

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: qA1472901

Mr Paul Burrell
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14 September 2022

Dear Mr Burrell

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 62D
THE DEVELOPMENTS OF NATIONAL SIGNIFICANCE (WALES) REGULATIONS 2016
CONSTRUCTION OF A SOLAR FARM AND ENERGY STORAGE HYBRID PARK,
TOGETHER WITH ALL ASSOCIATED WORKS, EQUIPMENT AND NECESSARY
INFRASTRUCTURE.
LAND AT GWERNIGRON FARM, THE ROE, ST ASAPH, DENBIGHSHIRE.
DNS APPLICATION REFERENCE: DNS/3247619**

1. Consideration has been given to the report of the Inspector who held hearings to examine the planning application.
2. In accordance with sections 62D of the Town and Country Planning Act 1990 and Regulation 3 of The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, the application was made to the Welsh Ministers for determination.
3. The Inspector held hearings on 27 and 28 April and made a site visit on 6 May. A copy of the Inspector's report ("IR") is enclosed. All references to paragraph numbers, unless otherwise stated, relate to the IR.

Main Considerations

4. I agree the main considerations are those listed at IR 206:
 - the effect on the landscape character and visual amenity of the area;
 - the effect on heritage assets;
 - whether the development is acceptable in terms of flood risk;

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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- the effect on the ecology of the area;
- the effect on traffic flows and highway safety, particularly during the construction phase;
- whether the development would result in a loss of Best and Most Versatile Agricultural Land (“BMVAL”); and
- whether any harm identified in relation to the foregoing and any other consideration would be outweighed by the benefits of the scheme, in particular its contribution to renewable energy generation and combating the climate change emergency.

Landscape Character and Visual Amenity

5. The Environmental Statement (“ES”) includes a Landscape and Visual Impact Assessment (“LVIA”). The Inspector notes no significant concerns have been raised by any of the parties in respect of the updated LVIA. The LVIA has informed the Inspector’s assessment of the proposed development. (IR 207-209)

Landscape Character

6. “LANDMAP”, maintained by Natural Resources Wales (“NRW”) is the extant baseline which maps and classifies landscapes in terms of their key characteristics and evaluates their importance on a national to local scale on specified themes. The LANDMAP evaluation of the aspect areas within which the site is located is “moderate” in relation to the Geological Landscape and the Visual and Sensory layers and “low” in relation to the Landscape Habitats layer. The Inspector has assessed impact on historic landscape character, although notes no overall evaluation is provided. (IR 210-212)
7. The Inspector notes, regarding the Geological Landscape layer, the LVIA concludes the perception of the scale and experience of the landform would not be significantly changed. In terms of the Visual and Sensory layer, the LVIA considers the proposed development would not be incompatible with the agricultural landscape and would utilise the least visually sensitive parts of this aspect area. (IR 213 - 217)
8. Regarding Historic Landscape, the Inspector agrees with the conclusion of the LVIA that the proposed development would not affect the existing field boundaries and, in that respect, the field pattern and its contribution to the historic dimension of this landscape would be retained. (IR 218)
9. However, the Inspector’s view is the largely undeveloped and open nature of the fields themselves is also characteristic of the overall field pattern, which of itself, would be sensitive to change. Whilst the Inspector notes the proposed layout of the solar panels and additional planting is proposed to partly enhance the landscape framework across the site, the affected fields would be densely packed with solar arrays for the most part. The Inspector considers the vast and continuous rows of solar panels would result in the loss of open fields and would represent an uncharacteristic element in the predominantly rural, agricultural landscape for a period of 37 years. (IR 219)
10. The Inspector accepts, as identified in the LVIA, improvements to field boundary vegetation would help assimilate the development into its surroundings, balance any adverse direct effects and further reduce any limited inter-visibility with historic landscape features. Despite this, the Inspector notes the development would remain visible in part, particularly from close quarters. However, when it is seen, views would be filtered and restricted in the longer term and the development is unlikely to be seen in the landscape at its full extent. (IR 220 – 223)

11. Regarding the landscape character of the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (“AONB”) the Inspector agrees there is strong separation between the AONB and the application site, and any visual change introduced by the proposed development would read as part of a different landscape. (IR 224 -226)

Visual Amenity

12. The Inspector considers the impact on visual amenity, including impact on users of the A55, A525, Sustrans National Route 84, Public Rights of Way and the AONB. The Inspector also considers the visual effects from relevant properties. The Inspector concludes, although the proposed scheme would have a localised adverse effect on landscape character and visual amenity, there would be no significant harm to the character and appearance of the wider area, including the landscape character of the AONB and its special qualities consistent with the requirements of Future Wales (“FW”) Policy 18(1), Denbighshire Local Development Plan 2006-2021 (“LDP”) Policies VOE 10 “Renewable energy technologies” and VOE 2 “Area of Outstanding Natural Beauty” and the Clwydian Range and Dee Valley AONB Supplementary Planning Guidance. (IR 227 – 241)
13. The Inspector notes the Council’s Local Impact Report states the proposed development would effectively “urbanise” an area of open countryside which currently separates the settlements of St Asaph and Bodelwyddan. The Inspector recognises the application site is located beyond the settlement boundary, however, given the thrust of FW Policy 18 “Renewable and Low Carbon Energy Developments of National Significance” together with the support for renewable energy schemes at this scale and the inevitability of their siting in open countryside locations, the Inspector considers there is a clear justification for developing the site in breach of the restrictive strategy in the LDP. (IR 242)

Heritage

14. The Inspector notes the duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have “special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Guidance in Technical Advice Note (“TAN”) 24: The Historic Environment is also relevant. (IR 243 - 244)
15. The application is supported by a Heritage Statement which assesses the settings of designated historic assets within 5km of the application site. The Heritage Statement identifies seven assets potentially sensitive to changes in their setting arising from the proposed development. (IR 245)
16. Gwernigrn Farmhouse is Grade II Listed and a Grade II* Listed Dovecote stands within the complex of farm buildings. The Heritage Statement concludes the development would result in a small degree of harm to the significance of the Farmhouse and no harm to the significance of the Dovecote. (IR 246-248)
17. Cadw disagrees with the conclusions of the Heritage Statement as it considers the siting of solar panels in the fields surrounding the Farmhouse would alter the way it is experienced and understood. Cadw argues the resultant impact would be of moderate rather than small scale, which would be closer to the middle of the scale of less than substantial harm to the significance of the listed buildings. (IR 249)

18. The Inspector notes Cadw's assessment of harm is based on the impact of the construction compound to the south of the Farmhouse. The Inspector does not agree this element would increase the level of harm to the significance of the building's setting, noting it is a temporary construction compound confined to an existing hardstanding, which would be dismantled once construction is complete. (IR 250)
19. The Inspector agrees with Cadw that the removal of solar panels from the area of land immediately to the south of the farmhouse's main elevation, with the retention of existing vegetation and additional landscaping, would reduce the impact on the setting of the Farmhouse. However, the Inspector considers the omission of panels from a discreet section of the site and additional screening cannot wholly mitigate the change to the historic agricultural landscape character that contributes to the significance of the setting. Therefore, the Inspector considers the development would result in moderate harm to the setting of this heritage asset. (IR 251)
20. The proposed siting of solar panels and ancillary equipment in the northern and central areas of the application site is considered by the Inspector to result in a small degree of harm to its significance. (IR 252)
21. The Inspector considers the impacts on the other heritage assets in IR 253 – 256. In summary, the development would preserve the settings of designated heritage assets for the most part, with moderate harm to the setting of the Grade II Listed Gwerngron Farmhouse and a small degree of harm to the setting of the Grade II Listed Pengwern Hall. The Inspector acknowledges Cadw's view that the impact would amount to less than substantial harm to the significance of the heritage assets. (IR 257)
22. I also note Cadw agrees with the conclusions of the Heritage Statement that there would be no harm to the significance of impact on the settings of Scheduled Ancient Monuments at Rhuddlan Castle and Twthill.
23. On this matter, the Inspector concludes the proposed development would not have an unacceptable adverse impact on statutorily protected assets and, therefore, complies with FW Policy 18(6). The Inspector is also satisfied, regarding the St. Asaph and Rhuddlan Conservation Areas, the proposal would not offend the duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay "special attention to the desirability of preserving or enhancing the character or appearance of conservation areas". (IR 258)

Flood Risk

24. The Inspector notes a significant portion of the site lies within zone C and, therefore, section 6 of TAN 15: development and flood risk applies. Paragraph 6.2 of TAN 15 sets out the justification tests for development in zones C1 and C2 that is not classed as "highly vulnerable". (IR 259-261)
25. The Inspector is satisfied there are robust reasons for locating the proposed development within flood zone C2 and refers to the availability and proximity of a grid connection and the lack of a sequentially preferable site. These reasons constitute an exception to justification tests (i) – (iii). However, test (iv), which relates to assessing the potential consequences of a flooding event is relevant. In response to test (iv) the applicant has produced a Flood Consequences Assessment ("FCA"). NRW is content with the mitigation measures outlined in the FCA, subject to the measures being secured through appropriately worded conditions. The Inspector considers the consequences of flooding would be effectively mitigated, the risk to site users minimised and there would be no increase in the consequences of flooding elsewhere.

Therefore, the proposal would be consistent with flood risk policy in PPW and TAN 15. (IR 262 – 269)

Ecology

26. The Inspector notes PPW and Policy 9 of FW reflect the duties set out in the Environment (Wales) Act 2016 to incorporate biodiversity enhancement measures in addition to necessary ecological mitigation and compensation in order to achieve a net gain to biodiversity interests of a site. (IR 270)
27. The application documents confirm the nearest European protected sites to the development are Coedydd ac Ogofau Elwy a Meirchion Site of Special Scientific Interest (“SSSI”) and Elwy Valley Woods Special Area of Conservation (“SAC”). NRW concludes, based on the information provided, the proposal is not likely to have a significant effect on any SSSI, SAC, Special Protection Area (“SPA”) or Ramsar site. The Inspector is satisfied the proposed development would not adversely affect the integrity of a European site or have a significant effect on any of the nature conservation designated sites. (IR 271 – 273)
28. The Environmental Statement (“ES”) concludes there is potential for adverse effects on Great Crested Newts (“GCN”), a European Protected Species, during the construction phase only. Positive effects are anticipated in the operation phase as a result of proposed habitat enhancements. NRW considers construction is likely to cause a breach of species protection legislation and advises a derogation licence will be required. The Inspector is satisfied this approach, together with mitigation measures, would reduce the potential for medium or long-term cumulative adverse effects to the on-site and wider GCN population. (IR 274)
29. The Inspector notes no other significant adverse effects were identified on statutory or non-statutory designated sites or habitats, or on protected or notable species, including bats, birds, or other species in relation to the proposed development, or in combination with other proposed developments in the wider landscape. (IR 275)
30. The applicant has submitted an Outline Biodiversity Management Plan (“BMP”) which sets out the framework for habitat and species protection, enhancement measures and ecological management practices. The Inspector is content, providing the measures in the BMP can be secured by condition, the aim of maintaining and developing wildlife habitats to provide a net gain for biodiversity would be met. (IR 276 – 277)
31. The Inspector is also satisfied the Construction Environmental Management Plan (“CEMP”), the Landscape Ecological Management Plan (“LEMP”), the Biodiversity Management Plan (“BMP”) and the Decommissioning Method Statement (“DMS”) would provide a satisfactory framework and a consistent approach to biodiversity protection, management and monitoring throughout the construction, operational and decommissioning phases of the proposed development. (IR 278 – 279)
32. Based on the conclusions of the ES and securing mitigation measures by condition, the Inspector is satisfied the proposed development would not adversely affect the integrity of any European site and there would be no unacceptable impacts on protected habitats and species. The Inspector is satisfied the proposed development would comply with relevant LDP policies, FW, TAN 5, PPW and the Environment (Wales) Act 2016. (IR 280)

Highway Safety

33. The Inspector is satisfied trips generated during construction of the development would not have a significant impact on the local and strategic road networks and subject to modifications to be secured by condition, the proposed site access would have sufficient forward visibility and would provide a suitable route for construction vehicles. The Inspector is also satisfied the Construction Traffic Management Plan (“CTMP”) provides adequate measures to avoid vehicular and pedestrian conflict for users of the Public Rights of Way that cross the site. (IR 281-284)
34. Once operational the Inspector is satisfied the infrequent use of the upgraded access would be acceptable. (IR 285)
35. The Inspector is satisfied the proposal would not give rise to any significant highway safety concerns either during or post construction and, therefore, accords with relevant policies in FW, the LDP, PPW and Technical Advice Note 18: transport. (IR 286 - 290)

Best and Most Versatile Agricultural Land

36. The Inspector notes the applicant has confirmed 43.1ha of the application site comprises both Grade 2 and 3a BMVAL. The Inspector has taken the area of BMVAL affected by the development to be the 20.8ha, as detailed in the Land Research Associates’ “Agricultural Quality of Land at St Asaph” report, and therefore exceeds the 20ha threshold over which the development of BMVAL for alternative use is considered to be nationally significant for the purposes of consultation under paragraph (p) of Schedule 5 to the Developments of National Significance (Procedure) (Wales) Order 2016. (IR 291-292)
37. The Inspector describes national planning policy on BMVAL as set out in PPW and TAN 6: Planning for Sustainable Rural Communities. The Inspector also notes local guidance is contained in the Council’s Renewable Energy Supplementary Planning Guidance. (IR 293)
38. The Welsh Ministers’ letter to Chief Planning Officers, dated 2 March 2022, is noted by the Inspector. The letter clarifies in accordance with PPW, “...where BMV land is identified within a proposed solar PV array development, considerable weight should be given to protecting such land from development, because of its special importance, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission”. (IR 294)
39. The Inspector has based the assessment of impact on 30,000 piles, whilst recognising the need for a reasonable tolerance, with mitigation measures secured through the submitted Construction Method and Decommissioning Statement (“CMDS”) and the Soil Management Plan (“SMP”). (IR 295 – 296)
40. The Inspector describes the relationship of the physical works and areas of BMVAL, with reference to the submitted drawings and the CMDS. (IR 297 – IR 301)
41. The Inspector notes the Welsh Government’s Soil Policy & Agricultural Land Use Planning Unit (referred to as “WGCC” in the IR) has raised an objection to the scheme as: (i) the proposal has failed to give considerable weight to protecting BMVAL; (ii) there remains a significant risk that, once developed, its return to agriculture as BMVAL would not be possible; and (iii) the department views the arguments of overriding need and possible alternative sites as insufficient to justify the scheme on BMVAL. (IR 302)

42. WGCC considers the proposal would not only prevent 43.1ha of BMVAL (despite not all of this land being under panel) being available for food production and non-food uses both now and for future generations, but would risk the permanent loss of a nationally significant amount of BMVAL. (IR 303)
43. The Inspector is aware BMVAL is a finite resource which cannot be recreated once it is lost and considers the need to protect the resource during the construction, operation and decommissioning of the solar farm is of principal importance. (IR 304)
44. The content of the hearing sessions held to discuss BMVAL, including specific concerns raised by WGCC, are summarised by the Inspector. (IR 305 – 307)
45. The Inspector is mindful that the structure of agricultural soil is fragile and easily damaged and that the construction of a development of the scale proposed is likely to result in a substantial amount of ground disturbance across the application site which, for example, could arise from the engineering operations and the machinery required for the installation of the piles and the excavation of trenches, access tracks and foundations across the site. The Inspector considers the impact of these operations and the nature of the vehicles and equipment required are not comparable to agricultural practices and have the potential to significantly damage the structure of the soil unless properly managed. However, the Inspector is satisfied the technical details necessary to minimise the risk of damage to the soil resource and the likelihood of permanent loss of BMVAL could be delivered by the Construction Method Statement (“CMS”), the outline and detailed Decommissioning Method Statement (“DMS”) and the Soil Management Plan (“SMP”), to be secured by condition. (IR 308-310)
46. Notwithstanding the above, the Inspector notes WGCC considers the siting of the development on BMVAL would significantly affect the agricultural status of the site so that it would not be available for food production both now and for future generations thereby undermining the objective in section 3(2)(a) of the Environment (Wales) Act 2016. (IR 311)
47. The Inspector does not dispute the development of a solar farm would mean the land would be taken out of production to an extent, in particular for the cultivation of food crops, for a period of 37 years. The Inspector states the use of parts of the site for other agricultural uses, such as the grazing of livestock, cannot compensate for the failure to use the BMVAL efficiently, even for a temporary period. (IR 312)
48. The Inspector considers, as the proposal would be temporary and the proposed mitigation would ensure that it would not degrade the quality of the land over the time it would be in place, it would not result in any irreversible or permanent loss of agricultural land. (IR 313 -314)
49. The Inspector notes the Welsh Ministers’ recent decision to refuse planning permission for a DNS solar farm application at Blackberry Lane. However, the Inspector considers there are notable differences between the schemes: the proposed Elwy development would produce more solar energy, the amount of BMVAL land affected is less, and for this application the Inspector has confidence in the mitigation measures proposed. In light of the evidence presented relating to detailed mitigation measures, the Inspector is persuaded that the impact on BMVAL would not extend beyond the time limits of the permission and the associated aftercare. (IR 315)
50. The Inspector is satisfied the revised layout of the scheme demonstrates that BMVAL has been avoided as far as is feasible and, together with the CMS, DMS and SMP,

has given considerable weight to the impact on BMVAL, which is to be conserved as a finite resource. (IR 316)

51. Regarding national planning policy on BMVAL, the Inspector states it is important to note it does not prohibit the use of any particular grade of agricultural land for solar panels. I note PPW states, BMVAL “should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.” (IR 317)
52. The Inspector notes “overriding need” is not defined in planning policy and guidance and considers, in terms of establishing whether this test would be met, need can be local or national and is not restricted to identifying a single site which is deemed to be the best and/or only option. The Inspector considers the proposal’s large-scale contribution to renewable energy in the context of strong national policy support is capable of constituting need. (IR 318)
53. Regarding whether need is overriding, the Inspector considers it is reasonable to consider the extent of harm that would be caused to the BMVAL resource, both in terms of the very limited agricultural use that could co-exist with the solar farm and the length of time of that reduced use. Based on a reasonable assumption that land quality would be reinstated at the end of the lifetime of the development (through the controls established by the CMP, the DMS and the SMP), the limited time period the land would be taken out of food production and the extent to which the scheme would contribute to renewable energy, the Inspector considers an overriding need has been demonstrated. The Inspector considers the reversible nature of the development means it aligns with the thrust of national policy to conserve BMV for the future. (IR 319-320)
54. The Inspector notes national planning policy requires the applicant to demonstrate not only the overriding need for the development, but also that lower grade land is not available. The applicant submitted a Sequential Analysis Study (“SAS”) to address this policy requirement. The Inspector notes WGCC consider the SAS to be flawed for a number of reasons relating to the extent of the search area, the size of the site, the availability of sites and the discounting of sites based on the weight attributed to other designations over BMVAL. Having regard to advice in the Council’s Renewable Energy SPG relating to site selection, the approach accepted in the Blackberry Lane DNS decision, together with the absence of any national planning policy advice, the Inspector considers the search area was determined on an adequately robust basis and the site selection process was sound overall. On this basis the Inspector concludes the use of BMVAL on the application site, rather than lower quality agricultural land or previously developed land elsewhere, has been shown to be necessary. (IR 321 - 330)
55. In concluding on this matter, the Inspector does not consider the proposal would result in a significant adverse impact on BMVAL, subject to appropriate measures secured by condition to protect soils during the construction, operation and decommissioning of the development. The Inspector is satisfied the scheme has been designed to minimise the use of BMVAL, that there is an overriding need for the development and that land in lower agricultural grades is unavailable. The Inspector accepts there would be some conflict with the objectives of PPW insofar as the use of the BMVAL would be lost to food production for the 37-year lifetime of the development, however, detailed mitigation has been designed to limit the impact to a time limited one which, overall,

would be consistent with the aims of PPW to conserve BMVAL as a finite resource for the future. (IR 331)

Benefits of the Scheme

56. The benefits of the scheme are described in IR 332 – 334 and include: a substantial contribution to renewable energy production, battery storage to help balance energy supply and demand, and a positive contribution to Welsh Government's targets relating to renewable energy generation. The Inspector also recognises the positive contribution that the development would make towards job creation, economic output, business rates revenue and powering homes, as outlined in the submitted Economic Benefits Statement. (IR 332-334)

Other Matters

57. The Inspector has addressed other matters raised and is satisfied any issues arising can be dealt with by planning condition. (IR 335 – 345)

Planning Balance and Overall Conclusion

58. The Inspector notes decisions are required to be made in accordance with the development plan unless material considerations indicate otherwise. FW is the national development plan for Wales and, along with the LDP, is given primacy in the planning system in Wales. (IR 363)
59. The harmful effects on landscape character and visual amenity are afforded minor weight by the Inspector. The varying degrees of harm to the settings of two heritage assets is not considered significant in the context of the time-limited nature and reversibility of the development and therefore, is given moderate weight. (IR 364 - 365)
60. The Inspector finds no significant harm associated with nature conservation matters, flooding, archaeological interests, highway safety or the amenities of neighbouring properties, subject to condition. The Inspector is also satisfied the scheme would incorporate biodiversity enhancements. These matters are neutral in the planning balance. (IR 366)
61. The need to decarbonise energy generation, build resilience to the impact of climate change and ensure Wales generates sufficient energy are identified as a central requirement of FW and PPW. The Inspector considers, in this regard, the proposed development would align with, and support, the requirements of FW and PPW. (IR 367)
62. The production of renewable energy and consequential reduction in CO₂ emissions, on-site storage, and local economic and employment benefits are given considerable weight by the Inspector, who notes support for such contributions in policies 17 and 18 of FW. (IR 368)
63. The Inspector states, although parts of the site could continue to be used for grazing, the temporary (37 year) removal of BMVAL from food production is a factor against the scheme, although measures could be secured by condition to ensure highest quality agricultural land would not be lost permanently. The Inspector also considers WGCC's position on food production is not reflected in the text in paragraph 3.58 of PPW. (IR 369)

64. The Inspector notes the climate change emergency and considers the limited amount of BMVAL affected and its short-term unavailability for food production is outweighed by the urgent need for renewable energy. (IR 370-371)
65. The conclusion of the Inspector is the development would conserve BMVAL for the future in accordance with PPW and makes a weighty contribution to the Welsh Government's climate change objectives and renewable energy targets, satisfying policies 9, 17 and 18 of FW, the well-being goals of the Well-being of Future Generations (Wales) Act 2015 and supported by the Environment (Wales) Act 2016. (IR 372)
66. The Inspector acknowledges relatively minor conflicts with local and national planning policy and guidance, however, noting the status of FW, concludes that the proposal complies with the development plan as a whole. The Inspector considers there are no material planning considerations that indicate the application should be determined other than in accordance with the development plan. (IR 373)

Welsh Ministers' Decision

67. National Planning Policy in PPW is clear, BMVAL should be conserved as a finite resource for the future. Paragraph 3.59 of PPW states that BMVAL should only be developed if there is an overriding need for the development and previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value which outweighs the agricultural considerations.
68. "Overriding need" is not defined in national planning policy. I agree there is a need for renewable energy and accept the proposed development would make a significant contribution towards the Welsh Government's targets for renewable energy generation. However, national policy requires "overriding need" to be demonstrated when developments are located on BMVAL. In my letter to Chief Planning Officers ("the CPO letter"), dated 1 March 2022, I reiterated the importance I place on protecting BMVAL from development as it is a finite, national resource. In terms of this planning application, I am concerned about the loss of a nationally significant amount of BMVAL to facilitate the proposal. I note the applicant's "Agricultural Quality of Land at St Asaph" report identifies that 43.1ha of the application site is made up of BMVAL (IR 291) and I recognise not all this land would be under solar PV panels (IR 292).
69. The affected BMVAL land would be unavailable for food production for the 37 year duration of the project, a considerable period of time for the loss of full productive capacity of BMVAL, which could impact on the objective of ensuring future food security. I note the land could be used for grazing during this period, however, I do not consider this compensates in any way for the loss of BMVAL. As the CPO letter highlights, the Welsh Ministers are concerned about the permanent and temporary loss of BMVAL land. Irrespective of whether the land could be restored to BMV quality or whether the loss of BMVAL would be permanent, it is not disputed that the proposed development would involve development on BMVAL land. In such circumstances PPW is clear, the BMVAL should only be developed if there is an overriding need for the development.
70. I acknowledge and accept the benefits of the scheme, as described by the Inspector in IR 332-334. These benefits include the generation of a substantial amount of renewable energy. However, I am not satisfied the benefits of the scheme and the acknowledged need for increased renewable energy override the need to protect the significant amount of BMVAL on the application site from development, which would have a 37 year lifespan.

71. As I have reached the conclusion there is no “overriding need” for the proposed development on the BMVAL within the application site I have not gone on to consider the site selection approach and whether it accords with the requirements in paragraph 3.59 of PPW nor have I considered whether the affected land could be restored to BMVAL following decommissioning. However, given the fragility of this finite resource I am not convinced the measures proposed during construction, operation and decommissioning would be sufficient to protect soils and there is a significant risk of permanent loss of BMVAL.
72. I am satisfied the Inspector has identified all the main considerations relating to the application and am content with the Inspector’s assessment and reasoning on all matters, other than those relating to BMVAL. Regarding BMVAL I consider the scheme fundamentally conflicts with national planning policy for the reasons I explain above.
73. In making my determination on this application I note the statutory requirement in section 38(6) of the Planning and Compulsory Purchase Act 2004 for decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have taken into account the relevant policies of FW and the LDP, which form the development plan for the purposes of this application.
74. I accept the proposed development aligns with and supports the requirements of FW and PPW, regarding the need to achieve decarbonisation of energy, build resilience to the impacts of climate change and support the delivery of renewable energy. I also acknowledge and accept the benefits of the scheme and I am satisfied the IR addresses all other relevant matters. However, I conclude the amount of renewable energy that would be generated, and the other identified benefits of the proposal do not override the need to protect the significant amount of BMVAL on the application site from development. Therefore, the proposal is contrary to national planning policy on BMVAL as expressed in paragraphs 3.58 and 3.59 of PPW.
75. For the above reasons I hereby refuse planning permission for DNS/3247619.

Well-being of Future Generations (Wales) Act 2015 (“WFG Act”)

76. The Welsh Ministers must, in accordance with the WFG Act, carry out sustainable development. In reaching my decision on the application, I have taken into account the ways of working set out at section 5(2) of the WFG Act and ‘SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the WFG Act’. My assessment against each of the ways of working is set out below.

Looking to the long-term

77. The decision takes account of the long-term benefits of protecting BMVAL, supporting the Welsh Government’s objective to continue to value and protect our agricultural land and ensure it can feed and support us. Refusing planning permission for the proposed development ensures the BMVAL is protected and maintained for the long term.

Taking an integrated approach

78. I have considered the impacts from this decision on the Welsh Government’s well-being objectives, which incorporate the well-being goals set out in section 4 of the WFG Act. Where an objective is not set out, the effect of this decision is neutral.

Impact on well-being objectives

- Build an economy based on the principles of fair work, sustainability and the industries and services of the future – positive effect
- Build a stronger, greener economy as we make maximum progress towards decarbonisation – negative effect
- Embed our response to the climate and nature emergency in everything we do – positive effect.

Involving people/Collaborating with others

79. Within the framework of a statutory decision-making process, which is governed by prescribed procedures, the application was subject to publicity and consultation, providing the opportunity for public and stakeholder engagement. Representations received through these procedures have been considered and taken into account in making a determination on this application.

Prevention

80. The decision will prevent the loss of a significant amount of BMVAL, a national natural resource as identified in FW.
81. Although the decision would result in the refusal of a renewable energy scheme, the decision to refuse the application and protect BMVAL prevents its loss for future generations. The decision, by protecting a significant area of BMVAL, helps meet the Welsh Government's well-being objectives focussed on and addressing the climate and nature emergency.
82. I consider my decision accords with the sustainable development principle set out in the WFG Act. Although the decision would have a negative effect on the Welsh Government's well-being objective relating to the green economy and decarbonisation, if the application was approved, a significant area of BMVAL would be lost, with a potential negative impact on food security. Therefore, I consider the decision is a reasonable step towards meeting the Welsh Government's well-being objectives.
83. I have taken the ES and all other environmental information provided into account in the consideration of this application, as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017.
84. A copy of this letter has been sent to Denbighshire County Council and to those persons and organisations appearing at the Hearings.

Yours sincerely



Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change