints and there is no compelling evidence to overcome these at this location.

Reading the Mid Suffolk development plan as a whole, sensibly, simply and in its proper context, which the courts have held to be the proper approach, the proposed development is manifestly in conflict with the plan, and the benefits of the proposal are not enough to tip the balance in its favour. Material considerations, including the government's latest policies and guidance and those listed in the Appellants Statement of Case at paragraphs 6.2, 7.7, 7.8 and 7.9, indicate no reason to override the plan, but instead support the case to refuse the application.

The appeal should be dismissed.

Appendix A

Note: On some occasions the date that the objections were sent and the date registered on the LPAs' website are not the same. These discrepancies are detailed below in case any confusion between dates were to arise. We understand the Inspector has already received copies of all of these from MSDC, and that they will be taken into consideration in the decision.

CARE Suffolk CIC:
Objection sent to the LPA 2nd March 2021 but not registered online until 18th March 2021
Objection sent to the LPA 21st September 2021 but not registered online until 22nd September 2022
Objection sent to the LPA and registered online 24th March 2022
Objection sent to the LPA and registered online 14th September 2022
Objection sent to the LPA and registered online 5th January 2023
Response to Officers Report sent to the LPA and registered online 13th February 2023

Burstall Parish Council:
Objection sent to Mid Suffolk Council and registered online 18th March 2021
Objection sent to the LPA dated 21st September 2021 and registered online 22nd September 2022
Objection sent to Mid Suffolk Council 21st September 2022

Bramford Parish Council:
Objection sent to Mid Suffolk Council and registered online 5th March 2021
Objection sent to Mid Suffolk Council and registered online 28th March 2022
Objection sent to Mid Suffolk Council and registered online 29th September 2022