

Andrew Swarbrick

Comments on the Applicant's Post Hearing submissions March 2025

Sir,

I note that the Applicant's representative somewhat gratuitously mentioned that I am a member of Kent Ramblers. Lest there be any implied suggestion that this somehow lessens my concerns or diminishes my representations I would like to clarify this.

I am, indeed a member of Ramblers – the national charity which promotes walking and countryside access because I am a keen walker and PROW user. I am an active member of the largest of 13 Ramblers Groups in Kent, namely White Cliffs Ramblers, for whom I am a volunteer walk leader. I am only indirectly connected to Kent Ramblers, and as I do not hold any post at Kent Ramblers, I do not represent Kent Ramblers though, of course, I support the aims of Ramblers nationally and locally as do Kent Ramblers.

My concerns regarding the issue of Public Rights of Way in the area covered by the Stonestreet Green Solar Project arise from my having lived in Aldington for over 40 years and been a regular user of the PROWs in the area for most of this time.

My concerns in regard to the Project in fact pre-date the involvement of Kent Ramblers and I have always made it clear that I have been acting as a concerned local resident. Indeed, I attended the first Local Information Event (Non-statutory Consultation) in Aldington on 9th April 2022, having received a copy of the March 2022 Community Information Leaflet and on that occasion spoke in person to Mr McNally about my concerns. When I asked him if he knew how many PROWs there are in the area shaded on the Indicative Location Plan in the leaflet – and displayed at the Event, he said he did not. I handed him a list of the 16 PROWs. I subsequently also asked to be included in the Community Liaison Panel – still acting on my own behalf and not as a representative of Ramblers or any other group.

I was not able to attend the inaugural CLP meeting as I had a prior commitment to attend my son's degree ceremony on that date, I attended all the subsequent meetings, including that held on 11th August 2022, the recorded Notes of which include the following:

"NS suggested it would be an idea to have a small working group to review the PROWs. AS confirmed there are 16 PROWs on the site and that each one needs to be looked at in detail. CMcN confirmed that once Evolution Power has had the conversation with KCC, he would be happy to sit down with NS and AS."

No such meeting ever took place. Mr Spencer and I were invited to a preview of the plans at Bank Farm, Aldington, very shortly before the public local information events took place between 4th and 9th November 2022. In fact, Mr Spencer was unable to attend this preview and Mr McNally was not present, but the plans I was shown regarding the PROWs were at that stage incomplete and there was no opportunity to discuss PROWs individually. At the public events, however, the plan to divert all the PROWs were displayed as a fait accompli. As has been stated by the Applicant, there has been an iterative process during which some changes were made, but the plan to re-route all the paths around the outside of the Project's Field boundaries and thereby to substantially change – without any meaningful consultation with local residents and PROW users - the directness of several historical routes remains unaltered from the first publication of plans in 2022. No meaningful

discussion of alternatives ever took place at any of the CLP meetings – it is spurious to suggest therefore that there was any “consultation” in this respect

It may be that the reason for the diversions was always to “maximise the efficiency” of the Project – though I do not recall this ever having been clearly explained until the February Hearing – despite careful reading of the published documents, repeatedly asking for such explanation throughout the consultation periods and at the Community Liaison Panel meetings and, indeed, it was clearly stated at the Issue Specific Hearing that no consideration had been given to calculating the effect of accommodating direct paths as other developers have done.

Instead, over this period, the applicant appeared to seek to minimise, obscure or to suggest that the proposed changes were somehow an improvement to the ProW network.

Mr Flanagan points out that the current Application is being made under the terms of the Planning Act 2008 and not the Highways Act 1980. I am fully aware of this and, in fact acknowledged it to be the case in an earlier submission. I am aware that the Planning Act 2008 provides the power to extinguish a Public Right of Way if the decision-maker is satisfied that— (a) an alternative right of way has been or will be provided, or (b) the provision of an alternative right of way is not required.

Unlike Mr Flanagan, I am not a lawyer, but on reading the provisions of these Acts, I cannot find a reference to the Highways Act Section 119 having been modified or repealed by the Planning Act, however, as I previously stated, my purpose in mentioning the earlier Act is intended as a measure of reasonableness – not a claim that it is a legal clause. As such, I believe that although the PA 2008 requires the decision maker to be satisfied that an alternative has been provided or is not required, it would be unreasonable – and surely can’t have been the intention - for such an alternative to be substantially less convenient and to be harmful to the users’ enjoyment of the path overall.

Mr Humphrey disagreed with the KCC assessment of the overall impact of the proposed Project as being unfounded and claimed that the average length of the proposed diversion is only 18% and so judges them to be of only minor adverse effect. I have already pointed out that it is meaningless to refer to an average length when some diversion routes will be considerably longer than this. I note, however, that Mr Humphrey thereby appears, however, to accept that some measure of reasonableness of the diversions is appropriate and that one test of this is the additional length of an alternative path. Other arguments put forward by the Applicant’s representatives suggest that the experience of users should be taken into account – witness their claims of “enhancements.”

Given that the applicant’s representatives seek to claim that the impact of the proposals is only minor adverse or even insignificant - while relying on assessments they themselves have made regarding the convenience and enjoyment of the ProWs. I do not think it unreasonable to question their judgements by referring to the 1980 Act as regards considerations to be taken into account before making changes to ProWs.

Whilst again being aware that Planning Inspectorate decisions made in previous Inquiries do not constitute a legal precedent, I suggest that they may also provide some relevant parallels.

In the Order Decisions made on 20 April 2017 regarding applications to divert four Public Rights of Way at Harrow School, the Inspector considered the effect the proposed

diversions and the overall package of proposals would have on the public enjoyment of the paths to be adverse and significant. She agreed that the proposed diversion of historic direct routes would have a significant adverse effect and that the diverted routes would seem purposeless when compared with the existing direct line of the definitive historic routes leading in a straight line towards an obvious historic destination with a clear view of that destination adds considerably to the enjoyment of the route and that the straightness is part of the heritage. The orders to make the diversions were therefore not confirmed.

I note that objections considered to the proposed diversions were made by a number of local residents as well as a representative of the Open Spaces Society, who also represented a Ramblers Group.

The parallels I draw attention to are Evolution Power's proposal which would entail the wholesale diversion or extinguishment of no fewer than sixteen Public Rights of Way which are also demonstrably historic and the detriment this would cause to the directness of a number the paths and consequently to the purposefulness and enjoyment of this part of our heritage.

I consider that the Applicant has never shown any understanding or sympathetic consideration of these impacts on the many ProWs but has, from the outset, sought to impose their proposed changes on users and local residents.

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