

Little Covenhope, Aymestrey, Herefordshire, HR6 9SY

Mr Ian Nesbit

Planning Department

North Yorkshire Council

BY EMAIL ONLY

22nd May 2025

Dear Mr Nesbit

**ZB25/00872/SCR | Solar farm screening request | Land Adjacent to Lords Lane Bedale North Yorkshire DL8 2ET**

I am writing on behalf of my clients, Mr and Mrs Foster, whose home, Lords Moor Farm, Bedale, would be entirely surrounded by this proposed development.

The Applicant has provided my clients with a copy of the EIA screening report.

I agree with the authors of the screening report that the proposed development falls under Part 3 (a) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposals substantially exceed the size threshold of 0.5 ha for that category.

In my view, the report does not provide information about the likely significant impacts of the proposed development sufficient to enable the LPA to screen the proposal out of the EIA Regulations should it decide to do so.

EIA Regulation 5 (5) requires:

*(5) Where a relevant planning authority adopts a screening opinion under regulation 6(6), or the Secretary of State makes a screening direction under regulation 7(5), the authority or the Secretary of State, as the case may be, must—*

*(a) state the main reasons for their conclusion with reference to the relevant criteria listed in Schedule 3;*

*(b) if it is determined that proposed development is not EIA development, state any features of the proposed development and measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment;*

The proposals have potential for a number of likely significant effects (LSE), some of which are detailed below. The Screening Report has failed to identify these LSEs. Where LSEs are identified, the report has not properly explained how these effects could be avoided or prevented.

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Of significant concern is the fact that the site is some 2km from RAF Leeming, giving rise to risks to safety from glint and glare. Schedule 3 1 (f) of the EIA Regs lists “*the risk of major accidents*” among the criteria for determining whether EIA is required.

The Combined Aerodrome Safeguarding Team (CAST), supported by the Civil Aviation Authority, published an Aerodrome Safeguarding Guidance Note for Solar Photovoltaic Development in July 2023. <https://www.caa.co.uk/media/hlsmmmoi/cast-renewable-energy-developments-solar-july-2023.pdf>

The Guidance says: “*A key safety concern when considering a solar photovoltaic development on- or off-aerodrome is related to the reflection of sunlight off the photovoltaic panels, commonly referred to as glint and glare...*”

*“It is essential to conduct a glint and glare assessment when a reflective surface is to be located on or immediately adjacent to an aerodrome. In most cases, an assessment should be undertaken for a solar PV development which is being proposed within a specific distance (indicated by the aerodrome authority) from an aerodrome. For many aerodromes, 5 km is the distance of choice but it could be considered out to 10km. In exceptional circumstances, assessments may be required beyond 10 km.”*

The Guidance also raises concern about the risk of bird strike, where birds are attracted to the planting associated with biodiversity net gain improvements.

The Screening Report advises that a glint and glare assessment is likely to be included with a planning application for the proposed development, but there is no indication as to what receptors would be considered – or whether the risk to the aerodrome can be avoided or prevented to enable the LPA to reach a conclusion that accords with EIA Reg. 5.

The impact of glint and glare is, in addition, likely to be highly significant to our clients, whose home would be surrounded by the development.

#### BMV Land

The Screening Report advises that a planning application would be accompanied by an agricultural land classification assessment. Natural England’s ALC map for the region suggests that the soils of the whole application site are likely to be Best and Most Versatile and may be Grade 2, land of “*excellent quality*”, which is in short supply in the region. Under Schedule 3 2 (b) “*the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;*” are screening criteria for Schedule 2 development.

Agricultural land quality should have formed part of the site selection process, to accord with the National Planning Policy Framework, which requires developers to demonstrate that development of significant areas of agricultural land is necessary and that poorer quality land is selected first.

The Report argues that the land will not be permanently lost, apparently seeking to suggest that agricultural land quality is not a relevant consideration. This is contrary to the still valid Written Ministerial Statement of May 2024 (Statement UIN HCWS466), which advised:

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*“...the National Planning Policy Framework (which) states 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. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development”.*

*This means that due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.”*

The current Secretary of State for Energy Security & Net Zero, Ed Miliband, has confirmed that there has been no relaxation of the policy constraint on solar development of BMV land. In a letter to Richard Fuller MP in February this year he said:

*“Thank you for your letter dated 3 February, regarding the use of agricultural land for solar projects.*

*There has been no change to the policy on the weight attached to the use of BMV land. Planning policy and guidance makes clear that, wherever possible, developers should utilise brownfield, industrial, contaminated, or previously developed land. Where the development of agricultural land is shown to be necessary, lower-quality land should be preferred to higher-quality land (including ‘Best and Most Versatile’ land). This was the policy of the last government, There are no plans to change this policy.” (Appended)*

The question of whether the proposed development would use natural resources, including soil, is one of the criteria in the government’s EIA screening matrix at 5.2 (1.2 of the matrix in the Screening Report) but has been sidestepped by the Applicant. The Report has also failed to address the use of minerals and resources used in the manufacture of solar panels.

The Report skips over the question of waste left over at decommissioning. Recycling of used solar panels, while not easy or inexpensive, is a way of ensuring scarce resources are not wasted.

#### PROTECTED SPECIES

The Matrix asks at 6.2 whether any protected, important or sensitive species of fauna or flora which use areas on or around the site, e.g. for breeding, nesting, foraging, resting, over-wintering or migration may be affected by the project.

The Report does not identify any species likely to be affected, merely asserting: *“In most cases, potential impacts can be avoided. Where these cannot be avoided, mitigation or compensation measures will be implemented to ensure that no significant effect is likely.”*

The Report fails to record that DEFRA’s Magic Maps tool shows the site and surrounding area hosts several rare and protected bird species, including lapwing and curlew. These species are protected under s.41 of the Natural Environment and Rural Communities Act 2006 and inhabit open spaces. They would be displaced by the proposed development and so compensatory habitat would be required. The Screening Report offers no suggestion that any land – let alone suitable land – is available to compensate for the loss of habitat of these protected birds.

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**NUISANCE**

Schedule 3 1 (e) lists nuisance as a further screening criteria. The Screening Report acknowledges that background noise levels are low, but then fails to recognise that the operational noise from the development – the inverters, in particular – will be an entirely new and discordant source of continuous noise, which will affect Lords Moor Farm in particular.

The fact that the development entirely surrounds Lords Moor Farm means that no Construction and Environmental Management Plan will be capable of abating the extreme impacts of construction and decommissioning on the dwelling. This must be considered under Schedule 3 3 (h), which seeks consideration of *“the possibility of effectively reducing the impact.”*

Glint and glare are a further likely significant cause of nuisance to the occupants of Lords Moor Farm.

**OTHER MATTERS**

The Schedule 2 threshold for this category of development is 0.5 ha, not 5 ha as stated at 4.1.2 of the report. The application site is 90 times the threshold.

I am conscious that the adequacy of environmental information in EIA cases is a matter of planning judgement for the decision-maker. However, in the case of R (Lebus v South Cambridgeshire District Council [2002], Sullivan J. held that is not permissible to adopt a negative screening opinion on the basis that necessary information will be provided in the future.

In this case, the applicant has omitted reference to some LSE of the development and elsewhere acknowledged potential LSEs, but declined to provide information sufficient to inform the Local Planning Authority’s screening opinion. Much of the missing assessment should have formed part of the site selection process.

I would be grateful if you would confirm that the Local Planning Authority will either require submission of the missing information as part of an environmental statement or request the information at this stage to inform a screening decision compliant with EIA Reg. 5.

Yours sincerely

*H. Hamilton*

Helen Hamilton

MARCHES PLANNING

MAY 2025