The Planning Inspectorate

Appeal Decision

Inquiry held on 27 – 30 September and 5 October 2022
Site visits made on 26, 28 and 29 September 2022

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2023

Appeal Ref: APP/D1265/W/22/3300299
Land at Park Farm, Gillingham SP8 5JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Fern Brook Solar Farm Ltd against the decision of Dorset Council.
- The application Ref P/FUL/2021/02046, dated 4 June 2021, was refused by notice dated 25 January 2022.
- The development proposed is the construction of a solar photovoltaic farm, battery storage and associated infrastructure, including inverters, batteries, substations, security cameras, fencing, access tracks and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the construction of a solar photovoltaic farm, battery storage and associated infrastructure, including inverters, batteries, substations, security cameras, fencing, access tracks and landscaping on Land at Park Farm, Gillingham SP8 5JG in accordance with the terms of the application Ref P/FUL/2021/02046, dated 4 June 2021, subject to the conditions set out in the Annex to this decision.

Procedural matters

2. The majority of the Inquiry was held in person, with other participants and observers on Teams. Closing submissions were delivered virtually.

3. The appellants put forward an amended landscaping scheme at the appeal stage. Although this was suggested to have an implication related to archaeology, both parties agreed that the appeal should proceed on that basis, and the archaeological matter was discussed at the Inquiry. I am satisfied that no interests would be prejudiced by that course of action and the Inquiry and this decision relate to the amended plans.

Main issues

4. There are two main issues in this case

   - The effect on the character and appearance of the landscape
   - The effect on the setting of designated and non-designated heritage assets

5. There are two other matters, archaeology and noise, which although not forming part of the Council's reasons for refusal, appeared to generate some disagreement between the parties at the time of the CMC. It was agreed at the CMC that these matters could usefully be discussed further and, as a result, much of the dispute was resolved and a Supplementary Statement of Common Ground (SOCG) was prepared (September 2022). These matters will be dealt with separately below.

Reasons

The site, the surrounding area and the proposals

6. The appeal site is around 33 hectares in extent (slightly larger if the route of the cable connection is included). It comprises grazed pastureland bounded by managed species-poor hedges. The site is classified as Grade 4 (poor quality) agricultural land due to its heavy slowly permeable soils.

7. The surrounding area comprises similar fields, with a woodland to the north. It is around 600 metres east of the settlement of Gillingham. The area, aside from Gillingham, is generally rural in character, and the nearest residential property is Donedge Lodge Farm around 240 metres to the northeast.

8. There is a public bridleway running adjacent to and within the northern and north-western boundaries of the site. This bridleway forms part of the White Hart Link which connects Gillingham with Motcombe, and which connects with other footpaths.

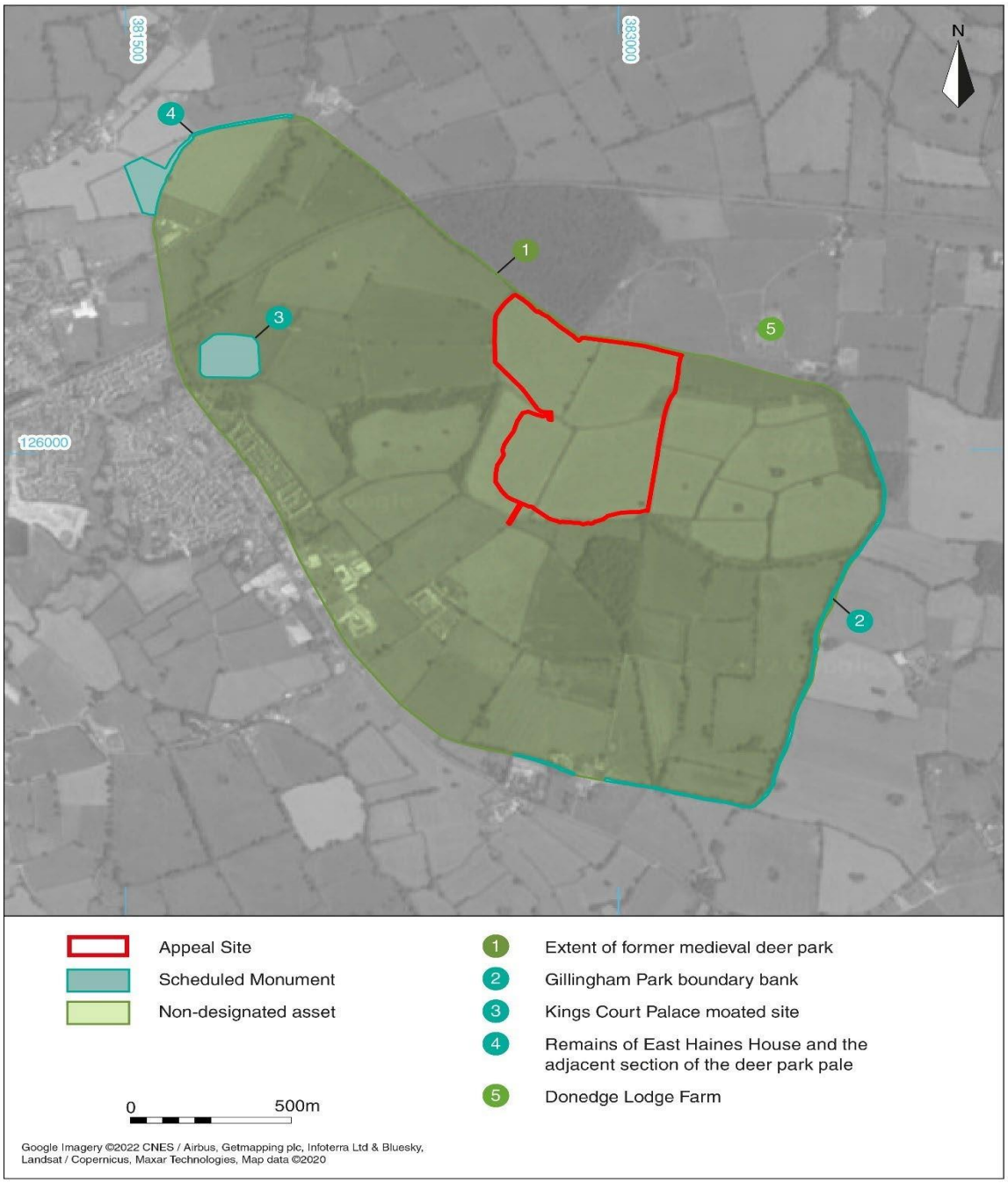
9. The site is not within or adjacent to any national or international environmental, landscape or cultural heritage designations. The majority of the site is within Flood Zone 1, along with smaller areas of Flood Zones 2 and 3 along the western and southern boundaries.

10. The site known as the Gillingham Southern Extension (GSE) is located on fields to the west of the site – its closest point is around 70m from the western edge of the site.[1] Outline permission for a major development was given in 2021 – I will return to this later.

11. The Gillingham Royal Forest Project Area covers an area of approximately 13.7 square miles and includes the appeal site. The area around the appeal site is a non-designated heritage asset in its own right. The Area includes three Scheduled Monuments - Kings Court Palace Moated Site - approximately 600m to the west; the remains of East Haimes House and the adjacent section of the Deer Park Pale - approximately 1km to the north-west; and the Gillingham Park Boundary Bank - approximately 500m to the east. Donedge Lodge Farm is a non-designated heritage asset.

[1] There is a disagreement between the parties as to how this proximity is best described, but this dispute is of no relevance to the decision.

12. The plan below shows the relationship between the appeal site and the heritage



13. The appeal proposal is described in general terms in the banner heading above. The details are shown on the submitted plans, and are described in the Planning, Design and Access Statement and the Council officer's report (P/FUL/2021/02046).

Policy context

14. The development plan comprises the saved policies of the North Dorset District Wide Local Plan 2003 (DWLP); the North Dorset Local Plan Part 1 2016 (LP);

[2] Taken from Mr Sutton's evidence, and uncontested

and the Motcombe Neighbourhood Plan 2019 (NP). It is worth recording that there is no suggestion from any party that the most important policies in the development plan are out of date or that the so-called 'tilted balance' is engaged.

15. DWLP policy GRF1 deals with the Gillingham Royal Forest Project Area. It states that it is proposed to provide additional woodland planting to enhance the landscape, provide recreational facilities and provide interpretational material. Development in keeping with the character of the area and in accordance with these matters will be approved. [3]

16. LP policies 4, 5 and 22 deal with heritage, landscape and renewable energy matters. Policy 4 is a wide ranging policy dealing with the natural environment. Amongst other matters it seeks to protect the landscape character of the area. Policy 5 deals with the historic environment, and in particular the need to weigh any less than substantial harm to designated heritage assets against the public benefits of proposals, and deals with the approach to harm to non-designated heritage assets. Policy 22 deals with renewable energy proposals, and the need to weigh benefits against impacts. The effect on the landscape and the historic environment are two potential adverse impacts. [4]

17. In addition, LP Policy 21 deals with the GSE, as referenced above. It includes four main areas proposed for development and notes that the setting of Kings Court Palace, as a scheduled monument will need to be protected. It states that Gillingham Park is an ancient Deer Park, which was formerly surrounded by a 'park pale'.

18. NP policy MOT5 takes a similar approach to DWLP policy GRF1 in its support for woodland planting in the Royal Forest area and the promotion of the understanding of the area. MOT7 seeks to minimise adverse impacts on views from public rights of way over open countryside. It identifies views which are of particular significance, none of which relate to this proposal.

Landscape

19. The appeal site itself comprises agricultural fields and is entirely rural in appearance, as is much of the surrounding area. That said the influence of the edge of the settlement is apparent to varying degrees from parts of the site and the wider area. I will return below to the effect of the GSE allocation and permission. The site falls within the area of the Gillingham Royal Forest which is itself a non-designated heritage asset and is part of the setting for other assets (to which I will return below).

20. A useful starting point in dealing with the effect of the proposal on the character and appearance of the area is to consider the way in which it is described in character appraisals. In terms of the National Character Area the site and the area are within NCA 133: Blackmore Vale and Vale of Wardour. This is described as a "..large expanse of lowland clay vale and the Upper Greensand terraces and hills that mark the southern and eastern boundary of

[3] Other DWLP policies are listed in the SOCG at para 7.5. These are not reasons for refusal.
[4] Other LP policies are listed in the SOCG at para 7.4. These are not reasons for refusal.

the NCA." At a more local level the site is within the Clay Vale Landscape Character Type, which is described as "..a broken sweep across the north-western parts of the county beyond the western and northern edges of the chalk escarpment".

21. The site is not within any landscape designated at either a national or local policy level. Although the above descriptions naturally do not specifically describe the appeal site and its immediate surroundings, it is clear to me that it is generally representative of the surrounding landscape.

22. The other point of note is that the predecessor authority to the Council had a Landscape Sensitivity Assessment of the area prepared in 2014. This assessment described the area as "..a flat or gently undulating landform..", a description which reasonably describes the area. The Assessment also stated that the area is not inherently sensitive to solar PV development, and that from within the area the even topography means that solar PV development would be unlikely to be perceptible beyond its immediate surrounds.

23. The landscape reason for refusal stated that the site was within a "..valued landscape.." and that the development would lead to unacceptably adverse harm to its character. One of the key differences between the parties is whether the site and the surrounding area are a valued landscape for the purposes of National Planning Policy Framework (NPPF) paragraph 174a. This states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes…..in a manner commensurate with their statutory status or identified quality in the development plan.

24. In this case it is clear that the landscape has no statutory status. The Council argued that DWLP policy GRF1 was a landscape designation (along with NP policy MOT5.) However this policy relates to the whole of the Royal Forest, does not identify the area to which it applies, nor identify the appeal site and does not refer to landscape quality. Instead it focusses on the objectives of the Royal Forest Project. This policy clearly does not identify the area for any landscape value. The relevant policy (NP MOT7) in the Motcombe Neighbourhood Plan does not identify any views of 'particular significance' over the Deer Park or appeal site. I do not consider that either policy has any direct bearing on the issue. On that basis the site and the surrounding area does not fall within either of the statutory or development plan matters referenced in NPPF 174a.

25. However the concept of a valued landscape is not defined in the NPPF. The leading court case on what constitutes a valued landscape is the Stroud judgement, as accepted by the parties.[5] This deals with whether the countryside in question has demonstrable physical attributes (rather than just popularity) which would take the site beyond mere countryside. In other words, as accepted by the parties, whether the attributes take the landscape beyond the 'ordinary' or 'everyday'.

26. Both parties considered this matter in the light of GLVIA 3 guidance, and although they used different terminology from each other, the approaches were

[5] Stroud District Council v SSCLG and Gladman Developments Ltd. [2015] WL 849499

very similar. The assessment of the various factors which might lead to a conclusion that the landscape was valued in NPPF terms was the subject of debate at the Inquiry. However, bearing in mind the 'Stroud test' summarised above, it is notable that the Council's approach was that the site and its surroundings were 'representative' or 'typical' of the Blackmore Vale/Clay Vale landscape. That accords with what I saw on site and in the surrounding area and these descriptions do not raise the area to the level of a valued landscape in NPPF terms.

27. One specific point raised by the authority was reference to the fact that the appeal site is close to a long-distance trail – the White Hart Link. Whilst that may attract walkers to the area and increase the numbers who would be able to see the appeal proposal, I do not accept that this raises the landscape quality to the 'valued' level. The country is criss-crossed by walking routes of various types, and very many other less publicised but popular routes – proximity to such a route does not in itself raise the landscape to the 'valued' level .

28. It should also be noted that, as far as the Inquiry was told, there was no mention of the 'valued landscape' argument in the report leading to the grant of the outline permission for the GSE scheme. This casts further doubt on the Council's approach to landscape appraisal in the current case.

29. In summary, I do not consider that the landscape is a valued one in NPPF paragraph 174(a) terms, and I will shortly turn to consider the effect of the proposal on the area in the light of the development plan and NPPF paragraph 174(b) - which refers to the recognition of the intrinsic character and beauty of the countryside.

30. Before turning to the effect on the landscape, it is of note that the reason for refusal did not specifically refer to visual impact, although naturally the view from the footpath adjacent to the site (N69/7) is of considerable relevance to considering landscape character. From my visit to the area, I am not surprised at the lack of reference to visual harm, as I consider that the visual impact, save from that footpath, would be limited and short range.

31. There was a difference between the parties as to the sensitivity of the landscape, with the authority assessing sensitivity significantly higher than the appellant. However the Council's position began with a district wide approach to sensitivity and concluded a higher level of sensitivity than it subsequently defended. Specifically when addressing the criteria for assessment as set out in the Sensitivity Study, the Council accepted that majority of factors would result in a low-medium sensitivity. My consideration of the evidence, including this position reached in cross-examination, supports the appellant's conclusion that the sensitivity of the site is low-medium.

32. It is clear that any development on open agricultural fields would conflict with the characteristics of the site and cause a loss of some open character at the site level. In terms of the magnitude of change, due to the landform and existing screening, along with the ability to undertake landscape mitigation, the magnitude of change would be localised - high on the site, medium at the Deer Park level, declining to low/negligible in the wider area. This change could be best appreciated from Viewpoints 1 and 2 (accepted by the Council as

the only locations where there would be a significant visual effect). In coming to that conclusion, I appreciate that the Council's position is that there would be a higher magnitude of change on the site and beyond, but to a large extent this stemmed from the initially higher assessment of sensitivity (which I do not accept) and was not an assessment supported by the answers in cross-examination.

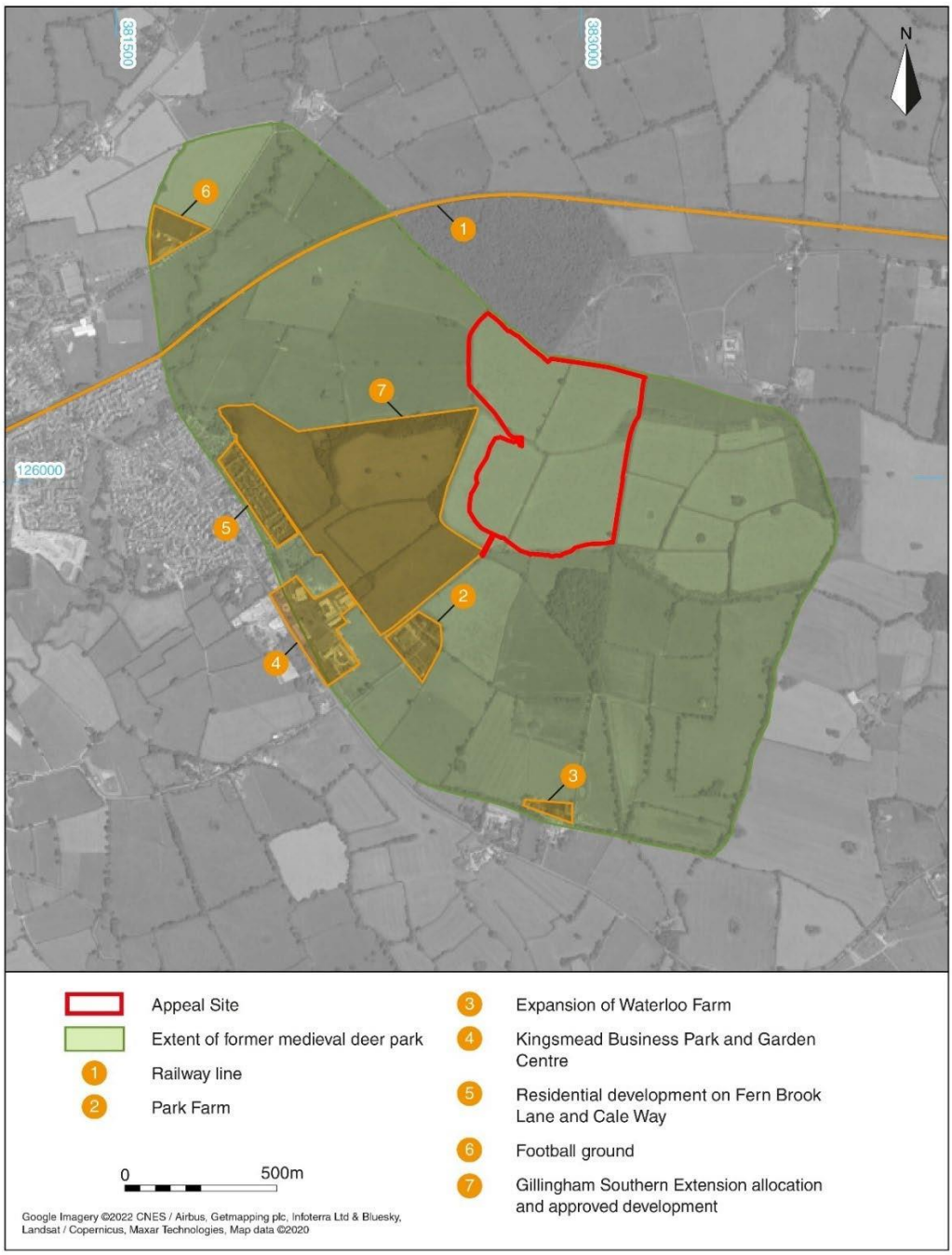
33. There was an argument put forward by the appellant that the proposed solar farm would be inherently rural in nature. But although many solar farms are now located in rural settings, I do not consider that they are so common that they have come to be regarded as a form of development which is inherently rural. But nor do I accept the Council's assertion that they are industrial in visual terms, as they have little in common with industrial development and are becoming gradually accepted in rural areas.

34. Before concluding on this matter, it is also important to consider the effect on the landscape as it will be in future following the GSE allocation and consented scheme. Outline planning permission was granted in 2021 for development on land to the southwest of the appeal site in accordance with the GSE allocation. The permission was for up to 634 dwellings, a primary school, sports pitches with floodlighting, public open space, play facilities, access and internal estate roads, internal footpaths and cycleways, sustainable drainage system with ponds, landscaping, utility connections and associated groundworks and infrastructure.

35. The Council stated that the boundaries of the approved development and the appeal site do not directly adjoin each other, and that there is landscaping potential between the two. However given the scale of the consented development, the effect on the baseline landscape will be substantial. It is accepted that this major development does not, in itself, justify the appeal scheme. However it would be wrong to ignore the consequences of the allocation and consented scheme on the character of the area.

36. The plan below shows the relationship between the appeal site and the GSE allocation/consented development and other developments in the Deer Park area.[6]

[6] Taken from Mr Sutton's evidence, and uncontested



37. Overall, I consider that there would be some limited harm to the character and appearance of the landscape and the proposal would therefore conflict with LP policies 4 and 22 as summarised above.

Heritage

38. The relevant heritage assets which may be affected by the proposal were agreed by the parties to be as follows:

- Gillingham Forest Deer Park and part of the Park Pale (non-designated heritage assets)
- King's Court Palace Moated Site (scheduled monument)

- Remains of East Haimes House and adjacent Park Pale (scheduled monument)
- Gillingham Park Boundary Bank (scheduled monument)
- Donedge Lodge Farm (non-designated heritage asset)

All these are shown on the first plan above.

39. In all cases it is agreed that the harm would be less than substantial in NPPF terms – though the extent of the harm is not agreed. It was also agreed that scheduled monuments are assets of the highest significance and that any harm to them should be given great weight.

40. There would be no direct effect on any of the assets aside from that part of the Gillingham Forest Deer Park on which the proposal would be constructed. All the assets relate to the historic former Deer Park which formed part of the Gillingham Royal Forest. With the arguable exception of Donedge Lodge Farm, which will be discussed below, the other assets would not come into existence were it not for the Deer Park, and they have a clear historic relationship with each other.

41. Beginning with the Deer Park, each asset will be considered in turn in its own right and then the combined effect of all the assets will be assessed.

The Deer Park

42. The effect on the former Deer Park is the main focus of the Council's case, both as an individual asset and in combination with the other assets. Aside from Donedge Lodge Farm, the setting of all the other assets listed above is the Deer Park itself.

43. The Park is part of the former medieval Deer Park which lay to the east and south-east of Gillingham. At the turn of the 12/13th centuries the evidence is that it was one of about 60 deer parks in Dorset and one of four royal parks in the county. At that time the boundary of the park would have been enclosed by a barrier or 'park pale'. As part of the history of the area and its royal associations, the park as a whole has historic significance – although the parties agreed that the appeal site itself does not possess any particular significance beyond its location within the wider park area.

44. The park derives significance from its historic and, to a lesser extent, its physical presence. However the experience of the asset as a whole has changed substantially over time as its surroundings have evolved. In this context the Council's Statement of Case describes the Deer Park as a coherent and legible whole. I have to disagree with that assessment as what exists now is not an intact deer park (as can be seen in many other locations) but the remains of a former deer park.

45. The boundary of the former Deer Park now includes a considerable amount of modern development (as can be seen from the second plan above) and contains substantial modern development including the Kingsmead Business Park, retail stores, a petrol filling station, a garden centre, housing and a football club with floodlights, modern agricultural buildings and a railway line.

46. Of potentially even greater importance is the LP allocation of the GSE development and the grant of planning permission for redevelopment. It was confirmed at the Inquiry that the status of the Deer Park was not referenced in the report leading to the grant of permission for the GSE development, which intrudes into the central area of the former park. For the Council to now express concern on heritage grounds about the current proposal appears inconsistent. It was accepted at the Inquiry that these modern developments are part of the current understanding of the Deer Park. My overall conclusion is that the asset is of reduced importance given the current intrusions into its original area.

47. That said, it is still possible for the informed observer to appreciate the historic contribution which the appeal site makes to the Deer Park as a whole. The public experience of this contribution would be largely from the footpath to the north. However no important views of the former Deer Park would be obstructed by the proposal, no footpaths would be closed, and the boundaries of the park would be unchanged. Movement through and views of the park would obviously be different in that, in some locations, there would be views of the solar farm. The placing of a solar farm on part of the park, even for a finite period, would obviously change the experience of this asset to a degree. Whilst recognising the effect of the current proposal on the park, this would be appreciably less than other approved/built developments.

48. Overall, the Deer Park, as it stands today with all the incursions into it, has reduced heritage significance. However there is a persuasive argument that, even though the baseline has significantly changed, the area that remains is all the more important. The change from open rural farmland to a solar farm on part of the Deer Park would affect both visual and historic relationships.

49. However, due to its relatively limited scale, the proposal would cause only limited harm to this non-designated heritage asset. I will return below to the heritage balance.

Kings Court Palace

50. King's Court Palace is the site of a medieval royal hunting lodge and is a scheduled monument. The monument is now seen as a ditch, internal bank and partial external bank.

51. The history of the site dates substantially from around 1200 when King John ordered extensive alterations to an existing house. It is understood that he visited the site regularly thereafter. In 1369 Edward III ordered the demolition of the buildings and the sale of the materials, and then in the late 18th century the foundations of the building were dug up and the stone used for road repairs.

52. The remaining earthworks are crossed by a modern track which bridges the ditch and truncates the banks in two places. What remains today is only visible from close up and can best be appreciated from the footpath which runs through the site. These are the remnants of what was once two substantial building complexes and a large (probably) continuous bank. It is also reasonable to assume that the buried remains may hold evidence about medieval high society, the local economy and the landscape. An information

board along the footpath close to the site provides a useful summary and a interpretation of the former complex of buildings.

53. The setting of the monument includes most of the other assets listed at the start of this section, but most importantly the Deer Park itself. The history and function of the lodge is intrinsically linked to the existence of the Deer Park.

54. The appeal site is around 600 metres east of the scheduled monument. The area between the two is gently rolling topography, typical of the wider area, and there are several field boundaries and trees between the two. Standing within the earthworks there would be a very small further incursion of modern development into the setting of the asset in visual terms, which already includes modern development and the railway line.

55. However, historically the Deer Park is the raison d'etre of the asset and makes a contribution to its understanding in historic terms, as described above. The proposal would, to a very limited extent, change the contribution which the setting makes to the appreciation or understanding of the asset. For these reasons, I conclude that there would be very limited harm to this heritage asset. This would be at the bottom end of 'less than substantial harm' in NPPF terms. I will return below to the heritage balance.

East Haimes House

56. East Haimes House is a scheduled monument lying just outside the boundary of the former Deer Park and beyond the park pale. The monument includes a part of the park pale.

57. It was once the residence of the fee forester, the principal park keeper, of the park during the medieval period. The asset is now a series of rectilinear earthworks (with the potential for buried archaeology). The park pale in this area is discernible in places as field boundaries and hedges, and in some sections, as an earthwork. Unlike the Palace, there is no information board to assist in the experience here. That said, the informed visitor could appreciate something of the historical associations of the asset.

58. As previously stated, the setting of East Haimes House and the Park Pale includes the Deer Park, however the setting of the house and the pale is heavily influenced by the modern Gillingham Town FC pitches, buildings and floodlighting columns. These lie within the former Deer Park, located in between the asset and the appeal site. The railway line runs to the south and further separates this asset from the rest of the former Deer Park. There is no direct pedestrian access into the park from East Haimes House and to get into the park it is necessary to walk away from it and then back into it

59. The appeal site lies over 1km from the East Haimes House, and slightly closer to parts of the park pale. The Council's position is that there is partial intervisibility but from what I saw on my visit, even that is optimistic. The distance and limited intervisibility between the appeal site and the asset, combined with their current setting, means that the proposed change in character of the appeal site would be of extremely limited relevance to the visual experience of the asset. The ability to interpret and appreciate the buried archaeological remains and the pale would be scarcely affected.

60. However, as with Kings Court, East Haimes House and the associated parts of the park pale would not have come into being without the Deer Park. Even a small diminution in the area of the park would slightly reduce the historical contribution which the setting makes to the appreciation of the asset.

61. Overall, I conclude that there would be very limited harm to this heritage asset. This would be at the bottom end of 'less than substantial harm' in NPPF terms. I will return below to the heritage balance.

Park Boundary Bank

62. The perimeter of the Deer Park would have originally been enclosed by a barrier or park pale, as discussed above. It would have potentially incorporated some natural topography, along with sections of a hedge atop a bank with a ditch, incorporating stakes and pales to increase its effectiveness. Part of the pale is linked to East Haimes House and is considered above, but part on the east side of the former Deer Park is separately identified.

63. The earthworks of the park pale are the only substantial physical surviving remnants of the medieval landscape. In this context the asset has significance both as a landscape feature (with the potential to preserve archaeological remains) and as part of the history of the group of assets. The setting of the pale, i.e. the Deer Park itself, contributes to the significance of this asset.

64. Visually, at the closest point the appeal site is around 500 metres away from this part of the pale, and the two are separated by gently rolling land with field boundaries including dense hedgerows. For this reason the visual effect of the appeal proposal on the setting of the earthwork would hardly be affected.

65. However, as with other assets, the proposal would slightly reduce the legibility of the asset in its Deer Park setting, which forms part of the asset's significance.

66. Overall the proposal would scarcely change the historic significance of the asset as derived from its setting. I conclude that there would be very limited harm to the visual setting of this heritage asset. This would be at the bottom end of 'less than substantial harm' in NPPF terms. I will return below to the heritage balance.

Donedge Lodge Farm

67. The position in relation to Donedge Lodge Farm is unusual. The Council consider this is a heritage asset in NPPF terms.

68. The property is a 19th century house located on high ground with views over part of the appeal site and beyond. A 1624 map of the Gillingham Forest[7] shows that there was a Donedge Lodge in the general location of the current building. This was apparently a keeper's lodge, but it no longer exists and there are no known remains.

69. The Council speculated at the Inquiry that the current house may conceal fabric from an earlier date or have been built over or close to remains of the historic

[7] CD219

lodge. However there is no evidence to justify this. The authority advanced the idea that the location is the important factor, but it is the building which is the asset. The non-designated asset is therefore the 19th century house, and not any suspected remains of an earlier building.

70. The current building has relatively limited architectural interest, and though it is prominent in the landscape, this is not sufficient to justify non-designated status. Thus, the asset is of very limited value in heritage terms.

71. The surroundings of the building undoubtedly add to its setting, and views from the building would change with the development of a solar farm.

72. Overall, the proposal would have no effect on whatever very limited heritage significance the building possesses.

Cumulative heritage effect

73. I have concluded above that, leaving aside Donedge Farm, there would be less than substantial harm in NPPF terms caused to the heritage assets, and that this harm would be at the bottom end of the scale within that category. Nonetheless any harm to designated heritage assets must be given great weight as these are assets which the NPPF recognises to be of the highest significance.

74. In coming to this view I have taken full account of the views of Historic England[8] as the Government's national statutory advisor on heritage matters. I do not depart from their views in principle although, after an extensive site visit and consideration of the appeal evidence, I differ in some instances related to the degree of harm.

75. Considered in visual terms, the proposal would have very limited effect on the contribution which the setting (i.e. the Deer Park) makes to the individual or group significance of the assets. However as a principal, the reduction in the undeveloped area of the Deer Park, almost regardless of distance, would cause some limited harm to the ability to conceptually link the assets together into an understanding of the whole.

76. Overall, for the reasons given above, I conclude that the proposal would cause limited harm to the setting of a number of heritage assets, and would conflict with LP policies 4, 5 and 22 as summarised above. I give this matter considerable importance and weight, and will return to the overall heritage balance below.

Conditions and planning obligation

77. Most of the conditions below were agreed by the parties at the Inquiry, and the reasons are given beneath each condition. Two conditions merit separate comment.

78. At the time of the Council's decision there was no archaeological objection raised by the authority. But, as referenced above, the Inquiry proceeded on the basis of revised plans and the Council raised archaeological concern in response to the revisions. The Supplementary Statement of Common Ground

[8] 6 August 2021, summarised CD.114, pp.32-33

agreed a number of matters. However neither the geophysical survey or trial trenching raised any matters of interest. A condition has been put forward to deal with this matter, although the appellant's position is that this is unnecessary. However as the matter is not entirely free from doubt it is considered that the condition is necessary.

79. It was agreed at the CMC that a report would be prepared dealing with noise matters. This report proposed mitigation measures in the form of acoustic louvres and, on that basis, it was that agreed noise levels would remain below the existing background noise level. There was some residual concern by the Council regarding the proposed louvres being sited within the structures, but a condition has been agreed to ensure that noise levels would be acceptable.

80. In relation to the planning obligation there is a dispute regarding the Gillingham Forest contribution, which would be put towards the enhancement of the landscape through woodland planting and the promotion of countryside recreation and tourism activities. Although this contribution could be more precise, it is considered that it is necessary in the light of the effect on the Royal Forest area and is in line with LP policy GRF1. It meets the tests for planning obligations.

Heritage and planning balance

81. The proposal would cause harm, in varying but limited degrees, in relation to the two main issues in dispute in this case – landscape and heritage. This is set out above. I need to balance these harms against the benefits of the scheme, both in relation to heritage matters and the overall planning balance.

82. Before considering the potential benefits of the scheme, there is one matter which was referenced but not specifically argued by the appellant. That is the limited period (40 years) for which permission is sought. Whilst I acknowledge that the development would be reversible, this time period is a large part of an adult lifetime and I do not give that matter any significant weight.

83. The proposed development would generate a significant number of jobs directly related to the construction of the solar farm, along with others in the supply chain. The employment related to the operational phase would obviously be far lower. I consider that this economic benefit is of moderate weight in favour of the scheme.

84. There would be additional woodland planting in the north-east corner of the site, accepted by both parties as a benefit. The amount of this planting goes beyond that which would be required to simply partially screen the development, and would be a positive benefit. In addition there is the contribution through the s106 obligation towards off-site planting in connection with the Gillingham Forest Project[9]. I have already stated that this contribution could be clearer as to the specific project. However overall I consider that the direct and indirect planting would be a moderate benefit arising from the scheme.

[9] It is also understood that the appellant offered bridleway improvements, but that this was rejected by the Council.

85. The scheme would deliver a measurable gain in biodiversity, and this would be a further moderate benefit arising from the proposal.

86. The appellant has offered to provide interpretation boards, ensured by condition, to provide information regarding the Deer Park. This would be a limited benefit arising from the proposal.

87. The energy and decarbonising credentials of the proposal are a very important factor in considering this appeal. I will deal with the local position first.

88. The Council recognises the need to provide energy from renewable sources in its area, and this is illustrated by its declaration of a Climate Emergency in 2019 (updated that same year to a Climate and Ecological Emergency). In policy terms the appeal also gains some support from LP policy 22 which, whilst referencing the need deal with adverse impacts in the balance, deals with the benefits of renewable energy.

89. The appellant emphasised the need for additional renewable energy in the UK and specifically in Dorset if the country is to meet the 'net zero' target and budgets in order to tackle the global challenge of climate change. The appellant called expert and persuasive evidence on the question of urgent need and limited supply. The Council relied on their planning witness in this respect, and stated that they did not accept that there is an urgent need for the development. The approach by the authority was that the appellant had to pass an 'essential' test – but no policy basis for such a test was put forward. In any event this is directly contrary to NPPF paragraph 158 which provides that there is no requirement for the appellant to demonstrate the overall need for renewable energy. Nor was any convincing evidence (even on a historical basis projected into the future) put forward to support the Council's suggestion that improvements in technology will significantly reduce demand for solar farms.

90. The Council also criticised the appellant's Alternative Site Assessment[10] on a number of grounds. This Assessment set out a various constraints which, it was suggested, limited the availability of sites in the county. I agree with the Council's criticism to the extent that the Assessment only considered sites within a relatively limited radius of connection points. However the number of sites which could reasonably accommodate this type of development in flood zones, conservation areas or Green Belts (all of which were regarded by the authority to be potentially feasible) must be seriously limited due to the various additional constraints in such areas.

91. Overall, whilst the Assessment might be criticised on a number of grounds, it would have to massively underestimate the position before it could be demonstrated that there are sufficient sites in the area. From the evidence that is an untenable position. In addition the Council did not put forward any alternative site which might be more appropriate than the appeal site, and more importantly the LP does not identify sites or even broad areas of search for this type of development.

[10] CD18

92. Turning to the national picture, it is unnecessary to recite the clearly stated national position related to renewable energy. For many years there have been a series of policies, statements and legal obligations which all seek to encourage renewable energy developments where they are appropriate. Particular reference should be made to the NPPF and the Net Zero Strategy: Build Back Greener. Furthermore it is clear that decarbonisation will rely very heavily on wind and solar power, and that the national need is significantly greater than the capacity of current projects.

93. In the light of the local and national imperative summarised above related to the provision of renewable energy, this matter weighs very heavily in favour of the proposal.

94. Turning to the overall heritage and planning balance, I have found that the proposal would lead to less than substantial harm to the significance of designated assets and limited harm to non-designated assets, to the extent set out above. This is a matter to which I attach considerable importance and weight.

95. But the public benefits summarised above, particularly the importance of the provision of renewable energy and the need to tackle climate change, are exceptionally weighty. I conclude that the public benefits of the proposal outweigh some non-compliance with policy on the basis of harm to landscape and heritage assets, and would be significantly and demonstrably outweighed by the clear benefits of the scheme.

Conclusion

96. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

APPEARANCES

FERN BROOK SOLAR FARM LTD

Mr Michael Humphries KC, instructed by DWD Property and Planning	
He called:	
Mr Si Gillett MSc	Humbeat
Mr Robert Sutton MCIfA	Cotswold Archaeology
Mr Will Gardner BSc(Hons) MSc CLMI	EDP
Mrs Sarah Price BA DipTP MRTPI	DWD Property and Planning

DORSET COUNCIL

Mr Mark Westmorland Smith of Counsel, instructed by the Head of Legal Services	
He called:	
Mrs Rachel Haworth IHBC	LUC
Mr Peter Radmall MA BPhil CMLI	Landscape Consultant
Mr Peter Grubb BSc(Hons) MSc MRTPI	Lighthouse Development Consulting

INTERESTED PERSON

Mr G Clinton	Donedge Lodge Farm

INQUIRY DOCUMENTS

Doc 1	Appellant's opening submissions
Doc 2	Council's opening submissions
Doc 3	Dark skies plan
Doc 4	ALC Grades (Defra)
Doc 5	Dorset Council Local Plan consultation January 2021
Doc 6	Unilateral Planning Obligation
Doc 7	Closing submissions by the Council
Doc 8	Closing submissions by the appellant

ANNEX

Land at Park Farm, Gillingham SP8 5JG

Conditions

1. The development hereby permitted shall not begin later than 3 years from the date of this permission.

2. The permission hereby granted shall expire 40 years from the date when electrical power is first exported from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.
   Reason: The proposed scheme has a 40 year lifespan and to accord with the evidence at the Inquiry.

3. The development hereby permitted shall be carried out in accordance with the details shown on the following approved plans: Site Location Plan ref. LCS047-SP-01 and Development Zones Plan ref. LCS047- DZ-01 Rev 11 and Table 4-1 of Environmental Statement Chapter 4, except as controlled or modified by conditions of this permission.
   Reason: For the avoidance of doubt.

4. Prior to the commencement of the development hereby permitted, full details of the final locations, design and materials to be used for the panel arrays, inverters, substation, control building, switch room, CCTV cameras and fencing shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the development shall be carried out in accordance with the approved details.
   Reason: In the interests of the appearance of the development and the character of the area

5. Prior to the commencement of the development hereby permitted, a detailed landscaping scheme, in accordance with the principles contained within the Landscaping Proposals Plan (Reference: Figure 6.9 including figure 6.9w – 6.9f Rev F), shall be submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees, shrubs and hedgerows to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread) and an implementation programme.

   The scheme shall be implemented by no later than the first planting season following the first export date and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the

Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority. Reason: To ensure satisfactory landscaping in the interests of the character of the area.

6. Prior to the commencement of the development hereby permitted, a Landscape Ecology Management Plan (LEMP) for the detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:
   a) Details of long term design principles and objectives.
   b) Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme.
   c) Summary plan detailing different management procedures for the types of landscape on site.

   The schedule and plan shall be implemented in accordance with the agreed programme.
   Reason: To ensure the landscaping contributes to the appearance of the area.

7. No development shall commence unless the Local Planning Authority has been provided with either:
   a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
   b) A GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
   c) A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

   Reason: To avoid harm to habitats and species.

8. Notwithstanding the submitted details, no works or development shall take place until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:
   a) plan showing details and positions of the ground protection areas
   b) details and position of protection barriers
   c) details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
   d) details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g., in connection with foundations, bridging, water features, hard surfacing).
   e) details of construction and working methods to be employed for the installation of access tracks within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f) details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

Reason: To ensure that no harm is caused to retained trees/hedgerows.

9. Prior to the commencement of the development (including vegetation clearance), a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall be based on the recommendations made in the Ecological Assessment Revision A September 2021.
   a) Risk assessment of potentially damaging construction activities
   b) Identification of "biodiversity protection zones"
   c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
   d) The location and timing of sensitive works to avoid harm to biodiversity features.
   e) The times during construction when specialist ecologists need to be present on site to oversee works.
   f) Responsible persons and lines of communication.
   g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person as necessary.
   h) Use of protective fences, exclusion barriers and warning signs.

   The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

   Reason: To ensure that no harm occurs to the biodiversity of the area.

10. No development shall commence until a Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), has been submitted to and approved in writing by the Local Planning Authority, using the DEFRA Biodiversity Metric 3.0 or any successor. The content of the Biodiversity Net Gain (BNG) report should include the following:
   a) Baseline data collection and assessment of current conditions on site;
   b) commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG
   c) Principles have been applied to maximise benefits to biodiversity;
   d) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
   e) Details of the implementation measures and management of proposals; and
   f) Details of the monitoring and auditing measures.

   The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

   Reason: To ensure that the development gives rise to biodiversity net gain in line with the proposal.

11. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy May 2021 (or as otherwise amended).
Reason: To ensure the development does not increase flood risk.

12. Construction Traffic Management Plan (CTMP), which shall include wheel washing facilities, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved CTMP shall be implemented prior to any works being carried out on site and shall be maintained throughout the course of the development. The CTMP shall state the times at which plant or material will be delivered to the site.
Reason: To ensure that the development does not harm highway safety and in the interests of the amenity of the area.

13. The development hereby approved shall accord with the acoustic measures as set out within the submitted Noise Assessment (Tetra Tech; 784-B041272) (or other method attenuation that may be agreed by the LPA pursuant to this condition). The development hereby approved shall not commence operation until:
i) precise specification and performance details of the acoustic louvres (or other method of attenuation), required as identified for the inverter units, and for all the battery storage units and DNO and Customer substations, are submitted to and approved in writing by the Local Planning Authority, and;
ii) The agreed attenuation methods are implemented in full to ensure no increase in the background noise level (15 minute LA90) when measured at the proposed sensitive receptors detailed within the submitted Noise Assessment, and to remain within the WHO guidelines for noise intrusion at nearby properties.
Reason: To ensure the development does not cause harm by reason of noise.

14. Not less than 12 months before the cessation of the development hereby permitted, or following a period of one year in which the development has failed to produce electricity for supply to the grid a decommissioning method statement (DMS) shall be submitted to and approved in writing by the Local Planning Authority. The DMS shall include details of the removal of the panels, supports, inverters, cables, buildings and all associated structures and fencing from the site, and a timetable for their removal. The DMS shall also include a traffic management plan to address likely traffic impacts during the decommissioning period and details of the proposed restoration of the site. The site shall be decommissioned in accordance with the approved DMS within 6 months of the expiry of the 40 year period from the date when electrical power is first exported from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning, or within 18 months of the site ceasing to produce electricity whichever is sooner.
Reason: To ensure the full decommissioning of the site in the interests of the character of the area.

15. Prior to the operation of the development hereby permitted, full details and siting of the fixed interpretation boards at locations agreed with the LPA containing information regarding the former Deer Park shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To assist with the public understanding of the Deer Park.

16. There shall be no permanent illumination on the site unless otherwise agreed in writing by the local planning authority.
Reason: To protect the rural character of the area

17. Prior to the commencement of the development hereby permitted, a mapped and photographic record of the historic character showing key features within the appeal site and immediate surrounds, and the relationships between them, shall be submitted to and approved in writing by the Local Planning Authority. The approved record shall be deposited with the local Historic Environment Record (HER) or otherwise published to an appropriate public archive to be agreed by the Local Planning Authority.
Reason: To record aspects of heritage significance which may otherwise be lost or obscured by the development.

18. Prior to the commencement of any development hereby approved, including any excavation, a scheme that details a programme of investigative archaeological work (including trial trenching), to inform the appropriate and precise location and design of the planting scheme along the northern site boundary with the deer park pale (to avoid harm to archaeological evidence in this area), shall be submitted to, and agreed in writing by the Local Planning Authority. The development, including the final agreed planting details, shall thereafter accord with the agreed scheme.
Reason: To ensure that no harm is caused to any buried archaeology.