



DEVELOPMENT CONTROL COMMITTEE

**ROOMS 2 & 3, BURNLEY TOWN
HALL**

Thursday, 30th June, 2022 at 6.30 pm

SUPPLEMENTARY AGENDA

- a) *FUL/2019/0470 - Coal Clough Windfarm, The Long Causeway,
Cliviger, Burnley* 3 - 24

PUBLISHED

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Housing & Development
Town Hall, Manchester Road

Ref.

FUL/2019/0470

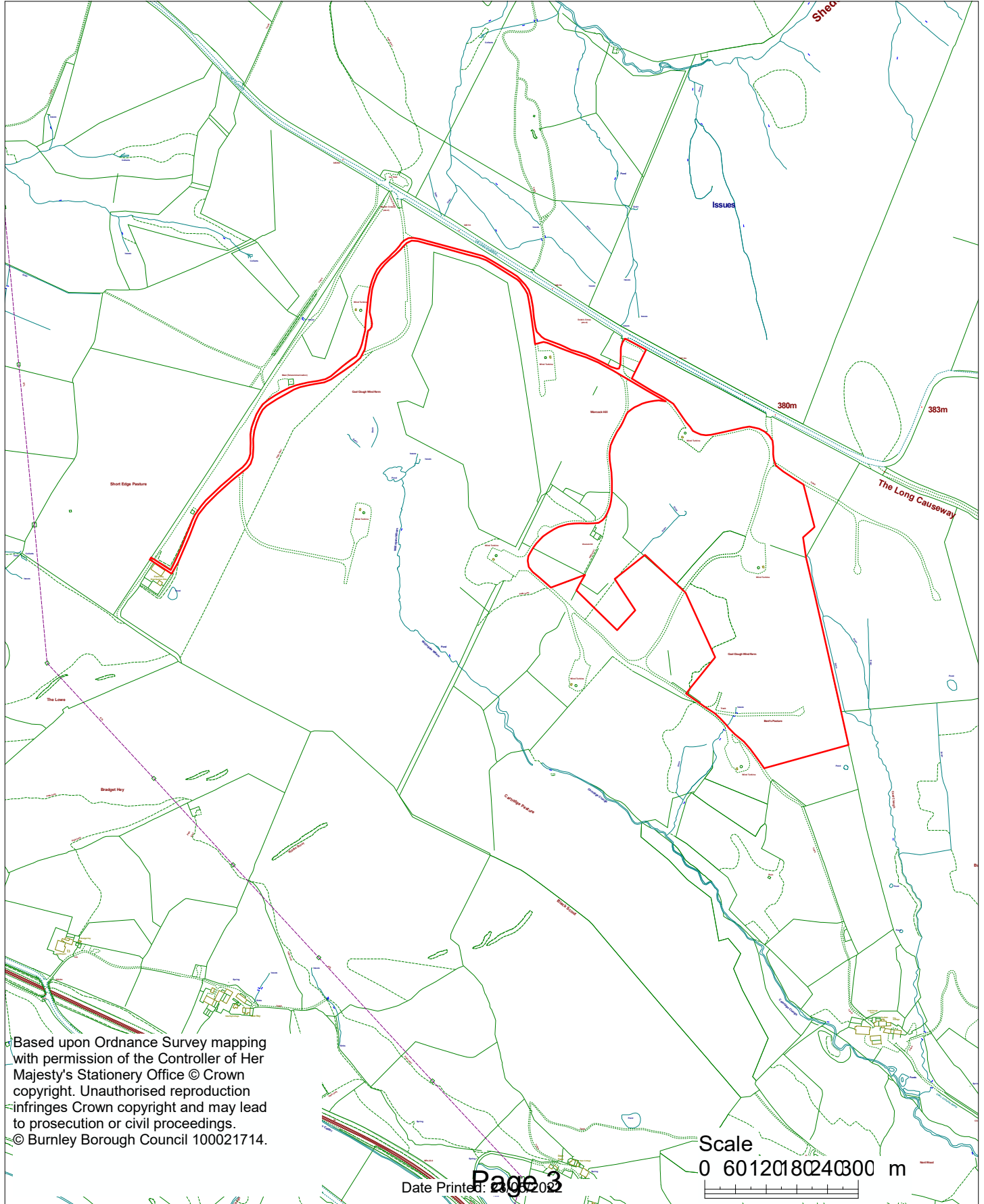
Paul Gatrell Head of Housing and Development

Location:



Coal Clough Windfarm, The Long Causeway, Cliviger, Burnley

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**Application Recommended for Delegation to
Approve subject to s106 Agreement
Cliviger With Worsthorne Ward**

FUL/2019/0470

Town and Country Planning Act 1990

Proposed solar farm (10 MW) with associated infrastructure and perimeter fence (25 ha) (Affects Public Footpath Nos. 26, 82, 83, 84, Cliviger and Public Bridleway No.112, Cliviger)
Coal Clough Windfarm The Long Causeway Cliviger Burnley

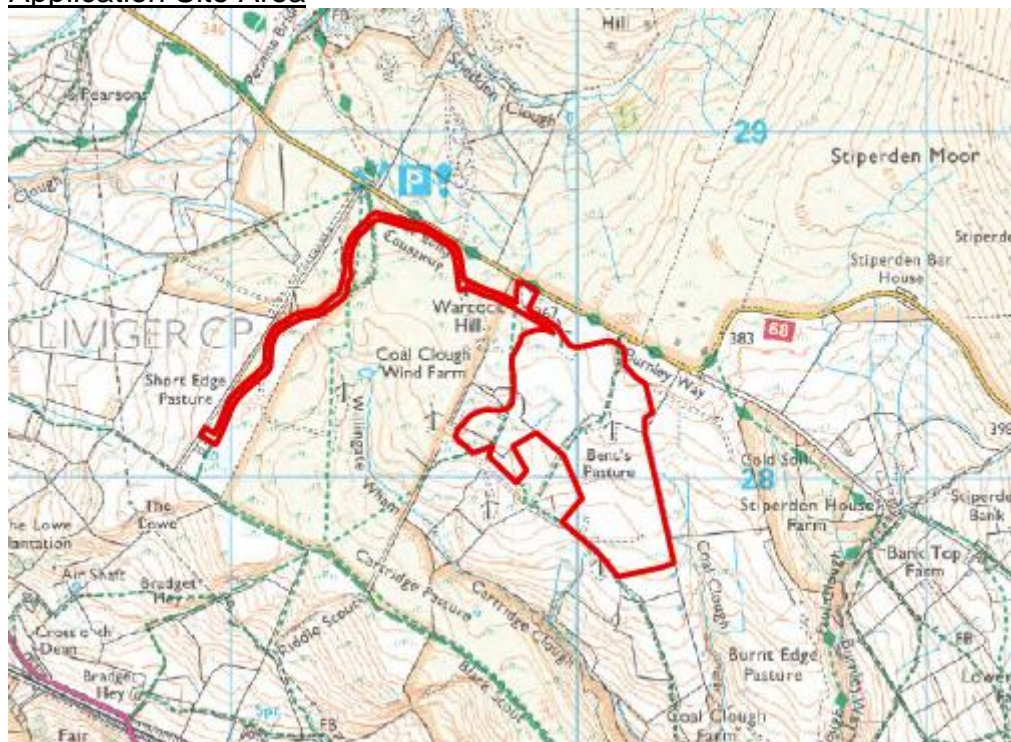
Applicant: Scottish Power Renewables

Background:

The site is located in an upland landscape within the perimeters of the existing Coal Clough Windfarm, surrounded by agricultural land and moorland and located to the north of the villages of Holme Chapel and Cornholme and approximately 7km south east of Burnley. The site is bound on its north side by The Long Causeway which provides the existing access to the site. In addition to the use of the site as a windfarm, the site which is very poor agricultural land (Grade 5), is also part of a working farm and the land is grazed by sheep and cattle. The site was first developed in 1992 as a windfarm with 24 turbines and was later repowered into an eight turbine windfarm which was constructed in 2015.

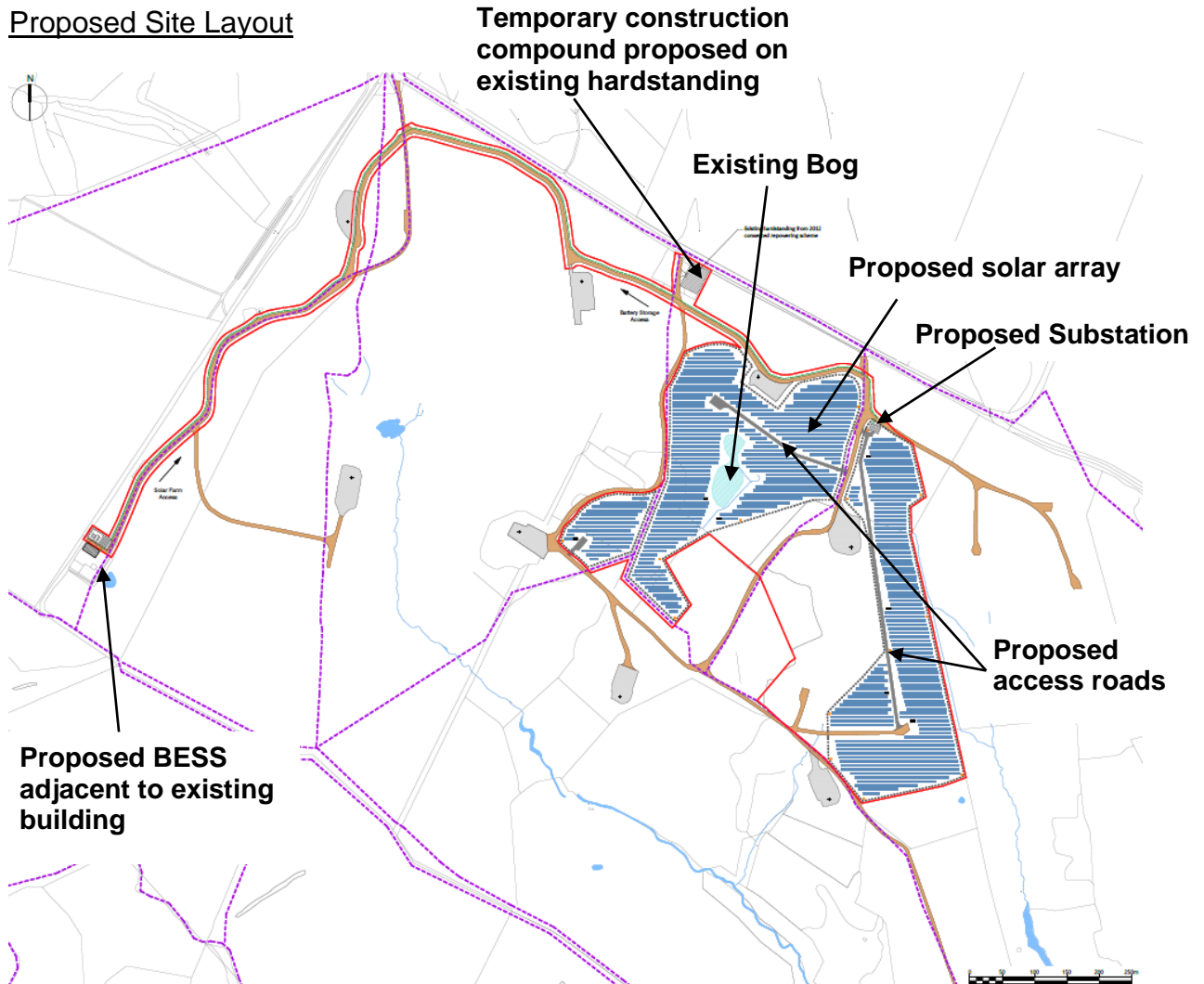
The application site amounts to approximately 25ha of agricultural land within the larger windfarm site. Development is proposed in two separate areas: firstly, within the larger area to the south of the site, the proposal is to site a 10 Megawatt (MW) ground mounted solar photovoltaic (PV) array/solar farm; secondly, a smaller area to the west of the site, a compound is proposed to house a 6 Megawatt hour (MWh) Battery Energy Storage System (BESS) with associated infrastructure.

Application Site Area



The application site sits in an elevated position up to 306-375m Above Ordnance Datum (OAD) on predominantly south facing moorland fringes. The proposal would utilise the existing access that serves the Coal Clough Windfarm site and make use of some of the existing access roads within the site as well as other existing infrastructure to feed electricity into the national grid.

Proposed Site Layout



The ground area for the installation of PV panels has been reduced since the application was submitted from a coverage of approximately 22.6ha to 14.1ha which is in order to address ecology issues. Due to advances in solar equipment it is still expected to produce the same amount of energy and would be sufficient to offset the annual electricity usage of approximately 2,500 homes in Burnley.

The development would consist of rows of solar panels known as strings. Each string would be mounted on a rack comprising metal poles on concrete footings with a gap of between 3-5m between each string of panels to prevent inter-panel shading. The panels would be 0.8m off the ground, tilted at typically 15-35 degrees and extend up to generally 2.5m in height (maximum of 3.0m). The panels would be dark in colour in order to maximise the absorbancy of the sun's rays. Five Inverter Kiosks are required to be located amongst the proposed solar panels which take the generated current to the proposed substation. The Inverter Kiosks are similar to the size of a small container and no more than 3m in height. Buried cables would connect the solar

panels to the Inverter Kiosks and to a substation compound (16m x 12m) which would be sited towards the north side of the solar array. 16no. CCTV cameras mounted on poles up to 3m high would be positioned around the edges of the proposed solar array. Perimeter Stock proof fencing and gates up to 2.4m in height would enclose the proposed solar array.

The proposed BESS (Battery Energy Storage System) would be located adjacent to an existing sub-station (that serves the windfarm) at the west of the proposed solar array and would consist of a compound of 39m x 16m which would contain a switchgear kiosk and three containers, enclosed by mesh fencing and gate up to 2.75m in height. The BESS is required as a result of the intermittent generation of electricity resulting from weather conditions and the need to store energy to balance demand and supply.

The proposal mostly utilises existing access routes within the site but two relatively short sections of track are required to access some sections of the solar array.

The existing grassland on which the panels are mounted would be retained.

A network of Public Footpaths and a Bridleway cross or pass adjacent to the proposed development. The proposed layout indicates that all public rights of way would be retained. A temporary diversion order may, however, be necessary during part of the construction phase. The construction phase is estimated to be around nine months.

The proposed solar array has an operational lifespan of approximately 30 years. After this period, the site would be returned to agricultural use.

Relevant Policies:

Development Plan

Burnley's Local Plan (July 2018)

SP1 – Achieving sustainable development

SP4 – Development strategy

SP5 – Development quality and sustainability

SP6 - Green infrastructure

HE4 – Scheduled monuments and archaeological assets

NE1 – Biodiversity and ecological networks

NE3 – Landscape character

NE4 – Trees, hedgerows and woodland

NE5 – Environmental protection

CC1 – Renewable and low carbon energy (not including wind energy)

CC4 – Development and flood risk

CC5 – Surface water management and sustainable drainage systems

IC1 – Sustainable travel

IC2 – Managing transport and travel impacts

Material Considerations

Air Quality Management: Protecting Health and Addressing Climate Change
Supplementary Planning Document (SPD) (Adopted December 2020)

The National Planning Policy Framework (2021)
National Planning Practice Guide

Site History:

APP/1990/0851 – Erection of 30m mast for a period of one year. Approved November 1990.

APP/1991/0387 – Construction of 24 turbine wind farm together with electricity sub-station, roads and ancillary works. Refused September 1991.

APP/1991/0920 - Construction of 24 turbine wind farm together with electricity sub-station, roads and ancillary works. Approved July 1992.

APP/2000/0064 – Extension to existing windfarm, comprising 3 additional windfarms. Refused June 2000. Appeal withdrawn.

APP/2005/0867 – Modification of Condition 3 of planning permission 91/0920 to provide for a 10 year period extension. Approved November 2005.

APP/2009/0603 - Proposed erection of 1no. meteorological mast with a maximum height of 70m for the temporary period of two years. Approved April 2010.

APP/2011/0520 - Variation of condition 1 of planning permission APP/2009/0603 to allow retention of meteorological mast for a further two years. Approved December 2011.

APP/2009/0758 - Reforming wind farm including dismantling and removal of 24 no. wind turbines and associated earthworks. Erection of 8 no. wind turbines with a maximum height to blade tip of 110m. Upgrading of access from the Long Causeway, upgrading of existing and construction of new on-site access tracks, construction of control building, erection of 1 no. power performance mast, construction of temporary construction compound and associated works. Approved January 2013.

Consultation Responses:LCC Highways

No objections. It is noted that the HGV construction traffic is to be routed over the previously constructed private access. The Transport Statement submitted with the application should be adhered to.

Local Lead Flood Authority

No objection.

LCC Historic Environment Team (Archaeology)

No objection. The area of the windfarm has been subject to previous archaeological assessment as part of the applications for the initial wind turbine installation and then for the upgrading of the site, as well as the assessment work done for the production of the Heritage Statement that accompanies the application. The visible features that have been recorded are, on the whole, unlikely to be affected by the proposed development and it appears from the application that existing roads across the site will be used as much as possible for access, with only relatively short stretches of new track. The impact on the historic environment is largely potential with the possibility that there are previously unknown sites in the area to be developed. The area within

which the site is located is known to have a high (relative to most of the UK) concentration of Mesolithic sites dating from the period between the retreat of the glaciers and the spread of temperate woodland after the last Ice Age (c. 8,000 B.C.) and the introduction of farming to the British Isles (c. 4000 B.C.). These sites are usually the result of short periods of occupation, sometimes perhaps only a single short stop by a group of hunters with evidence for the use of the sites mainly in the form of scatters of waste stone flakes from the toolmaking process although on some sites lost or discarded stone tools are found. The Heritage Statement proposes several measures; these include, a geophysical survey of the areas proposed for development to try and locate sub-surface remains (features such as pits and ditches, infilled at a later date, and fireplaces and hearths) to allow the foci of activity to be recognised. Following the results of the geophysical survey, a further programme of works will be agreed if needed and bases for the solar panels designed to have minimal or no direct impact on any identified features or areas of interest. This should be formalised as a Written Scheme of Investigation and implemented, with the proviso that a geophysics study alone cannot be relied on as may not provide evidence for past human activity, particularly in the case of small scatters of flint tools and debitage from their manufacture. A condition to secure a programme of archaeological investigation, monitoring and recording is recommended.

Natural England

Three responses have been received from Natural England (NE) over the course of the application. In their first response, NE stated that the application could have potential significant effects on the South Pennine Moors Special Area of Conservation (SAC), South Pennine Moors Phase 2 Special Protection Area (SPA) and South Pennine Moors Site of Special Scientific Interest (SSSI). Further information was requested on the consideration of impacts on Golden Plover and other SPA species and a Construction Environment Management Plan (CEMP). NE advised that the submitted Shadow Habitats Regulation Assessment should not be accepted or adopted by this Council (acting as the competent authority) as additional information was necessary to address their concerns relating to the impact on SPA bird species through loss of supporting habitat and increased disturbance.

The second response from NE followed the submission of amended plans and additional surveys and assessment. This includes a reduction in the footprint of the proposed development. NE provided detailed advice and requested Appropriate Assessment be carried out in relation to the loss of land that is functionally linked to the SPA and in relation to the mitigation measures in order to demonstrate that the revised site layout is appropriate and would not deter SPA features from using the habitats within the application site or adjacent surrounding area.

In their final response (following a further meeting with the applicant and an amended Habitats Regulation Assessment (HRA), Outline Construction Environment Management Plan (CEMP) and Ornithological Impact Assessment (OIA), NE state that they have no objection subject to appropriate mitigation being secured. NE consider that the without appropriate mitigation the application would have significant effects on the South Pennines Moors Phase 2 SPA and the South Pennine Moors Site of Special Scientific Interest (SSSI). NE note that the HRA has not been produced by this Council who, as the competent authority (under “the Habitat Regulations”) has a duty to do so. The advice from NE is provided on the assumption that the Council (the competent authority) will adopt the HRA. The Shadow HRA concludes that the proposal will not result in adverse effects on the integrity of any of the sites in

question. Having considered the assessment, and the measures proposed to mitigate for all the adverse effects that could potentially occur, NE advises that they concur with the assessment conclusions, provided that all mitigation measures are appropriately secured in any planning permission. In order to mitigate the adverse effects and make the development acceptable, the following mitigation options should be secured:-

- Implementation of the submitted Outline Construction Environment Management Plan, including the appointment of an Ecological Clerk of Works;
- Implementation of the mitigation measures detailed within the submitted Habitats Regulations Assessment and Ornithological Impact Assessment, including controls to working hours during the bird breeding season and the control of lighting;
- Delivery of on-site and off-site habitat improvements as detailed within the Habitats Management Plan at Appendix E of the submitted Ornithological Impact Assessment; and
- Further survey work and monitoring as detailed within the submitted Habitats Regulations Assessment and Ornithological Impact Assessment.

NE advise that appropriate planning conditions or obligation is attached to any planning permission to secure these measures.

Greater Manchester Ecology Unit (GMEU)

Three sets of responses have been received in response to new assessment, surveys and reports. Initially, GMEU highlighted the need for the Council to carry out a Habitats Regulation Assessment (HRA) or accept a Shadow HRA which is required to carry out Appropriate Assessment of the potential adverse impacts of the proposal on European Designations. In this case, this is required as the site is adjacent to the South Pennine Moors - Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Special Protection Area (SPA). It also noted that there is a non-statutory designation, the Long Causeway Mire Biological Heritage Site (BHS), within the blue edge of the application site. At this stage, GMEU also advised that further survey work was required in relation to bats and great crested newts; and the need for a mitigation and management plan to detail proposals for grassland enhancement and modified bog restoration; a detailed mitigation/compensation strategy for breeding birds; measures to prevent harm to mammals, fauna and reptiles; and, details of lighting to minimise impact on nocturnal mammals.

Following the submission of a report to inform a Habitat Regulations Assessment, Appropriate Assessment, Construction Environmental Management Plan (CEMP) and Bird Mitigation Statement, GMEU advised that the proposed development is unlikely to cause significant impacts on the special nature conservation interests of the European protected sites through noise disturbance, light pollution, air pollution or water pollution but still required further issues to be addressed. The key areas of concern related to whether the application site is functionally linked to the Special Protection Area (SPA) for bird species, and, in particular, the Golden Plover. No species which are qualifying features for the designation of the SPA were recorded breeding within the proposed development area but there were some species listed as assemblage features (such as lapwing, curlew and snipe) that were recorded and in total, 20 species of conservation concern (with 9 species found to be breeding) were recorded (including 6 pairs of lapwing, 3 pairs of curlew, 10 pairs of skylark and 2 pairs of snipe). GMEU advised that further compensatory measures will be required for impacts on birds, for

which further details of the bird habitat enhancement proposals were also required. GMEU requested further details on the type and extent of habitats and analysis of the impact of the proposals on any modified bog that is present and a mitigation and long-term management plan. Following additional surveys for bats and great crested newts, the findings are accepted and conditions recommended for reasonable avoidance measures.

The final comments from GMEU were received in response to the submission of the following:

- Revised Habitat Regulations Assessment
- Revised Ornithological Impact Assessment
- Revised Habitat Management Plan (appendix E of the OIA)
- Revised Construction Environmental Management Plan

GMEU advise that the updated measures described for mitigating adverse effects on the South Pennine Moors Special Protection Area are satisfactory, and that, providing the measures described are implemented in full, no harm will be caused by the proposals to the special interest of the designated site.

GMEU recommend to the Council that it can adopt the Shadow HRA provided by the applicant (version 3.0, March 2022) in order to comply with its duties under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

The following conditions are recommended:

- The implementation of all mitigation measures proposed within the submitted Outline Construction Environment Management Plan, including the appointment of an Ecological Clerk of Works;
- The Implementation of all mitigation measures detailed within the submitted Habitats Regulations Assessment and Ornithological Impact Assessment, including controls to working hours during the bird breeding season;
- Delivery of on-site and off-site habitat improvements as detailed within the Habitat Management Plan at Appendix E of the submitted Ornithological Impact Assessment; and
- Further survey work and monitoring as detailed within the submitted Habitats Regulations Assessment and Ornithological Impact Assessment.

GMEU is satisfied that the delivery of on-site and off-site habitat improvements will provide sufficient compensation for direct impacts on notable habitats.

Burnley Wildlife Conservation Forum (BWCF)

The BWCF is no longer taking part in consultations on planning applications but made three sets of comments prior to the final set of revised documents. Given that the BWCF has not commented on the final documents (received March 2022), its previous comments are summarised below for information only but should not be given weight to a decision.

BWCF has objected to the proposal on the basis that it will have a significant adverse effect on the adjacent South Pennine Moors Special Protection Area's qualifying bird species which use this plot of land for breeding and foraging for food and a further adverse effect on the upland birds breeding and foraging in the adjacent Long Causeway Mire Biological Heritage Site. BWCF also state that there will be an adverse effect on any great crested newts and other newt species and amphibians

present in the pond in the west part of the site. Following the submission of a Habitats Regulation Assessment undertaken by the applicant and an Outline Construction Environmental Management Plan (CEMP), Ecological Impact Assessment and Bird Mitigation Statement, the BWCF maintained their objection and affirmed that 'Appropriate Assessment' should be carried out prior to mitigation being considered and that though the survey that was carried out found no evidence of great crested newts in the ponds on the site, that other amphibian species were found (such as common frog, common toad) and that ponds and their surrounding amphibian foraging habitats on the site should be excluded from and not adversely affected by the proposed development.

A further response from BWCF was received following further consultation on the submission of a revised HRA and Appropriate Assessment as well as a revised Ornithological Impact Assessment, revised Outline CEMP and amended proposed Landscape Layout. BWCF states that the revised landscape layout shows a relatively small area of solar panels has been removed from the proposal and the solar farm would still occupy a large area of land. BWCF consider that because the area where the solar panels are no longer proposed would be surrounded by solar panels, that this would have an adverse impact on the important bird species currently using that area for nesting and/or foraging – in particular, lapwings, Golden Plovers and Wheatears. BWCF refer to the results of the applicants bird surveys where "30 bird species were recorded during the 2019 breeding bird survey, including 20 bird species of Conservation Concern including 16 species showing evidence of breeding or holding territory...the most significant bird species these surveys found breeding and/or foraging on the site were Golden Plover, Lapwing, Snipe, Curlew, Short-eared Owl, Wheatear, Skylark, Meadow Pipit and Reed Bunting as well as Kestrel, Barn Owl and Grasshopper Warbler recorded close to the site boundaries". These include species of internationally important assemblage of breeding birds, red-listed and amber-listed species of conservation concern. The BWCF affirm that site forms part of the Special Protection Area (SPA) buffer zone of 'functionally connected land' and that the proposed solar panel farm would have a significant adverse effect on the SPA listed and other important bird species. The BWCF conclude that any mitigation measures, including those proposed, are incapable of adequately compensating for such a considerable loss of habitat and bird species which would occur as a consequence of the proposal and affirm their objection.

Environmental Health

No objection. Conditions are recommended to require a programme of works, to control construction hours and to require details of external lighting.

Ramblers Association (Burnley and Pendle Group)

No objections made to the proposal and its effect on Public Footpaths Nos. 26, 82, 83 and 84. The footpaths appear to be intact with the solar panels being in fenced off areas around the path routes. The paths are part of a larger network of paths and access should be maintained. This will be difficult whilst construction is ongoing and thus, posted, temporary diversions must be in place to enable Footpath 82 to reach the Long Causeway at its Northerly end, with temporary closures of FP84 & FP83 and FP82 northerly from its junction with FP83. Safe crossings of the site tracks must be made for path 26 whilst construction is ongoing and this would apply to the temporary diversion also. The Ramblers are in favour of green energy and thus as long as the paths surrounding those in question are safely open to walkers and FP 82 is

temporarily diverted whilst construction is ongoing, as stated, there is no objection, as all paths will eventually be open and will follow the same routes.

The Coal Authority

The application site falls within the defined Development High Risk Area, in which case, there are coal mining features and hazards which need to be considered. The Coal Authority records indicate probable unrecorded coal mine workings at shallow depth. The site also falls within the boundaries of a former opencast mining site, from where coal has been extracted using surface mining methods. An initial objection was made on the basis that there was insufficient information to assess the level of risk to the development from past coal mining legacies. Following the submission of an Addendum to Phase 1 Geoenvironmental Desk Study and Coal Mining Risk Assessment, (January 2021), the Coal Authority has withdrawn its objection. The further report finds that it is only where new structures within the Battery Energy Storage System (BESS) area of development are to be constructed on ground not previously covered in hardstanding that there is a requirement for further investigation works. It is noted that these works will be carried out in accordance with current UK guidance (CIRIA C758D – Abandonment mine workings manual). It has been identified that several mine entries are recorded within close proximity of the areas of development and recommendations have also been made that the mine entries should be located and their condition assessed in order to determine appropriate treatment options prior to development. The Coal Authority recommends conditions to require a scheme of intrusive site investigations, the carrying out of any identified remediation works and/or mitigation measures (in accordance with authoritative UK guidance) and verification from a suitably competent person to confirm that the site is or has been made safe and stable for the approved development.

Cliviger Parish Council

There is concern how the carbon footprint will be dealt with and how the ecology of the bog will be changed when covered by a solar farm. If granted, ask that equipment is transported up the wind farm road and off major village routes.

Publicity

No comments received.

Planning and Environmental Considerations:

Principle of proposal

The proposed site lies in the open countryside where Policy SP4 states that development will be strictly controlled. This upland area has been developed as a windfarm and the proposal is to co-locate a solar array which would utilise some of the existing infrastructure as well as require new compound areas for substations and battery storage and a solar array across an area of 14.1ha. Policy CC1 states that proposals for renewable and low carbon energy development will be supported where they satisfy the requirements of other relevant Plan policies and can demonstrate, both individually and cumulatively, that any associated impacts are or can be made acceptable. This presumption to support renewable and low carbon energy development will apply where proposals do not have a significant adverse impact on the character of immediate and wider landscape; do not unacceptably impact on local amenity, including public rights of way; do not have an unacceptable impact on ecology, geology, water resources or flood risk; minimise waste; and, avoid the loss of, or loss of productive use of, the best and most versatile agricultural land (with a

preference for large scale projects to be located on previously developed and non-agricultural land that is not of high environmental value. Policy CC1 does not therefore, in principle, exclude areas of open countryside from renewable and low carbon energy development subject to consideration of the potential impacts listed in the policy. These should be considered together with other material considerations, including the impact of the proposal on traffic, mining legacies and archaeology.

Impact on ecology

Policy NE1 states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible. Where proposals are likely to have a significant effect on a European Site (SAC/SPA), either individually or cumulatively, it should be subject to an Appropriate Assessment and where development is considered to adversely affect the integrity of a European Site it will not be permitted. Development proposals will also not be permitted where there is likely to be an adverse effect on sites of national importance or on sites of local or regional importance for biodiversity/geology.

There are no statutory designations on the application site but the site is located immediately to the southern edge (within 50m) of the following national and international statutory designations:

- South Pennine Moors Phase 2 Special Protection Area (SPA)
- South Pennine Moors Special Area of Conservation (SAC)
- South Pennine Moors Site of Special Scientific Interest (SSSI)

In addition, a non-statutory regional designation is located less than 0.1km to the west of the site edged red:

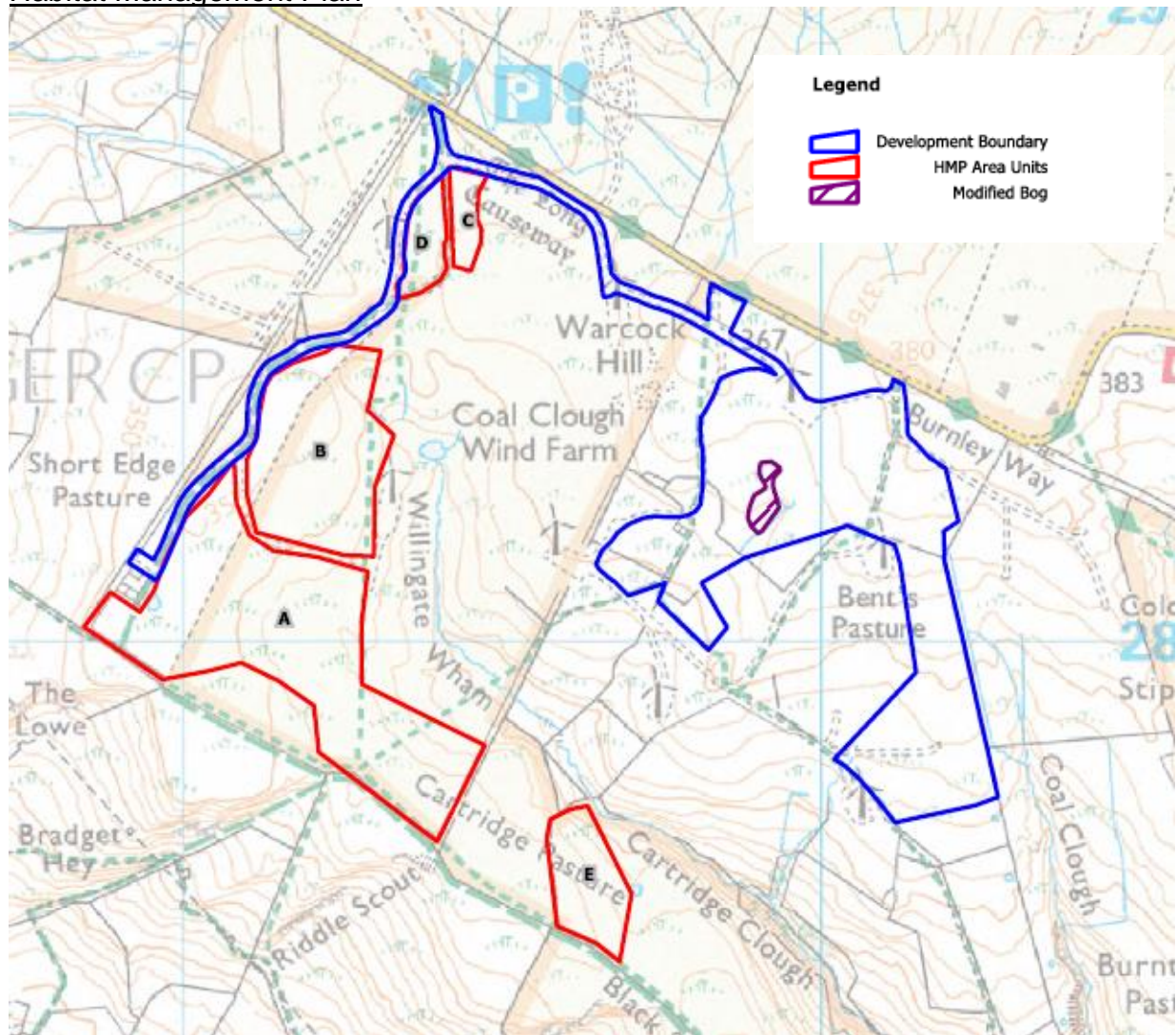
- Long Causeway Mire Biological Heritage Site (BHS)

The likely significant impact of the proposed development has been considered on the integrity of the above designations following the submission of surveys and assessments, including reports to inform a Habitats Regulation Assessment (HRA) and Appropriate Assessment. These requirements are set out in the “Habitats Regulations”.

The main issue is whether the loss of habitat from the application site as a result of a coverage of PV panels over approximately 14ha of land and the disturbance created from construction and operation of the development would have a likely significant effect (LSE) on the National Site Network (NSN) which in this case is the SPA/SAC/SSSI designations. The SPA consists of 21,000ha of unenclosed moorland that supports internationally important assemblages of breeding and moorland birds. A key consideration is whether the land comprising the development site has a functional link with the protected NSN. The submitted report to inform a HRA utilises findings from surveys of upland birds carried out in 2019 and 2021. As a result of these surveys, the proposed area for development has been reduced to exclude areas where a lapwing was confirmed breeding and areas where Golden Plover have been detected (although not breeding) using the land for foraging. Natural England is a statutory consultee for the application and accept that the site is unsuitable for nesting golden plover. Surveys also found that there were low numbers of Curlew but that the low numbers involved is indicative of lower value habitat to other areas and this could be compensated by off-site habitat improvements. No functional link was detected for

other SPA qualifying species such as snipe and merlin. Short-Eared Owl were found to breed in the wider area with the nearest nest location greater than 500m from the site. A Habitat Management Plan (HMP) is appended to the submitted revised Ornithological Impact Assessment which is aimed at compensating for the loss of nesting and foraging resources for breeding birds. This involves rush Management

Habitat Management Plan



over 21.2ha (Units A – E inclusive shown on the plan above) which would compensate for the loss of suitable breeding habitat from within the development boundary. The Modified Bog which is within the proposed development boundary (highlighted in the plan above) would be improved by removing grazing pressures. The HMP provides for monitoring of the measures for the full period of the site’s operation.

In terms of the Special Area of Conservation (SAC) this contains features such as dry heath, wet heath, blanket bog, old sessile wood. There would be no direct habitat loss or disturbance within the SAC and habitats within the Site have limited potential for supporting value. The impact on the SAC has not been found to be significant.

The report to inform the HRA concludes that all Likely Significant Effects (LSE’s) have been screened for all qualifying features of both the SAC and SPA and associated potential impacts. LSE’s have been identified for Golden Plover and Short-Eared Owl in relation to construction disturbance. All other potential impacts to features of the

SAC and SPA are sufficiently unlikely or of low enough magnitude not to have a LSE. 'Appropriate Assessment' has been carried out to assess mitigation to avoid the identified Likely Significant Effects (from construction).

The proposed mitigation is set out in an Outline Construction Environmental Management Plan (CEMP). It involves restrictions on working hours between 15th March and the 30th June to prevent construction works from two hours prior to sunset to two hours after sunrise. Additional measures to protect Short-Eared Owls involve further surveys to confirm their status and nest location. The Appropriate Assessment concludes that with the full adoption of the proposed mitigation measures, there will be no Likely Significant Effect on the NSN sites (SPA, SAC). The comments from GMEU (set out in the Consultation responses section) conclude that subject to the full implementation of the mitigation measures, no harm will be caused to the special interest of the designated sites and that the Council can adopt the HRA (which is necessary to fulfil the Council's duties to carry out this assessment under the Habitat Regulations). Natural England has provided their final comments on the understanding that the Council adopt the Shadow HRA. In view of the expert advice of GMEU, the Council adopts the HRA. The conditions outlined in the response from Natural England are necessary to ensure that there are no significant effects from the proposal on the protected SPA and SAC.

In terms of other ecological impacts arising from the proposed development, GMEU advise that following further bat and great crested newt surveys, that conditions are recommended to require precautionary measures. Other conditions are also recommended (similar to Natural England) and further conditions to prevent harm to mammals and other fauna, a detailed mitigation/compensation strategy for breeding birds, control on lighting, and measures to avoid harm to nesting birds. With these provisions, GMEU is satisfied that there would be no significant adverse impact on the adjacent Long Causeway Mire BHS and the adjacent SPA, SCA and SSSI. Given that there will be less pressures from grazing and substantial habitat management, there is the opportunity for the proposal to enhance the biodiversity of the site. This would therefore comply with Policy NE1. The off-site habitat management works would be carried out close to the development site but outside of the red edge area of the application site. A s106 Agreement would be necessary to secure these.

Visual Impact

Policy CC1 permits renewable and low carbon energy development where, amongst other things, it would not have a significant visual impact. Policy NE3 states that the Council will expect development proposals to respect and where possible, enhance and restore landscape character, as appropriate to their nature and scale. A Landscape and Visual Appraisal has been submitted to consider this issue. There are no landscape designations within 2km of the site which is moorland fringe. The proposed development would take place on an existing windfarm site. The proposed solar array would be low-lying within this area and no equipment or associated building would be over 3.4m. Within the setting of the windfarm, the dark hues of the solar array would recede into the landscape and retain the openness of the site as a whole. The submitted Appraisal concludes that the site has a low sensitivity to change and can accommodate the development. It is also noted that the landscape effects from the apparatus and associated equipment would be removed after the operational lifetime of the development (30 years), in which case the impacts on the landscape are reversible.

Extract from Landscape & Visual Appraisal

Viewpoint 3: Mount Lane, Looking West



Whilst, therefore, there will be a visual impact from the development of the proposed solar array and accompanying BESS, due to its scale, the impact is likely to be in the closer surroundings and relatively low. The proposal would not therefore conflict with Policies CC1 and NE3.

Impact of traffic

Policy IC1 seeks to promote sustainable travel and safe access. A Transport Statement has been submitted to assess the potential traffic impacts of the Development over a likely 9 month construction period. The proposed access to the site is the existing access that serves the windfarm site on The Long Causeway.

It is expected that over the peak month of construction, 45 vehicle movements to the Site will occur per day, consisting of 40 car movements and 5 HGV movements. Operational traffic is expected to be minimal and would be conducted by smaller vehicles. These levels of traffic are likely to have only a negligible impact on traffic on local roads. A Traffic Management Plan is required to manage construction traffic during the construction and decommissioning stages. LCC Highways has no objection with this provision.

There is a network of Public Footpaths and a Public Bridleway that are affected by the proposals. The routes of the designated rights of way would not be altered but there would be sections of some paths that would be edged with mesh fencing to secure the solar array and equipment. This is likely to have a minimal impact on the enjoyment of these rights of ways. An informative is recommended to advise the applicant of the need to apply for a temporary diversion order, if needed, during the construction phase. The proposal would not conflict with Policy IC1.

Other issues

Local amenity

There are no immediate neighbours to the site, although there are isolated properties in the surrounding area. There is little noise associated with the operational use of the proposed development and a glint/glare assessment indicates that the PV array would not have a significant impact on receptors.

Archaeology

The area within which the site is located is known to have a high (relative to most of the UK) concentration of Mesolithic sites dating from the period between the retreat of the glaciers and the spread of temperate woodland after the last Ice Age (c. 8,000

B.C.) and the introduction of farming to the British Isles (c. 4000 B.C). A condition to secure a programme of archaeological investigation, monitoring and recording is recommended to ensure that any potential artefacts are properly recorded.

Ground conditions

The site is affected by past surface coal mining activity. Whilst the proposal would involve minimal intrusive works, the Coal Authority recommend a condition to require a further assessment.

Conclusion

The proposal is located within an upland area that is currently an operational windfarm site. The use of the site to provide a solar array and battery energy storage system (BESS) would be beneficial in generating further renewable energy and utilising existing infrastructure. The visual impact of the proposal would be contained and limited and no significant impacts have been identified on local amenity subject to controlling traffic during construction. The site is located adjacent to sites of national and international importance for its conservation value and this has been subject to Habitat Regulations Assessment and Appropriate Assessment. Subject to conditions to require mitigation and precautions to protect upland birds and a s106 Agreement to provide compensatory habitat close to the development, the proposal would not have a likely significant effect on the integrity of these designations or the site's ecology. The proposal complies with the development plan and there are no material considerations which outweigh this finding.

Recommendation: Delegation to approve subject to s106 Agreement to secure off-site habitat management and the following conditions

1. The development must be begun within three years of the date of this decision.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. Prior to the commencement of development, a detailed Construction Environment Management Plan (CEMP) to provide further details of an Ecological Clerk of Works and other measures and content of the submitted Outline Construction Environment Plan (prepared by Arcus, revised March 2022) shall be submitted to and approved in writing by the Local Planning Authority. The submitted CEMP shall also include additional surveys to confirm the status and nest location of short-eared owls and, if appropriate, further safeguards to avoid disturbance to nesting short-eared owls. The measures and controls contained within the approved CEMP shall be implemented prior to any site clearance or development being commenced and retained in their entirety for the duration of the development until the end of the decommissioning of the site.

Reason: To protect the ecology of the site during the construction period, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018). The Plan is required prior to the commencement of development to ensure that the measures are implemented prior to any works taking place which is necessary for the conservation of potentially affected birds and other wildlife.

4. No construction work or other ground works or removal of vegetation shall take place at any time unless all the measures for the avoidance of harm to nesting birds, as described at section 6.4 of the submitted Ornithological Impact Assessment (prepared by Arcus, Version 3.0, March 2022), have been satisfied in full.

Reason: To ensure that there is no harm to nesting birds which are protected by the Wildlife and Countryside Act 1981 and in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

5. No construction work or other ground works or removal of vegetation shall take place either prior to or during the construction of the development without full compliance with the Reasonable Avoidance Measures to safeguard amphibians as set out at section 4.4.2 of the submitted Ecological Impact Assessment (prepared by Arcus, July 2021).

Reason: To take account of a low risk that Great Crested Newts and other amphibians could be encountered during works and to ensure that any risk to these protected species from such activities is effectively minimised, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

6. Measures to prevent harm to mammals and other fauna during the construction and operation of the development shall be carried out at all times in accordance with controls contained within section 4.6 of the submitted Ecological Impact Assessment (prepared by Arcus, July 2021).

Reason: In order to prevent harm to animals and wildlife that may encounter the development, in the interests of their conservation, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

7. Prior to the commencement of development, a Reasonable Avoidance Measures Method (RAMM) Statement to safeguard reptiles during the construction and operation of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be constructed and operated in complete accordance with the details contained within the approved RAMM Statement.

Reason: To ensure adequate protection for any reptiles that may encounter the development, in the interests of their conservation, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018). The Statement is required prior to the commencement of development to ensure that the approved measures can be implemented prior to any works taking place which is necessary to protect reptiles.

8. Prior to the commencement of development, a Method Statement for the protection of the Long Causeway Mire Biological Heritage Site (BHS) during the

construction and operation of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be constructed and operated in complete accordance with the measures contained within the approved Statement.

Reason: To ensure adequate protection for the biodiversity of the designated Long Causeway Biological Heritage Site (BHS), in the interests of its conservation, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018). The Statement is required prior to the commencement of development to ensure that the approved measures can be implemented prior to any works taking place which is necessary to protect the designated BHS.

9. The development shall only be constructed and operated in accordance with the mitigation measures detailed in the submitted report to inform a Habitat Regulations Assessment (prepared by Arcus, Version 3-0, March 2022) and the submitted Ornithological Impact Assessment (prepared by Arcus, Version 3-0, dated March 2022), including controls to working hours during the bird breeding season and the control of lighting during the construction of the development.

Reason: These mitigation measures to protect upland birds are necessary to ensure that there are no likely significant effects on the National Site Network due to the site`s proximity to the South Pennine Moor Special Protection Area and South Pennine Moor Special Area of Conservation, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

10. On-site and off-site habitat improvements shall be carried out, monitored and reviewed in accordance with the details contained within the Habitats Management Plan (HMP) set out at Appendix E of the submitted Ornithological Impact Assessment (prepared by Arcus, Version 3-0, dated March 2022). Monitoring reports, including a review of the findings and any appropriate adjustments or changes to the HMP, shall be submitted for approval at the intervals no greater than as stated in the HMP. The development shall not at any time be operated without compliance with the approved HMP and any subsequently approved modified HMP.

Reason: To ensure adequate and appropriate habitat creation and improvement to mitigate against the loss of accessible grassland from the approved installation of a solar array and associated equipment which is necessary to protect the integrity of the adjacent South Pennine Moor Special Protection Area and South Pennine Moor Special Area of Conservation, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

11. No works shall take place on the site until the applicant or any successor(s) in title has secured the implementation of a programme of archaeological investigation, monitoring and recording which must be carried out in accordance with a Written Scheme of Investigation that shall be submitted to and approved in writing by the Local Planning Authority. An archaeological record of the investigation shall be deposited with the Local Planning Authority within one month of its completion.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance and interest associated with the site, in

accordance with Policy HE4 of Burnley`s Local Plan (July 2018). The programme of archaeological works and Written Scheme of Investigation are required prior to the commencement of development in order to ensure that any archaeological artefacts can be detected and recorded.

12. The construction of the development shall be carried out in accordance with the submitted Transport Statement (prepared by Arcus, revised September 2021) and a Traffic Management Plan that shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The construction of the development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure that suitable controls and measures are in place to accommodate construction traffic and minimise any potential disruption, in the interests of highway safety, in accordance with Policy IC1 of Burnley`s Local Plan (July 2018).

13. For the full period of construction and decommissioning, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To avoid the deposit of mud or debris on the public highway, in order to protect highway safety, in accordance with Policy IC1 of Burnley`s Local Plan (July 2018).

14. No external lighting shall be installed or used at any part of the application site unless in accordance with details of minimal and ecologically sensitive lighting that has been submitted to and approved in writing by the Local Planning Authority.

Reason: To avoid harm to upland birds and wildlife, to protect the biodiversity of the site and the adjacent South Pennine Moors Special Protection Area, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

15. Prior to the commencement of development, details of the heights, materials and specification of all fences and gates to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be constructed in accordance with the approved fence and gate details.

Reason: To ensure a satisfactory appearance and minimise the visual impact of these features on the open countryside and users of the adjacent public rights of way, in accordance with Policies CC1 and SP5 of Burnley`s Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the approved details can be implemented at the appropriate stage in the development.

16. Prior to the commencement of development, precise details of the siting, scale, design, colour, materials and external appearance of the approved solar array, camera poles, battery energy storage system, substations, inverters and

associated equipment and surfacing materials to be used on the proposed access tracks, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance and minimise the visual impact of the development on the open countryside, in accordance with Policies CC1 and SP5 of Burnley`s Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the approved details can be implemented at the appropriate stage in the development.

17. The approved use of the site shall cease on or before a period of 30 years following the first date that the site becomes either partly or fully operational (whichever is the sooner) and the entire development hereby approved (solar array, battery storage energy system, substation, inverters, cameras, kiosks, containers, access tracks, hardstandings and associated equipment) shall be removed from the site and the land restored to its former condition within this period or no later than 9 months from the date of the cessation of its use for the production of energy (whichever is the sooner). The restoration of the site shall be carried out in accordance with a Restoration Plan to be previously submitted to and approved in writing by the Local Planning Authority and shall include details of all works necessary to revert the site to open grassland, including the removal of any buried cabling and establishment of any new planting and timescales for the completion of all works.

Reason: The proposed development has an operational lifespan of 30 years and following this period (or a shorter period if the use ceases earlier than anticipated) the visual impact of the development is no longer justified and the landscape should be restored in the interests of visual amenity, in accordance with Policies CC1 and NE3 of Burnley`s Local Plan (July 2018).

18. Prior to the decommissioning and removal of any apparatus from the development, a specific Decommissioning Environment Management Plan (DEMP) which shall be based on the measures and controls in the submitted Outline Construction Environment Management Plan, shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning of the development shall thereafter only be carried out in accordance with the approved Decommissioning Environment Management Plan.

Reason: To protect the ecology of the site during the decommissioning and restoration of the site, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

19. Prior to the decommissioning and removal of any apparatus from the development, a specific Traffic Management Plan to include details of the type, amount and timings, routes and control of traffic to and from the site shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning of the development shall thereafter only be carried out in accordance with the approved Traffic Management Plan.

Reason: To ensure that suitable controls and measures are in place to accommodate traffic associated with the decommissioning and restoration of

the site and to minimise any potential disruption, in the interests of highway safety, in accordance with Policy IC1 of Burnley`s Local Plan (July 2018).

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