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Branch Chair  
Mrs Jan Arger

**Authority:** North Yorkshire Council – Formerly Hambleton District Council

**Type of consultation:** Written Representation

**Appeal reference:** APP/G2713/W/23/3315877

**Full details of application/consultation:** 21/01362/FUL - Proposals for the installation of a solar photovoltaic array/solar farm with associated infrastructure

**At land:** OS Field 6800, Fence Dike Lane, Scruton, North Yorkshire

**Type of response:** Objection

**Date of Submission:** 10<sup>th</sup> April 2023

All responses or queries relating to this submission should be directed to the Secretary for the Trustees at the contact details shown above on this frontispiece.

All CPRE North and East Yorkshire comments are prepared by the charity using professional planners whose research and recommendations form the basis of this response in line with national CPRE policies.

External planning consultant used in this response:



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## **Comment**

CPRE North and East Yorkshire ('CPRENEY') welcomes the opportunity to submit a written representation to the Planning Inspectorate regarding an appeal by Lightrock Power Ltd ('the Appellant') against the refusal of planning permission by Hambleton District Council ('the Council') on 8<sup>th</sup> August 2022 (reference: 21/01362/FUL), for the installation of a solar photovoltaic array/solar farm with associated infrastructure at land at OS Field 6800, Fence Dike Lane, Scruton, North Yorkshire.

Against the recommendation of the Case Officer, Members of the Planning Committee refused to award planning permission for the proposal for circa 79Ha of agricultural land to be used to generate circa 49.9MW of energy from the installation and operation of a solar farm for a period of 40 years at their council meeting of 4<sup>th</sup> August 2022. The Decision Notice was issued on 8<sup>th</sup> August with the following two reasons for refusal:

1. The solar farm application proposes the use of Grade 2 agricultural land. Grade 2 agricultural land is the best and most versatile agricultural land and is a finite resource. The unjustified loss of use of the best and most versatile agricultural land is contrary policy S1 and S5 of the Hambleton Local Plan and contrary to the objective of using natural resources prudently required by NPPF paragraph 8. The approach of prudent use of natural resources is a component of achieving sustainable development. The harm that may occur in the objective to achieve a low carbon economy is to be balanced but should not override the objective to protect a finite resource and dcrefulz-01 the ability to produce food for the security of the nation. The proposal is a significant development in the countryside and it has not been satisfactorily demonstrated that the development is necessary in this location resulting in the loss of use of a large area of Grade 2 agricultural land.
2. The site is located on Grade 2 Best and Most Versatile agricultural land. It has not been demonstrated adequately that the proposal could not be sited on land of poorer quality. It is therefore contrary to Policy S5 of the Local Plan which states that the loss of best and most versatile agricultural land (classed as grades 1, 2 and 3a) should be avoided wherever possible. It is also contrary to the NPPF chapter 15 that requires decisions to recognise the importance of the best and most versatile agricultural land and (which states at footnote 58) that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

CPRENEY fully support the members for refusing the proposal on these grounds which seek to protect the Best and Most Versatile Agricultural Land in line with both local and national planning policies. Members are fully entitled to place more weight on material planning considerations than their officers providing they have acted reasonably and rationally and CPRENEY believe this to be the case.

Having had the opportunity to consider the original application documents alongside those submitted for the appeal, CPRENEY supports the Council's ultimate reasons for refusal and object to the proposal on the following grounds:

- The significant loss of BMV land and impact on soils;
- The proposals are contrary to local and national planning policy.

## **Planning Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application should be determined in accordance with the development plan unless material planning considerations indicate otherwise. The planning system should contribute to achieving sustainable development. The National Planning Policy Framework ('NPPF') (2021) aims to deliver sustainable development through the implementation of its policies. Paragraph 11 states that for decision making this means:

- c) *'approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- I. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - II. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

The Development Plan relevant to this appeal consists of:

- The Hambleton Local Plan (February 2022)

Having recently been found sound through independent examination the document can be considered fully up to date and full weight should, therefore, be given to the policies contained within it for the determination of proposals. The new Local Plan ('LP') fully replaces all previous planning policy documents for the Council.

CPRENEY do not object to the generation of renewable energy by solar arrays and consider that the generation and supply of low carbon energy will be core to achieving the UK goal of net zero carbon emissions by 2050 or earlier. This will require a transformation of our energy system over the next 20–30 years. The scale and immediacy of the threat to the climate and our countryside means that change is necessary.

The current model of renewable energy development has resulted in some poor outcomes for landscapes, the environment, and rural communities. CPRENEY wants to change this and believes it is possible to achieve the net-zero transition, including the introduction of new solar developments, in harmony with our wider environmental and social objectives.

This means taking a strategic planning approach to development of renewable energy assets at the local level and ensuring that local communities are empowered to help shape their local energy response. CPRENEY will, therefore, only support solar developments which:

- minimise impacts on landscapes, tranquility and heritage, through appropriately scaled development;
- minimise the impacts on the Best and Most Versatile agricultural land;
- bring net benefits to biodiversity;
- benefit the rural economy; and
- are supported or owned by local communities.

Furthermore, CPRENEY consider that renewable energy generation and climate change mitigation must be maximised within urban areas, including the retrofitting of existing stock, on land and rooftops of industrial and commercial estates and priority given to using previously developed land in line with CPREs 'brownfield first' policy. All new buildings (of any type) should have solar and / or other appropriate energy generation and efficiency measures incorporated into their design and build as standard.

The proposal subject to this application is on a large irregular shaped site of circa 79Ha in total of greenfield land currently used for arable farming, therefore, is not in line with the 'brownfield first' policy. The Appellant's Agricultural Land Classification Report concluded that of the 77.5ha of land surveyed 71.7ha (92%) is Grade 2 and 5.85ha (8%) is Grade 3b. The majority of the site is therefore considered to be 'best and most versatile' ('BMV') agricultural land as defined in the NPPF. The NPPF clearly directs Local Planning Authorities making

decisions about the natural and local environment to:

- protect and enhance landscapes, biodiversity, geology and soils
- recognise soils as a natural capital asset that provide important ecosystem services
- consider the economic and other benefits of BMV agricultural land, and try to use areas of poorer quality land instead of higher quality land
- prevent soil, air, water, or noise pollution, or land instability from new and existing development

This concept is replicated in the Council's LP Policy S1 which seeks to ensure (amongst other things) *'development takes available opportunities to improve local environmental conditions, such as air and water quality, seeks the reuse of suitable previously developed and underused land and buildings [...]'* and LP Policy S5 which states clearly that *'where significant development in the countryside is demonstrated to be necessary, the loss of best and most versatile agricultural land (classed as grades 1, 2 and 3a) should be avoided wherever possible. [...]'* Further, 'A Green Future: Our 25 Year Plan to Improve the Environment' sets out the government's 25-year plan to improve the health of the environment by using natural resources more sustainably and efficiently. It plans to: protect the best agricultural land; put a value on soils as part of our natural capital; and manage soils in a sustainable way by 2030 amongst other things. As such, BMV of Grade 3 and above is highly regarded and should be protected from development and thus, CPRENEY concur with the Members of the Planning Committee in their reasons for refusal.

CPRENEY are also concerned about the future impact that large-scale solar farms such as the one subject to this appeal, have on agricultural land and soils beyond their operational lifespan. Whilst information contained within guidance in relation to BMV agricultural land is contained in TAN 6 – Planning for Sustainable Rural Communities (2010), pertains to the Welsh planning system, the evidence is still pertinent in this appeal. Paragraph 6.2.2 of TAN 6 states *'that once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as BMV land is seldom practicable'*. The Welsh Department for Climate Change recently objected to an appeal for a similar scheme (DNS/3245065 - Wessex solar energy (WSE Pembrokeshire Limited) land at Blackberry Lane, Nash, Pembrokeshire, SA27 4SJ) located on BMV.

The inspector set out in his report (para 163) that the DCC objection amounted to [BMV] *'land is a finite and nationally significant resource which needs to be protected in order to secure future food supplies. The Department is concerned that the development could, through matters such as compaction, waterlogging and the mixing of top and sub-soils, cause structural damage to the soil and in doing so reduce its flexibility, productivity and efficiency to such an extent that it would no longer be BMV agricultural land.'*

The Inspector goes on to conclude on the matter at para 165 that *'I am nevertheless 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. This disturbance would arise from the engineering operations necessary to construct a solar park of the scale proposed and from the potential for widespread soil compaction caused by the movement and use of heavy vehicles and machinery required for the installation of the supporting posts and the excavation of trenches, access paths 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 are likely to significantly damage the structure of the soil and result in the loss BMV agricultural land.'*

Council LP Policy S5 states *'where agricultural land would be lost the proposal will be expected to be designed so as to retain as much soil resource as possible as well as avoiding sterilisation of other agricultural land by, for example, severing access to farmland.'* This is in accord with the NPPF para 174 which states decisions should contribute to and enhance the natural and local environment by (inter alia) *'protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with the statutory*

*status or identified quality in the development plan)*. As predominantly Grade 2 BWV, the soils at this location should be protected. As such, CPRENEY believe the appeal should be dismissed.

Notwithstanding the above, The Written Ministerial Statement ('WMS') – Solar energy: protecting the local and global environment of 25 March 2015, states that *'meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land. Protecting the global environment is not an excuse to trash the local environment. When we published our new planning guidance in support of the Framework, we set out the particular factors relating to large scale ground mounted solar photovoltaic farms that a local council will need to consider. These include making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality.'*

It goes on to state *'We are encouraged by the impact the guidance is having but do appreciate the continuing concerns, not least those raised in this House, about the unjustified use of high quality agricultural land. In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.'*

When considering the justification for the appeal, it is therefore important to consider compelling evidence as set out in the WMS but also within LP Policy S5 which when referring to the loss of BMV, states *'if the benefits of the development justify the loss, areas of the lowest grade available must be used except where other sustainability considerations outweigh agricultural land quality considerations.'* As stated above, 92% of the site is classified as Grade 2 therefore compelling evidence must be demonstrated. The Appellant submitted a Sequential Test Analysis ('SQA') report to the Council in support of the application. Within it at paragraph 2.1 the appellant states *'The size of a suitable study area depends on the size of the electricity generating station. The cost of connection to the electrical grid increases substantially with distance from the connection point. Therefore, the maximum viable distance from the site to the point of electrical connection to the grid has been determined to be no more than 500m from the Leeming Bar substation and 20m from the 33kV underground cable. A search distance of 1.5km from the Leeming Bar substation has also been included to represent the furthest away point of the Development boundary.'* It thus appears to CPRENEY that the appellant has based the search purely on a radius surrounding the Leeming Bar substation, as opposed to any other potentially suitable substation across the district. Presumably this is because the Appellant has secured a land agreement with the owner for the site.

The SQA sets out that there are 2 potential alternative sites within the study area, but whilst both had similar BMV land classifications and were of suitable and similar scales and distances from the Leeming Bar Substation – both were discounted due to other concerns, e.g. PDA 1 was in close proximity to a network of PRowS and has uneven topography; and, PDA2 was in flood zone 2 and 3 and is closer to a settlement and caravan park.

As very little of the whole of the Hambleton area is not classified as Grade 1-3a Agricultural Land and 7 solar arrays have already been permitted across the (former) district, CPRENEY does not consider that the Appellant has adequately considered alternative sites. There is no evidence that the Appellant has looked at other sub-station areas or considered existing sites allocated for employment use across the district where the Appellant could consider (if necessary) a series of smaller sites which would cumulatively total the same landtake or potential energy generation. This would enable the BMV to be preserved and enhanced for its own sake and for food security etc. Large swathes of the UK under the new Environmental Land Management Schemes are likely to be 'rewilded' or introduce alternative agricultural practises. Those areas of the country (like Hambleton) who are proven crop producers with such good quality land should be preserved to allow

self-sufficiency and seasonality of good quality produce. As such, CPRENEY concur with Members of the planning committee that the Appellant did not adequately demonstrate compelling evidence to support the loss of Grade 2 BMV land. Should the Council keep allowing sites on BMV across the district then it will be increasingly difficult to demonstrate any planning boundaries in relation to BMV in support of national and local policies.

### **Conclusion**

CPRENEY welcomes the opportunity to provide written representations to the Planning Inspectorate regarding an appeal by Lightrock Power Ltd. against the refusal of planning permission by Hambleton District Council on 8<sup>th</sup> August 2022 (reference: 21/01362/FUL), for the installation of a solar photovoltaic array/solar farm with associated infrastructure at land at OS Field 6800, Fence Dike Lane, Scruton, North Yorkshire.

CPRENEY wishes to record their strong objection to the proposals. The proposed development is contrary to several local and national planning policies as set out above and therefore, CPRENEY respectfully ask that this appeal be dismissed in line with the decision of Members of the Planning Committee.

CPRENEY recognise the need to transition away from fossil fuels towards a renewable and clean energy generation mix, including solar, to achieve net-zero emissions by 2050 or earlier. In some circumstances it is recognised that ground mounted solar arrays can be well screened and mitigated appropriately. However, CPRENEY do not consider that large-scale solar farms are appropriate in the open countryside on greenfield sites, especially on very good BMV land.