

Submission ID: 35873

Our submission relates to

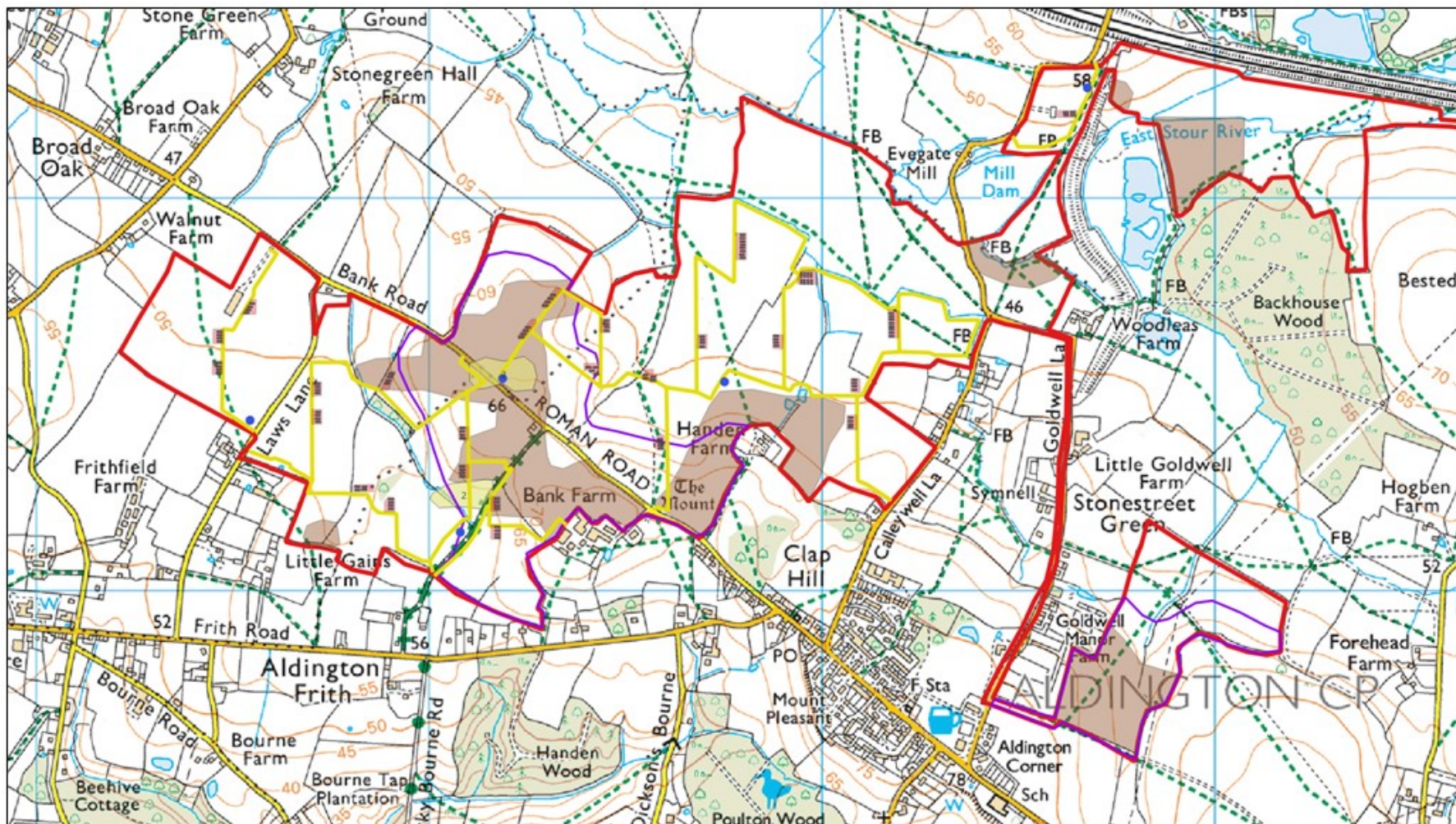
1. Response to ExA's second written questions
2. Comments on the applicants submissions received by deadline 4
3. Comments on draft DCO

# Aldington and Mersham Support Group Submission for Deadline 5 (15<sup>th</sup> April 2025)

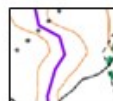
## Best and Most Versatile Land

With reference to the Examiner's Questions 3.01 to 3.04 (**PD-008**) regarding BMV land we would like to provide the following observations:

- Using the data from the Applicants soil analysis report (**APP-122**) 20.3% of the DCO limits is made up of BMV land.
- 68% of the BMV land within the DCO limits is located on the Aldington Ridge as defined by the 58m elevation contour (see plan below).
- If the land above 58m were excluded from the scheme, the percentage of BMV land utilised would reduce to 8%, with the overall area of the project reduced from 187 to 149 hectares.
- With regards to the location of structures on BMV land, there are five battery enclosures and one water tower located on BMV land (see plan below).
- In addition, 1.2 km of grass-crete roadways will be built across BMV land to access the battery enclosures, which given their construction should be considered structures.
- As outlined in our submission for Deadline 1 (**REP1-109**), the Applicant has missed the opportunity to design a scheme that by excluding land above 58m would not only preserve BMV land, but also significantly reduce visual impact, preserve important heritage assets along Roman Road and critical Skylark habitats.



**BMV Land from (APP-122)**  
Grade 2 Yellow  
Grade 3a Brown



**58m Contour**  
defining  
Aldington Ridge



**BESS Infrastructure**  
Battery Enclosure  
Water Tower  
Grass-crete roadway

**Plan showing BMV Land, 58m Contour and BESS Infrastructure**

## Biodiversity

- We remain bemused by the written response from the Applicant about the mitigation it is offering in respect of Skylark.
- Nowhere does it respond to our request for example solar schemes where the 16 m<sup>2</sup> plots have been monitored and found to be successful in maintaining numbers. Instead, it hides behind the RSPB's words - *"This minimum size is based on available advice from the Royal Society for the Protection of Birds ('RSPB'), Rural Payments and Natural England in relation to skylark plots **on arable cropland**"* which do not relate to any solar scheme.
- Even the Applicant seems to recognise that these plots are inadequate when it states that *"Other measures include the provision of open grassland areas (without PV arrays) to provide extensive suitable habitat for skylark nesting and foraging"*. Almost certainly it is alluding to fields 26–29 removed on account of flooding. Reference to its own illustrative plans shows this as a low-lying wetland habitat, enclosed by woodland and boundary trees. Its advisers should know that on account of predation risk alone this is not suitable habitat for Skylark.
- The Applicant's closing remark on Skylark is - *"The detailed LEMP(s) will provide further details on the monitoring required to critically assess whether the approach proves successful and to inform changes in site management regime, if needed"*.
- What are the chances, if monitoring shows that the 16 m<sup>2</sup> plots are woefully inadequate, that the then owner of the site will remove panels to make further space for Skylark nesting and foraging?
- What can the Statement of Common Ground with KCC offer if despite a recommendation for an increased area for Skylark the Applicant refuses?
- Why was the Applicant not open about the significant effects the proposal will have on this Red List species rather than trying to maintain that mitigation was going to work?

## DCO

- We are concerned that the points we and ABPC (through their Counsel originally) have raised in relation to the definition of the word "maintain" within the Draft DCO (version 6) at **REP 4- 004** have still not been picked up by the Exa, nor yet addressed by the Applicant.
- Contained within the Mallard Pass Report we find the same concerns about the definition of this word discussed at length. Notably the Exa says - *"We consider that the Applicant's position on the need for panel replacement has not been entirely clear during the Examination. Nevertheless, we are satisfied that with the relevant controls in place which are secured by the draft DCO, the likely maintenance activities including replacement panels would not result in any significant adverse effects..... Although the wording 'not to replace the whole of Work No.1 at the same time' begs questions of the implications of replacing, for example, 90% of the panels at any one time, the controls that have been added do provide what we consider to be appropriate*



*certainty that the effects cannot not exceed those reported in the ES, concluding that there would be no significant effects during operation. We do not therefore recommend any further changes to the definition of 'maintain'. ..... We note that any future proposal to carry out wholesale or even substantial replacement of panels at any one time, which exceed the controls put in place and secured by the draft DCO, would require future consideration and further approval".*

- We say the fact that the Exa in Mallard Pass came to this conclusion about the definition of the word "maintain" was because he felt it addressed so far as reasonably possible what would constitute "wholesale or even substantial replacement of panels at any one time".
- It follows surely that the definition of the word "maintain" - as it appears in the Mallard Pass Order 2024 - should be adopted in full for this DCO, if granted. That wording is as follows (emphasis ours):

*"Maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (**but not to remove or reconstruct or replace the whole of Work No 1 at the same time**) to the extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement for the operation of the authorised development and "maintenance" and "maintaining" are to be construed accordingly".*

## Financial Statement

- At **REP4 – 032** we note that Mr Flanagan elected to make no comment at all in response to the last item at para 1.1.4 - "*Financial standing of the Applicant*" despite at least one of the Applicant's directors being present on the Appellant's Panel at OFH2.
- The IP (Mr O'Driscoll), amongst a range of concerns made the case that the Applicant should be required to secure a financial Bond. This to ensure compliance with the DEMP in the event of some incapacity or refusal of the then lessee and/or landowner(s).
- The response by Mr Flanagan at **REP 4- 030** suggesting that it is enough for such inaction to be regarded as a "criminal offence" is of little assistance if the then owner is declared bankrupt, is registered outside the UK's jurisdiction or for any other reason claims to be unable or is unwilling to carry out the necessary works.
- As Mr O'Driscoll stated, the requirement for a Bond is a standard requirement where a temporary consent is granted for mineral extraction to ensure the land is restored (as is required here) to agricultural use.
- We say that it is not enough for Mr Flanagan to hide behind the provisions of NPS EN-3 when he quotes paragraphs 2.10.65 - 2.10.69. Clearly the NPS of late in 2023 did not envisage the prospect of a field scale solar development that involved much more than just solar panels.
- This scheme uniquely includes well over 100 batteries, inverters, water tanks and more than 7 kilometres of grass-crete roadways the decommissioning of which (and the

reinstatement of all the land to agricultural use) will be a very substantial technical and costly operation.

- We see no reason why a condition requiring the securing of a Bond should not be included. This mechanism allows county planning authorities to guarantee compliance with restoration requirements. We say that just because the issue has been avoided in previous cases this does not mean that it is necessarily the right decision. We hope the Exa, who has after all raised the issue himself, will agree with us and insist on this provision and a better reason for the Applicant's refusal.

## BESS

- At the ISH4 on BESS, the barrister for the Applicant stated that *"Kent Fire and Rescue confirmed in writing that they had no objection to the scheme, provided it conformed with the National Fire Chiefs Council's guidelines"*. This written confirmation and other correspondence with KFRS do not appear in the Examination Library. Given the significant Public Health Risk associated with BESS, the absence of KFRS and the Applicant's expert at the ISH4 and the need for complete transparency, we believe that this situation should be rectified as soon as possible.
- Further to our submission for deadline 4, the failure of the KFRS representative and the Applicant's expert to attend ISH4 remains of significant concern to the community and we do not believe that all of the issues around battery safety have been adequately examined. We remain particularly concerned about the volumes of water available to cool a battery fire, the impact of toxic plumes on neighbouring residential properties and the volume of containment for contaminated fire water (**REP4-057 and REP4-037**).
- The NFCC guidance for fire and rescue services relating to Grid Scale Battery Energy Storage System Planning states that *"hydrant supplies for boundary cooling purposes ..... should be capable of delivering **no less** than 1,900 litres per minute for **at least 2** hours (emphasis ours). Fire and rescue services may wish to increase this requirement dependant on location and their ability to bring supplementary supplies to the site in a timely fashion"*. With reference to the Exa's Q8.04 (**PD-008**) regarding water capacity, it is evident that as demonstrated by the recent fire at Handen Farm, that there are limited supplies of water available from local hydrants and there is significant difficulty in transporting large volumes of water to the site. As a consequence, surely much larger volumes of water need to be stored on site. Given the NFCC guidance regarding supplementary supplies, we suggest that Q8.04 also be addressed to the Applicant.
- In the context of other BESS schemes, KFRS advise that *"Past BESS incidents, both within the UK and abroad, must be considered and all efforts made to ensure safe practices both during daily use and emergency response, for workers, emergency service personnel and the public alike"*. The BESS fire on Merseyside in 2020 used an estimated 6 million litres of water, compared to the 228,000 litres the Applicant plans to make available at Stonestreet Green (for each of the 26 battery enclosures). The Applicant has not demonstrated how it has used this information and that from other BESS incidents to inform its decision on the volumes of water it proposes to provide to

cool and manage a BESS fire. We therefore believe that the Applicant should be asked this question.

## PROW

- We anticipate that Mr Andrew Swarbrick and both KCC and ABC will be responding on matters relating to PROW.
- We have made representations previously on PROW and will only add here that the assertion by the Applicant that there is "*limited connectivity between the two villages*" only serves to illustrate the lack of understanding it still has about the PROW network.
- The plan below illustrates the network of long-established definitive footpaths that connect the two parishes. It was the *even greater* connectivity that would be afforded by the provision of another cycle/riding route that both communities were seeking in respect of which the Applicant has talked much and done little.

