Submission ID: 13371

Please find attached the documents requested in ExA Second Written Questions item Q2.0.3

Department for Communities and Local Government

Our Ref: APP/V4630/W/16/3148504

Mr Guy Maxfield
Indigo Planning Ltd
Lowry House
17 Marble Street
Manchester M2 3AW

1 February 2017

Dear Mr Maxfield,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY BLUE PLANET SOLAR
LAND LYING TO THE WEST OF COLLEGE FARM, BOSTY LANE, ALDRIDGE, WALSALL
APPLICATION REF: 15/0628/FL

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector Brendan Lyons BArch MA MRTPI IHBC, who received written representations and made a site visit on 3 August 2016 in relation to your client's appeal against the decision of Walsall Metropolitan Borough Council to refuse planning permission for the construction of a solar farm comprising ground-mounted solar panels for electricity production (3.6 megawatts) on land to continue to be used for agriculture, together with ancillary equipment, deer fencing, permeable stone access tracks and landscape and biodiversity enhancements, in accordance with application reference 15/0628/L dated 24 April 2015.

2. On 9 August 2016 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Secretary of State has noted the Inspector's remarks and actions at IR2-3.

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Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the Black Country Core Strategy (BCCS) adopted in February 2011 and the saved policies of the Walsall Unitary Development Plan (UDP) adopted in March 2005. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR16-23.

6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) and associated planning guidance (the Guidance), as well as the Written Ministerial Statement of March 2015, which, among other matters, concerns solar energy and the protection of the local and global environments.

Main issues

7. The Secretary of State agrees with the Inspector that the main issues are those set out at IR91.

Inappropriate development in the Green Belt

8. The Secretary of State agrees with the Inspector at IR93 that, as accepted by the main parties, the appeal proposal is inappropriate development in the Green Belt. He has had regard to paragraph 87 of the Framework which states that inappropriate development is, by definition, harmful to the Green Belt and that it should not be approved except in very special circumstances. For the reasons given by the Inspector at IR93, the Secretary of State agrees that the proposal would not fall within any of the limited categories of development defined by paragraphs 89 and 90 of the Framework as not inappropriate in the Green Belt, therefore it must be classed as inappropriate development. This is consistent with the advice contained in paragraph 91 of the Framework which states that elements of many renewable energy projects in the Green Belt will comprise inappropriate development. In accordance with the guidance of the Framework paragraph 88, and as set out at IR94, the Secretary of State considers that substantial weight should be given to the harm by reason of inappropriateness. He agrees with the Inspector's analysis at IR95 and considers that BCCS Policy CSP2 and UDP Policy ENV2 can be afforded virtually full weight in the assessment of this aspect of the appeal.

Openness and purposes of the Green Belt

9. The Secretary of State has had regard to the Inspector's analysis at IR97-105. He agrees with the Inspector at IR99 that the footprint of the development would be extensive and that the change from undeveloped agricultural land would have a significant adverse effect. He also agrees with the Inspector at IR100 that the narrow width of the Green Belt in this location is highly characteristic and that the effect of loss of openness in this context would be potentially much more harmful than on a site of similar size in a location where the Green Belt was considerably wider. The Secretary of State agrees with the Inspector at IR101-102 that the proposal would be in conflict

with the purpose of safeguarding the countryside from encroachment, as the area of countryside occupied by the panels would be extensive. He further agrees with the Inspector at IR103 that the proposal would represent a form of urban sprawl.

10. The Secretary of State agrees with the Inspector at IR104 that, although the proposed installation can technically be described as temporary, the period of 25 years would be a significant length of time; a long period during which the harm to the Green Belt would persist. He agrees that the prospect of an eventual restoration of the site after this time does not provide adequate justification to discount the harm caused.

11. In conclusion, for the reasons given at IR97-105, the Secretary of State agrees with the Inspector that there would be significant harm to the openness and the purposes of the Green Belt, which would be only very moderately mitigated by the proposal's limited visual impact.

Landscape character and visual appearance

12. The Secretary of State agrees with the Inspector's analysis at IR106-108 that the introduction of the expanse of panels would affect landscape character. He agrees that visual impacts would be limited by topography and the site's high degree of containment by existing landscape features. Like the Inspector, the Secretary of State concludes that the generally minor level of harm should be added to the overall balance, with a limited degree of weight.

Benefits of the proposed development

13. The Secretary of State agrees with the Inspector at IR109 that, although the predicted output of 3.6 megawatts is not large by solar farm standards, the potential to supply over 1100 homes and reduce CO_2 emissions by 1800 tonnes annually would still be significant. He agrees with the Inspector that this is a matter of significant weight in support of the proposal.

14. The Secretary of State agrees with the Inspector at IR110 that College Farm would potentially benefit from the provision of a steady income stream over a 25 year period together with some potential return from the continued grazing of the land. He also agrees that there would be further economic benefits by providing jobs during construction, maintenance and decommissioning stages. The Secretary of State agrees with the Inspector that these benefits attract moderate weight.

15. The Secretary of State agrees with the Inspector at IR111 that, in the absence of any detail or commitment, very little weight should be given to the suggested community benefit of school visits.

16. The Secretary of State agrees with the Inspector at IR112 that the strengthening of hedgerows, principally required for screening, would also have positive ecological effects and that moderate weight can be given to these benefits.

Other matters

17. The Secretary of State has considered the Inspector's analysis of other matters set out at IR114-123.

18. The Secretary of State has considered the extent to which the proposal would fulfil the BSSC strategy (IR114-115). He agrees with the Inspector that, although the strategy promotes the expansion of environmental infrastructure, there is no policy imperative for a contribution to meeting local needs or national targets that would necessarily override other well-founded national objectives, such as the protection of the Green Belt.

19. The Secretary of State has considered whether or not there are any alternative suitable sites in Walsall outside the Green Belt (IR116-120). He notes that the Council offers no evidence that there are no suitable previously developed sites in Walsall outside of the Green Belt that are not allocated for other uses by the development plan. For the reasons set out by the Inspector at IR119, the Secretary of State agrees with the Inspector that, as justification for development in the Green Belt, the search evidence is not conclusive. He agrees with the Inspector at IR120 that only moderate weight should be attached to the evidence of non-availability of more suitable sites.

20. The Secretary of State has considered the Inspector's analysis of the claimed 'fall-back' position (IR121-122). He notes that the Council's Housing Land Supply document opens the possibility of Green Belt land, including the appeal site, being released if the Council were unable to demonstrate a five year housing land supply. However, the document states that the housing land supply is well in excess of five years. The Secretary of State agrees with the Inspector that there is no more than a theoretical possibility of the appeal site being released from the Green Belt. He considers that weight should not be afforded to the claimed fall-back position in carrying out a balance of considerations.

Planning conditions

21. The Secretary of State has given consideration to the Inspector's analysis at IR 135-146 and the schedule of conditions he recommends at Appendix A of his report**.** He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing the appeal.

Planning balance and overall conclusion

22. Having had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, for the reasons given above, the Secretary of State considers that the appeal scheme would conflict with BCCS Policies CSP2, ENV2 and ENV7. He also considers that the proposal is not in accordance with UDP Policies ENV2 and ENV32. He therefore concludes that the proposal is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

23. The proposal is inappropriate development in the Green Belt and, in accordance with the Framework, this harm must be given substantial weight.

24. The Secretary of State considers that the harm to the openness and to the purposes of the Green Belt also attracts further substantial weight. He gives limited weight to the minor adverse effect on the landscape character and the visual appearance of the area.

25. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. The Secretary of State has carefully considered whether the potential harm to the Green Belt, by virtue of inappropriate development, and any other harm, is clearly outweighed by other considerations which might constitute very special circumstances.

26. The Secretary of State gives significant weight to the contribution that the scheme would make to the renewable energy generation and greenhouse gas reduction. He gives moderate weight to the economic and biodiversity benefits. He gives very little weight to the suggested community benefit of school visits.

27. The Secretary of State considers that no additional weight can be added by any contribution to fulfilling the BCCS strategy and that only moderate weight can be given to the evidence of the lack of alternative sites. He considers that the claimed 'fall-back' position should not attract any additional weight.

28. The Secretary of State concludes that the considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt. He considers that the very special circumstances necessary to justify the proposal do not exist in this case.

Formal decision

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a solar farm comprising ground-mounted solar panels for electricity production (3.6 megawatts) on land to continue to be used for agriculture, together with ancillary equipment, deer fencing, permeable stone access tracks and landscape and biodiversity enhancements, in accordance with application reference 15/0628/L dated 24 April 2015.

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

31. A copy of this letter has been sent to Walsall Metropolitan Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Merita Lumley

Merita Lumley
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Brendan Lyons BArch MA MRTPI IHBC

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

Date: 2 November 2016

TOWN AND COUNTRY PLANNING ACT 1990

WALSALL METROPOLITAN BOROUGH COUNCIL

LAND LYING TO THE WEST OF COLLEGE FARM, BOSTY LANE, ALDRIDGE, WALSALL

APPEAL BY BLUE PLANET SOLAR

Site visit made on 3 August 2016

Land lying to the west of College Farm, Bosty Lane, Aldridge, Walsall

File Ref: APP/V4630/W/16/3148504

File Ref: APP/V4630/W/16/3148504
Land lying to the west of College Farm, Bosty Lane, Aldridge, Walsall

- 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 Blue Planet Solar against the decision of Walsall Metropolitan Borough Council.
- The application Ref 15/0628/FL, dated 24 April 2015, was refused by notice dated 6 November 2015.
- The development proposed is described as the construction of a solar farm comprising ground-mounted solar panels for electricity production (3.6 megawatts) on land to continue to be used for agriculture, together with ancillary equipment, deer fencing, permeable stone access tracks and landscape and biodiversity enhancements.

Summary of Recommendation: That the appeal should be dismissed.

Procedural Matters

1. The appeal was recovered for the Secretary of State's own decision by letter dated 9 August 2016. The reason for the Secretary of State's direction is that the appeal involves proposals for significant development in the Green Belt.

2. The application was amended after submission and amended again prior to its refusal by Walsall Metropolitan Borough Council ('the Council') to reduce the extent of the proposed installation and consequently the predicted power output. The description of development set out in the heading above reflects the revised description used on the Council's decision notice and on the appeal form.

3. The amended application was illustrated by some revised plans[1] and supported by additional information[2], but other plans[3] and supporting documents[4] remained as originally submitted. This report's assessment of the appeal is based on the amended submission as finally presented to the Council.

4. The appeal proposal has been screened on behalf of the Secretary of State in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and 2011 and found not to comprise EIA development.[5]

5. I carried out a visit to the site on 3 August 2016, accompanied by the landowner and by representatives of the appellant and of the Council. I then continued unaccompanied to view the immediate surroundings of the site and the wider area.

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[1] Location Plan No.1447.04 Rev A; Site Plan No.15007001-06 dated 01.09.2015; Landscape and Biodiversity Management Plan No.1447.03 Rev. C
[2] Letter from Indigo Planning to the Council, dated 19 October 2015
[3] Typical Transformer Stations No. 15007001-07; Substation WPD – Switchroom Design No.15007001-08
[4] Including: Landscape and Visual Impact Appraisal (other than Appendix I –Landscape & Biodiversity Management Plan, which was updated as noted above); Ecology Report; Flood Risk Assessment; Heritage Statement; Planning Statement
[5] Screening Decision dated 27 May 2016

The Site and Surroundings

6. College Farm is situated in an area of open land between the urban areas of Walsall, Aldridge and Rushall. The land forms part of the West Midlands Green Belt. The appeal site is made up of four fields to the north-west of the group of farm buildings, which comprise the farmhouse and a range of ancillary buildings, some of which have been converted to equestrian and business use. The site boundary has been drawn also to include the farm access road, which has separate branches for inward and outward vehicle movement.

7. The four fields, which are enclosed by hedgerows, have a combined area of 11.42 hectares and are currently used for grazing cattle and horses. Since the amendment of the application, no development is now proposed in the westernmost field, designated Field 4, which extends to the edge of the Daw End Branch Canal. The other fields are bordered to the north by the Daw End Railway Cutting, beyond which lies a local football club ground and an area of suburban housing; to the east by Bosty Lane, the classified road from which the farm gains access, and which forms the edge of an area of suburban housing and industrial estates; and to the south by other open fields next to the farm buildings. A public footpath (Ald 22) runs next to these fields, before turning to cross the Canal at Riddians Bridge, which is listed Grade II, and continuing south as footpath Wal 59.

8. The appeal site is not subject to any formal designation for nature conservation interest, but the deep-sided wooded Railway Cutting is designated as a Site of Special Scientific Interest ('SSSI'), the Branch Canal as a Site of Local Importance for Nature Conservation ('SLINC') and the Jack Holes former lime pits zone, which is largely surrounded by Fields 1, 3 and 4, as a Site of Importance for Nature Conservation ('SINC').

The Proposal

9. Permission is sought to cover much of Fields 1, 2 and 3 with photovoltaic ('PV') panels on metal frames. The rows of panels, aligned east-west in Fields 1 and 2 and parallel to the northern boundary of Field 3, would be tilted at an angle of 25 degrees and spaced 2.5m apart, with their top edge some 1.99m above ground level. The field boundaries would be lined by high-tensile deer fencing, some 2m high with a gap below to allow passage of small wildlife. A transformer station, measuring 5.1m by 2.9m by 3.1m high, would be located in the centre of each field, served by a gravel track off the existing farm access way. A DNO substation, built in rendered blockwork and measuring 5.4m by 4.9m and 4.65m high to the ridge, would be located close to Bosty Lane, next to the exit branch of the farm access road. A temporary compound would be formed in Field 3 during the construction period.

10. It is proposed that existing hedgerows would be retained and supplemented, to be managed at an increased height of 3m. A new hedgerow would be added inside the existing along the short Bosty Lane boundary of Field 2. Disturbed grassland would be replanted with a diverse seed mix and the area around the edges of the fields and among the panels maintained by light sheep grazing or infrequent mowing. Other biodiversity enhancements are proposed, including enhancements within the Jack Holes SINC, to be secured by approval and implementation of a Landscape and Biodiversity Management Plan.

11. The development is intended to be in place for a period of 25 years, after which it would be removed and the land restored.

Planning History

12. An application to erect a 500kW wind turbine with a height to the blade tip of 67m was refused by the Council in 2011 and subsequently dismissed at appeal.[6]

13. Between 2002 and 2004, planning permission was granted by the Council for change of use of some farm buildings to use for equestrian livery and the manufacture of saddles, and also for the formation of a manege.[7]

Planning Policy

Development plan

14. For the purposes of this appeal, the development plan comprises the Black Country Core Strategy ('BCCS') adopted in February 2011 and the saved policies of the Walsall Unitary Development Plan ('UDP') adopted in March 2005.

15. The Sustainability Principles of the BCCS seek to achieve sustainable development, which is to include the sustainable management of material resources, such as the use of renewable and low carbon technologies.

16. The BCCS seeks to focus development and regeneration activity on a Growth Network of Strategic Centres and Regeneration Corridors. BCCS Policy CSP2 covers development outside the Growth Network, and among other objectives seeks a strong Green Belt to promote urban renaissance within the urban areas and provide easy access to the countryside for urban residents, where the landscape, nature conservation and agricultural land will be protected and enhanced where practical and possible. The policy states that Green Belt boundaries will be maintained and protected from inappropriate development.

17. BCCS Policy CSP3 states that development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity. This network is to include renewable energy generation, among a long list of other positive environmental attributes.

18. BCCS Policy ENV2 requires development to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to maintain its cultural identity and strong sense of place.

19. BCCS Policy ENV7 states that proposals involving the development of renewable energy sources will be permitted where the proposal accords with local, regional and national guidance and would not significantly harm the natural, historic or built environment or have a significant adverse effect on the amenity of those living or working nearby, in terms of visual, noise, odour, air pollution or other effects. The supporting text[8] identifies PV panels as one of the sources of renewable energy that can be applied in the Black Country, in the context of seeking an increased proportion of energy consumption from renewable sources.

[6] Appeal Ref APP/V4630/A/12/2175517
[7] Appellant's Rebuttal Statement, para 2.8
[8] Paras 6.35, 6.36

20. Other policies of the BCCS seek to safeguard nature conservation interest (Policy ENV1), minimise the risk of flooding (Policy ENV5), secure high quality design (ENV3) and seek safe highway access (Policy TRAN2).

21. The boundaries of the Green Belt are defined by UDP Policy ENV1. Development within the Green Belt is addressed by UDP Policy ENV2, which sets a presumption against the construction of new buildings except for certain specified purposes, and states that any engineering or other operation or the making of a material change of use of land is inappropriate if it conflicts with the openness and purposes of the Green Belt. UDP Policy ENV3 states that the detailed evaluation of proposals acceptable in principle in the Green Belt will be assessed in terms of factors including site layout, design, landscape, impact on views and cumulative physical effects.

22. UDP Policy ENV7 advocates a Countryside Character approach to the landscape assessment, conservation and enhancement, which is to be extended to the local level by the preparation of detailed guidance. UDP Policy ENV32 seeks to promote good design, stating that proposals which fail to properly take account of the context or surroundings will not be permitted, with particular application to locations, among others, within the Green Belt, agricultural or open land.

23. Other relevant policies of the UDP include ENV6, which seeks to protect and encourage agriculture, including farm diversification; ENV17 and ENV18, which respectively seek planting of new trees and hedges and protection of those existing; ENV23 and ENV24, which protect nature conservation and wildlife corridors; T4, which defines measures to limit transport impacts.

National policy and guidance

24. The parts of the National Planning Policy Framework ('NPPF') of greatest relevance to the appeal appear to be those dealing with: the achievement of sustainable development and the presumption in its favour (paras. 6-16); the core planning principles (para. 17); the support for a prosperous rural economy (para. 28); the requirement for good design (paras. 56-68); the protection of Green Belt land (paras. 79-92); meeting the challenge of climate change (paras. 93-98); conserving the natural environment (paras. 109-119).

25. Of the guidance on the application of national policy offered by the Planning Practice Guidance ('PPG'), the chapters of most direct relevance appear to be those entitled: Climate Change; Renewable and Low Carbon Energy; Design; Natural Environment. The Renewable and Low Carbon Energy chapter's specific guidance on the planning considerations that relate to large-scale ground-mounted solar photovoltaic farms is particularly relevant to the appeal.[9]

The Case for the Appellant

26. The appellant's case[10] is that the appeal proposal complies with the policies set out in the Council's reason for refusal of the planning application, and complies in all other respects with local and national policy. There are very special circumstances that would outweigh any harm by reason of inappropriateness of

[9] PPG para. 5-013

[10] Taken principally from the appellant's Appeal Statement, April 2016, and application documents

development in the Green Belt and any other harm, and would justify the grant of planning permission. Since 2011, solar farms have become a common feature in the rural landscape and in the Green Belt, alongside other renewable energy development. There are now 88 solar farms in the Green Belt, which equates to 8.2% of the total number of 1073.

27. The Council's EIA Screening Opinion of March 2015 identified no likely significant adverse impacts. The application was drafted to take account of the previous wind turbine refusal and the concerns of Council officers, and in the light of the appellant's own public engagement with 295 local residents. The appellant was surprised to find that the application was to be recommended for refusal, without technical justification and with only 5 objections received from the Council's notification of 211 residents. Despite significant amendments to the application, including the omission of panels from Field 4, which reduced the power output from 4.4MW to 3.6MW, and the submission of further justification,[11] the application was ultimately refused.

Planning policy

28. The appeal proposal should benefit from the presumption in favour of sustainable development set by paragraph 14 of the NPPF, as it would produce economic, social and environmental benefits. The proposal's contribution to renewable energy generation would be consistent with the NPPF core principle in support of the transition to a low carbon future and the use of renewable resources.

29. The NPPF supports economic growth, and advocates a pro-active approach to land-use change where this would affect business viability and community benefits. The support for a strong rural economy reflects the government's productivity plan for rural areas[12].

30. The NPPF also supports the delivery of renewable and low carbon energy, which is seen as central to the three dimensions of sustainable development. In confirming that many renewable energy projects in the Green Belt will comprise inappropriate development, the NPPF advises that very special circumstances needed to justify approval may include the wider environmental benefits of renewable energy generation. Recent decisions[13] by the Secretary of State agree that considerable weight should be afforded to the delivery of renewable energy infrastructure. The NPPF confirms that even small scale projects provide a valuable contribution.

31. The PPG advises that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape. The submitted LVIA shows that the appeal proposal would not have a negative impact, but would be acceptable by virtue of its location adjacent to a settlement due to the boundary treatment and landscape mitigation proposed and the lack of public access.

32. The proposal would accord with the PPG on use of greenfield land for large-scale solar farms. The submitted Planning Statement shows that there are no potential

[11] Letter dated 19 October 2015 - Appeal Statement Appendix 9
[12] Towards a one nation economy: A 10-point plan for boosting productivity in rural areas, DEFRA August 2015 - Appeal Statement Appendix 10
[13] Appeal Ref APP/B5480/W/15/3007618 - Appeal Statement Appendix 11
Appeal Ref APP/F0114/W/15/3103260 - Appeal Statement Appendix 12

alternative sites of lower quality land than the appeal site, which the submitted Agricultural Land Classification Assessment[14] has confirmed as Grade 3b. The land would continue to be used for agriculture by allowing grazing around the panels. Because the BCCS places emphasis on the use of previously developed land for housing and employment, it is highly unlikely that brownfield land would be available for a solar farm. It is also unlikely that any buildings would be available locally suitable for a roof-mounted array of equivalent scale. Assessment of the UDP Proposals Map and the emerging Site Allocations Document ('SAD') map shows that there are no suitable or available sites outside the Green Belt not allocated for other uses.

33. The site selection process was outlined in the Planning Statement and in further submissions to the Council.[15] The site has been carefully selected to meet a range of criteria including: good sunlight intensity levels; topography, as the gentle south-west facing slope would allow panels to follow the site contours and be sited close together; suitable landscape context; close proximity to an existing grid connection via an 11kV line with the necessary capacity, which has been reserved by the appellant; good road access; minimal environmental constraints.

Development plan

34. The proposal accords with BCCS Policy CSP2 as it would be energy infrastructure that cannot be accommodated within a settlement, but would serve the wider area of Walsall and the West Midlands. Renewable energy generation forms part of the environmental infrastructure that BCCS Policy CSP3 seeks to protect and expand. The proposal accords with BCCS Policy ENV7 which supports renewable energy generation in all parts of the Black Country, without restriction on Green Belt locations. The proposal's limited transport generation would comply with BCCS Policy TRAN2, while its proposed landscape and biodiversity improvements would be supported by BCCS Policies ENV1, ENV2 and ENV3.

35. UDP Policy ENV2 states that certain forms of development in the Green Belt will be allowed, not including renewable energy, and that others will normally be refused. However, this must be seen in the light of the more recent BCCS policies. The NPPF allows for the possibility of such development, if very special circumstances can be shown. The number of permitted schemes since 2011 indicates widespread acceptance of solar farms in the Green Belt, in rural landscapes.

36. UDP Policy ENV3 is not directly applicable, as it deals with development acceptable in principle in the Green Belt, but its criteria can be used to assess impact, including: layout; siting, design, height and scale; quality of landscape scheme; impact on significant views. The appeal proposal successfully addresses each of these factors.

37. The submitted LVIA and Landscape and Biodiversity Management plan show that the proposal would comply with the design objectives of UDP Policy ENV32, as well as with the approach to landscape assessment of Policy ENV7 and the aims

[14] Appeal Statement Appendix 5
[15] E-mail dated 20 August 2015 - Appeal Statement Appendix 13; letter dated 19 October 2015 - Appeal Statement Appendix 9

of Policies ENV17, ENV18, ENV23 and ENV24 for trees, hedges and nature conservation.

38. Farm diversification is one of the key motives for the proposal, in accordance with the support for agriculture of UDP Policy ENV6. The lack of adverse transport impacts, during construction and operation, would accord with UDP Policy T4.

Green Belt

39. The reason for refusal is centred on harm to the Green Belt. Reference is made to a 'sensitive location', but this is not a recognised term in the assessment of Green Belt impact. The Council's Screening Opinion[16] confirmed that the site is not in a sensitive area in EIA terms. The appellant's submitted Ecology Report assessed the impact on ecological designations and was endorsed by the Council's specialist. The accompanying Landscape and Biodiversity Management Plan shows that there would be significant enhancement of habitats and of the Jack Holes SINC, in full compliance with BCCS Policy ENV1. The 'sensitive location' would be enhanced.

40. The location is referred to as a narrow section of Green Belt, but there are no nationally or locally set minimum distances between settlements. The Green Belt between Rushall and Aldridge spans circa 0.8km and between Walsall and Rushall circa 1.2km. From Bosty Lane, there is an appreciable sense of separation between the settlements of Rushall and Aldridge. There would be no actual or perceived coalescence as a result of the appeal proposal.

41. The proposal would not comprise urban sprawl as it would not expand the populated area and would be of an entirely different character to the surrounding residential development, not involving buildings or roads. It would not require amendment of the Green Belt boundary and would not compromise this purpose of the Green Belt.

42. The proposal would be environmental infrastructure, for which under BCCS Policy CSP3 there is a requirement to expand, in order to meet the spatial objectives and vision of the BCCS and to meet the challenge of climate change. There is a policy emphasis on areas outside the Growth Network, for which the proposed development is relevant in size, scale and design.

43. There would be only limited harm to the purpose of safeguarding the countryside from encroachment. The proposal would involve physical encroachment onto the site, but the site adjoins the urban area and has strong defensible boundaries, particularly the railway cutting to the north and the Jack Holes SINC to the west. The development would have very little visual impact owing to the thick screening from trees and hedges and the very short length of the boundary to Bosty Lane. There is no public access to the site, and the impact of views from public places has been accepted by the Secretary of State in a previous appeal[17] as an important consideration in assessing impact on this purpose of the Green Belt. The appeal proposal is to be temporary in nature, with the site returned to its former condition at the end of the lifetime of the permission.

[16] Appeal Statement Appendix 3
[17] Appeal Ref APP/F0114/W/15/3103260 - Appeal Statement Appendix 12

Openness

44. Openness of the Green Belt is related to the absence of buildings. All development harms openness, but the degree of harm is relevant in weighing very special circumstances. The assessment in the Council's committee report was primarily based on visual impact rather than the effect on openness.

45. The Council state that the proposed solar farm and fencing would have an industrial appearance, but the fencing is designed for use in rural areas, and the development would be contained within existing hedgerow boundaries, reinforced by new planting where necessary.

46. The submitted LVIA analyses visual impact from a set of agreed locations, and considers the effect on openness as well as on landscape character. Having regard to the Inspector's views in dismissing the previous wind turbine appeal, the LVIA concludes that the proposed solar farm would be well screened and that the contribution made by the site to perceived openness between Walsall and Aldridge is limited. The enhanced screening offered by taller hedges would minimise such impact. The Council's report acknowledged the proposal's lack of public visibility and limited adverse effect on landscape and appearance, which would not warrant refusal of the application.

Benefits of proposed development

47. According to DECC statistics, as at 2015 there were no large scale renewable energy projects in the Walsall administrative area. The appeal proposal would be the first strategic scale infrastructure in the Borough. The low level of energy consumed in the West Midlands from renewable sources (1%) should count in favour of the proposal. BCCS Policy CSP3 requires development proposals to enhance and expand 'environmental infrastructure' at every opportunity, while BCCS Policy ENV7 supports renewable energy, subject to compliance with guidance and lack of harm. Neither policy precludes renewable energy projects in the Green Belt. Solar is listed as a source of renewable energy that can be applied in the Black Country.

48. The output from the site of 3.6MW of AC electricity would make a significant contribution to supply and to the national target of 15% renewable energy consumption by 2020. The output would equate to a saving of 1800 tonnes of CO_2 emissions per year and, based on OFGEM figures, would provide sufficient electricity for the needs of 1160 typical homes each year. The proposal's contribution to meeting national and local targets for renewable generation and greenhouse gas reduction should be afforded significant weight in its favour, as in previous appeals.[18]

49. The proposal would have economic benefits through job creation in the initial assembly, subsequent maintenance and eventual decommissioning of the installation, and by providing a farm diversification scheme for the landowner. The returns would provide a stable source of income, resilient to market fluctuations. The return would be greater than could be achieved by cropping land of this quality and without the need for capital investment by the farmer. Social benefits could include educational visits to the site from nearby schools.

[18] Appeal Ref APP/F0114/W/15/3103260 - Appeal Statement Appendix 12

50. The submitted Landscape and Biodiversity Management Plan details a comprehensive scheme of landscape improvements and biodiversity enhancements, including tree and hedgerow planting, enhancements to Jack Holes SINC and the creation of owl foraging habitats within the development. The landscape is strengthened at a local level, such that the LVIA concludes a low/medium adverse effect on landscape character. Considerable weight should be given to the biodiversity benefits of the scheme as they would support the management objectives of a locally designated site.

51. The life of the solar farm is to be up to 25 years, after which the site would be restored to its present condition. The proposal does not threaten the permanence of the Green Belt. Continued agricultural use, albeit at a reduced level, would carry on by allowing sheep to graze around the panels.

Fall-back position

52. The Courts have ruled[19] that a fall-back position, in order to attract weight in a decision, does not have to have a high probability of occurring, but only more than a merely theoretical prospect. The Council state that they can demonstrate an adequate supply of housing land for the entire BCCS period, but when sites without planning permission are deducted this would not be the case. The Council have indicated that they would consider releasing employment land and Green Belt land if they were unable to demonstrate a five-year supply.[20] Land at College Farm is identified as potential Green Belt releases, for up to 1221 dwellings.

53. Land in the Black Country is also likely to be required to meet Birmingham's severe shortage of housing land within its own boundary[21]. This will affect Walsall, and land within neighbouring authorities is already being identified for this purpose, to help meet a shortfall of 37,900 homes.

54. If the Council is unable to identify a five year supply and land is required in Walsall to meet Birmingham's needs, the release of Green Belt land would become a real possibility. Residential development of the scale outlined in the Council's Land Supply Update would be a worse form of inappropriate development in the Green Belt than the appeal proposal.

Balancing exercise

55. The NPPF directs that substantial weight should be given to harm to the Green Belt. But in this case the harm would be temporary and reversible. The proposal would not conflict with the purposes of including land in the Green Belt. There would be no urban sprawl, as there would no actual or perceived coalescence of settlements. There would be development in the countryside, but the harm would be limited as the site adjoins the settlement boundary and has strong defensible boundaries, and the installation would have little visible effect over its temporary lifespan. There are few places where any effect on openness would be appreciated, and the Council accepts that landscape and visual impact would be limited.

[19] R o.a.o. Zurich Assurance Limited v North Lincolnshire Council [2012] EWHC 3708 (Admin) - Appeal Statement Appendix 18
[20] Walsall Housing Land Supply Update, August 2014 - Appeal Statement Appendix 19
[21] Birmingham Development Plan 2031 Proposed Main Modifications - Appeal Statement Appendix 20

56. The BCCS does not presume against renewable energy development in the Green Belt. The proposal would accord with the objectives of BCCS Policy ENV7, which is the most relevant, and of both Policies CSP2 and CSP3 to encourage the development of renewable energy.

57. Against the limited harm to the Green Belt, weight should be given to the provision of renewable energy, which would count against national and local targets for greenhouse gas emission reduction, and which is identified by the NPPF as central to the three dimensions of sustainable development. The benefits of the proposed development would significantly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. Very special circumstances have been demonstrated by the proposal's contribution to meeting the BCCS vision, and to meeting energy and emissions targets, by its economic and biodiversity benefits, by its temporary nature and by the fall-back position of residential development as a worse form of inappropriate development. Permission should therefore be granted.

The Case for the Council[22]

58. The key objection to the appeal proposal is the potential impact that inappropriate development has on the character and openness of the Green Belt by encroachment and urban sprawl at this sensitive location at the edge of the urban area, and the lack of very special circumstances to outweigh the harm. The Council's concern in this regard was made clear from the earliest pre-application advice.

Green Belt

59. The proposals would introduce what is considered to be a significant industrial installation on this site within the Green Belt including ground mounted solar panels, perimeter fencing, transformer stations, compound areas and substation structures. The three fields cover an area of 7.5 hectares. This is a significant encroachment into the countryside. The urbanising effect of the industrial nature of the installation, which has been accepted in a previous appeal decision,[23] is considered to represent urban sprawl. There are other fields between the proposed installation and College Farm and on the opposite side of Bosty Lane that separate the open countryside from the urban area and nearby housing. Implementation of the appeal proposal would narrow the gap between the urban areas of Aldridge, Rushall and Walsall. This is a sensitive location because the site forms part of a narrow wedge that separates these areas and prevents them merging with each other.

60. Because of the encroachment, sprawl and the potential merging effect of neighbouring towns, the proposal would be contrary to three of the five purposes of the Green Belt, and would result in technical harm.

61. In an earlier solar farm appeal decision[24], the Secretary of State has stated that the PV panels would be an incongruous and intrusive addition to the rural

[22] Taken principally from the Council's Statement, April 2016, and the Report to Planning Committee, 5 November 2015
[23] Appeal Ref APP/D3505/A/13/2204846 para. 37
[24] Appeal Ref APP/J3720/W/15/3029788 - Council's Statement Appendix 4.

landscape. The Inspector's report highlighted that adverse impact on Green Belt openness did not depend on the visibility of the proposed PV installation.

62. The appeal proposals do not adjoin the existing settlement as there is currently no built development between the appeal site and the existing housing on Bosty Lane other than the farm and its access which are rural in character. The appeal proposals would be an incursion into the Green Belt harming its openness and character. In a previous appeal decision[25] the Secretary of State accepted that a proposed solar installation would have a significant adverse effect on the openness of the Green Belt and would adversely affect the countryside.

63. In that appeal, the Secretary of State did not give weight to the temporary nature of the proposed installation and did not take account of the proposal's reversibility, concluding that 25 years is a long period of time. This supports the limited weight given to this factor by the Council in the present case.

64. The appellant relies on the assessment of openness in the LVIA, but the LVIA itself acknowledges that openness in Green Belt planning terms is a different concept from openness in landscape terms. The High Court[26] has confirmed that openness and visual impact are different concepts, yet can nonetheless relate to each other. The appellant's reliance on the LVIA assessment of openness is flawed. The Council does not accept that its consideration of the proposal has been concerned primarily with visual impact. The issue is the technical harm to the purposes of including land in the Green Belt due to the extent of built form proposed.

65. With regard to visual impact, while the panels themselves might be low in height, the substation (4.65m) would be higher than the proposed maintained hedges, and the installation of buildings, panels and the surrounding deer fencing[27] would inevitably have some impact on the existing landscape and appearance of the site. However, the Council accepts that the omission of panels from Field 4 has addressed the potentially most harmful public views of the site from the Canal corridor. The proposal could not be refused on visual grounds alone.

66. It is accepted that the proposal would not give rise to objection on ecological grounds and that the proposed nature conservation enhancements would accord with PPG advice. The implementation of these through the Landscape and Biodiversity Management Plan could be secured by a planning condition or by an obligation where outside the site.

67. The PPG advises that large scale solar farms should be encouraged to locate on previously developed and non-agricultural land. The appellant refers to the consideration of numerous sites across the UK before selecting the appeal site, but no detailed evidence has been provided to support this. The submitted Planning Statement shows a site selection process focused on an area within a 6km radius of the appeal site, confined to Walsall Borough. The 8 sites considered are all within the Green Belt and many have nature conservation designations. The search does not go far enough and does not consider

[25] Appeal Ref APP/M2270/A/14/2226557 - Council's Statement Appendix 6
[26] Timmins & Anor. v Gedling Borough Council [2014] EWHC 654 (Admin)
[27] The Council's Statement incorrectly describes the proposed fencing as 3.0m high. As confirmed by the appellant, the figure of 2.0m used in the Committee Report is correct.

previously developed land. In a previous appeal decision[28] the Secretary of State had accepted the Inspector's view that little weight could be given to a claimed lack of available capacity or alternative sites, owing to the limited search area and lack of consideration of sites outside the Green Belt.

68. The appellant has also not provided evidence to support the claimed lack of availability of commercial buildings capable of receiving a roof-mounted PV installation. However, the Council accepts that the submitted assessment shows that the site comprises Class 3b land, and would therefore involve poorer quality land, in respect of the PPG advice.

69. There would be no adverse effect on living conditions at the farmhouse, which would be well screened from the site, or on outlook from the nearest houses in residential areas to the north and east of the site, from which views of the site would be screened by existing and proposed enhanced hedgerows and trees.

Fall-back position

70. There are no grounds to support a 'fall-back' position that the site might be liable to development for housing in the event of the appeal proposal not going ahead.[29] The BCCS (adopted 2011) confirms the existing boundaries of the Green Belt in the four Black Country authority areas and does not envisage any changes. The Council has recently consulted on the emerging SAD, which has reached publication stage and proposes to maintain the existing extent of the Green Belt. Limited weight can be attached to this document while representations, none of which has referred to the appeal site, are considered. Review of the BCCS is due to start this year, and is to take account of future development needs and strategic issues, including any necessity for Green Belt boundary review. The aim would be to adopt the revised BCCS by 2019. Planning for future housing need will be a complex matter, including any requirement to accommodate additional need from Birmingham, which would affect two Housing Market Areas covering a very wide area. It is too early at this stage to forecast the possible implications for Green Belt review in the Black Country, and certainly for any individual site.

Balancing exercise

71. The Council does not dispute that the provision of renewable energy sources and economic sustainable growth and farm diversification are supported by both national and local policy but consider this does not clearly outweigh the harm to the Green Belt in this instance. The support for renewable energy proposals stated by NPPF paragraph 98 is subject to other material considerations, which here comprise the adverse impact on the Green Belt. The supporting text to BCCS Policy ENV7 confirms that proposals will be assessed on their merits in accordance with policy. The Council did so in this case, taking into account national and local policy on development in the Green Belt.

72. The proposal would be contrary to BCCS Policies CSP2, ENV2 and ENV7, and to UDP Policies ENV2, ENV3 and ENV32. Whilst BCCS Policy CSP3 requires that 'the strategic network of environmental infrastructure' is protected, enhanced and

[28] Appeal Ref APP/H1840/W/15/3136031 - Council's Statement Appendix 5
[29] 'Possible Future Green Belt Review' - Council's Statement Appendix 8

expanded, it does not override the protection of the Green Belt under Policy CSP2. The Green Belt, agricultural land and open countryside are not included in the list of land and designations that comprise the environmental infrastructure network under Policy CSP3, which expects expansion of the network to be in growth and regeneration areas.

73. In summary, the Council considers that the appellant has failed to demonstrate that there are considerations sufficient to clearly outweigh the harm the appeal proposals would cause to the openness and character of the Green Belt and the significant functions that this part of the Green Belt provides in this sensitive location. This is a rural setting (undeveloped by built form) and the introduction of significant industrial development would harm the openness of the Green Belt, and the purposes of including land within it.

Response by the appellant[30]

74. The proposed enhanced hedgerows would screen the proposed panels and deer fencing from external view. Deer fencing is commonly used in agricultural areas and does not require permission. The largest structure proposed would be the substation, at 4.6m to its highest point, but this would be located adjoining taller mature trees on the boundary of Field 2, which will serve to obscure it from view.

75. Other uses previously permitted at College Farm would not normally be considered appropriate in the Green Belt and show that the principle of farm diversification is established and acceptable. The appeal proposal would add further diversification benefits, which should weigh in its favour.

76. The Council has provided no evidence to show why this location is sensitive or any more sensitive than other areas of the West Midlands Green Belt. There is nothing in policy to differentiate between particular areas of the Green Belt. The appeal proposal would be completely different in character to nearby development and would not represent urban sprawl. Renewable energy development is a feature of an adapting modern countryside that serves the purpose of energy generation as well as food production.

77. The proposal would not be industrial in character: it would not be audible outside the site; farming would carry on; it would generate no traffic once in operation; there would be no moving parts or industrial processes. Solar panels are commonplace in residential environments and are easily recognisable as renewable energy installations and not industrial.

78. There would be minimal encroachment into the countryside as the area of ground disturbance would be minimal owing to the panel frames being pile driven into the ground. The overall footprint of development would be minimal and the boundaries of the Green Belt would not alter. For the temporary duration of the installation, it would prevent nearby settlements from merging.

79. The appeal referred to by the Council[31] is different because the Inspector was assessing the effect on significant views from public footpaths. The conclusion that the panels would be an incongruous addition to the rural landscape was the Inspector's, not the Secretary of State's. The PPG advises that the visual impact

[30] Taken mainly from the Rebuttal Statement, June 2016
[31] Appeal Ref APP/J3720/W/15/3029788 - Council's Statement Appendix 4

of a well-planned and well-screened solar farm can be properly addressed within the landscape.

80. The appellant's site search was rigorously based on the stated criteria. There is no previously developed land available not allocated for other purposes. The appeal decision in which the area of search was found to be inadequate[32] involved a 2km radius, which is an area of 12.5 sq km. In the present case, the search has covered the entire area of Walsall Borough, or 104 sq km, so that there is no comparison between the appeals. The proximity and capacity of the grid connection, which has been secured at considerable risk and investment, is a very important consideration.

81. The ecological enhancements would all be on land owned by the site owner, and could be secured by a Grampian condition.

82. In the appeal where the Secretary of State did not give weight to the reversibility of the installation,[33] there were also other significant causes of harm, which tipped the balance. In the present case the issue is harm to the Green Belt, whose permanence would not be affected. Reversibility is therefore relevant to the balancing exercise.

83. The Council does not acknowledge the considerable support for renewable energy by the BCCS, which has statutory force as an adopted plan, but seeks to rely more on the NPPF which is a material consideration.

84. The Council is better placed to indicate commercial building potentially suitable for a roof-mounted installation, but a roof with an area of approximately 2.2 hectares would be required. The appellant is not aware of any.

85. The Council has not challenged the view that the weakness of the Council's housing land supply, together with the case for Birmingham's need to be met, make the potential development of the appeal site a possibility.

86. The Council has incorrectly assessed the proposal and overstated the impacts, while failing to give proper weight to the benefits and to the significant BCCS policy support.

Written Representations

87. There were no written representations received from interested parties at the appeal stage.

88. At the application stage, the Council received a total of seven letters of objection from interested parties, and two representations raising no objection, one of which praises the landowner's commitment to nature conservation. The concerns raised in the letters of objection relate to: loss of open green land; adverse visual impact, as the height of the panels would be taller than existing hedgerows, and would not be mitigated by grazing of sheep around the panels; unsuitability of the site for the proposed installation, just as the rejected wind turbine proposal; the land should remain in rural agricultural / livestock rearing use; adverse impact on wildlife, including barn owls and buzzards; adverse impact on views

[32] Appeal Ref APP/H1840/W/15/3136031 - Council's Statement Appendix 5
[33] Appeal Ref APP/M2270/A/14/2226557 - Council's Statement Appendix 6

from residential property; loss of value of residential property; traffic impact and noise during construction and maintenance; difficulty in monitoring conditions; risk of land becoming 'brownfield' after 10 years, and open to permanent development.

89. External consultees raise no objection subject to the imposition of conditions. Natural England confirm that the proposal would not affect the interest of the adjoining Daw End Railway Cutting SSSI, but otherwise welcome the proposed ecological enhancements. Network Rail state that their holding objection relates only to a slight overlap of ownership within the red line of the application boundary.

Inspector's Appraisal

90. The following appraisal is based on the written evidence summarised above and on my inspection of the site and its surroundings. Numbers in square brackets [#] refer to earlier paragraphs in the report from which the matters and conclusions are drawn.

91. Having regard to the Secretary of State's reason for recovery of the appeal and to the Council's reason for refusal of the application, the main considerations on which the appeal decision should be based are, in my view:

    i. Whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF and the development plan;

    ii. The proposal's effect on the openness and purposes of the Green Belt;

    iii. The proposal's effect on the landscape character and visual appearance of the area;

    iv. The benefits of the proposed development;

    v. The weight to be given to other matters;

    vi. Whether the potential harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Inappropriate development in the Green Belt

92. National policy set out in the NPPF explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt are its openness and permanence. The NPPF states that inappropriate development, by definition harmful to the Green Belt, should not be approved except in very special circumstances.

93. In this case both main parties to the appeal agree that the proposal would constitute inappropriate development. I endorse that judgement. The proposal would involve the erection of PV panels and frames, 2m high fencing, transformer stations and a sub-station, all of which would be defined for planning purposes as the construction of new buildings, resulting in the change of use of agricultural land to include electricity generation. The proposal would not fall within any of the limited categories of development defined by paragraphs 89 and 90 of the NPPF as not inappropriate in the Green Belt. Therefore, it must be classed as

inappropriate development. This is consistent with the advice of paragraph 91 of the NPPF that elements of many renewable energy projects in the Green Belt will comprise inappropriate development. [26, 30, 36, 57, 58]

94. In accordance with the guidance of NPPF paragraph 88, I consider that substantial weight should be given to the harm by reason of inappropriateness.

95. In seeking to maintain a strong Green Belt, protected from inappropriate development, BCCS Policy CSP2 is consistent with the NPPF approach. The categories of development identified by UDP Policy ENV2 as inappropriate in the Green Belt are based on the earlier national guidance of the then PPG2. Although they do not entirely reflect the up-to-date position of the NPPF, for the most part they remain consistent. The policy justification that such development would 'normally' be refused and the reference to the guidance of PPG2 can be taken as an acknowledgement that very special circumstances could justify some otherwise inappropriate development. I consider that these policies can be afforded virtually full weight in the assessment of this aspect of the appeal. [16, 21, 35]

Openness and purposes of the Green Belt

96. The appellant acknowledges that openness of the Green Belt is characterised by an absence of built development, and that the appeal proposal would therefore harm the openness of the Green Belt, but argues that the degree of harm should contribute to the balancing against other considerations. In particular, the appellant relies on the limited effect on the perception of openness of this part of the Green Belt identified by the LVIA, because the installation would be well screened by existing and enhanced landscape features. [44, 45, 46, 58, 62, 74]

97. The issue of the contribution of visual impact to the assessment of openness of the Green Belt has recently been considered by the Court of Appeal[34], where it was held that visual impact is implicitly part of the concept of openness, and that the earlier judgment to which the Council refers[35] had gone too far in stating a clear conceptual distinction between the two issues. The Court confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect, and the absence of visual intrusion does not in itself mean that there is no impact on openness. [64]

98. The Council accepts that the proposal would have limited visual impact from public viewpoints, particularly since the omission of panels from Field 4. The appellant's LVIA has not been revised to reflect that change, but its assessment of the impact of the installation in Fields 1, 2 and 3 remains valid. The study acknowledges that there would be close-range glimpses of the installation from the short length of Bosty Lane adjoining Fields 2 and 3, and views of the top of the panels in Field 1 from public footpaths Ald 22 and Wal 59. The impact would be significantly mitigated once the strengthened perimeter hedges had matured to the full managed height of 3m, leaving an overall visual effect assessed as Minor Adverse in each case. The LVIA also concludes Minor Adverse long-term effects on residential receptors on Bosty Lane and at the edge of the Stencills

[34] John Turner v Secretary of State for Communities and Local Government and East Dorset Council [2016] EWCA Civ 466
[35] Timmins & Anor. v Gedling Borough Council [2014] EWHC 654 (Admin)

Estate. Therefore, even if absolute reliance were to be placed on the visual dimension, these judgements, which are reasonable in my view, confirm that there would be some minor impact on the perception of openness. This is a separate matter from the effect on the character and visual appearance of the area, to which I return below. [31, 37, 43, 65]

99. The LVIA also seeks to assess openness in the context of landscape character, and concludes that there would be a Minor/Moderate Adverse effect. I agree with the Council that this is a different measure from the assessment of openness in Green Belt policy terms, which is fundamentally based on the presence or absence of built development. In this case, the footprint of the development would be extensive, with the proposed array covering most of the area of the three fields. The enclosure by a considerable length of perimeter fence would also impact on openness to a lesser extent. The proposed cabins and substation would be small in terms of volume, and would have a modest additional effect. The change from undeveloped agricultural land would have a significant adverse effect. [44, 45, 46, 64]

100. The characteristic of the location is also relevant in assessing the effect on openness. The narrow width of the Green Belt in this location is highly characteristic. The prevention of neighbouring towns merging is one of the five purposes of the Green Belt. The appellant is correct to say that there are no prescribed minimum distances between settlements, but it is clear that the dimensions here are already at the very low end of the scale for Green Belt separation. The proposal would not result in coalescence of settlements, but it would erode the gap between Aldridge, Rushall and Walsall. The effect of loss of openness in this context would be potentially much more harmful than on a site of similar size in a location where the Green Belt was considerably wider. The Council's use of the term 'sensitive location' is not unreasonable. [39, 40, 59, 73, 76]

101. The appellant acknowledges that there would be conflict with the purpose of safeguarding the countryside from encroachment, but seeks to downplay the extent of the harm caused, by reference to the site's enclosure by strong boundaries, the lack of public access and the nature of the proposed development. The railway cutting provides a very strong edge along the site's northern boundary, and the Jack Holes area forms a partial buffer to the west, but the other two sides are formed by open fields separating it from the farm buildings and nearby housing. The stronger landscape features, which are of a type that might commonly be found in other places in the Green Belt, do not provide a clear justification to support this piece of land being given over to development. Again, this is not only a visual issue, but relates to the role of the land as open countryside between settlements. [43, 59, 78]

102. Because of the staked design of the panel frames and the small size of the other structures, ground disturbance on the site would be limited, which would facilitate its later restoration. However this would not equate to a minimal footprint in terms of countryside encroachment, as claimed by the appellant. The area of countryside occupied by the panels would be extensive. I consider that the proposal would be harmful to this purpose of the Green Belt. [59, 78]

103. The term 'urban sprawl' is not closely defined in national guidance. I am not convinced that the concept necessarily implies an increased population with

occupied buildings and infrastructure, as interpreted by the appellant. Any unwarranted expansion of an urban land use into the countryside could be seen as urban sprawl, even if the new use were different in character from the adjoining urban uses. The PPG's advice that solar farms should be located on previously developed and non-agricultural land, and the warning that deployment can have a negative effect on the rural environment, suggests that the use should be seen as urban rather than rural. Although the installation would not have moving parts, the generation of electricity at the scale proposed can with some justification be described as an industrial process. The character of the installation, with its very hard lines and surfaces, regimented layout and utilitarian ancillary structures, would have a quasi-industrial nature, very different in character from individual installations applied to a domestic building. The appellant points out that solar farms have only become common in the UK since 2011. Therefore, although many have now been installed in rural locations, they cannot yet in my view be considered an accepted element of the rural scene. I consider that the introduction of the proposed use would represent a form of urban sprawl. [26, 41, 55, 59, 76, 77]

104. The proposed installation can technically be described as temporary, but the period of 25 years would be a significant length of time. Whether or not there would be other adverse impacts, as in the other appeal referred to by the appellant, this would be a long period during which the harm to the Green Belt would persist. The prospect of an eventual restoration of the site after this time does not provide adequate justification to discount the harm caused. [43, 55, 63, 78]

105. In summary, I consider that there would be significant harm to the openness and purposes of the Green Belt, which would be only very moderately mitigated by the proposal's limited visual impact. In accordance with NPPF policy guidance, this harm should be given substantial weight.

Landscape character and visual appearance

106. The reason for refusal refers to adverse effect on the 'character… of the Green Belt'. However, the reference appears to be in the context of rural character and openness. The Council accepts that the effect on the character of the landscape and the appearance of the area would be only moderately harmful, and would not in itself have amounted to a reason for refusal of the application. [65]

107. As outlined above, I agree that the omission of panels from Field 4 has addressed the proposal's most intrusive impacts, and I find the remaining conclusions of the appellant's LVIA to be reasonable. Despite the retention of most of the grass surface of the fields, the introduction of the expanse of panels would affect landscape character, but other elements, particularly trees and hedgerows, would be retained and strengthened. The overall assessment of Minor/Moderate Adverse effect on character would reflect the landscape's ability to absorb the installation. Visual impacts would be limited by topography and the site's high degree of containment by existing landscape features. The proposed increased height of hedges would introduce a slightly higher degree of enclosure to the landscape, but would not harm any valued views. [31, 65, 79]

108. I agree that these effects would in themselves be unlikely to trigger rejection of the proposal. However, the generally minor level of harm should be added to the overall balance, with a limited degree of weight.

Benefits of proposed development

109. The proposal's primary benefit would be the contribution made by its output to meeting national targets on renewable energy generation and greenhouse gas reduction. Although the predicted output of 3.6MW would not be large by solar farm standards, and has been reduced from the original application, the NPPF advises that even small-scale projects can make a valuable contribution. In this case, the appellant's estimate of a potential supply for over 1100 homes and 1800 tonnes of CO_2 emissions reduced annually would still be significant. The proposal would raise the proportion of renewable energy usage in the West Midlands region. These figures are not challenged by the Council, who acknowledge the support offered by national policy. This is a matter of significant weight in support of the proposal. [48, 57, 71]

110. The Council also acknowledge the national and local support for farm diversification, which is reflected in the history of change at College Farm. Little detail has been provided of the precise effect on the continued operation of the farm, but the likely beneficial impact of a steady income stream over a 25 year period is not disputed, and there would be some potential return from the continued grazing of the land. Further economic benefits would be provided by the jobs provided in initial construction and later maintenance and decommissioning. These benefits attract moderate weight. [38, 49, 51, 75]

111. In the absence of any detail or commitment, very little weight should be given to the suggested community benefit of school visits. [49]

112. The strengthening of hedgerows would principally be required to provide the necessary screening of the development, but would also have positive ecological effects. These and other biodiversity enhancements, including those to the Jack Holes SINC could be secured by the final approval of a Landscape and Biodiversity Management Plan. Moderate weight can be given to these benefits. [32, 50, 66]

Other matters

113. There are a number of other matters, which the appellant regards as weighing in favour of the proposal, but are disputed by the parties.

114. The first of these is the extent to which the proposal would fulfil the BCCS strategy. BCCS Policy CSP3 seeks the active expansion of the strategic network of 'environmental infrastructure' at every opportunity, including the provision of renewable energy. The policy does not expressly rule out renewable energy development in the Green Belt, but states that expansion of the network is to be achieved 'in a manner appropriate to the character and needs of the area'. The terms of the preceding Policy CSP2 include protection of the Green Belt on an equal footing with achievement of environmental infrastructure in areas outside the Growth Network. There is nothing to suggest that Policy CSP3 would override the long-standing policy context for development in the Green Belt, expressed locally by the UDP. Similarly, the lack of any express restriction on the support for renewable energy by BCCS Policy ENV7 cannot be read as positive backing for development in the Green Belt. [14, 15, 16, 17, 19, 21, 42, 47, 56, 72]

115. It is stated that the appeal proposal would be the first strategic-scale renewable installation in the borough, and would therefore make a welcome

contribution to meeting local needs. However, there is no policy imperative for a contribution to meeting local needs or national targets that would necessarily overrule other well-founded national objectives, such as the protection of the Green Belt.

116. This is also relevant to the second issue, which relates to the testing of alternative sites. The PPG encourages the use of previously developed and non-agricultural land for solar farms. Whilst this this does not amount to a requirement for a sequential test, the availability of such land is a factor of relevance in justifying any proposal for a location on greenfield agricultural land. If the need for greenfield land is established, the agricultural quality of the land then becomes relevant, in accordance with the guidance.

117. The appellant's submissions offer some evidence of the process of site search. The final Committee report did not raise specific concern on this matter and accepted that the issue of agricultural land quality had been satisfactorily addressed. The Council now challenges the adequacy of the search, both in terms of potential use of previously developed land and buildings, and of lower grade agricultural land. [67, 68]

118. The Council offers no evidence to challenge the appellant's assessment that there are no suitable previously developed sites in Walsall outside the Green Belt that are not allocated for other uses by the development plan. I have no reason to doubt the assessment. Similarly, in the absence of any evidence to the contrary, I accept that it is unlikely that a building with a roof large enough to house an equivalent installation would be found, and the Council has not referred to any strategy by which smaller areas of roof-mounted arrays could be delivered. [32, 67, 68, 80]

119. However, as justification for development in the Green Belt, the search evidence is not conclusive. The search area is said to cover the entire borough which is a reasonably extensive area, but heavily constrained by Green Belt and other designations. A more extensive search might reveal other less constrained options, including potential availability of other grid connections, which is clearly a highly significant factor in site selection. The search conclusions are also weakened by a lack of detailed consideration of potential previously developed sites, whose allocation for development is taken as a blanket assumption about their availability. In making such assumptions, it is not clear why allocation for employment, for example, should be given greater priority than allocation as Green Belt. If greenfield land is shown to be necessary, a wider search might also reveal other poorer quality agricultural land[32, 67,68, 80]

120. For these reasons, I consider that only moderate weight should be attached to the evidence of non-availability of more suitable sites.

121. The third issue relates to the claimed fall-back position. The Housing Land Supply document quoted by the appellant does open the possibility of employment and Green Belt land being released if the Council were unable to demonstrate a five-year supply. However, the document goes on to confirm that the supply is well in excess of five years. The appellant does not provide sufficient evidence to challenge this conclusion. Land at College Farm is identified in the document as one of a long list of Green Belt sites potentially open for consideration for release, but the need for very special circumstances is also

flagged up. At present, this evidence does not offer more than a theoretical possibility of the appeal site being affected. [52, 54, 85]

122. The Council's detailed submission sets out the circumstances in which the need to accommodate unmet housing need from Birmingham could result in a Green Belt review in Walsall that would affect the appeal site. The timescales and the number of authorities and areas of land potentially involved would be extensive. The evidence suggests that a potential consequence for the appeal site can currently be regarded as no more than a theoretical possibility. For these reasons, I consider that weight should not be afforded to the claimed fall-back position in carrying out a balance of considerations.[53, 54, 70, 85]

123. There is no dispute that other matters such as flooding, highway safety and noise could be satisfactorily addressed by compliance with conditions. Notwithstanding the concerns raised by some residents, views from upper floors of a small number of houses on Bosty Lane would be only obliquely affected. The effect on living conditions at the houses would be slight. Adverse impacts on residents during the construction phase would be short-lived and could be adequately controlled by conditions. The objection by Network Rail relating to boundary definition would be a matter for legal resolution that should not affect the grant of planning permission. [69, 88, 89]

Balance of considerations

124. I have endorsed the conclusion of the main parties to the appeal that the proposal would represent inappropriate development in the Green Belt. The NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. [57, 58]

125. In accordance with the NPPF, the harm to inappropriateness must be given substantial weight. I have also found that the harm to openness and to the purposes of the Green Belt should contribute further substantial weight.

126. In terms of other harm, I have found that the minor adverse effect on landscape character and the visual appearance of the area should be given limited weight, and this should add to the weight given to Green Belt harm.

127. On the other side of the balance, the principal 'other consideration' is the benefit of renewable energy generation and greenhouse gas reduction, which merits considerable weight. Economic and biodiversity benefits both contribute further moderate weight in favour of the proposal.

128. However, no additional weight can be added by any contribution to fulfilling the BCCS strategy, and only moderate weight can be given to the evidence of the lack of alternative sites. The claimed fall-back position should not attract any additional weight.

129. When all factors are taken into account, I consider that the potential harm to the Green Belt and the minor harm to character and appearance would not be clearly outweighed by the other considerations identified above. Very special circumstances to justify the proposal would not arise.

130. I have no reason to doubt the appellant's figures for the number of solar farms already permitted in Green Belt locations. I have no clear information on the circumstances of these cases, but I can only conclude that if the proposals were found to be inappropriate development, that other considerations were held to outweigh the harm caused. I have not found that to be the case in this appeal, which I have sought to assess on its own merits. While I have also taken account of the many previous appeal decisions referred to in evidence by both parties, because of the individual circumstances of each case, none has provided a compelling precedent. [26]

Conclusions

131. The appellant considers that the proposal would result in economic, environmental and social benefits, and hence should be regarded as sustainable development to which the presumption in favour set by paragraph 14 of the NPPF should apply. However, for decision taking the presumption does not apply if other policies in the NPPF indicate that development should be restricted. Footnote 9 to that paragraph specifies Green Belt designation as one of the restrictive policies. Therefore, I consider that the presumption should not apply in this instance. The decision should be made in accordance with the development plan, unless material considerations indicate otherwise. [28]

132. I conclude that, as inappropriate development also harmful to the openness and purposes of the Green Belt, the proposal would conflict with the Green Belt protection objectives of BCCS Policy CSP2. There would also be conflict with BCCS Policy ENV7, whose support for renewable energy proposals is subject to compliance with other local and national policy, here represented by Green Belt protection. The minor adverse effect on the landscape and visual appearance of the area would not be in accordance with the objective of BCCS Policy ENV2 to retain the special qualities and local distinctiveness of the Black Country. [16, 18, 19, 34, 72, 86]

133. The appeal proposal would also be contrary to the Green Belt protection objectives of UDP Policy ENV2. The reason for refusal cites conflict with UDP Policy ENV3, but that policy is specifically directed to criteria for development acceptable in principle in the Green Belt and therefore would not apply in this instance. The minor adverse effect on the landscape and visual appearance of the area would not be in accordance with UDP Policy ENV32, which seeks to resist development that fails to take proper account of its context. [21, 22, 35, 36, 37, 72]

134. Other than the minor effect on character and appearance, these conflicts with policy would not be outweighed by other considerations. Although there is some tension between different policy objectives within the development plan, as is sometimes the case, in my assessment the appeal proposal would not be in accordance with the plan taken as a whole. The proposal should therefore be rejected.

Conditions and Obligations

135. The Council has provided a schedule of draft conditions, to which the appellant has suggested some amendments. I have considered the proposed conditions and the suggested amendments in the light of the tests set out in paragraph 206 of the NPPF and the guidance of the PPG. I find that neither the proposed or

amended conditions would adequately mitigate the adverse impacts of the proposal to enable the development to be allowed to proceed.

136. However, should the Secretary of State disagree with my conclusions and decide to allow the appeal and grant planning permission, conditions would need to be imposed to define the permission and ensure that the impacts of development were appropriately mitigated. A schedule of recommended conditions, based on the Council's draft with some modifications, is attached at Annex One to this report.

137. Standard conditions are required on the time limit for commencement of development and compliance with approved plans, in order to define the permission. It should not be necessary to specify the supporting documents listed by the Council.

138. Approval of details of surface water drainage is required in order to reduce the risk of pollution and flooding. These details would include the formation of any swales, so that the separate condition on this aspect suggested by the Council would not be necessary. In my view, it is reasonable to require this matter to be resolved prior to the commencement of development, rather than to allow considerable site works to proceed before approval of the details, as suggested by the appellant.

139. Approval and implementation of a programme of archaeological work is reasonable in order to avoid the risk of harm to heritage significance. The appellant suggests that this should be amended to require only a watching brief during site excavations, in the light of the submitted Heritage Statement's conclusion of a low-moderate range of archaeological interest. However, I give weight to the view of the Council's specialist consultant that the evaluation provided by a written scheme might obviate even the need for a watching brief.

140. Approval and implementation of measures to protect trees and hedge and the Jack Holes SINC are necessary to avoid the risk of harm to the natural environment. These details should include protection from any effect of temporary road construction, so that a separate condition on this aspect is not necessary.

141. Two conditions are needed to ensure that bird populations are conserved by avoiding site clearance work during the nesting season. The amendment suggested by the appellant to the draft condition specifically aimed at protection of barn owls would be unduly onerous, as it would not be necessary to prevent work if nesting boxes were not in use. I have amended the condition proposed by the Council for other nesting birds in order to improve its precision and enforcement.

142. Approval and implementation of the final form of the proposed Landscape and Biodiversity Management Plan is necessary to ensure the landscape and biodiversity value of the site is protected and enhanced. The form of condition proposed by the Council has been amended to place greater emphasis on biodiversity measures. As the Plan would cover vegetation and wildlife potentially affected during site clearance and construction, it would not be reasonable to delay submission and approval of the Plan, as suggested by the appellant.

143. Approval and monitoring of the matters to be covered by the Construction Management Plan and the Construction Methodology Statement sought by the Council would be reasonable and necessary, in the interests of public health and highway safety respectively. Restrictions on potential noise generation and hours of work are necessary to protect the living conditions of nearby residents.

144. Controls over external materials of buildings and structures, open storage while the site is operational and external lighting are necessary to avoid harm to the character and appearance of the area. The approval of site security measures is justified by the unstaffed operation of the site, in order to reduce the risk of crime.

145. A condition is necessary to ensure that the development is dismantled and the site restored to its former condition, either at the end of the 25 year period sought by the application, or sooner in the event of electricity generation ceasing, in order to limit harm to the openness of the Green Belt. I endorse the appellant's view that the period should commence with the first commissioning date, rather than the date of the permission, and have amended the draft condition to require notification of this date to the Council.

146. The appellant has provided evidence of the landowner's control of land required for landscape management and ecological enhancements. No planning obligation should be required, as suggested by the Council.[66, 81]

Recommendation

147. I recommend that the appeal should be dismissed.

148. Should the Secretary of State disagree, I recommend that planning permission should be granted subject to the conditions set out in the Schedule annexed to this report.

Brendan Lyons

INSPECTOR

Annex One

Schedule of Recommended Conditions

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

2. This development hereby permitted shall be carried out in accordance with the following approved plans: -
- Location Plan (1447.04 Rev.A)
- Site Plan (15007001-06 dated 01.09.2015)
- Typical Transformer Stations (15007001-07)
- Substation WPD – Switchroom Design (15007001-08)

3. Prior to the commencement of the development a scheme for the provision of surface water drainage works, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

4. Prior to the commencement of the development a programme of archaeological work to determine any archaeological remains present shall be submitted to and agreed in writing with the local planning authority. The development shall be carried out in accordance with the agreed scheme of archaeological work including any necessary mitigation.

5. No development or site clearance work shall commence until details of protection for the trees, hedgerows and the Jack Holes SINC in accordance with BS5837 2012: *Trees in relation to design, demolition and construction – recommendations* have been submitted and approved in writing by the Local Planning Authority. The approved protection measures shall be fully implemented prior to the commencement of any works on site and shall be retained throughout the construction phase until the completion of development.

6. No development shall take place in proximity to any barn owl nesting box unless a barn owl survey has first been undertaken by a qualified and experienced ecologist. The survey shall ascertain whether nesting activity is taking place and the status of any chicks. The survey shall make recommendations for further mitigation required which shall be carried out in full prior to any development in proximity to the nesting box. A copy of the survey and recommendations shall be forwarded to the Local Planning Authority within 7 days of its completion.

7. To avoid the risk of harm to other species of nesting birds, site clearance and dismantling works shall be undertaken outside the bird nesting season, which runs between mid-February and September inclusive. At other times, no site clearance works should be undertaken until the site has been surveyed for nesting birds by a qualified and experienced ecologist. If nesting birds are discovered, clearance works in proximity to the nest shall be suspended until a further survey has confirmed that the young have fledged. A copy of any survey shall be forwarded to the Local Planning Authority within 7 days of its completion.

8. No development or site clearance shall commence until a Landscape and Biodiversity Management Plan setting out the management and enhancement of the

site over a ten year period has been submitted to and approved in writing by the Local Planning Authority. The Landscape and Biodiversity Management Plan shall be carried out to an accepted methodology and provide full details of:

- How vegetation will be maintained through the establishment period and managed thereafter;
- Provision for the replacement of any planting which dies, becomes diseased, damaged or removed;
- Full details of all management and enhancement operations together with a timetable for each operation;
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved landscape scheme and ecological enhancements.

The site shall thereafter be managed in accordance with the approved Management Plan.

9. Prior to the commencement of engineering and construction activities a Construction Management Plan setting out how the works will be undertaken and giving details of arrangements for the control of noise, dust and debris shall be submitted to and approved in writing by the Local Planning Authority. The approved arrangements shall be maintained during the course of all construction activity.

10. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority. The Statement shall include: the number and type of construction vehicles expected to visit the site; the suitability of the access point(s) in terms of geometry, construction details and visibility along Bosty Lane, including Autotrack analysis demonstrating the vehicle can safely and satisfactorily manoeuvre in and out of the access(es);where the parking and turning facilities for site operatives and construction deliveries will be located together with full details of the wheel cleansing arrangements to prevent mud or other material from being deposited on the highway during the period of construction. These provisions shall be maintained during construction in accordance with the approved details.

11. Prior to substations, transformers, and associated machinery / equipment coming into use, evidence that operation of the site will not give rise to a Noise Rating greater than 35 dB one metre from the facade of any residential premises shall be submitted to and approved in writing by the Local Planning Authority.

12. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place on other days between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside these permitted hours. *(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

13. Prior to the commencement of development full details of all external facing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

14. There shall be no artificial lighting of the site unless otherwise approved in writing by the Local Planning Authority.

15. During the operation of the development hereby permitted, no goods, waste or other items or materials shall be stored or displayed in the open on the site.

16. Prior to the commencement of development details of site security measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

17. All development associated with the development hereby approved including all solar panels/arrays, supporting structures, transformers, switch gear, inverters, substations, overground cabling, hard standings, road/tracks and fencing shall be dismantled and removed from the site and the land restored to its former condition no later than 25 years from the date of the first commissioning of the solar farm. Alternatively, in the event that the development ceases to operate and/or the generation of electricity stops prior to that date, all development associated with the hereby permitted solar farm including all solar panels/arrays, supporting structures, transformers, switch gear, inverters, substations, overground cabling, hard standings, roads/tracks and fencing shall be dismantled and removed from the site and the land restored to its former condition within three calendar months of operation ceasing. The date of first commissioning shall be confirmed in writing to the Local Planning Authority within one month of its occurrence. It is not a requirement of this condition for any planting or landscaping to be removed.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

Mr James Hartley
Inazin Power Ltd
Swan Yard
West Market Place
CIRENCESTER
Gloucestershire
GL7 2NH

Our Ref: APP/Z3825/A/14/2218035

26 January 2016

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY HUDDLESTONE FARM SOLAR PARK LTD:
HUDDLESTONE FARM, HORSHAM ROAD, STEYNING, WEST SUSSEX, BN44 3AD

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David M H Rose BA (Hons) MRTPI, who made site visits on 1 April 2015 and 29 September 2015 in relation to your appeal against the decision of Horsham District Council ('the Council') to refuse planning permission for the construction of a 32 hectare solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid, in accordance with application ref DC/13/2420 dated 18 December 2013.

2. The appeal was recovered for the Secretary of State's determination on 21 August 2015 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 so that consideration could be given to any possible impact on the South Downs National Park.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of documents forming the Horsham District Local Core Strategy (LP) adopted in 2007. The Secretary of

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State considers that relevant development plan policies include those set out in IR16-17.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (the Framework) and the associated planning practice guidance; the UK Solar PV Strategy (parts 1 and 2) and subsequent policy publications; and the Written Ministerial Statement "Planning Update March 2015" which, amongst other matters, concerns solar energy and the protection of the local and global environment.

Main issues

6. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR89.

Compliance with the development plan

7. The Secretary of State agrees with the Inspector that LP Policy DC 8 is the key development plan policy relating to renewable energy (IR17 and 90-91). For the reasons below the Secretary of State considers that the proposal conflicts with LP Policy DC 8, which states that renewable energy schemes including solar will be approved where they do not have a significant adverse impact on landscape, among other considerations (IR17). Consequently he considers that the proposal conflicts with the development plan as a whole, notwithstanding compliance with a number of other relevant policies (IR139).

Landscape impact

8. The Secretary of State agrees with the Inspector's analysis at IR 94-95 and 97-110, and conclusions at IR133-140 regarding the impact of the proposal upon the appearance of the landscape, including impacts on the South Downs National Park. There would be change to the character of the landscape which would be severe, even with proposed mitigation, within and immediately adjacent to the site. In this regard, the introduction of a visibly new 'feature' and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape (IR133). The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm. Sweeping views across a parkland-like landscape and their seamless integration with the rising slopes of the South Downs National Park would be lost to an unforgiving utilitarian aspect. Even with the degree of landscaping sought by the Council, the development would remain as highly intrusive and damaging to the rural scene. Moreover, the new screening between the footpath within the site and the installation would rob users of a tangible appreciation of the wider open countryside and severely impair the enjoyment of the route (IR134).

9. The proposed development would have little impact on views from the Downs Way; but it would stand out in a broad rural vista when viewed from the identified location in Henfield. The National Planning Policy Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The proposed development would be some distance from the South Downs National Park boundary and the primary adverse impact on the outlook of the designated area would be experienced from, and within the vicinity of, Tottington Mount where the solar farm would be visible over a relatively short distance. However, with appropriate mitigation

within the site, the effects on the outlook from the designated area would be very limited (IR135-137).

Living conditions

10. The Secretary of State agrees with the Inspector's assessment of the impact of the proposal on the living conditions at the 2 dwellings which the Inspector visited. He agrees with the conclusions that the proposal would not render either dwelling an unacceptable place to live. He agrees, however, that the proposed development would materially change the outlook and diminish enjoyment of the garden from Heron Farm (IR111-112).

Benefits

11. The proposal would contribute towards the Government's commitment to renewable energy generation in the drive towards tackling climate change and reducing the UK's emissions of carbon dioxide. The generation of 16MW of green energy per year (approximately 3,400 average households), saving some 9,000 tonnes of carbon dioxide per annum would contribute to national and local targets (IR131).

12. There would also be some biodiversity benefits (IR132). However the Secretary of State regards the existence of a viable grid connection as an operational necessity rather than a benefit per se to be weighed in the balance.

Other material considerations

13. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR113-117. He does not consider that any of these matters adds weight either for or against the appeal proposal.

Conditions

14. The Secretary of State agrees with the Inspector's comments at IR118-130 on planning conditions and is satisfied that the conditions recommended at IR Annex B are reasonable and necessary, and would meet the tests in paragraph 206 of the Framework. However, the Secretary of State does not consider that the recommended conditions would overcome his reasons for dismissing the appeal.

The planning balance and conclusions

15. Weighing in favour of the proposal, it would contribute towards national and local targets for renewable energy generation and the Secretary of State places significant weight on to these benefits. However the Secretary of State is of the view that the period of 30 years, being the lifetime of the proposal, is a considerable period of time. Unlike the Inspector therefore (IR132), he has not afforded any positive weight to reversibility. He attaches moderate weight to the ecological benefits.

16. Weighing against the proposal is the harmful and pervasive impact on the appearance of the local landscape. The Secretary of State attaches substantial weight to this harm. Moreover, the Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks, and the proposal would have a minor impact on the outlook from the South Downs National Park.

17. Though the proposal would not render Heron Farm an unacceptable place to live, the Secretary of State places limited weight on the materially changed outlook and diminished enjoyment of the garden if the proposal were to be implemented.

18. Overall, the Secretary of State concludes that the very local impacts of the proposal, most notably views from the public footpath within the site, its continuation to the

north and the related bridleway would be so pervasive that they would outweigh the benefits of the proposal. The minor impact on the outlook from the National Park is an additional, but not determinative factor (IR138).

19. The proposal would be in conflict with the development plan when read as a whole (IR139). It would, further, be at variance with paragraph 98 of the Framework for the reasons at IR140. The Secretary of State finds no material considerations that indicate the appeal should be determined other than in accordance with the development plan.

Formal Decision

20. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for the construction of a solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid, in accordance with application ref DC/13/2420 dated 18 December 2013.

21. Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

23. A copy of this letter has been sent to Horsham District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

JULIAN PITT
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by David M H Rose BA (Hons) MRTPI

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

Date: 18 November 2015

Town and Country Planning Act 1990

Horsham District Council

Appeal by Huddlestone Farm Solar Park Ltd

Site visits made on 1 April and 29 September 2015

Land at Huddlestone Farm, Horsham Road, Steyning, West Sussex, BN44 3AD

File Reference: APP/Z3825/A/14/2218035

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File Ref: APP/Z3825/A/14/2218035
Land at Huddlestone Farm, Horsham Road, Steyning, West Sussex, BN44 3AD

- 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 Huddlestone Farm Solar Park Ltd against the decision of Horsham District Council.
- The application Ref DC/13/2420, dated 18 December 2013, was refused by notice dated 16 April 2014.
- The development proposed is a solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid.

Summary of Recommendation: The appeal be dismissed.

Preliminary Matters

Reason for refusal

1. The Council refused planning permission for the following reason:-

'The proposed development by reason of its siting, extent and the character of the use would result in significant adverse visual amenity impacts on users of the footpaths on the site and in the surrounding area together with owners of nearby residential properties as well as significant adverse landscape character impacts on the site itself and its immediate surrounds as well as on the setting of the South Downs National Park. The proposal is therefore contrary to the requirements of Policies CP1, CP2 & CP3 of the Core Strategy, Policies DC1, DC2 and DC9 of the General Development Control Policies and Section 11 of the National Planning Policy Framework'.

Determination of the appeal

2. The Secretary of State has directed that, in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, he shall determine this appeal so that consideration can be given to any possible impact on the South Downs National Park.

Written Ministerial Statement

3. On 25 March 2015 a Written Ministerial Statement was made in respect of solar energy: protecting the local and global environment, with particular reference to the use of best and most versatile agricultural land.[1] The main parties have been given the opportunity to comment on this statement.

Drawings

4. The schedule of plans and documents listed in the Council's decision notice refers to a series of plans received on 7 January 2014 and a single plan (Site Layout Drawing 2369-PL-04 – Rev 03) received on 4 March 2014.[2] It is apparent that other drawings were before the Council,[3] notably:- 2369-PL-03-A Rev 01; 2369-PL-03-1 Rev 01; 2369-PL-03-2 Rev 01; 2369-PL-03-3 Rev 01; and 2369-PL-03 Rev 01.[4] These form the basis of my consideration.

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1 HCWS488
2 It is noted that in the Council's Schedule of suggested conditions this drawing is recorded as having been submitted on 24 March 2014
3 From the Council's Schedule of suggested conditions and confirmation at the site visit
4 Drawing 2369-PL-03 Rev 01 is not listed in the Schedule of conditions submitted by the Council – at the site visit it was confirmed that this drawing was also before the Council

Site visits

5. I undertook an accompanied site visit with representatives of the local planning authority and the appellant on 1 April 2015. This included walking over the appeal site along the route of the public footpath running north from Huddlestone Farm and joining the bridleway to the north of the site (walking westward and eastward); and the Downs Link (to the east). I also made an unaccompanied visit to an elevated vantage point on the edge of Henfield, Southview Terrace, (at the request of the local planning authority).

6. On 29 September a second site visit was made, in the company of the above parties, which included visits to two residential properties, at the request of the occupants:- Heron Farm (to the north-east of the site); and Ashurst Place Farm (to the north of the site). It also entailed walking from Devil's Dyke car park (National Trust), approximately 7.5 kilometres from the appeal site, westward along the South Downs Way to a point approximately one kilometre south-west of Truleigh Hill Youth Hostel (Tottington Barn) before returning to the bridleway descending via Tottington Mount to Tottington Manor Farm.

7. I also walked part of the South Downs Way in the vicinity of Chanctonbury Ring Fort, some six kilometres to the south-west of the appeal site.

The Proposals

8. The proposed solar farm would occupy an area of some 32 hectares of agricultural land, with the equipment placed on a lesser area taking account of its offset from field boundaries and fence lines and the aisles between the arrays.[5] It would take access from Horsham Road to the west of the site, along an existing route to the farm. The project would be accompanied by landscape works and ecological enhancements; and the development would have an operational life of 30 years.

9. The development would consist of rows of solar panels (strings), composed of photovoltaic cells, (rising to approximately 2.3 metres in height), arranged east to west to provide a southerly aspect for the panels, and ancillary equipment. The latter would include:- approximately thirteen transformer/inverters to collect the power generated, situated within small buildings at strategic points within the site; two inverter housing 'containers' (2.6 metres in height);[6] and a district network operator connection point (substation) (2.6 metres in height).

10. The site would be enclosed with a deer fence (2.0 metres in height);[7] and provided with site CCTV on poles (typically 2.0 - 3.0 metres above ground level); and low level motion detectors.[8] Connection to the grid would be via an underground cable to an existing pylon some 30 metres to the east of the site. Internal access tracks would be of permeable construction and capable of being removed at the end of the operational period.

[5] Proposed site layout; Drawing No 2369-PL-04 Rev 03
[6] Drawing PL-10-AB2 Rev 01
[7] Drawing PL-08 Rev 01
[8] Drawing PL-11 Rev 01

The Site and Surroundings

11. The appeal site is located approximately 2.0 kilometres to the north of Steyning in an area of open countryside. The South Downs National Park wraps around the western and southern edges of Steyning, continues to the south of Bramber and Upper Beeding and thereafter extends north-eastwards and eastwards. Notable vantage points within the National Park include Chanctonbury Ring Fort and Tottington Mount (to the north-west and east of Steyning respectively). The National Park, at its nearest point, is approximately 3.5 kilometres from the appeal site.

12. The appeal site lies approximately one kilometre to the east of Horsham Road (B2135); a public footpath runs along its western boundary, turns eastward along part of its northern boundary and thereafter runs northwards to join a track (public bridleway) running from Horsham Road to the River Adur (some 700 metres to the east of the site). The track provides access to several dwellings, including Ashurst Place Farm and Upper Northover Farm (approximately 300 - 400 metres to the north of the appeal site); and Heron Farm (some 200 - 300 metres to the north-east of the appeal site).

13. The main complex of Huddlestone Farm is located to the south-west of the appeal site; and an unrelated dwelling, Shelleys Cottage, is situated to the south of the site (around 200 metres away). The wider locality contains a scatter of farms and dwellings with several properties located in the vicinity of Horsebridge Common, alongside Horsham Road, to the north-west of the appeal site.

14. The appeal site consists of two fields separated by a post and wire fence along a former hedgeline which retains a number of high quality trees. The combined site, with the exception of an open southern boundary, is defined by hedgerows, gappy in places, and two areas of woodland on its western side. The site also contains a number of 'stand-alone' trees of moderate and high quality. The wider locality is typified with field boundaries formed of mature hedgerows, hedgerow trees and blocks of woodland.

15. The site falls from south to north from approximately 18 metres to 7 metres above ordnance datum. The agricultural land quality of the appeal site is classified as Grade 3 (Weald Clay). Detailed analysis shows it to be Subgrade 3b due to a soil wetness limitation.[9] It is not classified as *'best and most versatile agricultural land'*.

Planning Policy

16. The development plan includes two documents forming part of the Horsham District Local Core Strategy (2007) namely the Core Strategy and the General Development Control Policies. The Council's decision notice cites the following policies:-

    (a) Policy CP 1 confirms that the landscape character of the District will be maintained and enhanced;

    (b) Policy CP 2 seeks to maintain environmental quality;

[9] Land at Huddlestone Farm, Horsham Road, Steyning:- Agricultural Land Classification (April 2015)

(c) Policy CP 3 requires high quality and inclusive design for all development;

(d) Policy DC 1 indicates, outside built-up area boundaries, development will not be permitted unless it is considered essential to its countryside location and in addition meets one of four criteria relating to agriculture or forestry; minerals or waste disposal; quiet recreation; or ensures the sustainable development of rural areas;

(e) Policy DC 2 accommodates development where it protects and/or conserves and/or enhances the key characteristics of the landscape character area in which it is located; and

(f) Policy DC 9 sets out a series of development principles including making efficient use of land; protecting residential amenity; securing good design; and retaining important landscaping and natural features.

17. Other relevant policies include:-

(a) Policy DC 5 requires measures to protect, conserve or enhance biodiversity;

(b) Policy DC 6 recognises the importance of trees to the character and appearance of the area and seeks to ensure that they are retained;

(c) Policy DC 7 aims to ensure that new development would not be at risk of flood or increase the risk of flood elsewhere;

(d) Policy DC 8 explains that renewable energy schemes (including solar) will be approved where they do not have a significant adverse impact on landscape character, wildlife, areas of historic significance or amenity value;

(e) Policy DC 10 relates to the protection of archaeological sites and ancient monuments and their settings;

(f) Policy DC 13 seeks to ensure that development does not have any adverse impact on the fabric or setting of listed buildings; and

(g) Policy DC 40 requires the provision of safe and adequate access.

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The Case for Huddlestone Farm Solar Park Ltd

Scheme objectives

18. The objectives of the development are:-

(a) to generate approximately 16MW of green energy per year (approximately 3,400 average households);

(b) assist in slowing the impact of climate change with a saving of some 9,000 tonnes of carbon dioxide per annum;

(c) contribute to national and local targets and help address the need for a secure and diverse energy supply;

(d) deliver ecological enhancements to improve the biodiversity of the site; and

(e) minimise the environmental and amenity impact of the proposals and ensure environmental benefits are maximised.

Planning policy

19. The issue of climate change, which came to prominence in the 1980s, has gained momentum with increased targets and commitments with milestones being reached under the Copenhagen Accord and the Cancun Climate Change Conference.

20. The National Planning Policy Framework emphasises the need for sustainable development (paragraph 14); a recognition of the responsibility on all communities to contribute to energy generation from renewable or low carbon sources (paragraph 97); and for local planning authorities to approve applications if their impacts are (or can be made) acceptable (paragraph 98). The Framework also supports a prosperous rural economy (Section 3); and the conservation and enhancement of the natural environment (Section 11).

21. In turn, Planning Practice Guidance encourages local planning authorities to consider local potential for renewable energy when drawing up plans. In this instance, the current development plan is silent. However, the Practice Guidance acknowledges that proximity of grid connection infrastructure is a relevant technical consideration.

22. The UK Solar PV Strategy (parts 1 and 2)[10] confirms, amongst other guiding principles, that installations should be appropriately sited; proper weight should be given to environmental considerations; and communities should be allowed to influence decisions. Although it is acknowledged that smaller-scale residential and commercial rooftops have a role to play, utility-scale solar parks will continue to make a meaningful contribution to the UK's energy supply.

23. Planning for Climate Change – Guidance for Local Authorities also provides a number of good practice points including mitigation of any adverse impacts through careful consideration of location, scale and design; and to give significant weight to the wider environmental, social and economic benefits of renewable energy projects.

24. Turning to the policies cited by the Council in its reason for refusal, although the development may, in the short term, result in a marginal impact on the character of the area in its immediate vicinity, it would not result in a permanent or irreversible impact on the character of the area as a whole.[11] This is borne out by the *'no objection'* response from the National Park Authority. Further, the measures proposed in the Landscape and Environmental Management Plan would promote increased biodiversity;[12] and no trees or hedgerows would be lost.[13] As such there would be no material conflict with Policies CP 1, DC 1, DC 2, DC 5 or DC 6.

25. The project would deliver renewable energy consistent with Policy CP 2; and, the extent to which Policies CP 3 and DC 9 might be material, it is to be noted that the proposal is a utilitarian and functional development out of necessity; impacts have been minimised as much as possible; and the level of community support is comparatively strong.

26. The Flood Risk and Drainage Assessment, submitted with the application, confirms that the proposal would be located in Flood Zone 1 (low flood risk where all land uses are held to be appropriate); the development would not increase surface water run-off; and precautionary mitigation measures are proposed.[14] Overall, the requirements of Policy DC 7 would be met.

[10] Published by Department of Energy and Climate Change
[11] Landscape and Visual Impact Assessment
[12] See also Ecological Survey
[13] Tree and Hedgerow Survey Report
[14] Flood Risk and Drainage Assessment (December 2013): Paragraph 5.3

27. Policy DC 8 supports renewable energy and the project would not have any adverse impact on *'landscape character, wildlife or areas of historical value or amenity'*.

28. Potential effects on archaeological sites, ancient monuments and listed buildings, and their settings, have been assessed.[15] No adverse impacts have been identified and the proposal would accord with Policies DC 10 and DC 13. Finally, transport and access has not been identified as an impediment and there would be no conflict with Policy DC 40.

29. The emerging Horsham District Planning Framework is in the early stages of preparation. However, the primary emphasis of the Preferred Strategy is the requirement for sustainability in all forms of development and the recognition that carbon dioxide emissions are a major contributory factor on climate change.

30. Horsham District is committed to reducing carbon emissions. To-date there has been a relatively low take up of large/utility scale renewable projects with only three permitted schemes of 1MW or greater. The proposal would make a tangible, immediate contribution which is not identified as being achievable elsewhere.[16]

Site selection and scheme design

31. Although it is accepted that a 'brownfield' location for such development would be preferable, there is a dearth of such sites in the District in terms of size and due to competition from other, higher value, developments. A full search was made along the various 33kV power line corridors but no obvious brownfield sites were found to be available. In addition, the ability of the existing 33kV grid infrastructure network to accept utility scale projects is heavily constrained and restricted, generally, to the southern half of the District.[17]

32. The appeal site was chosen as it was available and had access to a viable grid connection. The lowest grade of land on the farm was selected (Grade 3); however, the site will remain in agricultural use for grazing and taking a grass crop. The submitted Landscape and Environmental Management Plan provides for the planting of species-rich grassland and additional habitat creation through new hedgerow and tree planting. Moreover, the development would be reversible on the expiration of a 30 year 'temporary' planning permission.

33. The proposal would comply with each of the ten commitments of the Solar Trade Association,[18] including:- use of lower quality agricultural land; avoidance of sensitive landscapes; screening; community engagement; continuing agricultural use; improved biodiversity; and appropriate decommissioning.

34. In addition, as the south of England is comparatively favourable for receiving solar radiation energy, the location of the site, less than 10 kilometres from the south coast, makes it an optimum location.

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[15] Heritage Desk-Based assessment

[16] Statement of Case (paragraphs 6.1 - 6.5) which predates approved solar farm schemes at Priors Byne Farm (APP/Z3825/A/14/2219843 dated 18 March 2015); and Sopers Copse, Ashurst (APP/Z3825/A/14/2222037 dated 9 September 2015)

[17] Drawing Number 132_33NET.DGN ISSUE 20

[18] Statement of Case (pages 18 – 20)

The planning application

35. Consultation with the local community took place in December 2013. The response was generally positive with the most significant issue relating to the possibility of providing a direct benefit to the community. During the course of the planning application, and before it was determined, a multi-faceted community offer was made which included:- a community investment bond scheme; an annual community payment at £10,000 per annum (index linked) over a period of 20 years; and a fully funded 30kW rooftop scheme for Steyning Grammar School.

36. A planning obligation has not been concluded as the benefits on offer are not necessarily required to make the development acceptable in planning terms. However, Inazin Power Ltd, which acts for the appellant, has agreed to, and paid, community benefits elsewhere without a formal agreement in place.

37. In learning that the proposal would be recommended for refusal, and following a meeting with the Council's landscape officer, revised proposals were submitted which included:- a reduction in the number of panels proposed; an increased stand-off from site boundaries and trees; planting of a hedge on the north-western side of the site to the east of the public footpath; and additional tree planting on the northern boundary.[19]

38. However, the appellant considers that the Planning Committee was intent on refusing the application with little regard for climate change, targets, energy security and the community benefits on offer; and the efficiency and effectiveness of renewable technologies.

Landscape Character Areas

39. At a national level, the site is located in the Low Weald Landscape Character Area. Its key characteristics, of particular reference to the locality of the site, include:- broad, low lying and gently undulating clay vales; tall hedgerows with numerous mature trees; and rural in character with dispersed farmsteads.[20]

40. Locally, the site falls within two landscape character areas as set out in the West Sussex Landscape Land Management Guidelines, namely: Wiston Low Weald (LW7); and Upper Adur Valley (LW9). Selected key characteristics of the former include:- gently undulating landform; predominantly small to medium-sized fields, enclosed by woodlands, shaws (remnant strips of cleared woodland) and hedgerows; and isolated trees in pasture. For the latter:- there are relatively few panoramic or long views within the valley although views to the south are dominated by the steep downland scarp; and small woodlands and networks of hedgerows with hedgerow trees.[21]

41. Land Management Guidelines include the management and restoration of hedgerow patterns and shaws and replanting of hedgerows where they have been lost; replanting and management of isolated trees in pasture; conservation and enhancement of the undeveloped character and pastoral qualities of the valley; and ensuring that any new development has a minimum impact on views from the Downs and is integrated within the landscape.[22]

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[19] Proposed site layout; Drawing No 2369-PL-04 Rev 03 (replacing Rev 01)
[20] Landscape and Visual Impact Assessment (paragraph 4.4 and Appendix 4)
[21] Landscape and Visual Impact Assessment (paragraph 4.5 and Appendix 4)
[22] Landscape and Visual Impact Assessment (paragraph 4.8 and Appendix 4)

Landscape and visual effects

42. It is acknowledged that the proposed development would be visible from some locations; but the extent to which it would be seen or recognisable, and its overall impact on landscape character, would be limited and within acceptable tolerances. Any resultant harm would be outweighed by the provision of renewable energy and the wider associated environmental benefits. It should also be recognised that the countryside has changed over time and the proposal would represent a further step in an evolving landscape resulting from alternative uses, farm diversification and changing farming practices.

43. In terms of landscape character, the area comprises broad, low-lying and gently-undulating clay vales, with an intricate mix of small woodlands, a patchwork of fields and hedgerows.

44. The amended Landscape and Visual Impact Assessment[23] notes:- *'The area has a number of woodlands and shelter belts which help to break up the long distant views of the South Downs giving form and character. Dramatic views of the South Downs are a dominant feature in the landscape'*. Southerly views are therefore dominated by the backcloth of the Downs; and views from limited locations along the Downs are filtered or restricted by established landscape features. As such, *'taking into account the key characteristics of the site its sensitivity to solar pv is assessed to be low'*.[24]

45. As the proposal would not change landform or result in the loss of natural features, the main concern must therefore be whether the equipment to be placed on the land would be so unsightly and intrusive so as to cause the adverse impacts alleged by the local planning authority. The Landscape and Visual Impact Assessment finds the effects to be acceptable.

46. Moreover, the nature of the development provides little opportunity to change its scale and appearance with the former being influenced by viability. In addition, it is considered that a large, single, development within a landscape, which has the capacity to absorb it, is preferable to the piecemeal dispersal of smaller installations. The development as a whole would be low-lying with buildings kept to a minimum and similar in height and scale to numerous outbuildings and sheds commonly found in rural areas. The panels would be less reflective, and less intrusive, than glasshouses and polytunnels.

47. In terms of adjacent views, the only publicly accessible views from areas immediately adjacent to the site would be from the public footpath inside the western boundary of the site which then turns east across the northern boundary. The Landscape and Visual Impact Assessment acknowledges that the impacts from the footpath would be moderate.[25] From the north, only the rear of the arrays would be visible and they would be seen against backdrop topography;[26] and new planting would provide mitigation. Views into the site from the footpath to the west would be screened by a new hedgerow.

[23] February 2014
[24] Landscape and Visual Impact Assessment (paragraph 4.14)
[25] Viewpoints 1 and 2
[26] Landscape and Visual Impact Assessment (paragraph 4.18)

48. Moving away from the site, views from the north would be available from the public right of way adjacent to Upper Northover Farm (approximately 360 metres away).[27] The Landscape and Visual Impact Assessment records:- *'Receptors using this public right of way are considered to be of medium sensitivity. Views from upper storey windows from Upper Northover Farm of the development may be likely of the site rising to the south with views partially filtered by intervening vegetation and built form. This receptor is considered to be of medium sensitivity'*. There is nothing to suggest that the proposal would harmfully enclose, dominate or overwhelm the living environment of this dwelling.[28]

49. Shelleys Cottage, to the south-east of the site is situated beyond the brow of the hill on which it sits and there is intervening vegetation which screens it from the site. No objections were raised by the occupant of this property.

50. The potential for wider, longer distant, views is limited as illustrated in the 'Zone of Theoretical Visibility' (ZTV). *'It is clear from the ZTV that within a radius of 5 kilometres the site is visually contained by the landform particularly to the south. There are no prominent viewpoints in the locality. At distances of over 2 kilometres any views are likely to be insignificant due to the low profile of the proposed development'*.[29]

51. With regard to Tottington Mount, it is acknowledged that this represents an important viewpoint. However, at 3.9 kilometres from the site, with intervening trees and hedgerows heavily filtering views towards the site, and with its landscape backdrop, the magnitude of change would be low and the visual effect would be moderate.[30] Elsewhere along the South Downs, for instance at Chanctonbury Ring Fort (4.7 kilometres away), the impact would be far less (negligible) and would therefore have only a minor adverse visual effect.

52. All of the remaining viewpoints considered within the Landscape and Visual Impact Assessment show that the proposal would have a very limited impact. The Council's concerns about the effect on views from the Downs Link, particularly from the Henfield direction, have to be considered in the knowledge that the views from this route are almost entirely concealed by intervening topography and vegetation; and any views would be at a distance of least one kilometre.

53. Having noted the measures suggested by the local planning authority to secure adequate mitigation,[31] the appellant would be prepared to accept a condition requiring the additional landscaping sought if the decision maker considers this to be a necessary to secure the grant of planning permission.

54. In particular, such measures would ameliorate the alleged harm to the setting of the National Park and also to the immediate landscape, in light of the Council's concern about the impact of panels on an undulating landscape. They would also provide additional screening for the 'functional' buildings on

[27] Viewpoint 4 – a short distance to the east of Ashurst Place Farm
[28] No reference is made to Ashurst Place Farm which has a more direct, principal, aspect and which I have used for my assessment in light of the site visit made
[29] Landscape and Visual Impact Assessment (paragraph 4.17)
[30] Viewpoint 12
[31] Set out in paragraph 78 below

the site; and the planting of a *'mature native species hedgerow of 2.0 - 2.5 metres in height at the time of planting'* on the eastern side of the public footpath which runs along the western boundary of the site would provide 'instant' screening. Implementation of those measures would also secure compliance with Policy DC 8.

Biodiversity

55. The proposed development would deliver a net gain by removing intensive farming practices from the land for over 30 years and focusing on the planting of diverse grassland, hedgerow and tree planting, and smaller-scale habitat creation. It would also remove CO_2 emissions from the air by its very existence and allow the soil to recover from chemical usage.

Farm diversification

56. Although Huddlestone Farm is one of the best managed mixed farming units in the country, it runs on the edge of viability most years due to high input costs, comparatively lower arable yields and, particularly in recent years, repeated poor weather events. The proposal would provide a stable source of income to underpin the farm unit for the future, with employment provided for the farm staff in the maintenance of the ground around the arrays.[32]

57. Huddlestone Farm extends to some 220 hectares which forms part of an agricultural holding amounting to over 525 hectares. The appeal site sits on Weald Clay with its yield potential amounting to approximately 1.85 tonnes of wheat less per hectare (or 12.35 tonnes of maize per hectare) compared to the more fertile Greensand soils also found on the farm. The lower yields are accompanied by increased production costs due to the relative cost of cultivation.

58. The farm supports a dairy herd of some 400 cows, 300 sheep and varied arable cropping. The loss of land to the solar farm would not affect agricultural activities or employment on the farm. Although the business is committed to agriculture, producing over 4 million litres of milk per year for Tesco, 1,000 tonnes of bread making wheat and over 500 prime lambs per year, diversification is important to withstand unpredictable events and to ensure a sustainable business for the future. Protecting the viability of farm holdings is a material planning consideration.

Local representations

59. The planning application attracted few objections being limited to a joint letter from two nearby residents and an individual who occasionally walks the area but lives 12 kilometres away. Fifteen individuals/groups, including the Parish Council, expressed support; and there was strong endorsement for the community benefits on offer.

Other matters

60. Although the proposed solar farm would not power the local community directly, it is likely that the export of electricity into the regional utility network would be drawn locally and of benefit to improving local energy security in the event of shortages of power from the national grid.

[32] Agricultural and Diversification Plan

61. Local concerns about potential noise have been misunderstood in that the noise from invertors would be 75dB when measured one metre away from the individual item of equipment; and it is unlikely that anything would be heard beyond the boundaries of the site.

The planning balance

62. The proposal should be determined in accordance with the development plan and the wider policy considerations of the National Planning Policy Framework and the Planning Practice Guidance for Renewable and Low Carbon Energy. Therefore, the effects of the proposal need to be weighed against the need to tackle climate change, the drive to provide renewable energy and the wider environmental, economic and social benefits of renewable energy development. Overall, it is considered that the Council has placed insufficient weight on the need for renewable energy to meet its targets and the limited number of locations where such developments could be accommodated.

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The Case for Horsham District Council

Principle of development

63. The proposal is considered to be acceptable in principle, consistent with Policies DC 1 and DC 8 of the General Development Control Policies; and, in accord with the objectives of sustainable development set out in paragraph 7 of the National Planning Policy Framework. However, the adverse impact of the development on the landscape would outweigh its benefits. In this regard, whilst Policy CP 2 encourages renewable energy sources, the sub-text indicates that *'the scope is relatively limited because of the potential impact on the landscape ……'*.

Landscape and visual effects

64. The appeal site lies within an area defined as 'Steyning and Henfield Brooks Character Area' (O3) in the Horsham District Landscape Character Assessment 2003. It is distinguished by an alluvial floodplain landscape with generally gentle valley sides. The locality of the site is typical of the character area in terms of field patterns, hedgerows and farms on the valley sides overlooking the floodplain. There has been some deterioration in landscape condition, through loss of hedgerows, change of pasture to arable and the visual intrusion from pylons. However, the assessment notes the generally high sensitivity to change of this landscape given its openness and many intrinsic landscape qualities which include panoramic views of the South Downs, scarp foot-slopes and the Adur river valley.

65. The aim is to conserve the tranquil and undeveloped character of the landscape; to ensure that new development on the valley sides is small in scale; and to conserve small scale patterns of pastures. The appeal proposal would result in a substantial and harmful change over a relatively long period of time which would be compounded by the fundamental failure to incorporate adequate mitigation.

66. The appellant's Landscape and Visual Impact Assessment underplays the likely adverse effects arising from the proposal. In terms of landscape character, the site itself, and the land immediately surrounding, would experience substantial

change due to the presence of panels in characteristic rural views. Moreover, the development would be affected to a moderate-major adverse degree in terms of intruding into the characteristic views from the South Downs National Park with the wide sweep of the Downs from Tottington Mount to Chanctonbury Ring Fort.

67. Significant major and moderate adverse effects for the visual amenity of public rights of way would occur in the following locations:- the public footpath which follows the western boundary of the site and part of its northern boundary; the bridleway immediately to the north of the site extending eastwards from Northover Farm to the River Adur; points along the Downs Link (a right of way of strategic importance), albeit limited to several locations in the vicinity of Henfield where a less substantial hedgerow would permit winter views and at one point where a public seat has year-round views; and from the bridleway on the South Downs at Tottington Mount. A number of residential properties would also be adversely affected in the immediate vicinity of the site.

68. Although the proposal is accompanied by landscaping and planting proposals, new hedgerows and tree planting as mitigation would not address the adverse effects from the adjacent public footpath whilst the planting becomes established (up to 15 years); and it would fail to address the impacts from higher ground within a designated landscape to the south which overlooks the site. It is also worthy of note that the provision of pole mounted CCTV cameras would appear alien; and the invertor housing 'containers' would have a hard, functional, utilitarian appearance which would not be remedied by the offer to paint them green.

69. In response to the Council's concerns, the appellant submitted revised proposals showing a slightly reduced development footprint incorporating further set back from boundaries and trees; a reduction in the number of panels; and revised landscaping proposals.[33] However, it was considered that these amendments were relatively minor and insufficient to overcome the local planning authority's objection. Overall, the proposal, set in an undulating landscape, would have a negative impact on the rural environment.

70. Although the appellant asserts that *'…… the best sites are either level, or with a south facing slope …..; [and] the selected site meets all of the criteria set out above ……'* it is notable that the appeal site is undulating with a gentle north facing slope to the watercourse on its northern boundary.

71. Whilst the appellant seeks to derive considerable support from the Planning Practice Guidance on Renewable and Low Carbon Energy, paragraph 007 makes clear that *'local topography is an important factor in assessing whether …… large scale solar farms could have a damaging effect on landscape ……; proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration; [and] protecting local amenity is an important consideration which should be given proper weight in planning decisions'*.

[33] Proposed site layout; Drawing No 2369-PL-04 Rev 03 (replacing Rev 01)

72. In addition, at paragraph 013, the guidance confirms that *'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes'*. Moreover, the effect on landscape of glint and glare is a further factor; but this has not been assessed by the appellant.

Biodiversity and ecology

73. The proposal was accompanied by an extended Phase 1 ecological survey and a Landscape and Ecological Management Plan. These are considered to be sufficient and appropriate and no additional surveys would be required. The proposal would thus accord with Policies CP 2, CP 3, DC 2, DC 5 and DC 9; and also with paragraph 118 of the National Planning Policy Framework. The County Ecologist raises no objections.

Flooding

74. The appeal site is located wholly within Flood Zone 1, an area of low flood risk. The submitted Flood Risk and Drainage Assessment confirms, in terms of surface water run-of, that there would be no increase in rates or change to run-off/dispersal routes; and no part of the development would impinge on the watercourse along the northern boundary of the site. The Environment Agency raises no objections to the proposal subject to the implementation of the mitigation measures contained in the Flood Risk and Drainage Assessment.

Highway safety

75. It is considered that the level of vehicle movements during the construction period (an average of 12 movements per working day over a period of three months) is unlikely to cause safety issues at the junction of the existing access on to Horsham Road subject to the project being implemented in accordance with the submitted Construction and Traffic Management Plan; and liaison taking place with a second construction project (anaerobic digester) at Wappingthorn Farm to ensure that safe practices are maintained should construction on the two sites coincide.

Other matters

76. Although the appellant seeks to justify the proposal by reference to the relative scarcity in the District of suitable voltage grid infrastructure to connect to utility scale renewable projects, no substantive evidence has been submitted as to the relative landscape sensitivity and capacity of the different landscape character areas crossed by the grid infrastructure. Given the overall extent of the 33kV lines (over 60 kilometres), the appellant's claim that suitable sites are *'massively constrained'* is not clear. Similarly, there is nothing to suggest that a smaller scheme would not be viable.

77. Reference is made to three other solar farms which the Council has permitted. However, these are much more visually enclosed by existing woodland and hedgerows; and/or seen partly within the context of an existing business park; and/or significantly smaller in scale than the appeal proposal.

78. The advice offered by the Council, to the appellant, as to the steps necessary to secure appropriate mitigation included:-

    (a) an 'instant', mature native species hedgerow (2.0 – 2.5 metres in height at the time of planting) on the western boundary of the site, between the existing footpath and the proposed solar panels;

(b) the restoration of the historic hedgerow field pattern in the centre of the site so as to enhance landscape character and provide some visual mitigation in views from public rights of way overlooking the site from higher ground; and

(c) the provision of woodland and woodland edge planting to reinforce existing hedgerows on the northern and north-eastern boundaries of the site and in the centre of the site for the reasons given in (b) above.

79. Whilst the appellant has indicated the offer of a *'multi-faceted community benefit'*, comprising an annual community payment and a rooftop photovoltaic scheme for Steyning Grammar School, no binding, formal, mechanism has been offered. Moreover, these measures are not considered to be necessary to make the development acceptable in planning terms and, as such, they cannot be considered to be material.

The planning balance

80. It is acknowledged that the proposal would provide significant benefits in the large scale generation of renewable energy which has the support of local and national policies; and it would not give rise to concerns about flooding, biodiversity and highway safety. However, the significant and adverse visual amenity and landscape impacts would significantly and demonstrably outweigh the benefits arising from the scheme.

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Written Representations

81. The Council's Development Management Report identifies one letter of objection on behalf of two local residents on the following grounds:-

(a) inappropriate scale of development in countryside location;

(b) alien intrusion into an area of unspoilt countryside;

(c) adverse visual impact;

(d) loss of agricultural land;

(e) increased risk of flooding;

(f) proposed landscaping would not mitigate the adverse visual impact; and

(g) no significant benefit for local employment.

82. It also records support from Steyning 10:10 Climate Action Group (part of Community Energy South, an umbrella group formed to promote the development of community energy schemes in the area). Further expressions of support (after the preparation of the report) endorse the lead of the action group with backing for community involvement; acceptance of landscape impacts with screening for neighbouring properties with views of the site; and the positive benefits for wildlife.

83. Steyning Parish Council raised no objection; albeit there was some concern expressed with regard to the footpath and the natural walk and a wish for some community involvement.

84. The appeal has generated five expressions of objection as set out below:-

(a) visual impact and loss of enjoyment to the Steyning Walk (publicised and funded by a lottery grant);[34]

(b) uncertain impacts on wildlife;

(c) impact on residential amenity (Heron Farm);

(d) noise;

(e) most of the letters of support reported to the Planning Committee followed the offer of community benefits through a local campaign;

(f) land used for growing food should not be taken out of productive use; and

(g) such installations should be placed on warehouses and large shopping complexes.

85. A submission from Steyning 10:10 sets out its *'strong support'* for the proposal following a survey to gauge public opinion[35]:-

(a) 230 responses were received most of which were from local postcodes;

(b) 86.7% of respondents considered that the benefits of the proposed scheme outweighed the landscape impacts;

(c) 91% of respondents were in favour of the scheme, including 67% who were strongly in favour; less than 5% were against or strongly against;

(d) 67% were concerned about climate change and 26% were quite concerned; only 3% were not concerned; and

(e) 77% considered taking action in Sussex was a big priority; 19% felt that something should be done about it; less than 4% were not convinced action is necessary or were not sure.

86. The action group considers that the unusually good package of direct benefits to the local community is an added attraction, comprising:- 30kW of pv panels for Steyning Grammar School; a contribution of £10,000 per annum (index linked) for 20 years to fund local energy projects; and a community bond which would offer an innovative and low risk way for people to invest in the solar farm (consistent with the Government's intentions to encourage local ownership of renewable energy projects). These provisions should be included in a condition if permission is granted.

87. A letter from a Parish Councillor, who sits on its Planning Committee, enlarges on the Parish Council's original comments and a later move to 'upgrade' the expression of 'no objection' to 'strongly supports' which was frustrated by the subsequent meeting, shortly before the deadline for comments to be made on the appeal, being inquorate.

0-0-0-0-0-0-0-0

[34] Copy of leaflet accompanying objection – a circular walk described as *'about 6.5 miles'*

[35] Including a presentation made available on line to inform participants and copy of survey questions and collated responses

Inspector's Conclusions and Recommendation

88. The references in brackets ***['x']*** are to the principal paragraphs in my report of the cases from where my conclusions are drawn.

The main considerations

89. The main considerations are the effect of the proposed development on the character and appearance of the landscape, including the South Downs National Park, and on the living environment of nearby residents; and, whether the undisputed benefits of the project would be significantly and demonstrably outweighed by any identified harmful impacts.

Planning Policy

90. Policy DC 8 of the Horsham District Local Core Strategy General Development Control Policies is the key policy relating to renewable energy schemes (including solar). The explicit consideration of landscape character, wildlife, areas of historic significance or amenity value effectively embraces Policies CP 1, CP 2, CP 3, DC 1, DC 2, DC 5, DC 6, DC 9, DC 10 and DC 13. ***[16, 17]***

91. However, Policy DC 8 does not make any provision for a balance to be struck between identifiable harm arising from, and the acknowledged benefits associated with, renewable energy development as set out in the National Planning Policy Framework and its call to approve renewable energy developments if their impacts are (or can be made) acceptable.

92. Paragraph 14 of the Framework, in its presumption in favour of sustainable development, confirms that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (or specific policies in the Framework indicate development should be restricted). ***[20]***

93. Planning Practice Guidance explains, amongst other things, that the need for renewable energy does not automatically override environmental protections; and protecting local amenity is an important consideration which should be given proper weight in planning decisions. ***[71]***

Landscape character

94. The key characteristics of the locality include a tranquil rural landscape made up of gently undulating countryside; small - moderate sized fields, typically with well-defined hedgerow boundaries; and a notable presence of trees, reinforced by blocks of woodland and linear shelter belts. There are instances where field boundaries have been lost or diminished, and the immediate locality contains a number of large, modern, farm buildings. ***[39 - 44, 64, 65]***

95. The appeal proposal would not have any material impact on the fabric or tranquillity of the landscape and new hedgerow planting would reinforce its structure. However, the regimented strings of solar arrays and related development would be uncharacteristic 'man-made' elements which would result in a very marked change to the character of the site itself. Nonetheless, when considering the totality of the Landscape Character Areas within which the site is located, and from which it is visible, these would remain largely unaffected. ***[45, 66]***

96. In terms of the Land Management Guidelines for the two relevant character areas, the proposal would, for the life-time of the development, be in conflict with the aim of conserving and enhancing the undeveloped character and pastoral qualities of the landscape; but, the effects would be reversible. Moreover, with appropriate mitigation, it would meet the objective of ensuring minimum impact on views from the Downs and, with the exception of local views, it would appear integrated within the landscape. The planting, reinforcement and management of hedgerows would be consistent with the guidelines. ***[41, 65, 66]***

The appearance of the landscape

97. The appeal site is immersed within an attractive, but undesignated, rural landscape. There is very little semblance of built development from the public footpath along the western boundary of the site and the parkland-like quality of the site is seen to flow seamlessly into its backdrop of the South Downs National Park to the south-east (Photo Locations 1A and 1B). A similar, but more dramatic, impression is gained from the immediate continuation of the footpath to the north of the site, and the bridleway in the vicinity of Upper Northover Farm (Photo Location 4) where the backdrop Downs exerts a more striking presence. ***[40, 47, 48, 64, 67]***

98. In each instance the open outward aspect draws the eye and forms a key element of a much wider landscape. The proposed development would, by its scale and nature, appear highly intrusive within this attractive rural setting. Whilst new hedgerow planting could offer substantial screening within a short period of time, the effect would be to denigrate the ambience of the public footpath as the experience of the wider open countryside would be lost by the looming presence of a new hedgerow boundary and the funnelling effect on its route. ***[37, 69]***

99. Moving on to the bridleway to the north-east of the site, with particular reference to the stretch between Heron Farm and the group of buildings associated with Ashurst Place Farm, the existing track-side hedgerow provides an ineffective screen and there are clear views of the appeal site set against a panoramic backdrop of the Downs. The site, in its existing form, makes a substantial contribution to the rural character of the locality and, as a consequence, the presence of the proposed solar farm, in the mid-ground and central to the aspect, would be readily apparent and highly intrusive even after the implementation of the proposed landscaping works. ***[48, 67, 68]***

100. Moreover, although it is said that, in views from the north, only the rear of the arrays would be visible, and they would be seen against a backdrop of topography, this would not lessen the impacts in any perceptible manner. On the contrary, a succession of framework supports, as opposed to the more consistent smooth lines of the panels themselves, would offer no visual advantage. ***[47]***

101. Indeed, with the number of strings proposed and the, often subtle, variation in the way the land slopes away from the viewer, the structures would take on an irregular, staggered, appearance and appear uneasy on the eye. Even if ground preparation were to achieve a smoother land profile, a more even stepped outline would not resolve the alien and uncompromising form of the arrays and the related utilitarian structures within the site. ***[9, 10, 54, 68 - 70]***

102. From further afield, along the Downs Link (Photo Locations 9 and 10), the appeal site is substantially shielded from view by a combination of topography and Wyckham Wood in the foreground. With the added effect of distance (in excess of one kilometre), any limited views of the proposed installation would not be unduly damaging to the outlook from, and the enjoyment of, this bridleway. ***[50, 52, 67]***

103. Continuing into Henfield, the viewpoint at Southview Terrace provides an elevated outlook with the appeal site being more-or-less central to the view; and, from this point, established and proposed landscape features would provide very limited mitigation. Although the proposed solar farm would sit within an extensive swathe of countryside, it would, nonetheless, appear as a very noticeable, uncharacteristic, element in the landscape. ***[5]***

104. Moving on to the South Downs National Park, the panoramic viewpoint at Devil's Dyke is some 7.5 kilometres from the appeal site and, due to a combination of distance and the intricacy and fabric of the landscape, the site was not identifiable. ***[6, 11]***

105. The first tangible recognition of part of the appeal site occurs in the vicinity of a Tumulus on the approach to Edburton Hill (5.5 kilometres from the site). It comprises a small component in the landscape with views filtered by topography and vegetation with woodland and hedgerows adding a dark tone to the landscape. From this distance it would be difficult to make out the individual components of the proposed development, and, as a seemingly dark mass, it would be readily absorbed without any material harm to this view.

106. The next clear view towards the site occurs to the west of the radio station at Truleigh Hill (5.0 kilometres); but its presence in the landscape is very limited due to the higher ground immediately to the south-east of the site and good boundary hedgerows. Again, the degree to which parts of the development would be visible would be slight and of very limited effect given the manner in which they would merge into their surroundings.

107. Continuing along the South Downs Way, beyond the youth hostel and the bridleway to Tottington Mount, the route provides views in the direction of the appeal site at a distance of 4.5 kilometres. The site as a whole is not evident due to foreground topography, woodland and hedgerows. Views are limited to small mid-ground shards of countryside, condensed as the route falls to lower ground, set within mature surrounds. The proposed development would be neither obvious nor intrusive.

108. Returning to the bridleway close to the youth hostel and its sweeping passage to and beyond Tottington Mount (3.9 kilometres), it is at this point where the site has a more marked, progressive, presence in the landscape, albeit as a small component in a much wider panoramic vista (Photo Location 12). It is of limited duration, dissipating as the route drops down the north facing slope of the Downs. ***[51]***

109. Nonetheless, over a short distance, an extensive part of the site is visible as its foreground topography appears to flatten and vegetation is more sporadic in nature. However, the proposed solar farm would sit within a mature landscape setting; views from this greater elevation would be compressed; and the additional planting sought by the local planning authority, and conceded if

necessary by the appellant, would add beneficial sub-division and framework to the development and minimise its impact from this part of the National Park. ***[53, 54, 78]***

110. Finally, from Chanctonbury Ring Fort, along the South Downs Way, to the south-west of the site (4.7 kilometres), the appeal site is not readily apparent due to foreground woodland and hedgerows and, at worst, any views of the proposed development would be heavily filtered and of no material consequence. ***[7, 51, 66]***

Living conditions

111. Heron Farm has a wide panoramic view from its rear facing windows and garden and whilst the appeal site is offset to the south-west, a significant part of the project would be visible in the mid-ground view. Although the development would materially change the outlook from the property and diminish the enjoyment of the garden, the proposal, despite its scale and proximity, would not be so overwhelming or oppressive as to render the dwelling an unacceptable place in which to live. ***[6, 67, 84]***

112. Ashurst Place Farm has a direct aspect towards the site from its rear facing rooms. However, the combination of distance, framing and partial screening by trees would ensure that the intrusive and uncharacteristic nature of the proposed development would not cross the threshold of creating unacceptable living conditions. ***[6, 48, 67, 84]***

Other material considerations

113. Despite locally expressed concerns about flooding, technical assessment and formal consultation with the relevant body confirms that there would be no net increase in surface water run-off from the site; and no development would take place in the areas of potential flood risk. The Flood Risk and Drainage Assessment submitted with the application includes recommended mitigation measures. ***[26, 74, 80]***

114. There are no unresolved matters in relation to access to the site; and there are no relevant considerations relating to heritage or archaeological interests; or in relation to biodiversity and ecology. Although there is an expressed preference for the use of brownfield land for solar generation, there is no suggestion of any significant availability in the District. ***[28, 31, 55, 73, 75, 80]***

115. Whilst the Council expresses concern about the appellant's failure to demonstrate that a smaller scheme would be unviable, the proposal falls to be considered on merit having particular regard to paragraph 98 of the National Planning Policy Framework and its confirmation that *'local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy …… and approve the application if its impacts are (or can be made) acceptable'*. ***[76]***

116. It is said that Huddlestone Farm runs on the edge of viability most years and that a stable source of income would underpin the future of the farm and the employment which it provides. However, the claim is not quantified in any meaningful way and no material weight attaches. ***[20, 55 – 57]***

117. Although there is nothing to suggest that the offer of a 'community benefit package' would not materialise, the components offered do not have any formal status or guarantee in the absence of a concluded planning obligation. However, none of the elements offered would fulfil the statutory tests for obligations set out in the Community Infrastructure Levy Regulations 2010 and the policy tests in the National Planning Policy Framework. This point is acknowledged by the appellant. As such they are of no materiality to the determination of the appeal. ***[35, 36, 79]***

118. Whilst there are a limited number of local objections to the proposed development, the project has gained significant support through the medium of Steyning 10:10. Such community support is a material consideration; but the request for a condition to be imposed on any grant of permission to secure the package of benefits for the local community would not meet the tests governing the imposition of conditions which should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects. ***[25, 35, 59, 61, 79, 81 – 87]***

Conditions

119. The conditions sought by the Council, in the event of the appeal being allowed, are set out in Annex A to this report.

120. Condition 1 specifies the standard time period in which the development is to be commenced. Site restoration is a legitimate objective but condition 2, in its requirement for a scheme to be submitted within twelve months of the expiry of the permission does not cater for earlier redundancy and, in any event, an approved scheme should be in place before the end of the permission to provide for timely removal and site restoration.

121. The approved list of drawings, in condition 3, needs to be amended to include drawing 2369-PL-03 Rev 1. Condition 4, requiring materials to be used to accord with the details approved, is unnecessary in light of condition 3; and in any event, condition 6 requires the submission of other specified details. Condition 5, and its call for details of the CCTV installations, appears unnecessary given the details provided in Drawing PL-11 REV 01. Details of the proposed access tracks, condition 7, are required to minimise visual impact. ***[4]***

122. The reference, in condition 8, relating to compliance with the guidelines and measures set out in the International Commission on Non-Ionising Radiation Protection, does not have explicit justification; and clarification sought from the local planning authority has met with no response.

123. Condition 9, limiting the noise emitted from the plant/machinery to be installed, is not supported by any technical justification; and, given the nature of the equipment and the distance to the nearest residential property, there is nothing to suggest that such a condition is necessary.

124. The installation of a wheel-cleaning facility for construction vehicles, to prevent the carriage of mud and debris on to Horsham Road (B2135), appears unwarranted as a stand-alone condition as the site is located in the order of one kilometre from the road. The control of working hours, condition 11, appears unduly onerous, given the distance between the site and residential

properties and the dominance of farming activities in the locality. However, a restriction on external lighting, condition 12, is warranted to protect the dark night sky.

125. In view of the above shortfalls, and the omission of other necessary conditions, a schedule of redrafted conditions is listed at Annex B to this report, for consideration in the event of the Secretary of State deciding to allow the appeal.

126. These relate to the standard time period within which to implement the permission (Condition 1). The approved drawings are itemised for the avoidance of doubt and in the interests of proper planning (Condition 2). Arrangements for decommissioning are defined (Condition 3).

127. Given the scale of the project, an agreed Construction and Traffic Management Plan is required to supplement the framework plan provided for guidance at application stage (Condition 4). This condition can include details of any permanent access tracks within the site; wheel washing facilities if shown to be necessary; and timing of the works. ***[75]***

128. A Landscape and Ecological Management Plan is also an important precondition as confirmed in the Ecological Survey accompanying the application (Condition 5). Similarly, in the absence of any proposed mechanism to secure landscape mitigation, a landscaping scheme is required (Condition 6). In this regard, the Landscape and Environmental Management Plan submitted with the application sets out a number of fundamental principles which should be incorporated into the condition. ***[32, 73]***

129. Outstanding details of buildings and structures can also be secured (Condition 7); and external lighting precluded other than in accordance with a scheme previously agreed in writing by the local planning authority (Condition 8). In addition, the mitigation measures set out in the Flood Risk and Drainage Assessment should be adopted (Condition 10). ***[74]***

130. The comments of the parties on the redrafted and additional conditions have not been sought.

The planning balance

131. The proposal would contribute towards the Government's long-standing and well-documented commitment to renewable energy generation in the drive towards tackling climate change and reducing the UK's emissions of carbon dioxide. The generation of 16MW of green energy per year (approximately 3,400 average households), saving some 9,000 tonnes of carbon dioxide per annum would contribute to national and local targets. ***[18 – 23]***

132. It is also relevant to note that the effects of the development would be reversible; there would be some biodiversity benefits; and the site would have a viable grid connection. These factors, together, are a matter of significant weight. ***[29, 30, 32 - 34, 55, 60, 62, 76, 80]***

133. In terms of harm, there would undoubtedly be change to the character of the landscape which would be severe, even with proposed mitigation, within and immediately adjacent to the site. In this regard, the introduction of a visibly new 'feature' and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape.

134. The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm. Sweeping views across a parkland-like landscape and their seamless integration with the rising slopes of the South Downs National Park would be lost to an unforgiving utilitarian aspect which, even with the degree of landscaping sought by the Council, the development would remain as highly intrusive and damaging to the rural scene. Moreover, the new screening between the footpath within the site and the installation would rob users of a tangible appreciation of the wider open countryside and severely impair the enjoyment of the route.

135. The proposed development would have little impact on views from the Downs Way; but it would stand out in a broad rural vista when viewed from the identified location in Henfield.

136. The National Planning Policy Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks (and other specified designated areas) which have the highest status of protection in relation to landscape and scenic beauty. Planning Practice Guidance on renewable and low carbon energy confirms that proposals close to National Parks will need careful consideration where there could be an adverse impact on the protected area.

137. The proposed development would be some distance from the National Park boundary and the primary adverse impact on the outlook of the designated area would be experienced from, and within the vicinity of, Tottington Mount where the solar farm would be visible over a relatively short distance. However, with appropriate mitigation within the site, the effects on the outlook from the designated area would be very limited.

138. Overall, in my judgement, the very local impacts of the proposal, most notably from the public footpath within the site, its continuation to the north and the related bridleway would be so pervasive to significantly and demonstrably outweigh the very significant benefits of the proposal. The minor impact on the outlook from the National Park is an additional, but not determinative, factor. ***[42, 63, 80]***

139. On this basis the proposal would be at odds with Policy DC 8 of the Horsham District Local Core Strategy General Development Control Policies (and the related policies which it embraces). However, the policy does not call for a balance to be struck between any identified harm and the benefits arising from a specific project. Whilst planning decisions are to be taken in accordance with the development plan, unless material considerations indicate otherwise, the application of those benefits must be admitted into the planning balance; and having done so, direct inconsistency remains. Whilst compliance with a number of policies has been noted (for example DC 40), the proposal would be in conflict with the development plan when read as a whole. ***[16, 17, 24 – 28, 63, 73]***

140. Additionally, the development proposed would be at variance with paragraph 98 of the National Planning Policy Framework, having particular regard to one of the core planning principles, in paragraph 17, to *'take account of the different roles and character of different areas …… recognising the intrinsic character and*

beauty of the countryside ……'. In this instance the impacts of the proposal would, on balance, be very damaging to the rural landscape; and those effects could not be made acceptable.

141. The achievement of radical reductions in greenhouse gas emissions is central to the economic, social and environmental dimensions of sustainable development. Nonetheless, the aim of mitigating and adapting to climate change would be far outweighed by the environmental damage and the proposal would fall short of meeting the three, mutually dependent, roles of sustainable development.

142. In terms of Planning Practice Guidance, and the Written Ministerial Statement, although the proposal involves greenfield land there is no demonstrable available alternative and lower quality land has been chosen in preference to higher quality land. The development would allow for continued agricultural use and biodiversity improvements could be delivered. None of these factors outweighs the harm which I have described. **[3, 15, 33]**

Recommendation

143. I recommend that the appeal be dismissed. However, in the event that the Secretary of State disagrees and allows the appeal, I recommend that the conditions at Annex B be applied.

David MH Rose

Inspector

Annex A: List of conditions supplied by the local planning authority

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The use of the equipment hereby permitted for generating electricity shall be discontinued on or before 30 years after the first use of the solar PV panels, in accordance with a scheme of work submitted to and approved in writing by the local planning authority within twelve months of the expiry of this permission. The scheme shall include:

   i method statement for decommissioning and dismantling all equipment on site;

   ii details of any items to be retained on site;

   iii method statement for restoring the land to agriculture; method statement for the appropriate disposal/recycling of redundant equipment/structures;

   iv timescales for decommissioning removal and reinstatement of the land;

   v provision for review of the scheme as necessary.

   The scheme of work shall be implemented as approved, in accordance with a timescale to be approved, unless otherwise agreed in writing in advance by the local planning authority.

   Reason: To ensure the satisfactory restoration of the site back to agriculture in accordance with polices DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

3. The photovoltaic array hereby approved shall be installed in accordance with the following plans and sections:
   Ref. 2369-PL-04 REV 03 submitted on 24 March 2014
   Ref. 2369-PL-02 REV 01 submitted on 7 January 2014
   Ref. 2369-PL-03-A REV 01 submitted on 24 March 2014
   Ref. 2369-PL-03-1 REV 01 submitted on 24 March 2014
   Ref. 2369-PL-03-2 REV 01 submitted on 24 March 2014
   Ref. 2369-PL-03-3 REV 01 submitted on 24 March 2014
   Ref. PL-05-25 REV 01 submitted on 7 January 2014
   Ref. PL-10-AB1 REV 01 submitted on 7 January 2014
   Ref. PL-10-AB2 REV 01 submitted on 7 January 2014
   Ref. PL-07 REV 01 submitted on 7 January 2014
   Ref. PL-08 REV 01 submitted on 7 January 2014
   Ref. PL11 REV 01 submitted on 7 January 2014
   Ref. 0000-PL12 REV 01 submitted on 7 January 2014

   Reason: To control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

4. The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved details associated with the application.

   Reason: To enable the local planning authority to control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

5. Prior to commencement of development details relating to CCTV equipment and associated structures, including details of their design, appearance, colour and specifications shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

   Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

6. Prior to commencement of development details relating to the colour of the GRP building, storage container and inverter housing shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

   Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

7. Prior to commencement of development details relating to access tracks shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

   Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

8. The development hereby approved shall comply with the guidelines and measures set out in the International Commission in [sic] Non-Ionising Radiation Protection.

   Reason: To ensure that no unacceptable risks are caused to human health in accordance with policy CP2 of the Horsham District Local Development Framework: Core Strategy (2007).

9. The rating level of noise emitted from the plant and/or any machinery hereby approved shall be at least 5 dB below the existing background noise level. The noise levels shall be determined at the nearest residential property. The measurements and assessment shall be made in accordance with British Standard BS4142 'Method for rating industrial noise affecting mixed residential and industrial areas'.

   Reason: To safeguard the amenities of the occupiers of nearby by residential properties and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

10. No work shall be carried out on the site unless and until an effective vehicle wheel-cleaning facility has been installed in accordance with details approved by the local planning authority in writing and such facility shall be retained in working order and operated throughout the period of work on the site to ensure that vehicles do not leave the site carrying earth and mud on their wheels in a quantity which causes a nuisance, hazard or visual intrusion from material deposited on the road system in the locality principally the B1235 [sic].

Reason: In the interests of road safety and in accordance with policy DC40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

11. No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08.00 and 18.00 on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the local planning authority.

    Reason: To safeguard the amenities of nearby residents in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

12. No external lighting or floodlighting shall be installed without the prior written approval of the local planning authority. Any that is installed with the permission of the local planning authority shall be maintained in accordance with the approved details.

    Reason: In the interests of the amenities of the locality and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

Annex B: Schedule of conditions recommended by the Inspector in the event of the Secretary of State deciding to allow the appeal

Schedule of Planning Conditions (1 – 9)

Implementation

1) The development hereby permitted shall begin not later than three years from the date of this decision.

Approved plans

2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:-

Proposed site access and point of connection: Drawing No. 2369-PL-02 REV 01

Proposed site sections: Drawing No. 2369-PL-03 REV 01

Proposed site sections: Drawing No. 2369-PL-03-A REV 01

Proposed site sections: Drawing No. 2369-PL-03-1 REV 01

Proposed site sections: Drawing No. 2369-PL-03-2 REV 01

Proposed site sections: Drawing No. 2369-PL-03-3 REV 01

Proposed site layout: Drawing No. 2369-PL-04 REV 03

25^{o} solar array modules & collection box details: Drawing No. PL-05-25 REV 01

GRP housing: DNO Drawing No. PL-07 REV 01

Typical site fence and maintenance access details: Drawing No. PL-08 REV 01

Typical invertor housing details 20ft container: Drawing No. PL-10-AB1 REV 01

Typical invertor housing details 40ft container: Drawing No. PL-10-AB2 REV 01

Site CCTV and motion detector: Drawing No. PL-11 REV 01

Typical site storage container detail: Drawing No. 0000-PL12 REV 01

Temporary use and site restoration

3) The use of the land hereby permitted for generating electricity shall be discontinued on or before 30 years from the first operational use of the solar photovoltaic panels in accordance with a scheme of works, and a timetable for implementation, which shall previously have been submitted to and approved in writing by the local planning authority. The scheme of works shall be implemented in accordance with the approved details and shall include:-

(a) a method statement for decommissioning and dismantling all equipment on site;

(b) details of any items to be retained on site;

(c) a method statement for restoring the land to agriculture;

(d) timescales for decommissioning, removal and reinstatement of the land;

(e) a method statement for the appropriate disposal / recycling of redundant equipment and structures; and

(f) provision for the review of the scheme as necessary.

Construction and Traffic Management Plan

4) No works or development shall take place until a Construction and Traffic Management Plan has been submitted to and approved, in writing, by the local planning authority. The approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate of, but not necessarily be restricted to, the following matters:-

   (a) the anticipated number, frequency and types of vehicles used during construction;

   (b) the method of access and routing of vehicles during construction;

   (c) the parking of vehicles by site operatives and visitors;

   (d) the loading and unloading of plant, materials and waste;

   (e) the storage of plant and materials used in the construction of the development;

   (f) the details of the surfacing treatment of the temporary and permanent access tracks and any temporary parking compound;

   (g) the provision and use of wheel washing facilities and other works required to mitigate the impact of construction on the public highway;

   (h) measures to control the emission of dust and dirt during construction;

   (i) the preclusion of burning of materials or waste on the site;

   (j) lighting for construction and security;

   (k) the timing of construction activity;

   (l) measures to safeguard the lawful use of the Public Right Of Way within the site; and

   (m) details of public engagement both prior to and during construction works.

Ecology

5) No development shall commence until a Landscape and Ecological Management Plan has been submitted to, and approved in writing by, the local planning authority. The Landscape and Ecological Management Plan shall correspond with the principles, recommendations and enhancements set out in the Ecological Survey by Michael Woods Associates (October 2013) and shall provide for details as appropriate of, but not necessarily be restricted to, the following matters:-

   (a) the protection of habitats and notable species during construction of the solar array;

   (b) the creation of new habitats and features for wildlife and landscape screening in the construction phase;

   (c) the management of retained and newly created habitats during the operation of the solar array;

   (d) management prescription for adequate protection of species during operation;

   (e) future monitoring of the site to assess management success;

   (f) arrangements for the availability of an appropriately qualified and licensed ecologist during the construction phase;

(g) a lighting strategy in the event that artificial lighting of the site is required during the construction phase; and

(h) measures for ecological enhancements.

The Landscape and Ecological Management Plan shall be implemented as approved and adhered to throughout the entire construction period.

Landscaping

6) No works or development shall commence before a detailed Landscaping Management and Mitigation Strategy/Plan, which shall include a plant and seeding list, has been submitted to and approved in writing by the local planning authority. The Strategy/Plan shall include the principles set out in Drawing No BRS.4394 (Landscape Mitigation), as supplemented by Drawing No 2369-PL-04 REV 03 (Proposed site layout) and the following:- a mature native species hedgerow on the eastern side of the public footpath which runs within the western boundary of the site; the restoration of the historic field pattern in the centre of the site; and the provision of woodland and woodland edge planting on the northern and north-eastern boundaries and in the centre of the site.

The approved Strategy/Plan, which shall incorporate the Landscape and Environmental Management Plan (submitted with the application), shall be implemented in the first available planting season following commencement of the development in strict accordance with the approved details. Any plants or species which within a period of five years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Buildings and structures

7) No development shall commence until details relating to the colour of the GRP housing, storage container and inverter housings has been submitted to and approved in writing by the local planning authority in writing. The development shall be implemented in accordance with the approved details and retained as such for the duration of the development.

Lighting

8) No external lighting or floodlighting shall be installed other than in accordance with a scheme previously submitted to and approved in writing by the local planning authority. The lighting shall thereafter be operated in accordance with the approved scheme.

Flood risk and drainage

9) The development hereby approved shall be carried out in accordance with the mitigation measures set out in paragraph 5.3 of Flood Risk and Drainage Assessment (December 2013).

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Department for Communities and Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

Darryl Rogers
Pegasus Planning Group
Pegasus House
Querns Business Centre
Whitworth Road
CIRENCESTER
Gloucestershire
GL7 1RT

Our Ref: APP/H1515/W/15/3134301

23 May 2016

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY LIGHTSOURCE RENEWABLE ENERGY LTD:
HAVERING GROVE FARM, 552A RAYLEIGH ROAD, HUTTON, ESSEX, CM13 1SH

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI in relation to your client's appeal against the decision of Brentwood Borough Council ('the Council') to refuse planning permission for the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence, on land associated with Havering Grove Farm, 552A Rayleigh Road, Hutton, Essex in accordance with application ref 15/00161/FUL dated 11 February 2015.

2. The appeal was recovered for the Secretary of State's determination on 26 January 2016 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because it involves a proposal for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below the Secretary of State agrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising after the close of the Inquiry

4. During February and March 2016 the Secretary of State received 18 letters and emails and a petition with 100 signatures, all in support of the proposal. The Secretary of State has given careful consideration to all these representations, but as they do not raise new issues that would affect his decision he has not considered it necessary to circulate them to the Council and appellant for comment. Copies of all

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this correspondence may be obtained on written request from the address at the bottom of the first page of this letter.

Policy considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan for the area comprises the saved policies of the Brentwood Replacement Local Plan (2005) (the BRLP). The Secretary of State considers that relevant development plan policies include those set out in IR 7–11.

6. The Council issued a pre-submission draft Local Development Plan for public consultation between 10 February 2016 and 23 March 2016. However, as this review is at an early stage of preparation and so is liable to change, the Secretary of State agrees with the Inspector that it would only merit limited weight. Like the Inspector, the Secretary of State has not taken it into account in his consideration of this appeal.

7. Other material considerations which the Secretary of State has taken into account include the 2012 National Planning Policy Framework (the Framework) and the associated planning practice guidance (PPG); the UK Solar PV Strategy (parts 1 and 2) and subsequent policy publications; the Written Ministerial Statement "Planning Update March 2015" (the WMS) which, amongst other matters, concerns solar energy and the protection of the local and global environment; and the Renewable Energy Study referred to at IR13-14.

Main issues

8. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR211.

Compliance with the development plan

9. For the reasons below, the Secretary of State considers that the proposal conflicts with BRLP Policy GB1 which provides, amongst other things, that planning permission will not be given except in very special circumstances for the construction of new buildings for the purposes other than those appropriate to a Green Belt; BRLP Policy GB2 which provides development criteria for development in the Green Belt including that it does not harm openness or conflict with the purposes of the green belt; and BRLP Policy IR6 which sets criteria for renewable energy schemes, including that they are to comply with policies GB1 and GB2. He also considers that it conflicts with part of BRLP Policy IR3 which seeks to protect the Best and Most Versatile (BMV) land. Consequently he considers that the proposal conflicts with the development plan as a whole.

Green Belt

10. The proposed Solar Park would constitute "inappropriate development" in the Green Belt and should not be approved except in very special circumstance (IR212). Like the Inspector, the Secretary of State takes the view that the loss of openness to the Green Belt would be experienced for a considerable time (30 years) and thus does represents additional harm to the Green Belt, albeit less than the enduring harm of a permanent development (IR213). The Secretary of State considers that the reversibility of the scheme should not be an influential factor in determining whether the scheme should go ahead.

11. For the reasons given in IR213-215 the Secretary of State agrees with the Inspector that the solar farm would harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside. He considers that this contravenes BRLP Policies GB1 and GB2.

Use of agricultural land

12. For the reasons given in IR220 the Secretary of State agrees with the Inspector that, given that there are no alternative previously developed land sites in Brentwood or within a 10km radius within Thurrock which could accommodate this development, it follows that the use of agricultural land is necessary to accommodate a development of this scale.

Use of Best and Most Versatile land

13. The Written Ministerial Statement of 25 March 2015 says that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. In this case, for the reasons at IR221-226, the Secretary of State agrees with the Inspector that compelling evidence has not been produced to demonstrate that there are no suitable poorer quality (3b) sites in the study area that could accommodate the development (IR227). He agrees that this contravenes relevant provisions of BRLP Policy IR3, Framework paragraph 112, the PPG and the WMS.

Visual amenity

14. The Secretary of State agrees with the Inspector that there will be limited adverse effects on visual amenity for relatively distant occupiers of dwellings and users of public rights of way (IR229). However, for the reasons given in IR229-230 he agrees with the Inspector's conclusion that residual harm to the perceived character of the wider landscape would be minor adverse rather than negligible as claimed in the Appraisal of Landscape and Visual Effects submitted by the appellant. He further agrees that there would be moderate to minor adverse effects on the visual amenity of rail users (IR230).

Benefits

15. The generation of 5MW of electricity per year, estimated to avoid 2.5mkg of CO_2 emissions each year, would contribute towards renewable energy and CO_2 emission reduction targets both locally and nationally (IR26 and IR232-243).

16. The Secretary of State agrees with the Inspector that there is evidence of net gains for biodiversity (IR244). However, for the reasons given in IR245 he further agrees with the Inspector that landscape benefits from new planting would only partially mitigate the greater adverse effects of the development as a whole. Neither is the long term retention of the planting assured.

Other matters

17. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR231. He does not consider that any of these matters adds weight either for or against the appeal proposal.

Conditions

18. The Secretary of State agrees with the Inspector's assessment at IR247 of the draft planning conditions. The Secretary of State is satisfied that the amended set of conditions recommended by the Inspector at IR pages 39 – 41 (Schedule of

Conditions) are reasonable and necessary, and would meet the tests in paragraph 206 of the Framework. However, the Secretary of State does not consider that the recommended conditions would overcome his reasons for dismissing the appeal.

The planning balance and conclusions

19. The Secretary of State agrees with the Inspector's planning balance and conclusions at IR249-252. Weighing in favour, the proposal would contribute towards targets for renewable energy generation and reducing greenhouse gas emissions, and the Secretary of State places substantial weight on these benefits. He also places moderate weight on benefits to biodiversity and limited weight on landscape benefits from new planting.

20. However the Secretary of State places substantial weight on the harm that would arise to the Green Belt by way of inappropriateness, loss of openness and encroachment into the countryside. He also considers that the loss (for the life of the development) of best and most versatile land adds moderate weight against the proposal. In addition he places moderate weight on the harm to visual amenity in those views from the railway which could not be screened.

21. The Framework states that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Overall, the Secretary of State considers that the benefits of the proposal do not clearly outweigh the harm to the Green Belt and the other harm identified. Accordingly, he concludes that very special circumstances necessary to justify the development do not exist.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence, in accordance with application ref 15/00161/FUL dated 11 February 2015.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

24. A copy of this letter has been sent to Brentwood Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

JULIAN PITT
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Date: 29 March 2016

Town and Country Planning Act 1990

Brentwood Borough Council

Appeal by Lightsource Renewable Energy Ltd

Site visit made on 27 January 2016

Land a Havering Grove Farm, 552A Rayleigh Road, Hutton, Essex CM13 1SH

File Refs: APP/H1515/W/15/3134301

File Ref: APP/H1515/W/15/3134301
Land at Havering Grove Farm, 552A Rayleigh Road, Hutton, Essex CM13 1SH

- 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 Lightsource Renewable Energy Ltd against the decision of Brentwood Borough Council.
- The application Ref 15/00161/FUL, dated 11 February 2015, was refused by notice dated 26 June 2015.
- The development proposed is the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence.

Summary of Recommendation: That the appeal be dismissed

Procedural Matters

1. Although under the Town and Country Planning (Determination of Appeals by Appointed Persons)(Prescribed Classes) Regulations 1997, the appeal was to have been decided by an Inspector, the Secretary of State now considers that he should determine it himself because it involves proposals for significant development in the Green Belt. Accordingly, and in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 26 January 2016 the Secretary of State directed that he shall determine this appeal instead of an Inspector.

The Site and Surroundings

2. The Appellant's submitted Assessment of Landscape and Visual Impact includes useful photographs and maps of the appeal site and its surroundings[1]. The appeal site is located between the towns of Brentwood and Billericay and to the south of the railway line that directly adjoins the site. The railway line connects those towns to the main line from Liverpool Street at Shenfield and continues east to Southend. The railway passes the site partly at grade and partly on an embankment. Views of the site from the railway would be partially filtered in summer when deciduous trees and hedges would be in leaf, but are more open in winter, especially from the embankment.

3. The site lies to the north of an isolated concentration of mainly residential development north of the A129 Rayleigh Road which also connects the towns. It is part of an agricultural landholding that also includes some adjoining fields as well as the original farm buildings. At least one building has been converted to a dwelling and the holding has been divorced from the Grade II listed Ellice's Farmhouse which stands to the west of the farmbuildings where it fronts a bypassed section of Rayleigh Road.

4. The application site comprises 18.3ha of arable farmland. The solar farm infrastructure would occupy 11ha within the site. The site constitutes three fields or parcels of land. Access to the site would be via a track from Rayleigh Road. The fields are enclosed in the main by overgrown hedgerows, with some hedgerow trees and some wire fencing. There are also areas of hedgerows,

[1] Document 8 of the Application Documents

shrubs and trees within the site, between the three fields. The site is agricultural in nature with is under arable cultivation. Land levels vary across the site with the fields having a gently undulating character.

5. There are no public rights of way within the appeal site but it is distantly visible from a bridleway to the west and from parts of a public footpath to the east.

Planning Policy

The Development Plan

6. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the saved policies of the Brentwood Replacement Local Plan (2005) (the BRLP).

7. The BRLP was adopted on 25th August 2005 and the following saved BRLP policies are of relevance to the determination of this application:

- GB1 – New Development in the Green Belt
- GB2 – Development Criteria
- CP1 - General Development Criteria
- T2 – New Development and Highway Considerations
- C5 - Retention and provision of landscaping and natural features in development
- C16 – Development within the vicinity of a Listed Building.
- IR3 – Protecting the Best and Most Versatile Agricultural Land.
- IR6 – Renewable Energy Schemes

The policies of most relevance are as follows:

8. **BRLP Policy GB1** defines the Green Belt as including the appeal site and provides amongst other things that planning permission will not be given except in very special circumstances for the construction of new buildings for purposes other than those appropriate a green belt. It also provides that all proposals will additionally be judged against other BRLP policies.

9. **BRLP Policy GB2** provides development criteria for development in the Green Belt including that it does not harm openness or conflict with the purposes of the Green Belt. Account is also to be taken of the effect on public rights of way, the need to preserve or enhance existing landscape features, and that any building is satisfactorily located in respect of the surrounding landscape and adjoining buildings. The supporting text refers to former national policy in Planning Policy Guidance 2 (PPG2).

10. **BRLP Policy IR3** seeks to protect the Best and Most Versatile (BMV) agricultural land and will only permit its development where no alternative site exists within existing settlements or on previously developed land. Development should seek to use land of the least agricultural value unless sustainability or other considerations suggest otherwise.

11. **BRLP Policy IR6** is of the most direct relevance to the appeal proposal. It sets criteria for renewable energy schemes which are to have no unacceptable detrimental impact on stated features which include: the character and appearance of the area; visual amenity; the local highway network; and heritage assets; and which are also to comply with policies GB1 and GB2. The supporting text refers to former national policy for renewable energy in PPS22 including national targets to cut carbon dioxide emissions. IR6 is stated to be an interim policy pending analysis for the then emerging Regional Spatial Strategy. However that strategy has since been withdrawn, along with its regional targets for renewable energy.

Emerging Local Policy

12. The Council is preparing a new Local Plan to replace the BRLP. A Local Plan Preferred Options 2015-2030 document was issued for consultation in 2013 and is referred to by the parties. It included a proposed target to seek 15% of the Borough's energy from renewable energy sources by 2030. That would be 10 years later than the legally binding national 15% target and at a date in 2030 when the EU-wide target would have risen to 27%.

13. The Council has recently issued a pre-submission draft Local Development Plan for public consultation between 10 February 2016 and 23 March 2016. This postdates the written appeal submissions by the parties and has not been submitted in evidence. It is not yet part of the development plan and may change prior to adoption thus would only merit limited weight and has not been taken into account in this Report. However the evidence base for that emerging plan is material and it includes the *Renewable Energy Study for Brentwood Borough Council (April 2014)* to which the Appellant has referred in the appeal evidence. The Executive Summary from that document is included at Appendix 5 of the Appellant's appeal documents.

14. The Report concludes that the proposed use of low or zero carbon technologies could only equate to 8.7% of the total energy demand in the Borough by 2030 and that the greatest opportunity to significantly increase renewable energy would come from large scale wind or solar. 16 commercial scale turbines or their equivalent would be needed to bridge the gap from 8.7% to the Preferred Options draft 15% target for 2030. The report acknowledges that, because the Borough is mostly designated as Green Belt, any large scale renewable energy schemes such as commercial scale wind or solar PV would necessarily occur in the Green Belt but concluded that that the impacts can be addressed by careful screening and siting.

National Policy and Guidance

15. Other important material considerations include: the National Planning Policy Framework (2012) (the Framework) which has replaced the former PPG2 and PPS22 and which also includes other national policy. Paragraph 215 provides that the weight to be accorded to policies in earlier development plans should have regard to their consistency with the Framework.

16. A core principle of the Framework at paragraph 17 is that: *'Every effort should be made to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.'* Business and other development needs would logically include energy demand

and supply. Another core principle is that planning should: *'encourage the use of renewable resources (for example, by the development of renewable energy)'*.

17. Framework Chapter 9 sets out current national policy on protecting green belt land. Paragraph 91 provides that: *'When located in the Green Belt, elements of renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.'*

18. At paragraph 93 the Framework describes renewable energy as *'… central to the social, economic and environmental dimensions of sustainable development'*. Paragraph 97 of the Framework also includes the provision that '*to help increase the use and supply of renewable and low carbon energy local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources'*. To this end authorities are enjoined (in summary) to:

    - have a positive strategy to promote such energy;
    - design policies to maximise such energy whilst ensuring adverse impacts are addressed satisfactorily;
    - consider identifying suitable areas for energy sources and supporting infrastructure; and
    - support community-led initiatives.

    Paragraph 98 seeks that an application is to be approved if its impacts are (or can be made) acceptable.

19. Paragraph 112 of the Framework seeks to take account of the economic and other benefits of the best and most versatile (BMV) agricultural land, where development of agricultural land is necessary to prefer the use of poorer quality land to that of higher quality. The Glossary classifies BMV land as land in Grades 1, 2 and 3a.

20. Also material is national Planning Practice Guidance (PPG) which expands on Government policy but is not itself policy. It acknowledges that the need for renewable energy does not *'automatically override'* environmental protections. It follows that it is necessary to weigh any environmental harm with the benefits, including the wider environmental benefits. The PPG advises that *'large scale'* solar farms are to be *'focussed'* on previously developed and non agricultural land but does not preclude such development on agricultural land.

21. The PPG advises at ID 5-013-20150327 that: '*The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively*'. It also refers to: '*the potential to mitigate landscape and visual impacts through, for example, screening with native hedges*'.

22. The same paragraph echoes Framework paragraph 112 in relation to agricultural land quality. The Written Ministerial Statement of 25 March 2015 provides

amongst other things that the use of BMV land for solar farm development *'would need to be justified by the most compelling evidence'*.

Planning History

23. The only relevant history is an application for a screening opinion (ref. 14/01307/EIASO) in which the Council determined that the proposal was not development for which an Environmental Impact Assessment was required.

24. The appeal site is part of a larger holding which includes some other land and a group of the original farmbuildings. The holding has been split from the original farmhouse and some of the farmbuildings have been converted to residential use. Interested persons complain that land near the farmbuildings has been used in the past for non-agricultural vehicle storage which has now ceased. There a number of former shipping containers stored on the site near to the farmbuildings.

The Proposal

25. A full description of the proposal with illustrations and photographs is included in the Planning Design and Access Statement (Application Document 3).

26. The proposal is to erect a 5MW solar farm which it is claimed would generate enough electricity to power 1,460 typical households, albeit that output would vary with natural light conditions. This would be estimated to avoid 2.5mkg of carbon dioxide emissions each year. The solar farm infrastructure would occupy 11ha of the site's 18.3ha. The panels themselves would cover only 19% of the application area to avoid shading. The solar farm has also been designed to allow sheep grazing between the rows of panels.

27. Each panel would measure about 2m x 1m and would have a maximum height above ground level of 2.5m. They would be mounted on frames and angled at about 25-35 degrees towards the south and thus away from the adjacent railway to the north. There would be transformers, inverters and switchgear substations. The panels would be enclosed by a 2m timber and wire security fence with CCTV cameras at intervals on 2.5m poles. Other infrastructure would include a communications building, a storage shed and a composting toilet. Swales would be created for surface water drainage and the area outside the security fence would be managed as grassland. Landscaping is proposed to include the gapping up of hedgerows with native planting.

THE CASE FOR BRENTWOOD BOROUGH COUNCIL

28. It is considered that LP Policies GB1, GB2, CP1, C5, C14, C16, IR3, IR6 and T2 fully conform to the Framework.

29. There were three reasons for refusal as follows:

    1. *'The proposed solar farm constitutes inappropriate development within the Green Belt and would significantly and demonstrably decrease the openness of this part of the Green Belt and would conflict with the purposes of including land in the Green Belt contrary to Chapter 9 of the National Planning Policy Framework (Framework) and Policies GB1 and GB2 of the Brentwood Replacement Local Plan 2005.*

2. *It has not been demonstrated that any previously developed land is available for the development within the wider area; outside the Borough of Brentwood and beyond 10km from the application site and it has not been demonstrated that there is no suitable sites of a lower agricultural quality within the Borough of Brentwood, or the surrounding area that would be more suitable for a solar farm, contrary to the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25th March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005.*

3. *The benefits of the proposal in terms of environmental and biodiversity benefits would not clearly outweigh the harm by reason of inappropriateness and the other harm identified, to constitute the very special circumstances required to justify this development, contrary to Chapter 9 of the National Planning Policy Framework (Framework) and Policy GB1 of the Brentwood Replacement Local Plan 2005.'*

30. There are therefore three main considerations in the determination of this appeal:

    1. Green Belt considerations.

    2. Whether there are any previously developed land sites available within the wider area or any suitable sites of a lower agricultural quality.

    3. Whether the benefits outweigh the harm identified to constitute the very special circumstanced required to justify the development.

Green Belt Considerations

31. The proposed development constitutes inappropriate development in the Green Belt. This is confirmed by paragraph 91 of the Framework which states that when located in the Green Belt, elements of many renewable projects will comprise inappropriate development. The Appellant does not dispute that this would be inappropriate development and harmful to openness.

32. The Appellant argues that the harm to the openness of the Green Belt is mitigated by hedgerows and the lack of views into the site. However, harm to the openness of the Green Belt will occur regardless of whether a development is visible or not. Openness is about the lack of built form, rather than whether the built form is visible or not. The harm to the openness of this part of the Green Belt is contrary to National and Local Planning Policy.

33. In terms of the purposes of including land in the Green Belt, the proposal will result in encroachment into the countryside. The Appellant recognises that the proposal would result in a development which is not traditionally expected in the countryside. Screening of the development does not prevent the physical harm of having the built form proposed in the open, undeveloped countryside.

34. The Appellant suggests that harm to the Green Belt can be justified because the development is temporary in nature with the development having an operational period of 30 years 6 months. However that is a significant length of time, equivalent to an entire generation. The screening and time frame proposed do not justify the harm identified to the Green Belt in terms of inappropriateness, openness and encroachment into the countryside.

35. Substantial weight should be given to the Green Belt harm identified, as indicated by Paragraph 88 of the Framework.

Whether there are any previously developed land (PDL) sites available in the wider area or any suitable sites of a lower agricultural quality

36. The Appellant's *Sequential Analysis Study* (SAS) submitted with the application stated that neighbouring Thurrock has substantially more vacant or unused previously developed land (paragraph 3.9). At that stage, the Appellant therefore failed to consider if these sites were more appropriate for the development.

37. It is not the intention of the Council to transpose the energy needs of the Borough onto Thurrock but it is necessary for the Appellant to demonstrate that there is no previously developed land within the wider area that could be developed to provide a solar farm, before this greenfield, Green Belt, best and most versatile agricultural land is developed.

38. The Council concede that the additional information has demonstrated that there are no alternative previously developed land sites which could accommodate this development. However, this reason for refusal also raises concerns regarding the loss of the best and most versatile agricultural land which will be considered further below.

39. National and Local Planning Policy seeks to direct necessary development of agricultural land to that of the least value and quality first and is supported by the Written Ministerial Statement on solar energy which states that proposals for solar farms which involve the best and most versatile agricultural land would need to be justified by the most compelling evidence. 85% of the appeal site constitutes Grade 3a Best and Most Versatile Agricultural Land. Compelling evidence has not been submitted to justify the loss of this land.

40. Paragraph 3.7. of the SAS rebuttal statement suggests that if Brentwood Borough Council is to contribute to the energy targets through the deployment of renewable energy then given the lack of unconstrained Grade 4 and 5 agricultural land, some development of Grade 3 land will be necessary. However the Council is seeking to promote the use of renewable energies to coincide with other developments; both housing and employment developments rather than stand alone delivery.

41. When considering other land in the surrounding area the Appellant has failed to distinguish between Grade 3a and 3b land. It has still not been demonstrated that there are no alternative sites for this development of a lower agricultural quality. Within the grade 3 agricultural land within the Borough, there could be sites graded as 3b and therefore the development of these sites should be considered first as they would not result in the loss of the best and most versatile agricultural land. The development is sought for just over 30 years which is a significant length of time, with the high quality agricultural land lost for an entire generation.

42. The SAS rebuttal refers to another appeal (ref. APP/T3535/A/13/2193543) but in that appeal the majority of the site comprised grade 3b agricultural land. As such, this appeal decision is materially different to this proposal.

43. Finally, the SAS rebuttal comments that the site would be retained in agricultural use through the grazing of sheep. However, as outlined in the committee report, this would very much be an ancillary use to the solar farm, with the main function of the sheep to manage the grassland between the panels. This sheep grazing would not be all year around and would only be at a density of six sheep per hectare. The extract in the sequential analysis rebuttal statement from an appeal (ref. APP/T3535/A/13/2193543) also states that there is no certainty that sheep would graze the land after completion of the development.

44. The Appellant's statement of case comments that it would not be possible to determine whether the surrounding land is located within Grade 3a or 3b agricultural land. However, the guidance indicates that the most compelling evidence is required for solar farm developments on the best and most versatile agricultural land. The Appellant has failed to demonstrate that there is no land available for this development of a lesser agricultural quality, contrary to National and Local Planning policy and guidance.

45. The Appellant states at paragraph 7.6 that Policy IR6 of the Local Plan has a presumption in favour of renewable energy. However, the policy wording requires that there is to be no unacceptable detrimental impact on a number of criteria, and comments that where appropriate (i.e. where such proposals are located in the Green Belt) such scheme will need to comply with Policies GB1 and GB2 of the Local Plan. The proposal does not comply with policies GB1 and GB2.

Whether the benefits outweigh the harm identified to constitute the very special circumstances required to justify the development

46. Paragraph 98 of the Framework indicates that local planning authorities should approve applications unless material considerations indicate otherwise and if its impacts are (or can be) made acceptable. In this case, the Council contends that other material considerations indicate that this site is not the correct location for this development and the development cannot be made acceptable through planning conditions or amendments. Paragraph 98 does not therefore provide justification for the proposal. Planning policy and guidance make it clear that solar farm developments should be located in the most suitable sites and the Council has demonstrated that this site is not an appropriate site.

47. Paragraph 91 of the Framework states that inappropriate renewable energy projects will need to demonstrate very special circumstances if projects are to proceed and that such very special circumstances may include the environmental benefits associated with the increased production of energy from renewable sources. As such, the renewable energy production will not always outweigh the harm to the Green Belt, as in this case.

48. The Appellant claims that the move to increase renewable energy production to achieve the energy targets would necessitate development in the Green Belt. However, National Policy is moving away from the provision of large scale solar farms towards small scale proposals on roof tops, etc. The Council would similarly advocate the delivery of renewable alongside other development rather than being delivered on its own. As such, it may not be necessary to develop on the Green Belt to provide renewable energy in the Borough.

49. The renewable energy study undertaken for the Council does not carry weight and is not adopted policy. It is background evidence that may or may not shape

emerging local policy. As the Council will be encouraging renewable energy provision as part of other housing and employment developments it is not inevitable that renewable energy developments must occur in the Green Belt.

50. The Appellant also refers to Brentwood Council's lack of renewable schemes permitted in the past. However, the Council has not had a lot of renewable energy applications submitted to it for determination in the past. In any case each case should be considered on its own merits. Just because this is the first large solar farm proposal submitted in the Borough does not mean it should be automatically approved. National and Local Policy encourage renewable energy development, but not at any cost and the benefits and harm of such a proposal need to be properly considered. The Council has accurately weighed up the benefits and the harm as a result of this proposal and it is clear that the benefits, including the provision of renewable energy do not clearly outweigh the significant and demonstrable harm identified to the Green Belt and the best and most versatile agricultural land.

51. It is recognised by the Council that the proposal will result in some biodiversity benefits including the reinforcement of native hedges. However, a number of these benefits could be undertaken without the need for this development.

52. Whilst the Council raised no objection to the proposal based on the impact of the proposal on the character and appearance of the area, this was because it was considered that the proposal would not result in significant and demonstrable harm to the rural character and appearance of the area. However it is disputed by the Council that the proposal would enhance the local landscape, as the Appellant claims.

53. The main benefit of the proposal is the provision of renewable energy which would reduce carbon emissions, which is positive and the proposal would provide some ecology benefits, although these biodiversity benefits could largely be achieved without the harm caused by this development.

54. The Council has weighed these benefits with the harm identified. The Council concludes that the application site is the wrong place for a development of the size and nature proposed. As such, the benefits of the proposal in terms of environmental and biodiversity benefits would not clearly outweigh the harm by reason of inappropriateness and, other harm, to constitute the very special circumstances required to justify planning permission being granted. The proposal is therefore contrary to National and Local Planning Policy.

55. The Appellant refers to another appeal (ref. APP/B5480/A/14/2227508). However there appear to be some fundamental differences between these two appeals. It is not clear whether that site is located in an area of the best and most versatile agricultural land. The site is actually located within a golf course, not on agricultural land. It is also noted that site is almost half the size of the solar farm sought here at only 2.64MW whereas this appeal is for a 5MW solar farm. There are material differences between these two appeals and the appeal submitted with the Appellant's statement of case does not provide any justification for this proposal.

56. There are similarly a number of examples of appeals, including within the surrounding area and adjoining Boroughs, where the Inspector has concluded that the benefits of the proposal, including the renewable energy production do

not outweigh the harm identified (e.g. APP/J1535/A/12/2173989). Each case must be considered on its own merits and the Council does not consider any of the appeal decisions submitted by the Appellant in support of this appeal justify the proposal, especially considering the material differences between these appeals.

Other matters and rebuttals

57. The UK Solar PV Strategy Part 1 states that solar PV can be deployed in a variety of locations, including on the ground in greenfield sites. It includes statements such as; support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations and provide opportunities for local communities to influence decisions that affect them. This land is not simply a greenfield site; but it is also Green Belt and the majority of the site constitutes the best and most versatile agricultural land. The proposal does not comply with National or Local Planning Policy. The Council disagrees with the Appellant that this site is 'appropriately sited' as required.

58. There were a large number of neighbour objections to this proposal. The Council has concluded that the benefits do not outweigh the harm. The need for renewable energy does not automatically override the requirements for planners to properly scrutinise the effects of renewable energy.

59. The Appellant comments that because the Borough of Brentwood is largely located in the Green Belt any solar development would have to be located in the Green Belt. However, the Council would advocate an approach that sees renewable energy proposals delivered alongside other developments, both housing and employment developments, rather than being delivered on its own.

60. The Council is in the process of preparing a new Local Plan and this is the stance likely to be proposed, subject to public consultation. However, such a stance would be in accordance with Greg Barker's letter of the 22 April 2014 which confirmed that the Government is keen to focus growth of solar PV in the UK on domestic and commercial roof space and on previously developed land.

Conclusion

61. The impacts of large-scale solar projects have to be balanced properly against the benefits arising from the contribution towards the UK's renewable energy targets and other benefits. The Council has demonstrated within this statement of case and within the committee report that given that the site is located in the Green Belt and constitutes the Best and Most Versatile Agricultural Land, this site is not appropriately sited and the benefits of the proposal do not clearly outweigh the harm identified. The Inspector is therefore respectfully requested to recommend that this appeal is dismissed.

WRITTEN REPRESENTATIONS OBJECTING TO THE DEVELOPMENT

62. At the application stage 26 letters/emails and a petition with 230 names were received objecting to the development on a wide variety of grounds that are summarised in the Officer Report. As well as the reasons given by the Council these include: disturbance during construction; effect on property values; harm to the setting of the listed Ellice's Farmhouse; concerns about the efficiency of solar energy; landscape and visual impacts; health concerns; allegations of disturbance from previous unauthorised development; and a suggestion that the

development would make the land brownfield and thus eligible for housing development in the future.

63. At the appeal stage there were 75 letters/emails of objection including 55 which used a standard proforma letter and 20 which were individually written.

64. The standard letter claims support for renewable energy but doubts that the carbon savings from a solar farm outweigh the energy used in their manufacture and installation. The development would harm the Green Belt and set a precedent for other development that would turn Brentwood into an industrial town. There is an assertion of adverse health effects including cancer, headaches, fatigue and epilepsy. Construction traffic would create a dangerous environment. There are complaints that the farm has been used for industrial and commercial activities that have disturbed neighbours and which include the renting of hay barns for storage, and the open storage of vehicles and containers. The proposed development would not bring community benefits such as subsidised energy.

65. The individual letters support the Council's reasons for refusal and include some of the matters raised in the standard letter. Some writers would prefer nuclear or biomass energy. There are also claims of harm to the landscape and visual amenity.

THE CASE FOR LIGHTSOURCE RENEWABLE ENERGY LTD

66. The Appellant contends that:

- the proposal will not significantly and demonstrably decrease the openness of this part of the Green Belt,
- there are no available sites of either a previously developed or lower agricultural grade available; and
- very special circumstances exist for development in the Green Belt.

The Planning Balance

67. Given the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the assessment below firstly considers compliance with the Development Plan against the relevant matters to this proposal. Where the Development Plan is silent on a particular issue, consideration against national policy has been undertaken.

68. The assessment will demonstrate the acceptability of the Appeal Proposals firstly with regard to the development plan then secondly with regard to the location of the site within the designated Green Belt and the existence of Very Special Circumstances (VSC).

Principle of Development

69. The Framework provides strong support for renewable energy development, including the requirement for decision-taking to support the transition to a low carbon future, including by the development of renewable energy.

70. Locally, two key environmental objectives of the BRLP are: *'to conserve and protect natural resources'* and *'to minimise the consumption of energy'*. Policy

IR6 confirms BBC will have a presumption in favour of renewable energy schemes which by implication achieve these core plan objectives.

71. There is clear 'in-principle' support for renewable energy development where impacts are acceptable, or can be made acceptable through mitigation. This proposal meets the various requirements of the Planning Practice Guidance, and the impacts upon material considerations resulting from this development are assessed below together with consideration of compliance with Development Plan policies.

Assessment of impacts

Use of Agricultural Land

72. The proposal accords with the locational guidance contained in the PPG and represents the lowest grade of agricultural land available capable of accommodating the level of energy generation required.

73. The Sequential Analysis Study (SAS)[2] and the supplemental Rebuttal Statement indicate that the site has been selected following robust and comprehensive consideration of all other lower grade land and the necessary grid connection infrastructure.

74. The first clause of reason 2 of the Decision Notice stated that:

"It has not been demonstrated that any previously developed land is available for the development within the wider area; outside the Borough of Brentwood and beyond 10km from the application site…"

75. In Paragraph 2 on page 99 of the Committee Report, the Case Officer noted that *"There is no Policy indication that the location of a development should ne [sic] influenced by artificial administrative boundaries"*. Although this is correct, there is also no policy indication or guidance with regards to defining a study area for a SAS. This was acknowledged in a recent Appeal Decision for a proposed solar farm at Priors Byne Farm (APP/Z3825/A/14/2219843, 18 March 2015), in which the Inspector at Paragraph 49 summarised that: *"There is no explicit sequential test for the location of solar farms in local or national policy"*.[3]

76. The Appellant would highlight that pre-application advice was sought from Brentwood Borough Council in respect of the SAS methodology in January 2015, however the Council declined to provide any such guidance. In the absence of local or national policy guidance, both best practice and professional judgement have been applied when defining the study area for the Havering Grove SAS. The study area was selected based on SAS methodologies previously approved in other Local Authorities across England, such as Uttlesford District Council and East Cambridgeshire District Council.

77. Within the BRLP the written statement and Policy IR6 relating to the development of renewable energy schemes acknowledge Government targets to cut carbon dioxide emissions and increase generation of electricity from renewable sources.

[2] Document 9 of the Application Documents
[3] That decision predates the 25 March 2015 Written Ministerial Statement and the revised Planning Practice Guidance dated 27 March 2015.

As such it was assumed that the Council is supportive of renewable energy schemes and given the availability of a point of connection into the National Grid within BBC's administrative area, the Local Authority's boundary was considered as an appropriate starting point when defining the SAS study area.

78. In order to provide a robust search area and take into consideration cross boundary potential with neighbouring Local Authorities, a 10km radius search area was applied to the Appeal Site.

79. The study area was further constrained to a 1km maximum distance from the 33/66kV grid line as proximity to a point of connection into the National Grid electricity distribution network is a vital consideration for the economic viability of a large scale solar farm.

80. Nevertheless, in Paragraph 2 on page 99 of the Committee Report, the Case Officer commented that:

"The details of the sequential analysis study submitted indicate that there could be appropriate brownfield land within the neighbouring authority of Thurrock and as such this opportunity should be considered in the first instance"

81. Indeed, the SAS did acknowledge the amount of vacant or unused PDL within the administrative area of Thurrock Council, however as only a small section of Thurrock's administrative area was included in the study area (as captured by the 10km radius of the Appeal Site) it was concluded that these PDL sites would not necessarily be within the study area, nor within a feasible distance from an available point of connection into the National Grid 33kV electricity distribution network.

82. Furthermore, the Framework at Paragraph 97 imposes a responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It was therefore not considered appropriate to seek to transpose the energy needs of Brentwood onto neighbouring Thurrock.

83. However, in order to address the first part of reason 2 for refusal and incorporate the Case Officer's comments from the Committee Report, a subsequent assessment of these PDL sites has been completed to provide clarification on the availability of PDL within the neighbouring district of Thurrock.

84. To complete this assessment, data from the Office of National Statistics' National Land Use Database (NLUD) has been used to assess the PDL sites. The most recent database (2012) contains 83 PDL sites within the Thurrock district, 75 of which are less than 8ha in area and are therefore significantly smaller than the Appeal Site (18.3ha). These sites would therefore not be capable of generating a comparable megawatt (MW) output and would therefore not be economically viable in terms of factors such as the cost of connecting into the electricity distribution network.

85. The remaining 8 sites that exceed 8ha were assessed for their potential deliverability.

86. It is concluded that although there is more vacant and unused PDL within the Thurrock administrative area, the majority of these sites would not offer a comparable site area to that of the Appeal Site. Sites that are of a comparable

size are either allocated for an alternative use or are more constrained than the Appeal Site in terms of their suitability for solar development.

Use of Best and Most Versatile Land

87. The second clause of reason 2 in the Decision Notice stated that:

"…it has not been demonstrated that there is [sic] no suitable sites of a lower agricultural quality within the Borough of Brentwood, or the surrounding area that would be more suitable for a solar farm, contrary to the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25th March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005".

88. Contrary to the statement above, an assessment of suitable alternative sites of a lower agricultural grade was completed within the SAS and returned no alternative sites.

89. The Appeal Site is classified on DEFRA's East Region 1:250,000 Series Agricultural Land Classification (ALC) map as Grade 3, the same as the majority of land within the study area which is also classified as Grade 3 (72%). The Case Officer stated in Paragraph 3 on page 99 of the Committee Report that the SAS *"does not distinguish whether this land is Grade 3a or Grade 3b"*. The Council have re-iterated in their SoC that before they can allow a development on Grade 3a land they need to establish that none of the other land within their district (which might be suitable for solar) is not Grade 3b. To soil test the whole of the study area in order to distinguish whether this is Grade 3a or 3b land is an unfeasible request.

90. To obtain this information soil survey work would need to be completed on every piece of land within the assessment area. This would require the landowners granting consent for the survey work to take place, multiple samples taken from each site and the cost of each site being tested. Such a cost would threaten the economic viability of the appeal proposals.

91. As such, only alternative sites on Grade 4 and 5 land were considered in the assessment of alternative lower Grade sites. After assessing the lower grade land, there is minimal land of lower grade than the Appeal Site in the study area (Grades 4 and 5), all of which is located within a Special Landscape Area (designated under Policy C8 of the Brentwood Replacement Local Plan). It is therefore concluded that this land would be considered less suitable for solar development than the Appeal Site given that the Appeal Site is not located within a Special Landscape Area, nor in close proximity to any sensitive ecological, heritage, recreational or residential receptors.

92. As stated in Paragraph 3.41 of the SAS:

"the only Grade 4 land within the study area (ie. land of poorer quality than the Application Site) is located to the southwest of Brentwood town, within a Special Landscape Area and is therefore considered to be more environmentally constrained than the Application Site. This Grade 4 land is also located more than 6km from the grid line, and therefore the cost of connecting to the grid would likely be prohibitive to a developer. There is no Grade 5 land within the study area."

93. In addition to maintaining this original conclusion, if BBC are to contribute to national, legally binding energy targets through the deployment of renewable energy then given the lack of unconstrained Grade 4 and 5 land within the Borough, some development of Grade 3 land will be necessary.

94. The Appellant's SoC confirms that the land will remain available for agricultural use and it is the firm intention of the Appellant to facilitate the grazing of sheep throughout the duration of the temporary period of operation of the proposals.

95. The Proposed Development is temporary. As recognised by a recent recovered Appeal Decision in March 2015, made by the Secretary of State in relation to consideration of agricultural land, it was recognised that solar development would not lead to the irreversible loss of agricultural land or soil degradation.

96. The recovered Appeal Decision made by the Secretary of State relates to land at Ellough Airfield, Suffolk for the installation of a 24MW solar farm and associated infrastructure (APP/T3535/A/13/2193543).

97. The Inspector's recommendation to the Secretary of State was that the appeal be allowed and planning permission granted. Paragraph 11 of the recommendation confirmed that the majority of the site is Grade 3b agricultural land, with about 11.6 hectares (of the 46 hectare site) comprising Grade 3a land.

98. The Secretary of State confirms at Paragraph 27 of his decision that:

"The Secretary of State agrees with the Inspector that, though there is no certainty that sheep would graze the land after the completion of the development, there is no cogent evidence to demonstrate that the proposal would result in a <u>significant or permanent</u> loss of the best and most versatile agricultural land, or harm to the agricultural industry." (Underlining Appellant's emphasis)

99. The Secretary of State's overall conclusion did not include the use of agricultural land for the primary purpose of a solar farm as a negative factor which weighs against permission being granted. Such comments are highly applicable to the current Appeal Proposals and confirm that solar proposals do not result in the permanent loss of best or most versatile agricultural land.

100. The Ellough Airfield development related to land which comprised some best and most versatile agricultural land, but the use of the land as a solar farm was not considered to result in its *'significant or permanent'* loss which weighed against the proposal. Given the comparable circumstances for the Havering Grove Appeal relating to agricultural land quality, this determination of the Secretary of State should also apply here.

101. Furthermore, it is inferred in Paragraph 97 of the Framework that all communities have a responsibility to contribute to energy generation from renewable or low carbon sources. It is therefore deemed reasonable that a Local Authority boundary be used as a basis for defining a SAS study area and arbitrary to seek to transpose the energy needs of BBC onto the neighbouring District of Thurrock when a confirmed point of connection into the electricity distribution network exists adjacent to the Appeal Site.

102. The Appeal Site would remain in agricultural use through grazing sheep on the land around and beneath the solar panels. Additionally, biodiversity

improvements proposed include substantial new planting of trees and wildlife friendly species and enhancement of existing habitat corridors throughout the site. New planting and landscaping would leave a lasting environmental legacy long beyond the life of the solar farm. The Proposed Development is therefore compliant with guidance in Paragraph 5-013-30150327 of the Planning Practice Guidance.

103. In demonstrating the acceptability of this methodology, the Appellant would respectfully draw the Inspector's attention to Appeal Decision APP/V2255/W/15/3017938 recently issued on the 7th December 2015; an appeal for which the Pegasus Group prepared the Sequential Analysis Study.

104. In allowing the appeal for a 11MW solar farm on 24.46 hectares of Grade 2 and 3a land, the Inspector commented at paragraph 11 in respect of the SAS, that:

"Whilst the Council is critical of the methodology and extent of the search, it is clear that it is not possible to fully investigate every possible location for a solar farm within the search area. Indeed it is not incumbent upon any developer to demonstrate that there is no possible alternative to an application site, just that reasonable efforts have been made within practical constraints, such as cooperation of landowners." [Para 11]

105. In further reiteration of the level of evidence required in respect of potential alternative sites outside of best or most versatile land, the Inspector concluded at paragraph 16 that:

> *"….the Appellant has demonstrated reasonable steps to demonstrate that there are no alternative sites with poorer quality agricultural land within the study area. Conversely, the Council have not suggested any part of the District were a solar farm might be located on land that is not designated BMV agricultural land."* [Para 16]

106. The Appellant contends that such a conclusion is entirely relevant to the current Appeal Proposals.

107. In summary, it has been demonstrated that no previously developed land is available for the Proposed Development within the wider area; outside the Borough of Brentwood and beyond 10km from the Appeal Site. This point having now been accepted by the Council.

108. It has also been demonstrated that there are no suitable sites of a lower agricultural grade within the Borough of Brentwood or the surrounding area that would be more suitable for a solar farm. The Proposed Development is therefore compliant with the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25 March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005.

109. The SAS rebuttal statement has also shown that there is no PDL land suitable for large scale solar farm development

110. It has therefore been demonstrated that no alternative site exists within existing settlement boundaries or on other previously developed land and that the appeal site is the lowest grade of agricultural land available to meet the immoveable physical limitations of the electricity grid.

Period of Development

111. The length of time for which temporary permission is sought is directly related to the financial regime affecting the provision of solar farms.

112. Solar farms are recognised to involve high development and construction costs and are reliant on subsidies to ensure their financial viability.

113. Although such development costs have decreased, the level of government subsidy has also decreased with the overall subsidy regime being subject to considerable uncertainty.

114. Whilst subsidy support is available through the Renewable Obligations Certificates and Contracts for Difference, these mechanisms are based on achieving suitable payback periods for the large investment required upfront to construct a solar farm, rather than the expected working life of a solar farm.

115. However the Solar Industry has now reached a point where the reductions in costs are now less significant yet the subsidies are still decreasing at the same, if not a greater rate, thus constraining the economic viability of solar farm developments. To counter this, the Appellant routinely applies for a minimum of 30 years of operation to Local Planning Authorities, and agree leases with landlords on the same basis.

116. The additional five years of revenue streams above a 25 year operational life, enhances the overall viability of the investment case to develop and construct a solar farm.

117. Therefore, in the current financial policy climate the Appellant stresses the critical requirement to be able to present a solar farm to an investor with at least a 30 year planning permission at the outset to ensure that the economics of proceeding with development stack up. To this end the Appeal Proposals utilise high grade 'Tier 1' panels capable of providing high levels of energy production throughout the life of the development.

118. It is only through such an approach that renewable energy schemes can be secured, thereby enabling the UK to reach it legally binding 2020 target of obtaining 15% of energy from renewable sources.

Conclusion

119. BRLP Policy IR6 seeks to permit renewable energy schemes provided that such schemes do not give rise to unacceptable detrimental impacts on a number of criteria which individually have been discussed above.

120. No harm to local site specific criteria has been identified.

121. The proposal has been shown to have minimal impacts on the relevant matters and to be in compliance with the relevant parts of the Development Plan and national planning policy.

Green Belt

122. Given the terms of the Framework, a further assessment of the suitability of this development in the Green Belt is also required.

123. The reason for refusal states that BBC considers the proposal constitutes inappropriate development in the Green Belt which has a significant impact upon its openness and represents an encroachment into the countryside. The reason accepts there are other considerations but states these are insufficient to outweigh the identified harm caused to the Green Belt such as to constitute very special circumstances.

124. BRLP Policy GB2 confirms that proposals within the Green Belt will be assessed against the purposes of including such land within the Green Belt. Compliance with the national policy in the Framework will also mean compliance with the Development Plan on this matter.

125. Paragraph 87 of the Framework sets out the terms of assessing development proposals in the Green Belt, and states:

"As with previous Green Belt policy, inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances."

126. Paragraph 91 indicates that *"many elements of renewable energy will comprise inappropriate development"*. While certain aspects of the proposed works could be considered an *'engineering operation'*, confirmed as not inappropriate in the Green Belt at paragraph 90, taken as a whole, the proposal could be taken as amounting to inappropriate development in the Green Belt.

Keeping land permanently open

127. The proposal would result in a development being located within an area which is currently open, and therefore an impact on openness is inevitable. However, the existing field boundary hedgerow around parts of the site and surrounding fields act to limit inter-visibility and the length of the majority of views in the local area. In certain locations where field boundary hedgerows are low or have gaps, limited views are available. However given the low lying and ground-hugging nature of the proposed development and the proposed hedgerow planting, there would be no significant effect on the openness of these views, or the inter-visibility within the local area.

128. Furthermore, this appeal seeks planning permission for a temporary operational period of 30 years 6 months. Following decommissioning the site would be returned to open agricultural land and, therefore, there would be no permanent effect on openness.

129. The Council's Statement of Case (SoC) states that the proposal by virtue of its effect on the openness of the Green Belt *'results in substantial harm to the Green Belt'*. However this harm must be considered in light of the fundamental purpose of Green Belt designation and its key characteristics outlined in Framework paragraphs 79 and 80.

130. The proposal would not conflict with the five purposes of Green Belt designation within Framework paragraph 80. Indeed no such assertion is made by the Council within its Statement with the sole identified conflict relating to the perceived impact on openness.

131. Framework paragraph 79 states that:

"The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."

132. The appeal proposals relate to a temporary form of development and will not therefore permanently affect the openness of the Green Belt. On termination of the development, all physical structures and works will be removed with no permanent residual impact on the openness of the Green Belt.

133. Taken together, it is submitted that these matters should reduce the overall weight to be given to the impact of the proposed development upon openness.

To assist in safeguarding the countryside from encroachment

134. This proposal would result in a development which is not usually or traditionally expected in the countryside. However, once operational, the development would be particularly benign and not result in a material increase in associated activity which would, in itself, be harmful to the countryside or increase encroachment of urbanising development. The visual screening of the site and the proposed development will serve to assist in further reducing any perception of encroachment into the countryside.

Other purposes of the Green Belt

135. It is considered that the proposal would not materially prejudice the other purposes of the Green Belt which are:

- To check unrestricted sprawl of large built up areas
- To prevent neighbouring towns merging into one another
- To preserve the setting and special character of historic towns
- To assist in urban regeneration

Summary of Green Belt Harm

136. Therefore, "any other harm" to the Green Belt can be considered to only amount to the temporary loss of openness and encroachment, which would both not be readily perceptible during the period in which the development is in place.

137. Due to the low level nature of the development and time limited proposal, these impacts should be given moderate weight against the proposal in the balance of establishing VSC. This adverse impact must be weighed against the positive considerations, which are addressed below.

Other Matters Not Included in the Reasons for Refusal

Landscape and Visual Impact

138. An Appraisal of Landscape and Visual Effects (ALVE) was submitted with the proposals[4]

[4] Document 8 of the Application Documents

139. In relation to landscape character this concludes that the site is of '*medium sensitivity'* to change and that there would be a '*high magnitude of change*' within the site but a '*negligible magnitude of change'* for the wider landscape because of the *'strong feeling of enclosure within the immediate site area with very limited opportunities for medium or long distance views.'* Overall it concludes that there would be a '*minor adverse effect'* on the local landscape character. There would be some minor long term benefits from the enhancements of existing landscape elements such as the filling of gaps in hedges.

140. In relation to visual effects the AVLE commented that the low lying landform, adjacent woodland and hedgerows restrict views from the majority of the surrounding landscape. Consideration was given to views from residential properties, public highways and public rights of way and a selection of representative viewpoints was included. At paragraph 8.82 the AVLE concludes that views towards the development are restricted to: limited locations along a bridleway to the west; limited locations along a public footpath to the east; and from the Shenfield to Southend Railway adjacent to the northern boundary of the appeal site[5]. Views from residential properties and roads are anticipated to be restricted by intervening vegetation (although there may be partial visibility). At paragraph 8.92 it is concluded that*: 'From the limited number of viewpoints where the proposed development could be visible, the proposed development would not be visible in its entirety'.*

141. Overall the AVLE found that the development could be successfully accommodated within the existing landscape without causing unacceptable harm to visual amenity or to landscape character.

142. The case officer's report to Planning Committee concurs with this conclusion. The report at the penultimate paragraph on Page 102 states that:

"…given that the countryside here is not located as a Special Landscape Area and given the findings of the ALVE and the fact that the solar farm would not be particularly visible in the area, it is not considered that the proposal would result in significant and demonstrable harm to the rural character of the area."

143. The report goes onto state at the top of Page 103:

"No objection is therefore raised on this basis of Chapter 7 (design) of the NPPF or Policies CP1 (visual amenity) or IR6(ii) (character and appearance of an area) of the Local Plan."

144. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with the visual amenity and landscape character elements of Local Plan Policies CP1, C5 and IR6.

Ecology

145. A Biodiversity Management Plan and an Ecological Assessment were submitted with the proposals. These found that the site is not subject to any designation relating to its biodiversity value, nor would it adversely affect any such site. Furthermore, no material impacts on protected species are anticipated, with a net

[5] The railway was not included in the representative viewpoints.

gain resulting following the introduction of management and enhancement measures.

146. The proposed enhancements include the creation of habitat corridors around the ponds on site as well as along the internal and external hedgerow boundaries to the site. These areas are supplemented by additional native tree and hedgerow planting alongside grassland seeding. Such measures will allow for a wide and diverse range of habitats to be created by the proposals and can be secured by a suitably worded condition.

147. This enhancement is acknowledged by Natural England in their response of the 10 March 2015 to the proposals, who in raising no objections comment that not only can such measures be achieved via condition but also that:

"Solar farm developments offer excellent opportunities to create new habitats, and especially "priority habitats" listed under s41 of the NERC Act 2006." [Natural England Response 10th March 2015. Officer Report Page 103]

148. In light of this situation the final paragraph on Page 103 of the officer report states that:

"Subject to such a condition it is considered that the proposal would not have any harm [sic] ecology and no objection is therefore raised on this basis."

149. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Local Plan Policies CP1 and C5.

150. It is further acknowledged by the statutory consultee that the Appeal Proposals can bring forward significant ecological benefits.

Heritage Assets

151. The Historic Environment Settings Assessment submitted with the proposal considered the impact of the proposals in respect of surrounding heritage assets and concluded that in no instances would there be substantial harm and that the overall impact would be no more than negligible.

152. This conclusion is shared by the Council's Historic Building Consultant, who having had particular regard to the proximity of the site access to the Grade II listed property of 'Ellices', raises no objection to the proposal on conservation grounds.

153. In relation to archaeological heritage assets, these were considered by way of an Archaeological Desk Based Assessment supplemented by a geophysical survey at the request of the Essex County Council Historic Environment Officer.

154. These combined assessments conclude that the overall impact of the proposals on archaeological heritage is low. This conclusion is shared by the Historic Environment Officer and culminates in no objection being raised to the proposals.

155. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Local Plan Policies CP1 and CP16.

Amenity of neighbours

156. The operational period of the development is particularly benign, with minimal movement, noise or reflection from the panels. Furthermore, no properties are at such proximity to the development to result in an overbearing impact on occupiers to the extent that the dwelling would become an undesirable place to live.

157. The Committee report concurs with this assessment finding the application to be acceptable in these regards, together with the impact of privacy from CCTV cameras which will be restricted so they face towards the development area only.

158. Therefore, the proposal is compliant with the relevant parts of Local Plan Policy CP1.

Flood Risk

159. The submitted Flood Risk Assessment concludes that the majority of the site lies within Flood Zone 1 with lesser parts of the site within Flood Zones 2 and 3.

160. In line with the hydrological sequential approach, the physical elements of the proposal are located entirely within Flood Zone 1, the area of lowest flooding probability. Swales are proposed throughout the site to provide betterment in terms of site drainage.

161. The Environment Agency offers no objection to the proposal and the case officer confirms that Essex County Council as the Lead Flood Authority also raise no objection.

162. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Chapter 10 of the NPPF.

Highways and Access

163. It is confirmed in the *'Construction, Decommissioning and Traffic Management Method Statement'* submitted with the application, that visits by vehicles to the site would be very limited during the operational phase. However, for construction purposes deliveries would number approximately 150 vehicle loads over a 8-12 week period. The field access to the site would be upgraded by the use of permeable materials to safely accommodate construction traffic.

164. No objections are raised in terms of highway safety from the Highway Authority, subject to conditions relating to the construction phase, which the Appellant would accept. The Committee report confirms that no highway objection is raised to the proposals. The proposal is therefore acceptable in this regard and compliant with the relevant parts of Local Plan Policies CP1 and T2.

Benefits

165. Paragraph 91 of the Framework is clear that, in relation to renewable energy projects, VSC may include the wider environmental benefits associated with the increased production of renewable energy.

166. It is anticipated this proposal will have an installed electricity generating capacity of 5MW, produced from renewable sources. Given local solar irradiation levels, it is estimated this solar farm will produce electricity sufficient to power

1,460 average homes and to save approximately 2,502,280kg of C02 emissions per annum, or the equivalent of removing 556 standard cars from the road per annum.

167. This proposal would therefore make a significant and valuable contribution to the following national policy objectives:

- Reduction in CO2 emissions;
- Increase in electricity generated from renewable sources, assisting in meeting the UK's binding renewable energy obligation;
- Mitigation against climate change;
- Increasing security of the United Kingdom energy supply.

168. This significant benefit is emphasised further when considered against the most recent under-performance of the United Kingdom against national targets in these regards:

- The *European Union Renewable Energy Sources Directive (2009)* includes a legally binding target for the UK to produce 15% of energy from renewable sources by 2020.
- *SI 2011 No 243 – The Promotion of the Use of Energy from Renewable Sources Regulations (2011)* translates that to a duty on the Secretary of State [for Energy and Climate Change] to ensure that the 15% target is met and includes a schedule of indicative targets for earlier years.
- The *UK Renewable Energy Roadmap Update 2013* confirmed that the initial indicative 4% target was not met (albeit by a small margin), and that only 2.4GW of solar PV had been installed to the end of June 2013 against the potential for deployment of 20GW by 2020[6].
- The *2020 RES Scenarios for Europe* prepared for the European Union in 2014 concluded that the UK is not on track to meet its 2020 15% target.
- There is now a higher 27% EU wide target for 2030, compared to 1999.

The above documents show that there is an immediate and pressing need for deployment of renewable energy in the UK.

169. Current Government advice concerning solar PV development includes the following:

- The *UK Solar PV Strategy Part 1: Roadmap to a Brighter Future (2013)* included the Government's recognition of the central role and contribution that appropriately sited solar PV can play in helping meet the 15% target by 2020 and that it can be deployed at all scales and in a variety of locations including greenfield sites. Also that the need for renewable energy does not automatically override the requirement for planners to properly scrutinise the effects.

[6] At December 2015 UK deployment stood at 8.4GW (Source DECC)

- The *UK Solar PV Strategy Part 2: Delivering a Brighter Future (2014)* provides amongst other things that solar PV is an important part of the UK's energy mix and that large scale ground mounted solar PV can have a negative effect on the rural environment if not well planned and well-screened. It needs to be appropriately sited with proper weight to environmental considerations.
- The letter by Greg Barker [in his then role as an Energy Minister] dated 22 April 2014 confirms that the Government is keen to focus growth of solar PV on domestic and commercial roofspace and previously-developed land but that there is still a place for larger scale field based solar if sensitively placed.
- The Written Ministerial Statement of 25 March 2015 by [the former Secretary of State] Eric Pickles states amongst other things that compelling evidence need to be provided to justify solar development on Best and Most Versatile land and that schemes should be directed to lower grade agricultural land in strong preference to the use of higher grade land.

The above documents confirm that solar PV is at the forefront of the drive to achieve the 2020 targets but the impacts of large scale development must be balanced properly against the benefits. The likely shortfall against meeting binding EU targets is a key factor. The appeal scheme is appropriately sited, will not have an unacceptable material adverse impact and will provide significant benefits of renewable energy and ecological enhancements.

170. It is also important to consider the benefits of the development locally which demonstrate the necessity for the development to the provided in the proposed location. These are outlined below.

171. The site is within the Green Belt. However, significant parts of Brentwood Borough outside of the urban areas are covered by the Green Belt designation.

172. One key objective of the BRLP is to increase the installed renewable energy capacity within the Borough. The emerging Local Plan document '*Local Plan Preferred Options 2015-2030'* sets out the Council's commitment to secure 15% of the Borough's energy requirements from renewable energy sources. Moreover the evidence base produced in support of the new local plan production clearly indicates that a move to increase energy production to achieve either a local or national target, will necessitate such development in the Green Belt. The *Renewable Energy Study* conducted for the Council by the University of Exeter, explicitly states that:

> *'Development would necessarily occur within the Green Belt, and may be constrained by proximity to suitable connection to the electricity grid.'*

173. Such a conclusion wholly accords with the evidence base put forward in support of the Appeal Proposals.

174. Whilst it is accepted that the new policy formulation is emerging and undoubtedly subject to change and evolution, the evidence base, as contained with the University of Exeter Study, will remain constant. The level of Green Belt designation is highly unlikely to reduce and the renewable energy target is a legal requirement stemming from the 2009 European Directive.

175. In connection with this commitment paragraph 7.22 of the Council's SoC states that as a Council they are *"seeking to promote the use of renewable*

energies to coincide with other developments; both housing and employment developments rather than standalone delivery." However such a statement is in direct conflict with their own Renewable Energy Study, which was completed in April 2014 by the University of Exeter, and forms part of the established evidence base for the emerging local plan and the 15% target therein.

176. The Appellant would therefore reiterate the findings of The Executive Summary which state that:

"The potential for renewable energy in Brentwood was assessed using existing data sources and the Government's SQW methodology where possible. The total technical potential was established, together with an indicative scenario for a potential energy mix in 2030. Following this scenario would result in about 9% of energy demand for the Borough in 2030 being met by renewable sources of energy. The technologies considered were classified into three groupings; standalone technologies, district schemes and building technologies."

177. It is therefore clear that the potential target for generating 15% of the Borough's energy from renewable energy by 2020 will not be possible solely without the use of stand-alone technologies. It is therefore inevitable that acceptable renewable energy development must occur in the Green Belt in the Borough.

178. However the policy approach advocated by the Council completely fails to recognise the evidential need for standalone technologies and refers to an intention to move away from standalone installations.

179. Not only is such an approach entirely contradictory to the Council's own evidence basis as to how to achieve its 15% commitment, but also refers to an approach that is 'likely' to be proposed within the emerging Local Plan. At the time of preparing the Appellant's statement no such policy exists and it cannot therefore be given any weight in the decision making process.

180. The Executive Summary goes on to state:

"The most significant standalone technologies are large scale wind turbines and photovoltaic (PV) arrays. Due to their scale, a relatively small number of these installations could result in significant generation of renewable energy within the Borough. However, development would necessarily occur within the Green Belt, and may be constrained by proximity to [a] suitable connection to the national electricity grid."

181. The Renewable Energy Study clearly states that to reach their own target of 15% by 2020, the Council will need to allow some development of renewable energy within the Green Belt. The suite of environmental assessments that accompany this Appeal demonstrate that the design of the site and the associated mitigations will minimise any environmental impacts with the proposed screening planting further reducing the visual impact.

182. As can be seen from the location of the site within the SAS it is positioned next to the grid line therefore minimising the cable length to connect the solar farm to the National Grid and in turn minimise electrical losses.

183. The applicant therefore maintains its position that this site is suitable for a solar farm and its presence will enable the Council to remain on track in achieving their 15% by 2020 generation target.

Permitted Renewable Schemes in Brentwood Borough Council 1989-2015

184. No significant renewable energy schemes have been permitted in Brentwood Borough over the past 26 years. The largest solar scheme permitted is 250kW with the largest overall renewable scheme is a single 500kW wind turbine. Given a national target of achieving 15% of final energy consumption from renewable sources by 2020, the importance of the Appeal Proposals to BBC is clear. In this context, the national and local environmental benefits of the development must be given very substantial weight in favour of the development in establishing VSC.

185. Framework Paragraph 91 outlines that the environmental benefits of renewable energy generation can constitute VSC on their own. However, in this case it is also appropriate to consider the other site specific benefits of the scheme which indicate why it is necessary for the development to be sited within the Green Belt.

Biodiversity enhancements

186. Paragraph 81 of the Framework confirms that local authorities should plan positively to enhance the Green Belt, including retaining and enhancing biodiversity.

187. The proposals include a number of measures which will result in a net gain to biodiversity resulting from the development. Through the reinforcement of native hedgerows along with the filling of remnant hedgerows, this development will create an improved situation for wildlife as the planting will allow for foraging, provide shelter and provide habitats for a variety of species. These enhancements would continue beyond the lifetime of the proposed development, providing a long-term and continuing ecology benefit. Other ecological benefits associated with the proposal include planting of grassland across the site.

188. Taken together, these measures amount to a significant ecological benefit, which will assist in meeting a specific objective of Green Belt enhancement. Therefore, this matter should be given moderate weight in the consideration of VSC.

Landscape and visual enhancements

189. The strengthening of existing hedgerows and additional planting will also result in local enhancements to the landscape, through the provision of a greater physical continuity and bolstering of the field pattern of the site. Again, this benefit will remain in the long term and beyond the lifetime of the planning permission and assist in meeting an objective of Green Belt enhancement, outlined at Framework Paragraph 81. This matter should be given limited weight in the VSC consideration.

Third Party Representations:

190. Although the third party representations predominantly relate to the key issues already considered within the main proposal, the Appellant would highlight the

level of support expressed for the proposal and the stated opinions as to the overwhelming acceptability of the site in landscape and Green Belt terms.

Conclusions on Very Special Circumstances

191. Given the above considerations, it can be considered that this judgement comprises the following elements:

- The harm arising from the impact on the openness of the Green Belt and encroachment, to be given moderate weight in the consideration;
- The environmental benefits associated with renewable generation, to be given very substantial weight in the consideration;
- The biodiversity enhancements, to be given moderate weight in the consideration;
- The landscape enhancements, to be given limited weight in the consideration;

192. The environmental benefits on their own may constitute VSC and taken together with the other benefits can be considered to clearly outweigh the harm.

193. Given the above considerations, it is submitted that VSC have been demonstrated in this particular case.

Planning Balance

194. The proposal has been shown to be in compliance with Development Plan policies, the Framework, and also the specific criteria for large scale solar PV developments as detailed in the Planning Practice Guidance website in relation to Renewable and Low Carbon Energy.

195. The impacts of the proposal have been shown to be acceptable and, where harm has been identified, it has been demonstrated this is particularly limited and falls some way below a threshold which would warrant the dismissal of the appeal.

196. Furthermore, the significant benefits associated with this proposal, primarily through the generation of renewable energy to provide electricity for an estimated 1,460 homes (using average electricity consumption) and reductions to CO2 emissions by 2,502,280kg per annum, will provide a significant and valuable contribution towards meeting the challenging obligations of the Government regarding renewable energy generation, and also in the form of ecological and landscape enhancements weigh heavily in favour of support for this development. The weight to be given to the local need for renewable energy schemes in BBC is also evidenced by the lack of any permitted schemes capable of making valuable contributions to national targets.

197. This statement therefore demonstrates that, upon considering the following matters, this proposal, on balance falls well within the scope of acceptability:

- Compliance with the Development Plan and national planning policy guidance;
- The significant benefits associated with the scheme; and
- The relatively benign impacts associated with the development.

198. The consideration of these factors, together with the limited harm to the purposes of the Green Belt, also demonstrates there are VSC which means that the approval of this development in the Green Belt is justified despite its inappropriateness.

199. Such a conclusion reflects that reached by an Appeal Inspector considering a proposal for a 2.6MW solar farm located approximately 20 miles to the south west of the current site in Surrey and within the same Metropolitan Green Belt. In allowing the appeal under Appeal Reference APP/B5480/A/14/2227508, the Inspector concluded in the planning balance stated at paragraphs 39-41 of her decision that:

'39. I have found that substantial weight must attach to the harm that the proposed development would cause to the Green Belt, by reason of its inappropriateness; its adverse impact on openness; and its conflict with one of the five purposes for designating Green Belt. However, that is the full extent of the harm that would be caused.

40. On the other side of the balance, I have found that substantial weight should attach to the benefits associated with the proposed production of energy from a clean and renewable source, and considerable weight should attach to the ecological benefits that would be achieved by the development proposals.

41. I conclude that the totality of the harm that would be caused by the proposed development is clearly outweighed by other considerations, such that the very special circumstances, necessary to justify a grant of planning permission for development in the Green Belt, exist in this case.'

Conclusions

200. The relevant policies of the Development Plan have been considered and the reasons for refusal rebutted.

201. The 'principle of development' has been demonstrated to be in accordance with the provisions of the Framework, which provides strong support for renewable schemes. The proposals are also consistent with the latest advice and best practice guidance contained in the Government's PPG relating to renewable and low carbon energy production.

202. Furthermore the site has been selected following a comprehensive and extensive search of all previously developed land available within both the Brentwood Borough and the surrounding authorities and represents the most deliverable site of the lowest available agricultural land grade capable of facilitating necessary grid connection infrastructure.

203. The development is likely to comprise inappropriate development in the Green Belt. However, Very Special Circumstances exist, primarily in the form of renewable generation but also biodiversity, landscape and public access enhancements which, in this case, outweigh the limited harm to the openness of the Green Belt and encroachment.

204. It has also been demonstrated that the proposal is acceptable (or can be made acceptable with the imposition of conditions) and compliant with national policy, the Development Plan and emerging policy in respect of the other material considerations. These considerations include:

- Landscape and Visual Impact;
- Ecology;
- Cultural Heritage;
- Residential amenity;
- Flood Risk;
- Access and Highway Safety.

205. Therefore, it is considered that the proposed solar farm would make a significant and valuable contribution to local objectives to increase renewable energy generation and the Government's sustainability objectives with impacts of the development particularly benign and in accordance with the relevant planning policy framework.

206. Taking account of the evidence provided within this Statement and the supporting Appeal documentation, the proposed development, on balance, falls well within the scope of acceptability and therefore, it is respectfully requested that the appeal be upheld and planning permission granted.

WRITTEN REPRESENTATIONS SUPPORTING THE DEVELOPMENT

207. At the application stage there were 127 letters of support for the development using a standard proforma letter, some of which included additional comments. There were a further 3 individual letters of support and 7 feedback forms that also indicated support.

208. At the appeal stage there were 34 letters/emails of support.

209. Most supporters cite the benefits of renewable energy and express concerns about climate change and energy security. They dispute that the development would be harmful to visual amenity including in views from public rights of way or the adjacent railway. They claim that misinformation has been circulated by opponents of the scheme on matters such as health effects.

CONDITIONS

210. In case the appeal is allowed the Council submitted draft planning conditions with their appeal statement. These are discussed below at paragraphs 246-248.

INSPECTOR'S CONCLUSIONS

[Figures in square brackets refer to paragraphs elsewhere in the report]

211. The main considerations are as follows:

- whether the proposed development is inappropriate in the Green Belt or harmful to its openness or purposes;
- whether the use of agricultural land is necessary;
- whether the use of best and most versatile land is appropriate;
- whether there are any other relevant considerations;
- whether any benefits of the development outweigh any identified harm to the Green Belt and any other harm

Green Belt

212. The appeal site is in the Metropolitan Green Belt [8] and the development plan's Green Belt policies defer to national policy to determine what development is not inappropriate [9-10]. With the possible (and qualified) exception of some engineering operations [126], the erection of solar arrays and the associated infrastructure including security fences, close circuit security cameras and other equipment is not included in the list of development that Framework paragraphs 89 and 90 define as not inappropriate. Paragraph 91 also advises that elements of many renewable energy projects will comprise inappropriate development [17]. In this case the main parties agree that the development would be inappropriate [31, 126] and paragraph 87 provides that such development should not be approved except in very special circumstances.

213. The main parties also do not dispute that the development would affect the openness of the Green Belt which paragraph 79 describes as one of its essential characteristics [30, 126]. The Appellant points out that the fundamental aim of Green Belt policy is to keep land '*permanently open'* [131]. As a temporary development which is intended to be removed after 30.5 years the loss of openness would not itself be permanent. Nevertheless it would be experienced for a considerable time and thus does represent additional harm to the Green Belt; albeit less than the enduring harm of a permanent development. The impact of the loss of openness would be mitigated to a degree by the low 2.5m height of the solar arrays compared to conventional buildings, by the distance from public rights of way and dwellings and by existing and proposed screening. However, it would cover an extensive area and the loss of openness would be experienced at close quarters by travellers on the adjacent railway with little scope for mitigation in views from the embankment [2, 228-229].

214. The Appellant suggests that the development would not conflict with the defined purposes of the Green Belt as set out at paragraph 80 of the Framework [134, 135]. However the Council claims conflict with the purpose of assisting in safeguarding the countryside from encroachment [32]. The Appellant acknowledges that this would be a development *'which is not usually or traditionally expected in the countryside'* whilst suggesting that this would be a *'benign'* development with little activity once operational and that a perception of encroachment would be reduced by the screening [134].

215. In my experience, because of their large scale, solar farms are found mainly in the countryside and they are not typically associated with urban development. Nevertheless they are a relatively novel form of development of an obviously manufactured nature and their layout and materials are not characteristic of more traditional rural development. Accordingly I consider that they do represent a relatively large scale encroachment of man made structures into the countryside, albeit not characteristically urban. In this case, whilst screening would mitigate the perception of that encroachment from some more distant viewpoints, especially in summer when deciduous vegetation is in leaf, the encroachment would be particularly obvious from the adjacent railway and views from trains could not be effectively screened having regard to the proximity and relative height of the tracks [228-229].

216. It is not disputed that there would be no harm to the other purposes of the Green Belt [135].

217. In summary there would be harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside.

218. The Appellant suggests that only 'moderate' weight should be attached to the harm to the Green Belt [137]. However paragraph 88 of the Framework is clear that: *'When considering any planning application, local planning authorities should ensure substantial weight is given to any harm to the Green Belt.'* [35] The same considerations should apply at the appeal stage. Moreover the Appellant has drawn attention to an appeal which was allowed for a solar farm in the Green Belt in Surrey on a golf course [199]. It is notable that the Inspector in that case did accord substantial weight to the harm to the Green Belt.

Use of Agricultural Land

219. The Framework at paragraph 111 encourages the effective use of land by re-using previously-developed (brownfield) land. It does not preclude development on agricultural land or set out a sequential test for the location of solar farms. However the Written Ministerial Statement of 25 March 2015 provides amongst other things that where a proposal for solar energy development involves agricultural land this includes being quite clear this is *'necessary'*. The PPG was revised 2 days later on 27 March 2015. At paragraph 5-013-20150327 it seeks to focus large scale solar farms on previously-developed and non agricultural land. It also similarly advises that the proposed use of agricultural land must be shown to be necessary. Thus, whereas the Appellant has drawn attention to my appeal decision at Priors Byne in West Sussex in which I concluded that there was then no explicit sequential test in national policy [75], it must be pointed out that that decision was issued on 18 March 2015 - 1 week before the ministerial statement - and could not have taken it or the revised PPG into account.

220. In any event the Appellant has submitted a Sequential Analysis Study which includes consideration of whether urban or previously developed land is available within Brentwood or within a 10km radius that includes land in adjoining local planning authority areas and especially in Thurrock [36-41, 72-86]. The Appellant submitted additional information which has demonstrated that whilst there is some previously developed land in Thurrock beyond that radius this is either significantly smaller and would not be economically viable, or is allocated for an alternative use, or is otherwise constrained and unsuitable. The Council now accepts that there are no alternative previously developed land sites

(including in Thurrock) which could accommodate this development [38]. It follows that the use of agricultural land is necessary to accommodate a development of this scale and would not contravene the first part of BRLP Policy IR3 or the necessity test of the WMS and the PPG. Neither would development of the appeal scheme prevent or make less likely the development of some smaller rooftop schemes elsewhere in Brentwood or nearby areas, subject to considerations such as financial viability and a willing landowner.

Use of Best and Most Versatile Land

221. Paragraph 112 of the Framework seeks that *'where significant development of agricultural land is demonstrated to be necessary'*, account is taken of the economic and other benefits of best and most versatile land. More generally it seeks that poorer quality land is used in preference to higher quality land. The paragraph applies to all forms of development and does not define what is meant by *'significant development'*. One indication is that Schedule 4 of the *Town and Country Planning (Development Management Procedure) (England) Order 2015* postdates the Framework and only seeks statutory consultation with Natural England where development involves the loss of at least 20ha of BMV land. Also, in the Ellough Airfield appeal cited by the Appellant and determined by the then Secretary of State the loss for the life of a solar farm of 11.3ha of Grade 3a BMV land was not regarded as '*significant or permanent'* [98, 100]. However in that case the majority (75%) of the 46 hectare site was Grade 3b and only 25% Grade 3a whereas in the present case 85% is Grade 3a and only 15% is Grade 3b.

222. There are similar relevant provisions relating to BMV land and a preference for the use of poorer quality land over higher quality land in the PPG guidance at 5-13-20150327 and in the WMS of 25 March 2015. The latter just postdates the Ellough Airfield decision (finally issued on 11 March 2015 following the quashing of the original decision by the Courts) and it includes an additional provision that: *'any proposal for a solar farm involving the best and most versatile land would need to be justified by the most compelling evidence.'* That does not refer to the 20ha threshold for consultation and suggests that <u>any</u> solar farm may now be considered to be *'significant development'* for the purposes of the BMV test. Also in this case the reason for recovery is that the proposal involves *'significant development'* albeit in relation to the Green Belt issue rather than BMV land. The WMS does not amplify what evidence may be considered to be '*compelling'*.

223. The proposal highlights a practical issue. The Framework defines best and most versatile (BMV) land as Grade 3a and above, however public registers of agricultural land quality do not distinguish between Grade 3a BMV land and Grade 3b land which is not BMV. Testing on the appeal site has established that it is 85% Grade 3a land and 15% Grade 3b [39]. However there is no evidence to establish whether, and how much of, the 72% of all the agricultural land in the study area that is Grade 3 is Grade 3a BMV land and how much is Grade 3b non-BMV land [89]. Instead the Appellant has relied upon consideration of the limited amount of Grade 4 and 5 land in the Borough and has only provided evidence as to why that land is unsuitable, mainly due to location and landscape reasons [91-93].

224. In support of their position the Appellant Company points to an appeal decision issued in December 2015 which permitted a solar farm on 24.46ha of Grade 2

and Grade 3a BMV land [103-106]. In that case the Inspector accepted that it was not possible to fully investigate every possible location for a solar farm within the search area. The Inspector also concluded that it is not incumbent on the developer to demonstrate that there is no possible alternative to an application site, just that reasonable efforts have been made within practical constraints, such as cooperation of landowners. Neither in that case had the Council suggested any part of the District that was not BMV land as a potential location.

225. The Appellant suggests that to satisfy the Council's requirements they would need to soil test the whole study area. They consider this to be unfeasible and, if not, that the cost of such testing would also make the development economically unviable [90]. I consider that to be overstating the case as it would not be necessary to test the quality of those sites which in any event would likely be less suitable for other reasons such as lack of a grid connection, location in a designated landscape, proximity to heritage assets, or, not least, an unwilling landowner. Moreover a willing agricultural landowner is likely to already have some awareness of which of his or her Grade 3 land is of poorer quality and to prefer its development to that of better quality land. The present use of the land would also provide some initial indication that it is of poorer quality and more likely to be Grade 3b. That would reduce the need to test all of the land.

226. Given the large amount of Grade 3 land in the study area it seems unlikely that this is all of even Grade 3a quality and likely that at least some is Grade 3b. The evidence would be thus more compelling was there any evidence that the Appellants had approached other landowners and, if they were willing to contemplate development, had tested at least a sample of likely sites that were not constrained by other factors.

227. In the absence of further evidence I therefore do not consider that compelling evidence has been produced to demonstrate that there are no suitable poorer quality (3b) sites in the study area that could accommodate the development. That contravenes relevant provisions of BRLP Policy IR3, NPPF paragraph 112, the PPG and the WMS and merits moderate weight.

Other Considerations

228. The PPG at paragraph 5-013-20150327 also cites a number of other planning considerations for solar farms. Where relevant these have generally been addressed in the Appellant's submissions at the application and appeal stages [138-164]. They do not form the basis for any additional reasons for refusal by the Council [29]. However some are relevant to matters raised by other interested persons [62-65] and also to what was seen on the site inspection.

229. In relation to the effect on landscape character and visual amenity, the Appellant has submitted an Appraisal of Landscape and Visual Effects (ALVE) [137-140]. From my site inspection I generally endorse its conclusions in respect of those views which were assessed in terms of the effect on visual amenity and the perception of landscape character. This includes the limited adverse effects on visual amenity for relatively distant occupiers of dwellings and for users of public rights of way. However I consider that the overall conclusions are undermined by the lack of recognition that the site would not be enclosed from the immediately adjacent and busy railway and the lack of assessment of the visual amenity of those using the trains.

230. I acknowledge that train passengers may be less sensitive visual receptors than either local residents (who may see the development for long periods every day) or recreational users of public rights of way (who move slowly along paths and public bridleways, and for whom views of the countryside are important to their recreational value). Train passengers would be moving faster and may not be looking out of the window in this direction when they pass the site. However for those who are, and who would include twice daily commuters on this busy line, much of the solar farm would be seen in a single view and it would adversely affect their perception of the rural character of the landscape and the openness of the Green Belt. Some mitigation would be provided by vegetation where the railway line is at grade, and especially in summer. Also the panels would be angled away from the railway and would be at a lower level than the embankment so they would not obstruct wider views beyond the solar farm. Nevertheless I conclude that the residual harm to the perceived character of the wider landscape would be minor adverse rather than negligible, as claimed. There would be moderate to minor adverse effects on the visual amenity of rail users. That should be included in the planning balance.

231. Of the other matters raised by interested persons [62-65]:

- traffic and disturbance during construction would be experienced for a brief period and is a factor of most forms of development – there are no objections from the highway authority and the effects could be mitigated by conditions;
- any effect on property values has not been substantiated by evidence and is not here a relevant planning consideration;
- the effect on the setting of the listed Ellice's Farmhouse has been included in a heritage assessment and I concur with its conclusions that the appeal site has a negligible contribution to its setting and that there would be a negligible effect on its heritage significance;
- it is both improbable, and unsubstantiated by submitted evidence, that the construction of a solar farm causes more carbon emissions than they save; the use of solar energy as a form of renewable energy has been endorsed by the Government;
- the health concerns are also unsubstantiated by submitted evidence; neither have the alleged health effects been compared with the adverse consequences for air quality and health of alternative means of energy production such as the burning of fossil fuels;
- complaints about previous development at the farm are not material to the consideration of this proposal which should be determined on its own merits;
- to grant permission for a temporary solar farm would not change the status of the land as either Green Belt or countryside or make the site eligible for housing development; any further proposals for solar energy developments on this or other sites would fall to be considered on their own merits at the time;
- whilst it is not a material consideration for inclusion in the planning balance for this appeal, the Planning Design and Access Statement explains that there would be benefits to the local community in the form of a community benefit fund; business rates from the development would also be retained by the Borough and County Councils to fund their services.

It is concluded that these concerns would not outweigh the main considerations in the overall planning balance.

Benefits

Renewable Energy

232. To assess the extent of the benefit of the development's provision of renewable energy it is relevant to consider the policy context and the record of delivery of renewable energy in Brentwood.

233. Core principles of the Framework include to identify and meet the business and other development needs of an area and to encourage the use of renewable resources (for example, by the development of renewable energy [16]. Business and other development needs would logically include renewable energy.

234. Paragraph 97 of the Framework also includes the provision that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources [18].

235. Locally the Brentwood Replacement Local Plan (BRLP) was adopted in 2005, 7 years before the Framework was published. Policy IR6 will permit proposals for renewable energy provided that there is no unacceptable detrimental impact against set criteria and that schemes comply where appropriate with the Green Belt policies [11]. Policy IR6 is described in the supporting text as an interim policy until the adoption of the Regional Spatial Strategy (since revoked along with regional targets). That text also refers to the then aspirational Government targets for renewable energy. Those have since been superseded by legally binding targets to include 15% of energy from renewable sources by 2020 and higher targets at later dates including an 80% reduction in carbon emissions by 2050 [168-169].

236. The BRLP does not include a local target for renewable energy. However the Local Plan Preferred Options document suggested a local target of 15% by 2030 [172]. That would be achieved 10 years later than the equivalent national target and at a time when the EU-wide target will have risen to 27% [168]. Neither will that 15% target necessarily be included in the Local Development Plan when it is adopted.

237. The Appellant points out that very little renewable energy infrastructure has been installed in Brentwood Borough in the 11 years since the BRLP was adopted with the largest scheme being for a single 500kW wind turbine and the largest solar scheme having a 250kW output [184]. It is likely that there have also been some rooftop installations across the Borough at a similar rate to those installed elsewhere but when more generous tariffs were available.

238. The Renewable Energy Study includes an objective assessment of the need for renewable energy provision in Brentwood that accords with a core principle of the Framework to make such assessments [13]. It concludes that, even if the other zero or low carbon measures referred to in the Report are implemented, to achieve even the Preferred Options target of 15% renewable energy by 2030 would still require 16 commercial scale wind turbines and that these developments would necessarily be located in the Green Belt [14]. There is no evidence that the Council is intending to identify suitable locations in the Borough for wind turbine development as would now required by national policy and

guidance before they may be permitted. This means that solar PV farms are more likely to be needed if there is to be a significant contribution to energy from renewable sources in Brentwood.

239. The 5MW appeal scheme would have an output similar to 2 commercial 2.5MW turbines. It follows that if no wind turbines are installed (as seems likely) then 8 5MW solar PV schemes of the scale of the appeal proposal would be needed to meet such a target.

240. The Council has suggested that it may not be necessary to develop renewable energy in the Green Belt on the basis that there could be small scale proposals on rooftops or that renewable energy can be delivered alongside other development [49]. However this directly contradicts the conclusions of the Council's own Renewable Energy Study and is not substantiated in terms of the quantity of energy which might be provided. In particular, whereas it may be feasible for new housing or commercial and industrial developments to meet some or even all of their own energy needs on site and even to export some surplus energy, it is unrealistic to expect that this would come close to providing 15% or more of all the Borough's energy needs, particularly in an area where the amount of new built development is itself likely to be constrained by the Green Belt.

241. Subject to the fiscal climate, the small scale rooftop provision that is favoured by the Council may continue to come forward elsewhere whatever the outcome of the appeal. However the financial incentives for such small scale development are proposed to be reduced by altering the feed in tariffs and some providers are currently leaving the industry. This makes their installation less likely. Moreover the appeal proposal is equivalent to 1250 x 4kW typical domestic installations. There is no evidence to suggest that these would come forward as additional installations in the event that the appeal is dismissed. Even if they do, having regard to the small amount of installed capacity indicated by the Renewable Energy Study, both forms of development are likely to be needed to make a significant contribution by this community towards the national targets.

242. There are now no national or regional targets for renewable energy deployment within individual planning authority areas. Neither does the adopted development plan currently include such a target. Nevertheless the deployment of renewable energy in Brentwood is likely to fall far short of a proportionate contribution to legally binding national and international targets unless solar farms similar to the appeal scheme are developed in the Green Belt. If they are not then the shortfall would need to be made up at other locations outside the Borough. If the national targets are to be met those other locations would need to produce renewable energy well in excess of that needed to cover their own energy requirements. That is unlikely in urban locations such as London with their own high intensity energy demands. If the Framework provision that the environmental benefits of renewable energy may constitute very special circumstances is not applied, then it would also be unlikely that other areas with extensive Green Belt, such as the Home Counties, would produce above the 15% national target. The current evidence is that the UK is likely to miss its 2020 target [169]. Future additional provision beyond that date also remains uncertain to meet higher international targets or the higher national target for 2050.

243. In these circumstances, substantial weight should be accorded to the appeal proposal's significant 5MW contribution to renewable energy production.

Other Benefits

244. There is evidence of net gains for bio-diversity, mainly from the filling of hedgerow gaps and from other new planting at the site perimeter [145-150, 186-188]. This merits moderate weight.

245. Whilst the Appellant also points to some landscape benefits from that new planting [189], these would only partially mitigate the greater adverse landscape effects of the development as a whole. Neither is the long term retention of the planting assured. This benefit thus merits only limited weight.

Conditions

246. A set of draft planning conditions was submitted by the Council for application in the event that the appeal is allowed.

247. The draft conditions are vague in some respects. For example they do not include a list of approved drawings and do not specify which provisions of which submitted reports should be complied with. Some reports only include draft proposals. The attached schedule of conditions therefore includes a number of changes which include a list of plans for approval and more specific conditions relating to the subjects covered by the Appellant's reports. These should not come as a surprise to the Appellant. Where the reports or other evidence only include draft proposals or lack necessary details (for example of landscaping) then some matters are reserved for subsequent approval. Other changes have been made in the interests of clarity and certainty and otherwise to accord with the test for conditions set out at paragraph 206 of the Framework.

248. The schedule includes a reason for each condition.

Planning Balance and Conclusions

249. The use of agricultural land has been shown to be necessary and is not precluded by national policy or guidance and should not count against the proposal. Also there would be mitigation in the continued (less intensive) use of the site for agriculture in the form of sheep grazing. Nevertheless there would be harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside. To that harm to the Green Belt needs to be added firstly the loss (for the life of the development) of best and most versatile land (in the absence of compelling evidence that no poorer quality Grade 3b land is available and otherwise suitable). Secondly there would be some harm to visual amenity in those views from the railway which could not be screened and which have not been adequately assessed in the AVLE. The availability of these views would adversely affect perceptions of landscape character and the openness of the Green Belt. The harm to the Green Belt merits substantial weight and is supplemented by the other harm.

250. The combined harm needs to be weighed with the identified benefits of the development and especially the wider environmental benefits of significant production of renewable energy. This merits substantial weight, in part because little renewable capacity has so far been installed in Brentwood. But also because the evidence base for the Council's development plan clearly establishes

that significant production of renewable energy (and a proportionate contribution by the community towards legally binding national targets) could not be achieved without large scale wind or solar energy schemes in the Green Belt. Moreover there is no evidence that any wind energy schemes would accord with current national policy or are likely to come forward. The Appellant has also supplied evidence that the UK is not on track to meet its own 2020 target for renewable energy.

251. The Framework at paragraph 91 does clearly state that the wider environmental benefits of increased production of energy from renewable sources may qualify as the very special circumstances that are needed to justify development in the Green Belt. In this case those benefits would be supplemented by some modest benefits to biodiversity through new planting. Nevertheless, the same benefits are likely to be capable of realisation on poorer quality agricultural land in the Green Belt and there is a lack of compelling evidence that the use of Grade 3a BMV land is necessary when 72% of the study area is Grade 3 and is likely to include some 3b land which may be suitable. This tips the balance against the proposal and it is concluded that the other considerations do not here qualify as the very special circumstances necessary to clearly outweigh the harm to the Green Belt and the other harm.

252. The Appellant points out that a solar farm in Surrey was allowed in the Green Belt on appeal [199]. However, as the Council points out, that development apparently used golf course land which was not in agricultural use and there is no evidence that it would have qualified as BMV land even had it been in agricultural use. In any event it was not available for such use. Also that scheme was for a solar farm only half the size of that proposed here.

Recommendation

253. For the above reasons it is concluded that based on the submitted evidence in relation to BMV land it has not been shown that the development is in overall accordance with the development plan (in terms of Policies IR3, GB1 and GB2 and IR6) or with national policy and the appeal should therefore be dismissed.

254. In the event that the Secretary of State disagrees with this recommendation and allows the appeal it is recommended that the conditions set out in the attached schedule should be applied.

Robert Mellor

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings:

   a) Site Location Plan (ref: HVG_01) which details the extent and location of the appeal site as outlined in red;

   b) Proposed Layout Plan (ref: HVG_01_Rev E);

   c) Road Cross Section;

   d) CCTV Pole Details (Ref: CCTV_01);

   e) Client Side Sub-station (Ref: CSR_01);

   f) Communications Building (Ref: CB_01);

   g) Deer Fence Details;

   h) DNO Building Details (Ref: DNO_01);

   i) GRP Cabinet (XXX_01_A);

   j) Transformer Enclosures (Ref: TD_01);

   k) Inverter Elevations (Ref: ID_01);

   l) Toilet Cabinet (Ref: TC_01);

   m) Storage Building (Ref: SB_01)

   n) Auxiliary Transformer (Ref: AT_01)

   o) Panel Elevations (Ref: TYP_P_A_3L)

   p) Swept Path Analysis (Ref: L340/1)

   Reason: In the interests of certainty as to what is permitted.

3. The use of the land as a solar farm shall be for a period of 30 years 6 months only and shall be discontinued after such a period. All development associated with the use, including temporary buildings and other operations development (including fences and hardstandings) and all items placed on the land in connection with its use as solar farm shall be removed within 6 months of the end of that period or the discontinuation of the use (if earlier) and the land shall be restored to a condition which has previously been agreed in writing by the local planning authority.

Reason: In the interest of preserving the openness of the Green Belt, to prevent encroachment into the countryside and in the interests of safeguarding the best and most versatile agricultural land.

4. The development shall be constructed and decommissioned in accordance with provisions of the Construction, Decommissioning and Traffic Management Method Statement (Ref Havering Grove) dated 28 January 2015 and the Construction Traffic Management Plan (Ref Havering Grove) dated May 2015 with the latter document taking precedence in the case of any conflict.

   Reason: In the interest of highway safety, residential amenity and the character and appearance of the area.

5. The development shall be constructed and maintained in accordance with the findings and recommendations contained in the Biodiversity Management Plan V2 Ref Light-068-425-02 dated 4 February 2015.

   Reason: In the interests of ecology and biodiversity on the site.

6. No development shall commence until a Hedge and Tree Protection Plan along the lines of the Draft Tree Protection Plan Ref L.0325 dated 6 February 2015 has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

   Reason: In order to protect trees and hedges of importance to safeguard the character and appearance of the area.

7. The development hereby approved shall not be made operational until an acoustic report/scheme detailing the intended acoustic work to the transformer/switch gear sub stations and inverters has been submitted to and approved in writing by the local planning authority to include a programme for its implementation. The development shall only be carried out in accordance with the approved details

   Reason: In the interest of the residential amenity of nearby residents.

8. Apart from that hereby approved, and notwithstanding the provisions of the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent re-enacting Acts or Orders) no floodlighting or any other form of external lighting shall be provided on the site.

   Reason: To safeguard the living conditions of nearby residents and in the interests of the character and appearance of the area.

9. No development shall be commenced until details of a surface water drainage strategy along the lines recommended in the Flood Risk Assessment by PFA Consulting dated January 2015 have been submitted to and approved in writing by the Local Planning Authority to include arrangements for its future maintenance. Electricity shall not be exported from the site until the approved scheme has been implemented.

Reason: To reduce the risk of surface water flooding.

10. No development hereby permitted shall commence until a scheme of landscaping of the site has been submitted and approved in writing by the Local Planning Authority. This scheme shall include:

    a) the existing trees and shrubs which have been agreed to be retained;

    b) a specification for the proposed new planting along those hedgerows on the appeal site to mitigate the visual and landscape effects of the development (species, size, spacing and location);

    c) areas for hard surfacing and the materials to be used;

    d) other means of enclosure;

    e) location of trenches for cabling and depth/width of trenches; and

    f) a method and programme for its implementation and the means to provide for its future maintenance including the heights at which the hedgerows are to be maintained.

    Reason: To protect the character and appearance of the area.

11. All planting, seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or hedge plants which during the life of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

    Reason: To protect the character and appearance of the area.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

Our Ref: APP/J0350/W/16/3144685

Mrs Gemma Newell
Squire Patton Boggs (UK) LLP
6 Wellington Place
Leeds
LS1 4AP

19 December 2016

Dear Mrs Newell

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL MADE BY SIRIUS SBC RENEWABLES
LAND AT BATH ROAD, POYLE, BERKSHIRE SL3 0HY
APPLICATION REF: P/10012/005

1. I am directed by the Secretary of State to say that consideration has been given to the report of Cullum J A Parker BA(Hons) MA MRTPI IHBC, who made a site visit on 10 May 2016 into your client's appeal against the decision of Slough Borough Council to refuse planning permission for the construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, in accordance with application ref: P/10012/005, dated 3 July 2015.

2. On 9 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Steve Jewell
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Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

6. In this case the development plan consists of the Slough Local Development Framework Core Strategy 2006-2026 (2008) (CS) and the saved policies of the Local Plan for Slough (2004) (LP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR10.

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). He has also had regard to the Written Ministerial Statement, dated 25 March 2015, which amongst other matters, concerns solar energy and the protection of the local and global environment.

8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal schemes or their settings or any features of special architectural or historic interest which they may possess.

Main issues

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR57-59.

The Green Belt

10. The Secretary of State notes that the main parties agree that the proposal would represent inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (IR57).

11. For the reasons given in IR60-67 the Secretary of State agrees with the Inspector that the proposal would erode the openness of the Green Belt. He also agrees the proposal would fail to assist in safeguarding the countryside from encroachment and to check the unrestricted sprawl of large built-up areas and would result in harm to the Green Belt. He agrees with the Inspector that the Framework is clear in that substantial weight should be given to any harm to the Green Belt. His view, like the Inspector's, is that the proposal would fail to comply with Core Policy 1 and Core Policy 2 of the CS, both of which seek to maintain the existing areas of Green Belt within the Borough of Slough, and also with the policies of the Framework (IR62 and IR67).

Strategic Gap and countryside impact

12. The Secretary of State has carefully considered the Inspector's analysis at IR68-70 and agrees that the development plan policy requires that the development needs to be 'essential' in the Strategic Gap to be found acceptable (IR69). The Secretary of State agrees with the Inspector's finding that beyond locally contributing to the national emissions reduction targets, there appears to be no local requirements to have the solar farm in this location above any other. Like the Inspector the Secretary of State concludes

that the potential suitability of the site over others does not equate to an 'essential' need for the development to be placed in this location (IR70).

13. For the reasons given in IR71-72 the Secretary of State also considers that the proposal would represent an urbanising feature within what are currently open fields and would close the strategic gap by introducing built form and man-made structures. He agrees with the Inspector that the proposed development would have an adverse impact on the Colne Valley Regional Park and undermine the aims and purpose of the Strategic Gap (IR72).

Other considerations

14. For the reasons given in IR73-75 the Secretary of State agrees with the Inspector that Core Policy 8 of the CS (Sustainability and the Environment) should be considered broadly consistent with the Framework and afforded appropriate weight.

15. The Secretary of State agrees with the Inspector that the development would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change (IR77). He has noted the Inspector's view that the contribution is limited due to the relatively small size and scale of the proposed appeal site and the amount of energy it could create but considers that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and so is inclined to afford greater weight to this benefit than the Inspector.

16. Like the Inspector, the Secretary of State considers that the fact that the appeal site comprises Grade 4 agricultural land puts it at the poorer end of the ALC spectrum and is a modest benefit in favour (IR78).

17. The Secretary of State agrees that, while the life span of the panels would be around 25 years this does not negate the fact that for quarter of a century the proposal would conflict with the Green Belt aims of openness and protecting the countryside from encroachment (IR79).

18. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR80-82 and IR84 and does not consider any of these matters should weigh in favour of the proposal. He also agrees in relation to Colnbrook Conservation Area that the absence of harm does not equate to a benefit in favour (IR83).

19. Like the Inspector, the Secretary of State cannot be certain that a 'formal agreement' with the Parish Council for financial contributions for a 'community cohesion' officer and other community projects would meet the tests set out in Paragraph 204 of the Framework. (IR85 and IR94) and so does not afford this factor any weight.

Planning conditions

20. The Secretary of State has given consideration to the Inspector's analysis at IR86-93, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning balance and overall conclusion

21. The Secretary of State has given careful consideration to the Inspector's conclusions at IR95-98. He agrees with the Inspector that the proposal would represent inappropriate development in the Green Belt that would reduce its openness, and would fail to check unrestricted urban sprawl and assist in safeguarding the countryside from encroachment and applies substantial weight to this harm. He considers that there would also be harm to the intrinsic character of the countryside and area generally in the form of the Colne Valley Regional Park and the Strategic Gap. Against this he considers the benefit arising from the generation of renewable energy should be afforded significant weight and the use of agricultural land of lesser value lends modest weight in favour of the proposal. However, he also agrees with the Inspector that the other considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt and concludes that the very special circumstances necessary to justify the proposal do not exist in the case. The Secretary of State also concludes that the proposal would conflict with Core Policy 1, Core Policy 2 and Core Policy 8 of the CS and (Saved) Policy CG1 of the LP, and would also be at variance with the policies of the Framework as a whole.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, in accordance with application ref: P/10012/005, dated 3 July 2015.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

24. A copy of this letter has been sent to Slough Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Steve Jewell

Steve Jewell
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Date: 5 October 2016

Town and Country Planning Act 1990

Slough Borough Council

Appeal by Sirius SBC Renewables

Site visit made on 10 May 2016

Bath Road, Poyle, Berkshire, SL3 0HY

File Ref: APP/J0350/W/16/3144685 APP/J0350/W/16/3144685

ABBREVIATIONS/GLOSSARY

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
Appellant	Sirius SBC Renewables
BMVAL	Best and Most Versatile Agricultural Land
CS	Slough Local Development Framework Core Strategy 2006-2026 (2008)
Council / Local Planning Authority (LPA)	Slough Borough Council
Framework	The National Planning Policy Framework
Guidance	The national Planning Practice Guidance
LVIA	Land Visual Impact Assessment
LP	Local Plan for Slough (2004)
MWp	MegaWatt peak
Officer Report	Officers Report Recommending refusal (undated) Appendix 7
Parish Council	Colnbrook with Poyle Parish Council
Statement of Case	Appellant's statement of case, February 2016

File Ref: APP/J0350/W/16/3144685
Bath Road, Poyle, Berkshire, SL3 0HY (Easting 502994, Northing 176592)

- 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 Sirius SBC Renewables against the decision of Slough Borough Council.
- The application Ref P/10012/005, dated 3 July 2015, was refused by notice dated 26 November 2015.
- The development proposed is construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins.

Summary of Recommendation: That the appeal be dismissed.

Preliminary Matters

Reason for refusal

1. The Council refused planning permission for the following reasons:-

   1) The proposed development would cause significant harm to this fragmented and vulnerable part of the Green Belt. It has not been demonstrated that the benefits from the proposed solar farm are sufficient to constitute the very special circumstances which are necessary to overcome the presumption against inappropriate development in the Green Belt as set out in the National Planning Policy Framework and Core Policy 2 (Green Belt and Open Spaces) of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008.

   2) The proposed development would result in loss of important open land within the Strategic Gap at Colnbrook and Poyle. It has not been demonstrated that it is essential for the proposed solar farm to be in this location and so it is contrary to Core Policy 2 (Green Belt and Open Spaces) and Core Policy 1 (Spatial Strategy) of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008.

   3) The proposed development would result in the further urbanisation and loss of countryside recreation within the Colne Valley Regional Park. It has not been demonstrated that it is essential for the proposed solar farm to be in this location and so it is contrary to Core Policy 2 (Green Belt and Open Spaces) of the Slough Local Development Framework, Core Strategy 2006-2026 and Policy CG1 (Colne Valley Park) of The Adopted Local Plan for Slough 2004.

Determination of the appeal

2. The Secretary of State has directed that, in exercise of his powers under Section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, as amended, that he shall determine the appeal as it involves proposals for significant development in the Green Belt, as referred to in the letter dated 9 August 2016 sent to the main parties by the Planning Inspectorate.

Site visit

3. On 10 May 2016, I made an unaccompanied visit to the site and the surrounding area.

The proposal

4. The development seeks the erection of rows of photovoltaic (PV) panels on an east-west axis across two fields. These would have a total capacity of 4.5MW peak, which could power around 1000 homes per year and offset about 2000 tonnes of carbon dioxide (CO^2) per annum[1].

5. The solar panels would be around 1 metre off the ground, with a total height of 3 metres above ground level. These would be angled between 10^o and 35^o and set apart by about 4 metres. The proposal would also see the erection of fencing and ancillary structures to support the operation of the PV panels, with the grid connection point located in Bath Road, near to the site access.

The site and surroundings

6. The appeal site is located to the southeast of Colnbrook and to the southwest of Poyle. The site covers about 10.90 hectares. The site was historically used as part of a wider sand and gravel extraction operation, known as Poyle Quarry[2]. These uses ceased on the appeal site in about 1988, with it currently used for the growing of bio-fuel crops. Given the rural characteristics of the site at the time of my inspection, it is reasonable to consider that the site is in the countryside for planning policy purposes.

7. The first field, nearest to Bath Road and Poyle Road, has a boundary formed by a mixture of trees and shrubs along Poyle Road, with a gap in the tree line along parts of this boundary. The boundary with Bath Road is screened with a mixture of low lying plants and deciduous trees, which provide a greater level of screening as viewed from nearby residential dwellings and the highway; although the level of screening would alter as the leaf coverage falls in the autumn and winter months. Located to the south of the appeal site is a hotel, with trees along its shared boundary with the appeal site roughly to the north. In terms of the second field, to the west of the hotel, this is further away from the public highway with an earth bund providing a screen at street level from nearby residential dwellings to the west of the hotel.

8. The site falls within Flood Risk zones 1 and 3 as defined on the current Environment Agency Flood Map[3].

9. The appeal site is located within the Metropolitan Green Belt[4].

Planning Policy

10. The development plan for the appeal site area comprises *Slough Local Development Framework Core Strategy 2006-2026* (2008) (herein the CS) and

[1] Appendix 7, Officer Report, paragraph 2.2
[2] Officer Report, paragraph 3.1
[3] Officer Report, paragraph 3.4
[4] Officer Report, paragraph 3.5, and the appellants Statement of Case paragraph 7.7

the saved policies of the *Local Plan for Slough*[5] (2004) (herein the LP). The policies referred to include[6]:-

(a) **Core Policy 1 (Spatial Strategy):** *'All development will have to comply with the Spatial Strategy set out in this document. All development will take place within the built up area, predominantly on previously developed land, unless there are very special circumstances that would justify the use of Green Belt land. A strategic gap will be maintained between Slough and Greater London…'*

(b) **Core Policy 2 (Green Belt and Open Spaces): '***The existing areas of Metropolitan Green Belt will be maintained … Development will only be permitted in the Strategic Gap between Slough and Greater London and the open areas of the Colne Valley Park if it is essential to be in that location…'*

(c) **Core Policy 8 (Sustainability and the Environment):** *'All development in the Borough shall be sustainable…and address the impact of climate change. All developments should, where feasible, include measures to:…(c) Generate energy from renewable energy resources…'*

(d) **(Saved) CG1 (Colne Valley Park):** *'Proposals for development within countryside or other open areas in the Colne Valley Park will not be permitted unless they…'*

The Case for the Council (Slough Borough)

Principle of proposed solar farm development

11. The Framework establishes a presumption in favour of sustainable development. The requirement to move to a low carbon economy is also highlighted in the Framework; firstly as a dimension of sustainable development, secondly as a core planning principle, thirdly in building a strong competitive low carbon economy, and fourthly in that LPAs should not require applicants for energy development to demonstrate the need and by recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

12. The Guidance states that planning has an important role in the delivery of new renewable and low carbon energy infrastructure. Planning considerations when considering photovoltaic systems, put simply, include siting systems in situations where they can collect the most energy from the sun, the need for sufficient area of solar modules to produce the required energy output, the effect on a protected area such as an Area of Outstanding Natural Beauty (AONB) or other designated areas, and the colour and appearance of the modules[7].

13. The panels, or 'modules', in this case would be south facing and can maximise energy output, are not in an AONB, and would be anti-reflective. The proposal would therefore comply with this aspect of the Guidance. They would also offset

[5] As per the SoS CLG Direction letter dated 25 September 2007 to Slough Borough Council
[6] Policy extracts provided in *'italics'*
[7] Officer Report, Paragraph 9.4, and the Guidance, Ref ID:5-001-20140306 and 5-012-20140306

approximately 2000 tonnes of carbon dioxide per annum[8], which would assist in reaching national targets.

Impact on Green Belt

14. The proposal would constitute inappropriate development within the Green Belt, as defined in Paragraphs 89 and 90 of the Framework, as it does not fall into any category of not inappropriate development. Paragraphs 87 and 88 of the Framework explain that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

15. In terms of this part of the Green Belt, potential developments such the Slough International Freight Exchange (SIFE), the western rail connection to Heathrow, the Smart Motorway project and the proposed third runway at Heathrow all make Colnbrook and Poyle one of the most fragmented and vulnerable parts of the Green Belt. This means that any further development within this area will compound the overall harm and add to the cumulative impact upon the area. The proposal covers around 10.9 hectares which is a significant size for a development in the Green Belt and the period of up to 25 years should be considered as though having a permanent impact on the Green Belt rather than temporary.

16. Paragraph 79 of the Framework sets out the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The site is currently used as open farmland with no development and so the openness of the Green Belt is not currently compromised. The proposal would impact on openness by erecting 3 metre high PV panels over an area of approximately 10 hectares, and enclosed by a 2.4 metre high fence. There would also be two porta-cabin buildings, being roughly 2.5 metres high and measuring 4 by 12 metres, which would be enclosed with 2 metre high palisade fences. These would be located within a 17 by 17 metres compound and an additional building of 3 metres by 8 metres[9].

17. The Council does not agree that the visibility of a development is the proper test of openness. Put simply, you cannot make an inappropriate development in the Green Belt acceptable by screening it from view. The proposal would therefore conflict with Green Belt policy, which is to keep the Green Belt permanently open.

18. Purposes of including land in the Green Belt are set out in paragraph 80 of the Framework. The solar farm would fail to prevent urban sprawl as part of the site is situated on road frontages with proposed development spanning two directions along local roads on a corner site. It would lead to the merging of Poyle and Colnbrook, as the site would no longer be able to provide an important separating feature between the residential areas to the north and the industrial and commercial development to the south. Although the site had a previous use for minerals extraction, it has now been restored to agricultural land. The

[8] Officer Report, paragraph 9.7
[9] Officer Report, paragraph 9.14

erection of a solar farm would completely change the character of the land and cause harm to the third purpose of Green Belt as set out in paragraph 80 of the Framework. In terms of preserving the setting and special character of historic towns, the application site forms an undeveloped stretch of land to the east of the conservation area, which helps define its edge. As a result the proposal would result in some harm to the fourth purpose. It is not considered that the proposal would conflict with the fifth purpose in terms of assisting with urban regeneration as set out in Paragraph 80 of the Framework.

19. In terms of possible benefits, the appellant points to the creation of 3.8MWp of renewable energy which would generate enough power for 1000 homes[10]. But it is not considered that these general benefits are sufficient to overcome the specific harm to the Green Belt in this location. The appellant submitted an alternative sites assessment, which considered 1,195 other sites; 58 of which were considered to have significant potential and 18 of which now have planning permission[11]. Whilst the appellant considers that they have only identified sites where stringent planning criteria have been met, it is not considered that the current proposal meets the necessary stringent planning criteria to allow it to be approved in this area. The proposal would therefore result in significant harm to the Green Belt and it has not been demonstrated that there are any very special circumstances which overcome the presumption against inappropriate development in the Green Belt.

Strategic Gap

20. The policies concerning the Strategic Gap (Core Policy 1 and Core Policy 2 of the CS) have been thoroughly tested and found to add additional policy restraint over and above that of the Green Belt. This was tested in the High Court as part of the Judicial Review of planning permission for the strategic rail freight exchange at Radlett near St Albans[12].

21. The main purpose of the Strategic Gap is to prevent the coalescence of Slough with Greater London so as to maintain their separate identities. This should be achieved not only by keeping land open within the Strategic Gap, but also to maintain the perception of there being some openness between the two main settlements. This is especially important along road corridors as there is almost continuous urban development from Slough up to the M25. The northern side of the road opposite the appeal site is already built up with houses, so any development on the southern side of this road will have a particular impact on the retention of a gap.

22. It is accepted that the solar panels would be well screened, but there will still be some glimpses of the development and people will be aware that it is there. The perception of a gap between the settlements would therefore be reduced as a result of the urbanisation of this corner of the site. The proposal would therefore cause significant harm to the maintenance of the Strategic Gap. What is more, it is not considered that there is an essential need to be in this location; either in terms of operational needs or to serve the local population. Slough already has a

[10] Officer Report, paragraph 9.23
[11] Officer Report, paragraph 9.24
[12] Officer Report, paragraphs 9.26 to 9.29 – The specific review number is not referenced at this section of the officer report

significant electricity capacity and the output in this case would be relatively modest, so it cannot be justified as being essential.

23. Although alternative sites have been considered, which show limited other potential sites within the Borough, the Strategic Gap policy is a high, though not unachievable, bar to development. The site should have been excluded under the stringent planning criteria when the appellant was considering other sites. In view of the harm that the proposal would cause to the Strategic Gap, it is considered that it should be refused on the grounds that it has not been demonstrated that it is essential to be in this location.

Landscape and Visual Impact

24. The outcome and results of the Landscape and Visual Impact Assessment (LVIA) have been taken into consideration as part of the planning process. However, it is considered that the benefits of the solar farm do not weigh up against the harm caused to the Green Belt, the Strategic Gap and the Colne Valley Park as a result of the proposal.

Other Matters

25. The Council's Highway and Transport Officer has assessed the proposal and raised no objection to the proposal subject to the provision of further information[13].

26. Natural England have raised no objection to the proposal and given the mitigation set out within the Ecology Report (and its implementation), no objections are raised on ecology grounds[14].

27. In terms of flood risk and contaminated land, no objections are raised by the Environment Agency or the council's Land Contamination Officer, subject to the use of planning conditions. What is more, no objections are raised in respect of noise and no further archaeological work is merited in this case given the development does not justify searching them out[15].

28. The applicant has advised that they have offered a 'Community Benefit Fund' that would be held in trust and managed by Colnbrook with Poyle Parish Council, which could be spent on social and environmental projects within the Parish. The offer would see an annual payment of £14,000 for the life of the solar farm (RPI-linked). It was understood that such an agreement would be a private one between the developer and the Parish Council once consent is issued and the solar farm energised. However, any such agreement would not be secured via a Section 106 agreement, as the Council had not been a party to any such discussions.

The Case for the Appellant (Sirius SBC Renewables)

The Framework and the Guidance

29. The Framework sets out a presumption in favour of sustainable development, which should be seen as a golden thread running through decision-taking. One

[13] Officer Report, paragraph 11.3
[14] Officer Report, paragraph 12.5
[15] Officer Report, paragraphs 13.1 to 13.3

of the core planning principles is to support the transition to a low carbon future. The proposal would provide a source of renewable energy and decision-taking should be approached in a positive way to foster the delivery of sustainable development[16].

30. In particular, Paragraph 97 of the Framework indicates that local planning authorities (LPA) should adopt positive strategies to promote energy from renewable and low carbon sources. Core Policy 8 of the CS is considered to fall well below the requirement of the Framework to adopt a positive strategy, particularly when read in the context of the Guidance[17], which includes requiring the LPA to consider what the potential, range of technologies, costs, impacts and legal requirements may be. To this extent, the appellant submits that the adopted development plan is out of date for the purpose of Paragraph 14 of the Framework, and therefore the weight which can be applied to the policies within the adopted development plan is limited[18].

31. The Framework also seeks to protect the Green Belt and elements of many renewable energy projects will comprise inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In such cases, developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources[19].

The Green Belt

32. The appellant accepts that the proposed development constitutes inappropriate development in the Green Belt, under the provision of the Framework[20].

33. Reference is made to another appeal decision[21] concerning the Slough International Freight Exchange (SIFE); (the Secretary of State will recall this was dismissed on 12 July 2016, following his recovery of that appeal). The principal point is that the appellant confirms that each application should be considered on its own merits, and the fragmented nature of the metropolitan Green Belt in this location should not be used as justification for overstating the level of effect arising from this proposal.

34. The appeal site is located within a generally enclosed area of Green Belt, with the site boundaries mostly comprising dense vegetation. What is more, a substantial haul road has been consented[22], and this would be located across the site to provide access to the allocated mineral extraction site at Poyle Quarry. The solar panels would have a maximum height of 3 metres, with an installation height most likely of 2.2 metres, and cover 2.57 hectares of a total 10.9 hectare site. The ground will be re-seeded to pasture land, which will be retained around and under the panels.

[16] With particular reference to paragraphs 14, 93, 97 & 98
[17] Statement of Case, page 14, paragraph 5.4, Guidance Ref 5-003-20140306
[18] Statement of Case, pages 14 & 15, paragraph 5.5
[19] With particular reference to Paragraphs 79 to 91
[20] Statement of case, page 22, paragraph 7.10
[21] Ref: APP/J0350/A/12/2171967
[22] See Appendix 9

35. Case law, in the form of Timmins v Gedling Borough Council [2014] EWHC 654, is referred to by the appellant, who considers that it sets out *'a distinction between visibility and openness. The decision states that any construction in the Green Belt harms openness, irrespective of its actual level of visual impact given the presence of built form. However, the decision also goes on to provide that visibility and openness are linked and that visual impact, or lack thereof, can be taken into consideration in relation to mitigating any impact on openness. It follows that lack of visual impact can be considered, amongst other factors, to amount to very special circumstances.'*[23] In this respect, the site is considered to be well screened, and the proposal low rise and visibly unobtrusive. As such, the proposed development would only generate limited 'harm' to the openness of the Green Belt. Such harm would also be limited by the removal of the panels and associated equipment and reinstatement of the land at the end of the panels' lifespan.

36. The proposal would not result in urban sprawl or coalescence[24]. In terms of countryside encroachment, the appeal site was formerly used for mineral extraction, and then landfill before its current use as agricultural land. As such, the appeal site has limited agricultural use due to the quality of restoration soil above the in-situ waste. The appeal site also benefits from an extant planning permission for an access road to the existing minerals area to the west of Site A and to the north of Site B. Solar developments have been accepted within countryside locations in both planning applications and appeals[25].

37. The Landscape Visual Impact Assessment (LVIA) concludes that the landscape effects as a result of the solar farm are generally restricted to the site area and the immediately adjoining areas only. It is therefore the appellant's position that the proposal would not encroach on the countryside and would not generate any harm to the Green Belt in this respect. There would also be no impact on the nearby Conservation Area or the historic core of the village of Colnbrook given the physical separation and lack of inter-visibility.

38. The level of harm identified within the Officer's report is contested[26]. The proposal is of a temporary nature, would not affect the fundamental aim or five purposes of the Green Belt designation, and will have minimal visibility from the surrounding area.

Any other harm – including Strategic Gap and Colne Valley Park

39. The concept of the Strategic Gap is contained within Core Policy 1 and Core Policy 2 of the CS. Put simply, this seeks to maintain a strategic gap between Slough and Greater London, and that development will only be permitted in this gap if essential to be in that location. The Policies themselves do not provide detail as to what constitutes the term 'essential'.

40. The LPA suggested that it is necessary to demonstrate that alternative sites were considered, even though this is not a requirement of the Framework[27]. This

[23] Statement of Case, page 22, paragraph 7.10
[24] Statement of Case pages 24 and 25, paragraphs 7.13 and 7.16
[25] Statement of Case, page 23 & 24, paragraph 7.13
[26] Statement of Case, page 27, paragraph 7.21
[27] Paragraph 98 The Framework refers

survey found that the appeal site is the only suitable location within the Borough, and given the infinite need for renewable energy can be considered as 'essential in that location[28]'. What is more, the site would not result in the closing of the gap between Slough and Greater London.

41. The open areas of Colne Valley Regional Park are not defined, but the Policy imposes the same restraints as the Strategic Gap. The proposal would also meet the criteria of (Saved) Policy CG1 of the LP, through the use of additional screening. The proposal would also have a negligible effect on the landscape quality of the area, as identified within the LVIA. What is more, there is currently no public access on the appeal site and therefore the proposal would not result in the loss of countryside recreation opportunities.

Benefits and balance

42. The renewable energy nature of the proposal would generate electricity equivalent to powering 1000 homes and contribute towards national renewable energy targets. The Government has a commitment to solar development and has identified it as playing an important part in a balanced UK energy policy. The Written Ministerial Statements on *Solar Energy* (dated 1 November 2013 and 22 April 2014), the response to the *IPCC Report on Climate Change* (March and April 2014), and *On Planning* (March 2015) all point in this general direction. The most recent progress report on the Renewable Energy Directive, published in January 2016, reports that in 2014 renewable energy accounts for just 7% of energy demand. Solar energy can provide a source of energy when there is an overall issue in terms of energy supply and security within the UK.

43. The land is currently used for growing of bio-fuel crops, and is considered by the appellant to fall into Agricultural Land Classification (ALC) Grade 4, which falls outside of the Best and Most Versatile Agricultural Land (BMVAL)[29]. The classification of the land is not disputed by the Council. Paragraph 112 of the Framework seeks to direct necessary development to areas of poorer quality land in preference to areas of higher quality.

44. The proposal will only be present for a finite period of about 25 years, after which the land would be reinstated to its former use. The appellant is in the process of entering into a formal agreement with Colnbrook with Poyle Parish Council to provide a financial contribution upon commissioning of the proposed development. This contribution could be used to fund employment of a community cohesion officer and other community projects and this is considered a further benefit of the scheme.

45. The Council does not have a positive strategy for renewable and low carbon energy supply and therefore only limited weight can be afforded to the development plan in accordance with the presumption in favour of sustainable development set out in Paragraph 14 of the Framework. Notwithstanding this, the proposal accords with Policies Core Policy 1 and Core Policy 2 of the CS and (Saved) Policy CG1 of the LP.

[28] Statement of Case, page 31, paragraph 7.35
[29] Annex 2: Glossary, the Framework

46. The proposal would result in significant benefits which would outweigh the limited harm to the Green Belt, and these are considered to amount to the very special circumstances that justify inappropriate development in the Green Belt.

Written Representations at application stage

Colnbrook with Poyle Parish Council

47. The Parish Council has raised concerns regarding the visual aspects of the development on neighbouring residential properties and businesses. Screening formed of mixed broadleaf and evergreen tree/hedge buffer strip should be planted along the internal boundaries. Also queried the height of the panels at 3m tall and if this is fixed.

The Environment Agency

48. The Agency originally raised an objection, but after reviewing Stratus Environmental ref SBC1044 dated 25 September 2015 from the appellant, remove objection subject to the inclusion of a number of conditions.

Natural England

49. NE has no objection in respect of statutory nature conservation sites. No assessment made in respect of protected species.

Heathrow Airport Limited

50. HAL has no safeguarding objections. Observations made on the public safety zone: the site lies within and the use of cranes for construction will require the consulting of the aerodrome before erecting any cranes.

The National Farmers Union (NFU)

51. The planning sub-committee of the local NFU branch at Marlow considered the application and confirms their support for the proposals. In seeking to make this business resilient to future risks they suggest that the proposals are precisely the type of development that the Framework seeks to encourage.

Thames Water

52. It is the responsibility of the developer to make proper provision for drainage to the ground, water courses or a suitable sewer. The developer should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Prior approval is required from Thames Water to discharge into the public sewer. Thames Water will not allow any building within 5 metres of large water mains.

Berkshire Archaeology

53. Berkshire Archaeology is in agreement that previous gravel extraction is likely to have largely removed any archaeological interest in this application site, and on this basis no further archaeological work is merited should permission be granted.

Spelthorne Borough Council

54. No objections.

The Royal Borough of Windsor and Maidenhead

55. No objection.

Inspector's Conclusions and Recommendation

56. The references in square brackets *[x]* are to the principal paragraphs of my report of the cases and other information from where my conclusions are drawn.

The main considerations

57. The main parties agree that the proposal would represent inappropriate development within the Green Belt by reference to paragraph 91 of the Framework. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such very special circumstances may include the wider environmental benefits associated with the increased production of energy from renewable sources. [14, 32, 33]

58. The appellant concedes that the proposal would result in harm to the Green Belt; both in terms of definitional harm, it being inappropriate development, and also a loss of openness. However, they consider that the latter is mitigated by the possible use of screening and reinforcement of existing boundaries. To the contrary, the Council does not consider that the use of screening would hide the fact that the proposal would erode the openness of the Green Belt. The site is also located within the Strategic Gap and the Colne Valley Regional Park; both of which are subject to additional planning policy restrictions. [32, 37]

59. Against this background, the main considerations, in my view, are the effect of the proposal on the purposes of the Green Belt including openness and permanence, whether the location within the Strategic Gap and Colne Valley Regional Park is acceptable in principle, and lastly whether any harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development. [14, 32]

The Green Belt

60. The appeal site is located to the southeast of Colnbrook and to the southwest of Poyle, with the site historically used as part of a wider mineral extraction operation. These uses have now ceased on the appeal site, with it currently used for the growing of bio-fuel crops. Given the rural characteristics of the site and its current use for agriculture, the site should be considered as in the countryside for planning policy purposes. The appeal scheme seeks the erection of rows of photovoltaic (PV) panels on an east-west axis across two fields. These would have a total capacity of 4.5MW peak and have a total height of 3 metres. There would also be the erection of fencing and ancillary structures to support the operation of the PV panels. [4, 5, 6, 7, 16, 34]

61. Views of the solar panels in the first field, (that nearest to Bath Road and Poyle Road), would be possible from Poyle Road, with gaps in the tree line along parts of this boundary. The boundary with Bath Road is screened with a mixture of low lying plants and deciduous trees, which can provide a greater level of screening as viewed from nearby residential dwellings and the public highway. Although the level of screening would alter as the leaf coverage falls in the autumn and winter months. Views would also be possible from the hotel located to the south

of the appeal site; albeit the trees along that boundary would also provide some screening of the first field. In terms of the second field, to the west of the hotel, this is further away from the public highway with an earth bund effectively providing a screen at street level from nearby residential dwellings to the west of the hotel. As such, views into the second field from the public realm would be severely restricted. [6, 7, 18, 34]

62. The CS predates the Framework, having been adopted in 2008. Nonetheless, both Core Policy 1 and Core Policy 2 of the CS, seek to maintain the existing areas of Green Belt within the Borough of Slough. In this respect, they broadly reflect the Policies of the Framework, which include at Paragraph 79 its permanence. It can therefore be afforded the 'greater' weight as envisaged by Paragraph 215 of the Framework. Furthermore, Paragraph 91 of the Framework states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. [10, 20, 39]

63. The Framework makes clear at Paragraph 79 that the essential characteristics of the Green Belt are their openness and permanence, so any reduction in these characteristics would also be harmful. In this case, the scale and location of the proposal, with rows of solar panels and fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, would make it a conspicuous development within two open fields. As such, the proposal would erode the openness of the Green Belt. What is more, these structures would be visible from parts of Poyle Road, the hotel to the south of the site and also from nearby residential dwellings on Bath Road. This prominence would serve to exacerbate and emphasise its intrusive and incongruous appearance in the Green Belt in these open agricultural fields. [17, 18]

64. The appellant considers that the proposal could be screened so as to reduce its visual impact. They point to case law in the form of *Timmins*, which suggests that visibility and openness are linked, and that visual impact, or lack thereof, can be taken into consideration in relation to mitigating any impact on openness. However, when read fully, this case law also found that '*Any construction in the Green Belt harms openness…irrespective of its actual level of visual impact.*[30]' The proposed development here would be visible from parts of the public realm, even with some additional landscaping along the Poyle Road boundary and the enclosed nature of some parts of the site, and the proposal would still lead to a reduction in the openness of the Green Belt – both visually and in terms of an increase in built form on the appeal site with the erection of a number of structures in two open fields. [35]

65. The appellant points to the fact that the proposal would not see the coalescence of the settlements of Colnbrook and Poyle. Whilst this is true in the sense that the proposal does not seek residential development, the number of structures proposed would introduce man-made infrastructure into an area where any existing intrusions are sporadic and isolated. As such, the proposal would fail to assist in safeguarding the countryside from encroachment and to check the

[30] Timmins v Gedling Borough Council [2014] EWHC 654

unrestricted sprawl of large built-up areas, which are two of the five purposes Green Belt serves, as listed in Paragraph 80 of the Framework. [16, 18, 36, 37]

66. The proposal does not necessarily conflict with other purposes that the Green Belt serves, as set out in Paragraph 80 of the Framework. For example, the proposal would not necessarily assist in urban regeneration or prevent neighbouring towns merging into each other. However, the five purposes of Green Belt are not a pick-&-mix list; if a proposal fails even one of these purposes, then it fails to achieve purposes that Green Belt serves. Accordingly, by failing in two of the purposes in this case, it would result in harm to the Green Belt through its conflict with Policy. [18, 36, 37, 38]

67. The Framework is clear in that substantial weight should be given to any harm to the Green Belt. In this case, the proposal would result in definitional harm as inappropriate development, harm to openness and harm to at least two of the purposes of Green Belt designation. Accordingly, in my view, it would fail to comply with Core Policy 1 and Core Policy 2 of the CS and also the Polices of the Framework in this regard. [19, 30, 38]

Strategic Gap and countryside impact

68. The appeal site is located within the Strategic Gap, for which Core Policy 1 and Core Policy 2 of the CS identify that development will only be permitted if it is 'essential' to be in that location. No definition of 'essential' is given within the policy itself. Nonetheless, the supporting text explains that *'essential development that cannot take place elsewhere will be permitted in this location'*. The appellant undertook an assessment of other sites within the Borough for use in connection with solar energy creation. This found very limited opportunities for such purposes within the Borough. Paragraph 98 of the Framework indicates that '*local planning authorities should not require applicants for energy development to demonstrate overall need for renewable or low carbon energy'*. However, the assessment of other sites in this case is not intended to demonstrate the overall need for renewable or low carbon energy, but instead establish the availability of possible sites within the Borough for renewable energy generation. [20, 21, 22, 23, 39, 40, 41]

69. The appellant considers that they have demonstrated that the site is the most suitable site for a solar farm, and in their view this means that the proposed development is essential in this location. However, it is not clear as to why a site within the Green Belt and Strategic Gap, both of which are subject to development restrictive policies, was not discounted at an earlier stage. In any case, the development plan policy requires that the development needs to be 'essential' in the Strategic Gap to be found acceptable. [23, 40, 41]

70. In this case, the national strategies to meet climate change targets are acknowledged, (and considered in greater detail below), but there remains an onus to demonstrate the essential need of this development in this Strategic Gap location. Beyond locally contributing to the national emissions reduction targets, there appears to be no local requirements to have the solar farm in this location above any other, for example to power a particular building or business. In this sense, the 'essential' locational requirement of the policy should be read plainly, and the potential suitability of the site over others does not equate to an 'essential' need for the development to be placed in this location. [23, 41]

71. The Council have also raised concerns that the proposal would lead to further urbanisation and loss of countryside within the Colne Valley Regional Park. This area is not defined geographically in local plan terms. However, as considered in relation to Green Belt matters, the proposal would represent an urbanising feature within what are currently open fields. What is more, both the coverage and the form of the development, together with ancillary structures, mean that the proposed development would close the strategic gap by introducing built form and man-made structures. [23, 41]

72. The proposal would therefore fail to recognise the intrinsic character and beauty of the countryside, which is one of the core planning principles planning should seek set out at Paragraph 17 of the Framework. In the absence of a demonstrable 'essential' need as required by the development plan policy and the harm to the character and beauty of the countryside, the proposed development would have an adverse impact on the Colne Valley Regional Park and undermine the aims and purpose of the Strategic Gap. [23, 24, 41]

Other considerations

73. The appellant considers that the development plan is silent and absent on a 'positive strategy to promote energy from renewable and low carbon sources' as sought by Paragraph 97 of the Framework. More specifically, they consider that Core Policy 8 of the CS does not reflect the Framework, or the Planning Practice Guidance (the Guidance) section on *'How can local planning authorities develop a positive strategy to promote the delivery of renewable and low carbon energy?'*[31] In reality, a development plan adopted in 2008 is unlikely to reflect the requirements sought in documents dated 2012 and 2014 respectively. Indeed, the Guidance refers to what local planning authorities should do when drawing up a Local Plan, rather than what an existing Local Plan should already have in terms of content. [29, 30, 45]

74. More to the point, Core Policy 8 seeks to ensure *that 'All development in the Borough shall be sustainable, of a high quality design, improve the quality of the environment and address the impact of climate change'* and *'that all development will respect its location and surroundings'.* Whilst not setting out a positive strategy in the way or level of detail envisaged by current guidance, the policy nonetheless reflects the Framework at Paragraph 98, which recognises that '*even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and that local planning authorities should approve the application if its impacts are (or can be made) acceptable'*. [10, 11]

75. In such circumstances, Core Policy 8 of the CS should be considered as broadly consistent with the Framework and should be afforded appropriate weight. What is more, given my conclusions in respect of the harm to the Green Belt, the Strategic Gap and the Colne Valley Regional Park, the proposal would fail to respect its location and surroundings. The lack of a positive strategy to promote energy from renewable and low carbon sources, as envisaged by the Guidance should not, therefore, be a factor that weighs significantly in favour of the appeal scheme. [10, 11]

[31] Paragraph: 003 Reference ID: 5-003-20140306 Revision Date 06 03 2014

76. The appellant points to national and international documents, which indicate that there may be a shortfall in the provision of renewable energy generation against targets. They have also indicated that solar energy can provide a source of energy when there is an overall issue in terms of energy supply and security within the UK. Taken as a whole, the general thrust of both national and local planning policy is to support the use of renewable energy technologies, such as solar panels, to contribute to the UK's target of reducing its CO^2 and other greenhouse gas emissions. [12, 42]

77. In this particular case, the solar PV panels would generate between 3.8MWp and 4.5MW peak. The appellant suggests this could power roughly 1000 homes and see the reduction of CO^2 by about 2,000 tonnes annually over the 25 year period of the panels. The development would therefore assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. However, this should be calibrated by the fact that the contribution towards the overall UK target is limited by the relatively small size and scale of the proposed appeal site and the amount of energy it could create when compared to the overall energy demand. The wider environmental benefits associated with the increased production of energy from renewable sources lends modest weight in favour of the proposal. [19]

78. The land is currently used for growing of bio-fuel crops, and is considered by the appellant to fall into ALC Grade 4, which falls outside of the BMVAL. Paragraph 112 of the Framework seeks to direct necessary development to areas of poorer quality land in preference to areas of higher quality. Whilst 'poorer quality' is not defined, the fact that the appeal site comprises Grade 4 agricultural land puts it at the poorer end of the ALC spectrum. The use of an area of poorer quality agricultural land rather than higher quality is a modest benefit in favour of the proposed development. [43]

79. The life span of the panels would be around 25 years, after which the solar panels could be removed. The appellant consider that this means the panels are temporary and reversible and that this is a positive benefit of the proposal. However, this does not negate the fact that for nearly a quarter of a century the proposal would conflict with the Green Belt aims of openness and protecting the countryside from encroachment. It would also be in direct conflict with the aim of Green Belt Policy to keep land permanently open. As such no weight is merited. [44]

80. Other examples of solar panel developments found acceptable are cited. However, these relate to different local authority areas such as the Royal Borough of Windsor and Maidenhead, Sedgemoor, and Rutland for example. The local policy context in those locations will be different to that here, and no detailed information on these cases is provided. In terms of the proposed SIFE, which was dismissed, the full details of this case are not provided. However, this is also of a different nature to the scheme before me. Such considerations should be attributed no more than minimal weight. [33, 36]

81. Reference is made to an extant permission (ref SBC1044/2/05) for a new access road to the existing nearby minerals extraction. It is unclear as to how a scheme for an access road provides justification for the erection of rows of solar panels, fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, across two fields, whereas the

road, according to the submitted drawings, would in the main be located to the south of the first field. The difference in the nature of that scheme to that here are significant. This factor should not weigh in favour of the proposal. [36]

82. The LVIA indicates that any landscape impacts would be local and immediately adjacent to the site only. However, it would erode the intrinsic character of this part of the countryside by introducing an uncharacteristic addition within this countryside area when viewed from these locations and the nearby properties and highway. The limited impact on the wider landscape does not, in my view, override the harm in terms of failing to recognise the intrinsic character and beauty of the countryside. This factor should not weigh in favour of the proposal. [24, 37]

83. The Colnbrook Conservation Area is located some distance to the northwest of the appeal site, with the housing development off Coleridge Crescent providing a clear break between this and the appeal site. The proposal would not, therefore, fail to preserve or enhance the character or appearance of the conservation area, with any impact being neutral at worst. The absence of harm in this respect does not equate to a benefit in favour of the proposal. [18, 37]

84. The Environment Agency 'removed' their objection to the scheme, subject to the inclusion of a number of conditions. These suggested conditions refer to matters such as flood risk, buffer zones and pollution protection. Whilst such conditions may have merit when assessed against Paragraph 206 of the Framework and the Guidance on the use of planning conditions, they would not address or overcome the harm identified to the Green Belt or Strategic Gap. This factor should not, therefore, weigh in favour of the appeal scheme. [27]

85. The appellant has identified that they are willing to enter into some form of agreement with the Parish Council. This is considered in the section on '*Conditions and Obligations'* [94]. Nonetheless, given my conclusions at that point, this factor should be awarded no weight in the overall balance. [28, 44]

Conditions and Obligations

86. The appellant,[32] the Council[33] and the Environment Agency[34] have suggested planning conditions in the event the appeal was allowed and planning permission granted. The conditions, together with any necessary revision, are set out in full in Appendix A to this report. These are considered in light of Paragraph 206 of the Framework and the Guidance in respect of the use of planning conditions. I have considered those set out in Appendix 13 first, then all other suggested conditions.

87. Condition 1 specifies the time period for development to be commenced, which would be three years. Condition 2 is a time limiting condition requiring removal after 25 years. Condition 3 sets out provision for the restoration of the land no later than 12 months prior to the end of the permission, but should be reworded so as to take account of any earlier cessation of renewable energy use. Such rewording is suggested by the Council.

[32] See Appendix 13
[33] Slough Borough Council's comments on the statement of case by Sirius Renewables April 2016, section 3, pages 10 to 12
[34] Letter dated 29 October 2015 from the Environment Agency

88. Condition 4 indicates a maximum height of 3 metres for the solar panels and ancillary infrastructure and this would assist in reducing visual impact from the proposal. Similarly, Condition 5 requiring exact details of locations, design and specification and colour of panels would assist in reducing any visual impact. The routing to construction traffic, the submission of a construction management plan and a construction method statement, as set out in Conditions 6, 7 and 8 would help protect the wider environment and highway safety.

89. Conditions 9 and 10, relating to carrying out the development in accordance with the Flood Risk Assessment and works for treating and removing suspended soil would aid in reducing the risk of flooding and help protect the local environment. These would also reflect the conditions sought by the Environment Agency.

90. Condition 11 suggested by the LPA reflect advice from the Environment Agency in terms of the creation of a buffer zone from the Poyle Channel. However the main parties agree that the site is located further away than the 8 metre wide buffer zone suggested and therefore the suggested condition is unnecessary. Taking into account the Framework and Guidance, I agree with the main parties.

91. Condition 12 refers to fencing, which should be carried out in accordance with drawing SBC1044/2/04. It is suggested that this could be incorporated into another condition (No 5) requiring details of fencing. This would appear to be a pragmatic manner in which to deal with such matters and permit the Council to consider the design of any such fencing.

92. Given the degree of importance the appellant has placed upon being able to screen or hide the development from view, a condition requiring a landscaping scheme, its implementation and retention would appear reasonable.

93. Lastly, neither party has suggested a condition referring to the submitted drawings. Unhelpfully, the plans or drawings which the Council considered are not listed on the decision notice dated 26 November 2015, nor are the plans listed within the appellant's statement of case. Eleven drawings have been submitted which show what is proposed, and I have listed these within Appendix A of this report. Although best placed after Condition 1, for ease of reference I have placed this condition at the end of the list of conditions.

94. In terms of obligations, it is suggested in the appeal statement that a formal agreement with the Parish Council for financial contributions for a 'community cohesion officer' and other community projects would be forthcoming at the commissioning stage. The appellant asserts that this is a factor which would create significant socio-economic benefits to local residents. Paragraph 204 of the Framework is clear in that planning obligations should only be sought where they meet three tests; necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. I have not been provided with any detailed explanation as to the relevance of this 'formal agreement' in planning terms for a scheme that seeks the erection of solar panels. In such circumstances, I cannot be certain that any such agreement would meet the tests set out in Paragraph 204 of the Framework. This factor should be awarded no weight at all in the overall planning balance. [28, 44]

The planning balance

95. The final balance consists of applying substantial weight to the harm to the Green Belt, and considering any other harm, against other considerations which may amount to very special circumstances.

96. The appellant has indicated willingness to the imposition of a condition requiring the removal of the panels after their useful life (normally around 25 years). However, the proposal would nonetheless represent inappropriate development in the Green Belt that would reduce its openness, and would fail to check unrestricted urban sprawl and assist in safeguarding the countryside from encroachment; which are two of the five purposes Green Belt serves. Paragraph 87 of the Framework is clear in that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, openness is an essential characteristic of the Green Belt, so a reduction in that quality would also be harmful. There would also be harm to the intrinsic character of the countryside and area generally in the form of the Colne Valley Regional Park and the Strategic Gap.

97. Against this, the benefits arising from the generation of renewable energy and reduction in CO^2 emissions and other greenhouse gas emissions and the use of agricultural land of lesser value, cumulatively lend modest weight in favour of the proposal. However, the Framework sets out that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

98. In this case, the other considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt. I therefore conclude that the very special circumstances necessary to justify the proposal do not exist in this case. What is more, the proposal would conflict with Core Policy 1, Core Policy 2 and Core Policy 8 of the CS and (Saved) Policy CG1 of the LP, and there are no material considerations that warrant a decision other than in accordance with it. The proposed location in this case, within the Strategic Gap and Colne Valley Regional Park, for this development should be considered unacceptable in principle. It would therefore be in conflict with Core Policy 1 and Core Policy 2 of the CS and (Saved) Policy CG1 of LP. It would also be at variance with the Policies of the Framework when read as a whole.

Recommendation

99. I recommend that the appeal be dismissed.

100. However, the Secretary of State may find that the other considerations suggested by the appellant amount to the very special circumstances required justifying inappropriate development in the Green Belt. He may also conclude that these very special circumstances also overcome the other harm identified to the Strategic Gap and Colne Valley Regional Park. If the Secretary of State is minded to disagree with my recommendation, Annex A lists the conditions that I consider should be attached to any permission granted.

Cullum J A Parker

INSPECTOR

Annex A – List of suggested conditions to impose

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The solar panels and related equipment (including buildings and fencing) shall be permanently removed from the site and the land shall be returned to solely agricultural use within 25 years and 6 months from the date that construction is completed or within 6 months following electricity ceasing to be exported from the site if in advance of that date. Within 6 months of the date that construction is completed a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning and restoration of the site shall be carried out in accordance with the approved scheme.

3) No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include a programme of works to remove the solar panels, related equipment and buildings, and shall be fully implemented within 12 months of the expiry of this permission.

4) The solar panels and ancillary structures (but excluding the buildings shown on the submitted drawings) shall not exceed three metres in height above ground level.

5) Prior to the erection of the solar panels, and any associated equipment, exact details of their location, size, specification and colour shall be submitted to and approved in writing by the local planning authority. Further, full details of the height, material and design of fencing shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

6) The routing of construction vehicles to and from the site shall follow the routing provided within drawing SBC1056/3/01, or any subsequent variation to that plan which has first been submitted to and approved in writing by the local planning authority.

7) Prior to the commencement of any development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented as approved thereafter.

8) Prior to the commencement of any development a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented as approved thereafter.

9) The development shall be carried out in accordance with the Flood Risk Assessment undertaken by Hydrock, reference R/C151287/0001.03, dated July 2015 and supplementary note undertaken by Stratus ref SBC1044, dated 25 September 2015 and the following mitigation measures detailed within them:

    i) Mounting installation to all panels shall either be by the ‘Treesystem’ design or supported by ballast blocks the top level of which is flush with the existing ground level; and,

ii) Panels elevated a minimum of one metre above ground level.

The mitigation measures shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangement embodied within the scheme or within any other period as may be subsequently agreed in writing by the local planning authority.

10) The development herby permitted shall not be commenced until such a time as a scheme to treat and remove suspended soils from surface water run-off during construction works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

11) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

i) a statement setting out the design objectives and how these will be delivered;

ii) earthworks showing existing and proposed finished levels or contours;

iii) means of enclosure and retaining structures;

iv) hard surfacing materials;

v) minor artefacts and structures;

vi) proposed and existing functional services above and below ground;

vii) retained historic or other landscape features and proposals for restoration, where relevant;

viii) lighting, floodlighting and CCTV; and,

ix) an implementation and maintenance programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

12) The development hereby permitted shall be carried out in accordance with the following approved plans:

SBC1044/2/01 Revision O, SBC1044/2/02 Revision O, SBC1044/2/03 Revision O, SBC1044/2/04 Revision O, SBC1044/2/05 Revision O, SBC1044/2/06 Revision O, SBC1044/2/07 Revision O, SBC1044/2/08 Revision O, SBC1044/2/09 Revision O, SBC1044/2/10 Revision O, and SBC1044/2/11 Revision O.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

Mr Arthur Bell
GEUK Direct Ltd
Maine House
Adlington
Cheshire
SK10 4PZ

Our Ref: APP/G2245/W/15/3011499

08 August 2016

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY GEUK DIRECT LTD
SKINNERS FARM, SKINNERS LANE, EDENBRIDGE, KENT TN8 6LW

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Woolcock BNatRes(Hons) MURP DipLaw MRTPI, who carried out an Inquiry held on 15 and 16 December 2015 into your client's appeal against a decision of Sevenoaks District Council ('the Council') to refuse planning permission for a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works in accordance with application reference SE/14/03361/FUL, dated 9 January 2015.

2. The appeal was recovered for the Secretary of State's determination on 8 December 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. Changes in the scheme from that submitted with the application are noted and the appeal is considered on the basis of the landscape layout shown on drawing No GEUK 1001-804-1500 D (IR2).

Department for Communities and Local Government
Planning Central Casework Division,
3rd Floor, South East Quarter
Fry Building
2 Marsham Street
London, SW1P 4DP

Tel: 0303 444 2853
Email: PCC@communities.gsi.gov.uk

Policy and Statutory considerations

5. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Sevenoaks Core Strategy, adopted in 2011 ('CS') and the Allocations and Development Management Plan, adopted in 2015 ('ADMP'). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR12-15.

6. Other material considerations which the Secretary of State has taken into account include the Council's supplementary planning document 'Development in the Green Belt' adopted February 2015, the National Planning Policy Framework ('the Framework'); the planning guidance published in March 2014; and the Written Ministerial Statement "Planning Update March 2015" which, amongst other matters, concerns solar energy and the protection of the local and global environment.

7. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess.

Main issues

8. The Secretary of State agrees that the main disputed issues in this case are those outlined by the Inspector at IR69.

Green Belt

9. For the reasons given at IR71-73 the Secretary of State agrees with the Inspector that the proposal would be inappropriate development in the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. He further agrees (IR72) that the solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt and that the security fencing and equipment would adversely affect the countryside, even if controlled by condition. The proposal would fail to assist in safeguarding the countryside from encroachment, contrary to one of the five purposes of the Green Belt. For the reasons set out above, the proposal would harm the Green Belt and the Secretary of State gives substantial weight to that harm.

Character and appearance

10. For the reasons given at IR74-78 the Secretary of State agrees that the proposal would harm the character of the area, but would have a limited and localised adverse effect on its appearance. He also agrees that overall the proposal would have an adverse effect of moderate significance on the local landscape (IR79).

Agricultural land and soils

11. For the reasons given at IR80-83 the Secretary of State agrees that the likely loss of productivity from using 7.7 ha of the best and most versatile agricultural land would not, in the circumstances which apply here, weigh significantly against the proposal (IR83).

Heritage Assets

12. Having considered the Inspector's assessment of harm to heritage assets at IR84-86 the Secretary of State agrees that the proposed development would have some effect on the traditional wider setting and landscape of the grade II listed Medhurst Row Farmhouse but it would not affect how the farm buildings are experienced. He also agrees that the intervening screening by existing and proposed vegetation would limit the effect on the setting of the listed building to an adverse impact of minor / moderate significance. However, even this harm would be sufficient to bring the proposed development into conflict with ADMP Policy EN4.

13. For the reasons outlined at IR85, the Secretary of State agrees that there would be minimal adverse impact on the setting of grade I listed St Peter's Church and on the setting of grade II listed Skinners Farmhouse and Whistler's Farmhouse. There would be even less effect on the setting of the listed buildings at Delaware Farm and the proposal would not adversely affect the setting of grade I listed Hever Castle.

14. Overall, the Secretary of State agrees that any effect on heritage assets would, at worst, result in an adverse impact of minor/moderate significance. This would be less than substantial harm for the purposes of applying the Framework, which needs to be balanced against the public benefits of the proposal in accordance with paragraph 134 of the Framework. The Secretary of State gives considerable importance and weight to the desirability of preserving the setting of listed buildings in the overall planning balance.

Biodiversity

15. For the reasons given at IR87 the Secretary of State agrees that overall the proposed development would be likely to enhance biodiversity, which weighs in favour of the proposal.

Highway safety and residential amenity

16. Turning to the Inspector's conclusions on highway safety and residential amenity, the Secretary of State agrees, for the reasons given at IR88-91 that subject to the imposition of appropriate planning conditions the proposed development would be unlikely to have an unacceptable adverse effect on either highway safety or living conditions of neighbouring residents (IR91).

Drainage and flood risk

17. For the reasons given at IR92 the Secretary agrees that the likelihood of worse flooding is not a consideration that weighs against the proposal.

Other considerations

18. The Secretary of State agrees that farm diversification would be beneficial to the holding, and the scheme would make a valuable contribution to the rural economy (IR93). With regard to the temporary nature of the scheme (IR94) the Secretary of State takes the view that 25 years is a considerable period of time and the loss of openness and landscape harm, albeit reducing over time as screen planting matured, would affect residents and visitors for a long time and the duration and reversibility of the proposal are matters which he has given limited weight.

19. Like the Inspector, the Secretary of State agrees that other appeal decisions cited by the parties are of little help in determining this appeal on its own merits as much depends on the particular circumstances (IR95).

Renewable energy

20. The Secretary of State notes the significant contribution the proposed development would make towards achieving renewable energy targets as identified by the Inspector at IR96 and agrees that the wider environmental and energy security benefits of the proposal weigh significantly in favour of allowing the appeal. He agrees with the Inspector that difficulty in finding suitable sites in the locality should not be a decisive or influential consideration. Neither is there anything to require this area to contribute to national targets by means of solar development (IR97).

Development plan

21. For the reasons given at IR107 the Secretary of State agrees with the Inspector that the scheme would not breach CS Policy SP2 but that it would conflict with policies LO8, EN1 and EN4. He also finds that the breaches of policy would be sufficient to bring the proposal into some conflict with the development plan when read as a whole (IR107). The Secretary of State goes on to consider the proposal's conformity with CS policy LO1 and ADMP Policy SC1 below, following on from his assessment of whether there are very special circumstances.

Conditions and Obligations

22. The Secretary of State has considered the Inspector's reasoning and conclusions on conditions and obligations, as set out at IR109-114. He is satisfied that, in the form recommended by the Inspector, the conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. However, he does not consider that they would overcome his reasons for dismissing the appeal. The Secretary of State notes that though a number of financial contributions are proposed, none of these would be necessary to make the scheme acceptable in planning terms (IR114).

Planning balance and conclusion

23. Having had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State finds that the proposed development would not be in accordance with the development plan overall for the reasons outlined in this decision letter. The Secretary of State has therefore considered whether there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan.

24. As outlined above at paragraph 9, the proposal is inappropriate development in the Green Belt. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. Therefore, the Secretary of State has carefully considered whether the potential harm to the Green Belt, by virtue of inappropriate development, and any other harm, is clearly outweighed by other considerations. The Secretary of State gives significant weight to the contribution that the scheme would make to the Government's commitment to tackle climate change, by reducing carbon dioxide emissions and towards energy security, along with ecological enhancement, and the benefits that would result to the local economy from job creation and farm

diversification. Even in apportioning significant weight to the renewable energy benefits of the scheme, combined with the moderate weight to biodiversity and local economy benefits, the Secretary of State does not find that the benefits clearly outweigh the harm to the Green Belt (which is given substantial weight), the harm to the character and appearance of the area (which is given moderate weight) and the less than substantial harm to designated heritage assets (which is given considerable importance and weight). In finding the development would cause less than substantial harm to designated heritage assets, the Secretary of State has weighed this harm against the public benefits identified above however this harm alone is insufficient to outweigh the public benefits of the proposal.

25. Having reached the conclusion that very special circumstances have not been demonstrated, the Secretary of State finds that there is further conflict with the development plan as, in contrast to the Inspector at IR107, he finds that the proposal would conflict with CS policy LO1 and ADMP Policy SC1.

26. Overall, the Secretary of State considers that the benefits of the proposal do not clearly outweigh the harm to the Green Belt and the other harm identified. Accordingly, he concludes that very special circumstances necessary to justify the development do not exist, and does not find that the impacts can be made acceptable according to the terms of paragraph 98 of the Framework. There are no material considerations which indicate that this proposal should be determined otherwise than in accordance with the development plan.

Formal Decision

27. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works in accordance with application reference SE/14/03361/FUL, dated 9 January 2015.

Right to challenge the decision

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

29. A copy of this letter has been sent to Sevenoaks Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Date: 7 March 2016

Town and Country Planning Act 1990

Sevenoaks District Council

Appeal by

GEUK DIRECT Ltd

Hearing held on 15 and 16 December 2015

Skinners Farm, Skinners Lane, Edenbridge, Kent TN8 6LW

File Ref: APP/G2245/W/15/3011499

File Ref: APP/G2245/W/15/3011499
Skinners Farm, Skinners Lane, Edenbridge, Kent TN8 6LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Arthur Bell GEUK DIRECT Ltd, against the decision of Sevenoaks District Council (SDC).
- The application Ref:SE/14/03361/FUL, dated 22 October 2014, was refused by notice dated 9 January 2015.
- The development proposed is "a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works."

Summary of recommendation: The appeal be allowed.

Procedural matters

1. The site lies within the Metropolitan Green Belt. The appeal was recovered, by letter dated 8 December 2015, for determination by the Secretary of State because the appeal involves proposals for significant development in the Green Belt.

2. SDC considered an amended scheme from that submitted with the application. The revision included provision for a permissive footpath around the northern and western boundaries of the site. Minor changes were made to the provision for kissing gates, and a further alteration was included at the appeal stage to correct an incorrect annotation for an existing hedgerow. These changes were discussed at the Hearing and the appellant requested that the appeal proceed on the basis of the landscape layout shown on Drawing No.GEUK 1001-804-1500 D.[1]

3. The appeal site is drawn tightly around the proposed solar panels.[2] It does not include land that would be required for access to the proposed development from Skinners Lane, or the proposed wild flower meadow.[3] The submitted drawings also indicate an ownership boundary.[4] It was clarified at the Hearing that the shared access drive between the end of Skinners Lane and the appeal site lies within this ownership boundary.[5]

4. The evidence before SDC when it determined the application was that the site comprised land classified as grade 3b agricultural land. But later survey work indicated that 7.7 ha is classified as grade 3a land, with the remaining 3.2 ha grade 3b.[6]

[1] HD2.
[2] The appeal site is edged in red on Drawing No.GEUK 1001-804-1500 D.
[3] The landscape layout plan shows a maintenance track through the centre of the appeal site and western part of the site. This track is shown continuing west of the appeal site into the adjoining field. The preliminary layout plan 1001-804-0001 G includes a short section of this proposed track to the boundary of this field within the appeal site.
[4] As indicated by the line edged blue on Drawing No 1001-804-0003. The Site Ownership Certificate section of the Appeal Form indicates that notice was served on Mrs Edna Atfield (Certificate B).
[5] HD11.
[6] HD1.2 Appendices 1 and 4.

5. Documents entitled 'Development Contribution', dated 24 March 2015, refer to one off contributions by the developer, subject to the success of the planning application reference number SE/14/03361/FUL. These include contributions to Edenbridge Hockey Club (£750), Edenbridge Brownies (£750), Edenbridge Spitfires (£500), Edenbridge Scouts (£750), Edenbridge Town Council (£1,000 per MW per annum for 25 years index linked), along with a contribution to Edenbridge Leisure Centre for a rooftop system not to exceed £35,000.[7] There is nothing to indicate that these documents are made pursuant to section 106 of the 1990 Act. The copies submitted are initialled by one party, but not signed or witnessed.

6. Suggested conditions were discussed at the Hearing and a version agreed between SDC and the appellant.[8] The discussion continued at the site visit, and I did not close the Hearing until the conclusion of the site visit. I deal with the suggested and necessary conditions in more detail in my Appraisal section of this report.

The site and surroundings

7. The site lies about 1.5 km to the east of Edenbridge, and is accessed via the end of Skinners Lane. It is part of Skinners Farm, a 100 ha sheep enterprise. The appeal site is an open field and is used for grazing sheep. It occupies part of the crown and upper slopes of a locally prominent hill. There are public footpaths adjoining the southern and eastern boundaries of the appeal site, which link into a network of footpaths to the east and north of the site. A bridleway passes near to the south-western corner of the site. This extends into Edenbridge and joins other Public Rights of Way (PRoW) to the south of the site. Trees to the north of the appeal site, and located within Cauk Wood, are the subject of a Tree Preservation Order (TPO). The land to the north, east and south of the appeal site, which is not part of Skinners Farm, is in arable production.

8. In the Sevenoaks District Countryside Assessment, which was adopted as a supplementary planning document in 2011 (SPD), the site lies within the Edenbridge Low Weald Farmlands character area. This is characterised by an undulating landscape, with long views to the northern scarp and southern High Weald. It has a strong hedgerow pattern, with infrequent small isolated woodlands and many historic properties. The SPD states that the scale of the landscape is predominantly small-medium scale.

9. The nearest dwelling to the appeal site is Medhurst Row Cottage. The curtilage of this house is about 190 m north of the northern boundary of the appeal site. Other dwellings in the locality include Medhurst Row Farm (340 m) to the north, Whistlers Farm (640 m) to the east, Delaware Farm (530 m) to the south, and Skinners (600 m) to the west.[9]

[7] These refer to S.S.O.G.E. Limited as the developer. The report accompanying the application states that it was prepared on behalf of SSOGE by Green Energy UK Direct with permission from the landowners.
[8] HD10.
[9] I visited Medhurst Row Cottage, Whistlers Farm and Skinners as part of my accompanied site inspection.

10. Medhurst Row Farmhouse is a grade II listed building, and there are other listed buildings further to the north of the railway line. There are also grade II listed buildings at Whistlers Farmhouse, Delaware Farm and Skinners. Hever Castle (grade I listed) is located about 2.2 km to the east of the site. The Church of St Peter at Hever is also listed grade I.[10]

Planning policy

11. The development plan includes the Sevenoaks Core Strategy, adopted in 2011 (CS) and the Allocations and Development Management Plan, adopted in 2015 (ADMP).

12. CS Policy LO1 concerns the distribution of development. Outside towns and villages it gives priority to protecting the rural character of the District. Policy LO1 adds that development would only take place where it was compatible with policies for protecting designated areas, such as the Green Belt.

13. CS Policy LO8 maintains the extent of the Green Belt and provides that the countryside would be conserved and distinctive features protected and enhanced where possible. Particular regard would be given to the condition and sensitivity of the landscape character, and securing the recommendations in the SPD. This policy also provides that development that supports the maintenance and diversification of the rural economy would be supported, subject to compatibility with policies protecting the Green Belt, the conservation and enhancement of the value and character of woodland and landscape, and takes into account infrastructure requirements.

14. CS Policy SP2 concerns sustainable development and low-carbon energy generation. It provides, amongst other things, support for small scale and community-based renewable energy developments where such development would not adversely affect the openness of the Green Belt.

15. ADMP Policy SC1 concerns sustainable development and has a similar aim to the *National Planning Policy Framework* (hereinafter the *Framework*). ADMP Policy EN1 sets out criteria for high quality design, including respecting the character of the surrounding area, and ensuring satisfactory means of access for vehicles. Policy EN2 seeks to safeguard the residential amenity of nearby occupiers by ensuring that development would not result in excessive activity or vehicle movements or visual intrusion. Policy EN4 provides that proposals which would affect a heritage asset or its setting would be permitted where the development conserved or enhanced the character, appearance and setting of the asset.

16. *Development in the Green Belt* was adopted by SDC as a supplementary planning document in 2015. This applies national policy and guidance relevant in this case concerning the change of use of Green Belt land and the application of very special circumstances.

17. The *Planning Practice Guidance* (hereinafter the *Guidance*) refers to particular factors that would need to be taken into account, including that solar farms are normally temporary structures and planning conditions can be used to ensure

[10] The distribution of Scheduled Monuments and Listed Buildings is shown on Figure 3 of the appellant's Setting Assessment. Figure 5 shows heritage assets in relation to the Zone of Theoretical Visibility with mitigation measures.

that the installations are removed when no longer in use and the land restored to its previous use.

The proposal

18. The construction period would take 8-12 weeks. A route along public roads to Skinners Lane is proposed for construction vehicles, but no detailed scheme for access to the appeal site from the end of Skinners Lane has been submitted. The scheme anticipates up to 15 deliveries per day, with the photo-voltaic (PV) modules delivered in 40 foot containers by an estimated total of 62 HGV deliveries over a 60 day period. The appellant stated at the site visit that the existing bridge on the farm track that leads to the appeal site might need strengthening or replacing if that route was used by HGVs. No details about this, or any other necessary off-site works, have been submitted.[11] The Construction Management Plan, dated 24 October 2014, also states that two site offices and an unloading/storage compound and parking area would be required.

19. The proposed solar panels would have a maximum height of 2.4 m. They would be enclosed by a 1.8 m high wire mesh security fence, with infra red CCTV. The scheme would include a substation, inverters and transformers. The land around and beneath the panels would be laid to grass and grazed by sheep. The scheme also proposes a wild flower meadow to the east of the appeal site, and new hedgerows, and the gapping up of existing hedgerows, along the eastern, northern and western boundaries of the site. A permissive path is proposed along the northern and western site boundaries so as to provide a circular walk around the site, using the existing PRoW to the east and south.

20. The appeal scheme would have a generation capacity of 6 MW and an average electrical output of 11,850 MWhr/yr. This would service about 1,500 homes, with carbon dioxide emission savings of some 2,150 tonnes per year. The scheme indicates a grid connection via the fields to the west of the appeal site, along Skinners Lane, and then along parts of the B2027 and B2026 in Edenbridge.

21. The Design and Access Statement states that the solar installation would have a life of 25 years, after which it would be decommissioned and the land returned to its original condition.

The case for Sevenoaks District Council

22. SDC's case is set out in its Hearing Statement. The gist of SDC's objections to the proposal is as follows.

23. SDC acknowledges, given the lie of the land, along with existing and proposed screening, that in time the proposed solar park would have little impact on the wider landscape character and visual amenities of the area. However, the site would be very much apparent to those using the network of public footpaths that pass the site. The appearance of the fencing, solar panels and associated structures would, in the short term, significantly detract from the visual amenities of the area, detracting from the appreciation of the attractive

[11] When this was raised at the site visit I indicated that, if planning permission was granted for the appeal scheme, any off-site works would need to be addressed by a planning condition, and that whether any permission, consent or authorisation would be required for such works would be a matter for SDC in the first instance.

countryside. Furthermore, once established, the new hedgerow along part of the eastern site boundary, which is currently open, would visually reduce the appreciation of the long views across the site, and so would harm its open character.

24. The development would be inappropriate in the Green Belt and so it is necessary to consider the case for very special circumstances. SDC's views on the 'other considerations' put forward by the appellant are as follows.

    (1) National renewable energy targets are reflected in the *Framework*, and should be afforded significant weight. But these need to be achieved in a manner that complies with all relevant planning policies.

    (2) The grid offer from the DNO is relevant, but as the connection would be underground this is a consideration that should be afforded very limited weight.

    (3) The income for the farm and support for the rural economy should be given limited weight.

    (4) The agricultural land is of an average grading and sheep grazing would continue, but this carries little weight as a very special circumstance.

    (5) The development would be temporary, but 25 years would be a significant period.

    (6) Efforts to bring community benefits would be commendable, but should be given little weight, as the scheme would not be community-based, and the local community would not benefit from the electricity produced.

    (7) Local support would not amount to a very special circumstance as it could apply to any development in the Green Belt. In addition, the support here was not just from local residents.

    (8) The benefits of the permissive footpath should be given limited weight.

    (9) The investment in the site would bring ecological benefits, which should be given limited weight.

    (10) Non-Green Belt locations are severely limited in the District, but the evidence submitted indicates other areas that are less constrained where there is grid capacity.

25. The appellant's sequential analysis has not satisfactorily answered the question as to why the solar park needs to be located on this site, in an open field, in the Green Belt. The assessment fails to fully demonstrate that there are no alternative sites that are subject to fewer environmental constraints.

26. Other appeal decisions for solar panels in the Green Belt, which have been dismissed, were cited by SDC.

27. Although there may be some benefits to the proposal, including contributing towards the Government's renewable energy targets, these do not outweigh the significant harm to openness and significant encroachment into the countryside. Very special circumstances do not exist.

28. SDC acknowledged at the Hearing that the proposal would not breach CS Policy SP2, and that if, contrary to its case, very special circumstances did exist, then the proposal would comply with CS Policy LO1.

The case for Edenbridge Town Council

29. Edenbridge Town Council's (ETC) case is set out in its written statement.[12] The gist of ETC's objections to the proposal is as follows. Views across the valley to the panels would be detrimental to residents living close by and those enjoying the countryside. The scheme would change the character and appearance of the area. It would result in a loss of openness and would encroach into the countryside. This is the wrong location. ETC believes it to be inappropriate development, and questions whether every effort has been put into locating sites where the visual damage would be less detrimental.

The case for others opposing the scheme

The following people joined in the discussion at the Hearing, and a summary of their submissions is included below.

30. Mr Gotobed, who lives at Medhurst Row Cottage raised concerns that are outlined in his written submission, which is dealt with in more detail later in this report.

31. Mrs Burges, who lives at Skinners, raised issues about the effects on the local countryside. She is particularly concerned about construction vehicles using the shared access drive that serves Skinners and other residential properties that are also accessed from the drive that extends beyond the end of Skinners Lane. The entrance gate to Skinners is close to the shared drive and if HGVs used this route it would adversely affect the residential amenity of Skinners, which is a listed building. The bridge located further along this drive to the east of Skinners is substandard and would not be able to cope with heavy construction traffic. An alternative route should be used, with possibly a new bridge crossing on a different part of the holding.

32. David Norris, representing the occupiers of Whistlers, was concerned that the scheme would have an urbanising effect and a significant visual impact. Screening would be inadequate and mitigation would take more than five years to be effective, and would still result in some harm. The harm would last for 25 years. He noted that paragraph 91 of the *Framework* states that benefits may include the wider environmental benefits of renewable energy, but added that measures to mitigate any harm resulting from the scheme should not weigh as 'other considerations' in the very special circumstances balancing exercise.

33. Cllr McGregor supported SDC's case, and highlighted the Green Belt grounds against the proposal.

[12] HD9.

The case for GEUK Ltd

34. The appellant's case was updated and summarised in the addendum submitted at the Hearing.[13]

35. The Landscape Statement (LS) submitted at the appeal stage, which supplemented the Landscape and Visual Impact Assessment (LVIA) submitted with the application, concluded that the overall landscape character and visual effects of the scheme would be no more than of a moderate scale and relatively easily mitigated to a lower minor level effect.[14] The panels would introduce new man-made structures into the landscape, including an industrial style security fence, inverters and substation. But screening and hedgerows would help restore landscape character. With a moderate landscape sensitivity and medium magnitude of effect, the proposal would have a moderate level of significance on landscape character.

36. In terms of visual effects the site is positioned on elevated land with trees and hedgerows around the crest of the hill top. There are very few areas of higher land in the area which can see into the site, as is apparent from the Zone of Theoretical Visibility.[15] Significant visual effects would be restricted to a short 300 m section of the footpath along the side of the site. Mitigation by means of additional hedgerow planting would limit such effects within 3-5 years, and would help to restore the landscape character of this field, as some hedgerows have been removed from the appeal site since 1961.[16] A moderate level effect was recorded for LS viewpoint VP D on the footpath to the south of the site.[17]

37. It was confirmed at the Hearing that the GLVIA states that reversibility can be a very important issue, and that duration and reversibility is one of three considerations used to assess the magnitude of landscape/visual effects. The GLVIA considers 10-25 years to be long term, and notes that consideration should be given to the practicality of the effects being reversed in a generation.[18]

38. The modest area of the best and most versatile agricultural land on the appeal site represents some of the lowest quality agricultural land in the wider context of Kent, where there is a high proportion of grade 1 and 2 land. Furthermore, the site has a history of low yielding crops and consequently has been used for grazing since 1989. The solar park would provide for dual use of the land with the continuation of grazing.

39. A Biodiversity Management Plan includes measures to improve the land over 25 years.[19] The benefits would include un-interrupted hedgerows for small animals, increased planting to encourage new habitats, wood stumps, and boxes for hedgehogs, birds and bats. The ecological value of the land would significantly increase over the lifespan of the development.

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[13] HD1 sections 3 and 4. This Addendum updated the appellant's Appeal Statement of Case.
[14] HD1 Appendix 1 page 23. This statement refers to the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* 3rd Edition 2013 (GLVIA).
[15] LVIA Figures 2 and 3.
[16] HD1 Appendix 1 page 35.
[17] Viewpoints in the LVIA are recorded in this report as VP 1-17 and in the LS as VP A-H.
[18] Inspector's questions to Mr Hares.
[19] The appellant's Biodiversity Management Plan dated 25 October 2014.

40. Following the mitigation proposed the scheme would have minimal adverse impact on the setting of St Peter's Church, Skinners Farmhouse and Whistler's Farmhouse. It would have a minor/moderate adverse impact on the setting of Medhurst Row Farmhouse. However, this would relate to the partial erosion of the traditional wider setting and historic landscape characterisation surrounding the asset through the change in function of the appeal site, and would not affect how the farm buildings are experienced. Overall the impact would result in less than substantial harm, which would need to be balanced against the benefits of the proposal.[20]

41. The site lies within Flood Zone 1. There would be no net increase in discharge rate or runoff volume from the scheme. However, the existing land drainage could be improved with the installation of swales and infiltration trenches.[21] The development would therefore be suitable for this site.

42. The Alternative Site Search identified a number of sites within 4 km of the appeal site, which were previously-developed land or non-best and most versatile agricultural land, but all of these have been deemed as being unsuitable.[22]

43. It is acknowledged that solar parks are inappropriate development in the Green Belt, and that there would be some effect on openness. But that effect would be temporary and reversible. However, the material considerations that weigh in favour of the scheme cumulatively amount to very special circumstances, sufficient to clearly outweigh the harm to the Green Belt and any other harm. These considerations are as follows.

    (1) The generation of electricity from a renewable source making a significant contribution to national targets for the reduction of greenhouse gas emissions, having regard to paragraph 91 of the *Framework*.

    (2) The existence of a guaranteed grid offer from the DNO, which should be made use of in an area where it is difficult to find suitable sites for solar development. PV development can be constructed quickly and so can contribute quickly to meeting targets for renewable energy.

    (3) Income for the farm and support for the rural economy.

    (4) The current use of the site for sheep grazing would continue with no material loss of the best and most versatile agricultural land.

    (5) The development would be temporary and reversible.

    (6) A unilateral undertaking to set up a community fund and to support local groups and green energy initiatives.

    (7) Significant local support.

    (8) Creation of an additional permissive footpath.

    (9) Site wide measures to conserve and enhance biodiversity.

[20] The appellant's Setting Assessment dated March 2014.
[21] The appellant's Flood Risk Assessment Report dated July 2014.
[22] HD1 Appendix 2.

(10) Non-Green Belt locations are severely limited as 93% of the land outside built up areas in the District is within the Green Belt.

The loss of best and most versatile agricultural land would not be significant, and the benefits outweigh any alleged adverse impact on visual amenity and any harm to the Green Belt. There are very special circumstances that justify the creation of a solar park on the appeal site and the harm to the Green Belt and any other harm is clearly outweighed by the numerous benefits of the scheme.

44. The appellant referred to several appeals for solar development in the Green Belt.[23]

45. The proposal would not result in a material infringement of relevant CS policies. Furthermore, the CS was adopted before the introduction of the *Framework*, and it does not contain policies relating directly to the provision of larger scale renewable energy schemes. The scheme complies with the *Framework*, the *Guidance* and ADMP policies.

The case for others supporting the scheme

The following people joined in the discussion at the Hearing, and a summary of their submissions is included below.

46. Sue Rule representing Sustainable Edenbridge supports the proposal, which would accord with the group's vision for Edenbridge. The value of the Green Belt is recognised, but this solar park would not have any lasting damaging effects. It would be a temporary use and the site could be restored to full agricultural use in the future. The solar park would represent an improvement to the environment by switching to clean energy.[24]

47. Julian Hatcliffe referred to the outcome of the recent Paris UN Conference, including the need to significantly reduce carbon emissions. There is a need for small energy producers. There are no clear objections to the scheme, and the short length of footpath affected should not jeopardise the project given the extent of the footpath network in the area. Defra and Kent County Council recognise the need for farmers to diversify.[25]

48. Terri Scanes is a local resident and Brownie Pack Leader. Many local residents are in favour of this proposal. The scheme would be ideal for teaching about generating electricity within the community.[26]

49. Peter and Mark Atfield, who graze sheep at Skinners Farm, gave evidence about current farming practice on the holding.[27] The field has been used for sheep since 1989. When the field was purchased in 1988 cereal was planted, but this resulted in a poor crop. It would need a lot of fertiliser and chemicals to get value into a crop, so the field has since been down to grass.[28] The soil on the crown of the hill is exposed and dries out in the summer, which adversely affects

[23] Statement of Case Appendix 9.
[24] HD5.
[25] HD6.
[26] HD8.
[27] HD7.
[28] HD1 Appendix 5.

the growth of grass. The proposed panels would provide shade in the summer and so would assist with soil moisture retention, and so aid the growth of grass during dry periods. The proposed development would make little difference to the grazing of this field by sheep. The income generated for the farm from the solar panels would contribute towards the maintenance and improvement of the holding.

Written representations

Pre-application community consultation

50. Every household in Edenbridge received details about the public consultation and drop-in session. Sixty residents attended the exhibition. Seven respondents expressed positive comments, nine negative, and nine were undecided. Several residents commented on the need to ensure that the site was appropriately screened. Some residents also raised concerns regarding access to the site.

Application stage

51. SDC received 123 representations about the application. Of the 113 representations in support of the scheme, 100 were by way of a proforma citing the renewable energy and carbon saving benefits of the temporary development, along with its screening and ecology benefits. Letters of support were from individuals living in Edenbridge and the surrounding areas, as well as further afield, including some resident outside the District.

52. Issues raised by the 10 objectors included the matters of concern to SDC, along with representations about the impact on noise and residential amenity, the effects on trees and agricultural land quality, crime, heritage assets and light pollution.

Consultees

53. Consultation replies at the application stage are summarised in paragraphs 15-32 of SDC's Planning Committee Report, and the gist of these submissions follows.

54. Edenbridge Town Council objected on Green Belt grounds and did not consider that the evidence established that there were not more suitable sites within the wider area. Noise and visual appearance were considered to be unacceptable given the proximity of residential properties, particularly at Medhurst Row.

55. The Environment Agency had no objection subject to the imposition of appropriate conditions.

56. Upper Medway Internal Drainage Board had no objection subject to conditions.

57. Natural England raised no objection.

58. Kent County Council had no biodiversity objection subject to conditions, and the footpath officer was satisfied that mitigation would offset any adverse visual impact on the footpath network. The latter was confirmed by letter dated 2 July 2015.[29]

[29] Red folder on file.

59. Highways and Transportation Kent County Council required the construction management plan to include provision for wheel inspection and cleaning if necessary.

60. NATS and Gatwick Airport had no safeguarding objection to the proposal regarding air traffic.

61. Kent Police provided general crime prevention advice about solar parks.

62. SDC's Agricultural Consultant noted [on the basis of the evidence then available] that a solar park on Grade 3b land, which would be maintained as sheep grazing, would not be a 'significant' development of agricultural land in terms of paragraph 112 of the *Framework*.

Appeal stage

63. There were 3 written submissions at the appeal stage, which are summarised as follows.

Written submissions objecting to the proposed development (2)

64. Edenbridge Town Council, by online representation received 6 July 2015, maintained its objection to the proposal, but withdrew its concerns about noise.

65. George Gotobed (Medhurst Row Cottage) raised concerns about the appearance of the proposed panels, which would be visible from a living room in his house. The local footpaths are used by dog walkers, ramblers, joggers and picnickers. The soil quality on the appeal site is being underutilised in this Green Belt location. The night sky is blighted by lights - if such wastage was stopped, all the power stations would not be needed. There are 10 local objections to the scheme, and many others who oppose the development were not aware that they had to object again when the application was resubmitted.[30] There is nothing in this scheme for Edenbridge.[31]

Written submissions in support of the proposed development (1)

66. Ben Brownless supports the scheme because of the vital need to generate more power from renewables near to demand, so as to reduce transmission losses. The scheme would be temporary, is for a well-chosen site, which could be screened effectively. The land could still be used for sheep grazing, albeit at a lower concentration, but allow for farm diversification.[32]

[30] An earlier application for a solar park on this site was withdrawn in August 2014.
[31] Red folder on file.
[32] HD3.

Appraisal

Preliminary matters

67. The following appraisal is based on the written submissions, the evidence given at the Hearing, and my inspection of the site and its surroundings. In this section the figures in parenthesis [ ] at the end of paragraphs indicate source paragraphs from this report.

68. The suggested amendments to the scheme at the appeal stage are minor alterations that would not substantially change the proposal. These were discussed at the Hearing, and no one would be prejudiced by dealing with the appeal on the basis of Drawing No.GEUK 1001-804-1500 D. [2]

Main considerations

69. In the absence of any matters set out, about which the Secretary of State particularly wishes to be informed for the purposes of considering this appeal, the evidence indicates that the main considerations here are as follows. [1]

(1) Whether the development conflicts with policy to protect the Green Belt and the effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it.

(2) The effects of the proposed development on the character and appearance of the area.

(3) The effects of the proposed development on agricultural land and soils.

(4) The effects of the proposed development on heritage assets.

(5) The effects of the proposed development on biodiversity.

(6) The effects of the proposed development on highway safety and residential amenity.

(7) The effects of the proposed development on drainage and flood risk.

(8) Other considerations, including the duration and reversibility of the scheme.

(9) The contribution of the proposed development towards the generation of energy from renewable sources.

(10) If the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

(11) The extent to which the proposed development would be in accordance with the development plan for the area.

(12) The extent to which the proposed development would be in accordance with the *National Planning Policy Framework (*the *Framework)* and *Planning Practice Guidance (*the *Guidance)*.

70. I consider whether any permission should be subject to any conditions or obligations and, if so, the form that these should take, before considering my overall conclusions. The remainder of this report addresses the matters outlined above, and my recommendation is based on these findings.

Green Belt

71. The scheme would involve development that is not included in the exceptions set out in paragraph 89 of the *Framework,* and paragraph 90 does not apply. The advice in the *Framework* that elements of many renewable energy projects will comprise inappropriate development applies in this case to the proposed panels, electrical equipment and security installations. The proposal would be inappropriate development in the Green Belt. The *Framework* states that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The *Framework* provides that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. [1,24,39]

72. The solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt. The scheme includes security fencing and equipment, which would also adversely affect the countryside, even if their details were controlled by condition. The resultant encroachment into the countryside would be at odds with one of the purposes of the Green Belt. [29,33,41]

73. The proposal would be inappropriate development in the Green Belt. Furthermore, it would be at odds with one of the purposes of the Green Belt, and would erode its openness. The proposed development would, therefore, harm the Green Belt. I next consider whether the proposal would result in any other harm, and then have regard to other considerations, so as to undertake the balancing exercise outlined above.

Character and appearance

74. The site lies within the Edenbridge Low Weald Farmlands character area, which is characterised by an undulating landscape, with a strong hedgerow pattern and infrequent small isolated woodlands. The scale of the landscape is predominantly small-medium scale. The panels and associated infrastructure would be utilitarian structures in this countryside location. The construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The man-made structure would be of a colour and texture that was not typical of its agricultural context, and so the proposed development would introduce a discordant element into the local landscape. The area has a moderate sensitivity to the development proposed, and with a medium magnitude of effect, the proposal would have an adverse effect on the landscape resource of moderate significance. I turn next to visual effects. [7,8,19,23,29,31,32,35,36,57,58]

75. The proposed reinforcement of the existing trees and vegetation along the northern site boundary would soon soften the visual impact of the rear of the panels in views from vantage points further to the north [VPs 5, 6, 7 and 17]. Glimpses of some panels from the garden and windows of Medhurst Row Cottage

might be possible at times when the trees were not in leaf, but these would not significantly affect the outlook from this property given the separation distance.

76. In views from the west of the appeal site [VPs 8,9,10,11,12,13 and H], including the area near to Skinners and nearby PRoW, the proposed panels would be sited beyond the brow of the hill. The existing and proposed hedgerows would provide an effective screen from vantage points to the west of the site. From closer vantage points and from the south [VPs 14, G and C] some of the panels and infrastructure would be apparent until the existing hedgerow along the southern boundary of the site was allowed to grow in height sufficient to screen close-up views of the proposed development. Thereafter any glimpses of the panels through the hedgerow would not have a significant adverse effect on the outlook from the PRoW that adjoins the site boundary. Further to the south, towards Delaware Farm [VPs 1 and B], the proposed development would again lie beyond the brow of the hill, or would be screened by nearby vegetation. In distant views from the south across the valley [VPs A, 4 and 16] the panels might be apparent in some views depending upon the weather and light conditions. However, the separation distance would mean that the development was seen in the context of a wide panoramic view of the countryside, and so would not have a significant adverse impact. From the west and south the proposal would initially have a slight adverse visual effect, but with the proposed mitigation this would in a short time reduce to a negligible effect.

77. The most significant visual impact of the scheme would be from the east [VPs D, 3 and 15]. The proposed panels, electrical equipment and fencing would be apparent in close-up views from the existing footpath. However, the proposed new hedgerow along this boundary would, in time, soften this adverse effect. The new hedge would not unduly affect the openness of the local landscape as distant views are limited by the hill and Cauk Wood. Furthermore, hedgerows are a characteristic of this landscape and the new hedgerow would go some way towards compensating for those that have been removed since 1961. [36]

78. I saw at my site visit that the north-eastern corner of the proposed development would be seen from the properties at Whistlers on the sloping land above the proposed new hedgerow. In time, with maturing of the hedgerow, this impact would moderate, but it would be likely that some of the panels would remain visible, albeit in side view as the glazed surfaces would face south. Further to the east [VP 2] the scheme would have only a limited impact in the wide views of the countryside. The development would not be likely to affect distant views from Hever Castle, which is sited in a wooded setting.

79. The proposal would harm the character of the area, but would have a limited and localised adverse effect on its appearance. Overall, the proposal would have an adverse effect of moderate significance on the local landscape.

Agricultural land and soils

80. The *Framework* provides that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing soils. It also adds that account should be given to the economic and other benefits of the best and most versatile agricultural land, defined as grades 1, 2 and 3a land, and where significant development of agricultural land is necessary areas of poorer quality land should be preferred to that of a higher quality. This preference is reiterated in the *Guidance*, which goes on to refer to

proposals allowing for continued agricultural use where applicable and/or encouraging biodiversity improvements around arrays of solar panels.

81. The appeal scheme would use 7.7 ha of grade 3a agricultural land. However, the land is currently used for grazing, and this would continue beneath and around the proposed panels. Shading from the panels might adversely affect the growth rate of grass at times, but I have no reason to doubt the evidence about these soils drying out in the summer because of the exposed nature of the site on a crown of a hill with south facing slopes. There is no convincing evidence that the appeal site is currently underutilised, as the adjoining arable fields are not as exposed to the sun and wind. [4]

82. The overall change in the productivity of the grassland with the installation of the panels would depend on how much the shading reduced light and growth, and how much it assisted with soil moisture retention in dry times, and so encouraged the grass to grow. No reliable evidence was adduced about likely stocking rates achievable with the panels in this field. However, given the factors involved here, it is likely that the proposed development would have only a marginal adverse effect on the agricultural productivity of this field. This would not, in my view, be sufficient to bring the proposal into significant conflict with national policy and guidance about using the best and most versatile agricultural land. I have taken into account that the use of heavy construction equipment on these soils could result in lasting damage, but a method statement could be included in a construction management plan. [38,49,58,62,65,66]

83. I find that the likely loss of productivity from using 7.7 ha of the best and most versatile agricultural land would not, in the circumstances which apply here, weigh significantly against the proposal.

Heritage assets

84. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the setting of a listed building. The scheme would have some effect on the traditional wider setting and historic landscape of Medhurst Row Farmhouse, but it would not affect how the farm buildings are experienced. The intervening screening by existing and proposed vegetation would limit any effect on the setting of the listed building to an adverse impact of minor/moderate significance. Even so this slight harm would be sufficient to bring the scheme into conflict with ADMP Policy EN4. This is a consideration which should be given special weight and considerable importance in the overall planning balance. [10]

85. It was apparent at my site visit that part of the tower of St Peter's Church is visible, at a distance, from parts of the appeal site. However, given the separation distance and limited inter-visibility between the church and the site, the proposed development, with appropriate mitigation measures, would have minimal adverse impact on the setting of St Peter's Church. Following the mitigation proposed the scheme would also have minimal adverse impact on the setting of Skinners Farmhouse and Whistler's Farmhouse, and even less effect on the setting the listed buildings at Delaware Farm. The proposal would not adversely affect the setting of Hever Castle. There is nothing evident from either the written submissions or from my site visit to indicate that the appeal scheme would have a significant adverse effect on any other heritage items in the area. [40]

86. Overall, any effect on heritage assets would, at worst, result in an adverse impact of minor/moderate significance. This would be less than substantial harm for the purposes of applying the *Framework*, but nonetheless would need to be balanced against the benefits of the proposal.

Biodiversity

87. Construction and decommissioning would be disruptive for any wildlife using the site. However, the effects on wildlife would not be significant given the limited diversity of recorded species and the availability of similar habitats elsewhere in the locality. Nature conservation interests and any protected species could be adequately safeguarded by the imposition of appropriate planning conditions. The proposed wild flower meadow would be beneficial for wildlife, as would the new and improved perimeter hedgerows. Overall, the proposed development would be likely to enhance biodiversity. This is a consideration that weighs in favour of the proposal. [39]

Highway safety and residential amenity

88. There is no convincing evidence that construction traffic would significantly increase the risk to those using the local highway network. Implementing a construction traffic management plan would also help to minimise any congestion or risk to highway safety.

89. There is local concern about HGVs affecting the residential amenity of those occupying dwellings near to the shared access drive that extends from the end of Skinners Lane. However, it seems to me from what was evident at my site visit, particularly concerning the extent and availability of the land within the ownership boundary between the end of Skinners Lane and the appeal site, that there would be a realistic prospect of devising and implementing an appropriate scheme for construction traffic to access the site without an unacceptable adverse impact on the residential amenity or safety of nearby residents. Land within Skinners Farm provides considerable scope for minimising any harm to neighbours by reason of construction traffic. If it was not possible to devise a scheme that secured a satisfactory means of access in accordance with ADMP Policies EN1 and EN2, then recommended Condition 15 of Annex A to this report would mean that the permission could not be implemented. [3,18,31,59]

90. The proposed landscaping would not at all times entirely screen out views of the solar panels from nearby residential dwellings. However, it is likely that vegetation would soften any adverse impact on such properties. Given the separation distance of the proposed panels from nearby properties, and the height of the panels, the scheme would not have a dominating or overbearing effect on the outlook from nearby residential dwellings. Noise and disturbance, especially during construction and decommissioning, could be minimised by the implementation of an approved construction environmental management plan. Noise from the electrical equipment would not be likely to affect nearby residents because of the separation distance. [9,10,29,31,32,64,65]

91. Subject to the imposition of appropriate planning conditions the proposed development would be unlikely to have an unacceptable adverse effect on either highway safety or the living conditions of neighbouring residents.

Drainage and flood risk

92. The wider locality has experienced flooding in the past and run-off from hard surfaces has the potential to increase flood risk. However, the submitted Flood Risk Assessment demonstrates that surface water run-off could be adequately controlled. There is scope within the appeal site to design and implement a drainage scheme that would ensure that the development did not significantly increase flood risk. The Environment Agency has no objection to the proposal. The likelihood of worse flooding is not a consideration that weighs against the proposal. [41,55,56]

Other considerations

93. The farm diversification would be beneficial to the holding, and the scheme would make a valuable contribution to the rural economy. [47,49]

94. Permission is sought for a period of 25 years. The development would be temporary, but the GLVIA considers that for this period any harm to the landscape would be long term. However, it would be practical to reverse the effects on both the character and appearance of the area, and the Green Belt, within a generation. The *Guidance* advises that conditions can require the site to be restored to its previous use. The duration and reversibility of the development is a material consideration, but the loss of openness for this part of the Green Belt for 25 years, and the landscape harm, albeit reducing over time as screen planting matured, would affect residents and visitors for a long time. I consider that the duration and reversibility of the development are factors that should be given limited weight in the planning balance that applies here. [21,24(5),37,43,46]

95. Other appeal decisions cited by the parties are of little help in determining this appeal on its own merits as much depends on the particular circumstances. [26,44]

Renewable energy

96. The appeal scheme, with an estimated installed capacity of 6 MW and average electrical output of 11,850 MWhr/yr, would make a significant contribution to achieving renewable energy targets. The scheme would generate enough electricity to supply some 1,500 homes and reduce carbon dioxide emissions by about 2,150 tonnes per year. The proposal would also utilise the available grid connection, and make use of the relatively high radiation levels in this area. The wider environmental and energy security benefits of the proposal weigh significantly in favour of allowing the appeal. [20,46,47,48,66]

97. I have taken into account the appellant's alternative site search, and noted the availability here of a grid connection. However, I do not consider that the difficulty in finding suitable sites in the locality should be a decisive or influential consideration. Notwithstanding that the *Framework* refers at paragraph 97 to the responsibility on all communities to contribute to energy generation from renewable or low carbon sources, targets for renewable energy are set on a national basis. There is nothing to require this area to contribute to national targets by means of solar development. [25,29,42,54]

Very special circumstances

98. Of the factors cited by the appellant and others supporting the scheme, to be weighed in the balancing exercise as 'other considerations', significant weight should be given to the generation of electricity from a renewable source, which would make a valuable contribution to cutting greenhouse gas emissions. Paragraph 91 of the *Framework* provides that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. [24(1),43(1)]

99. It is also the case that PV development can be constructed in a short time period, and so can contribute quickly to meeting targets for renewable energy. However, neither this, nor the existence here of a guaranteed grid offer from the DNO, are factors that should be given much weight as relevant 'other considerations' in their own right, because these would be an integral part of achieving the benefits of the renewable energy from the scheme as set out in the previous paragraph. [24(2),43(2)]

100. The proposal would be a farm diversification that would generate income for the agricultural holding and support for the rural economy. These are benefits that weigh in favour of the proposal, which could be achieved here with minimal loss of agricultural productivity, given that the current use of the site for sheep grazing would continue. [24(3)(4),43(3)(4)]

101. The development would be temporary and reversible, but this just means that both the harm and the benefits would be time limited. Duration and reversibility are not factors that should be given much weight in determining whether very special circumstances exist. [24(5),43(5)]

102. Even if the proposed financial contributions to local organisations and facilities could be secured by means of a properly executed section 106 obligation, no weight should be given to them in the planning balance that applies here because they would not be necessary to make the scheme acceptable in planning terms. The offer to set up a community fund and to support local groups and green energy initiatives should not be given any weight because there is no evidence that this would accord with relevant statutory and policy requirements. [5,24(6),43(6)]

103. There is significant local support for the proposal, but also local objections. The weight of representations for and against the scheme is not a consideration that can be factored into the Green Belt balancing exercise. [24(7),43(7),50,51,52]

104. The creation of an additional permissive footpath would be beneficial, as would the measures to conserve and enhance biodiversity. The availability of a circular route for local walkers would be useful, but not a factor that should be given much weight. The advantages of the scheme for nature conservation and local wildlife would be of much more significance. [24(8)(9),43(9)(9)]

105. The appellant argues that non-Green Belt locations are severely limited as 93% of the land outside built-up areas in the District is within the Green Belt. This may be so, but it cannot properly be a consideration to weigh in the very special circumstances balancing exercise, given that targets for renewable energy apply nationally. [24(10),43(10)]

106. I consider that significant weight should be given to the contribution that the scheme would make to the Government's commitment to tackle climate change by reducing carbon dioxide emissions and towards energy security, along with ecological enhancement, and the benefits that would result to the local economy from job creation and farm diversification. The disadvantages of the appeal scheme include the harm to the Green Belt and moderate harm to the character and appearance of the area, along with some minor/moderate harm to heritage assets. Substantial weight should be given to the harm to the Green Belt in the balancing exercise which applies here. The other harm I have identified is significant, but localised and limited. The significant weight to be given to the renewable energy benefits of the scheme, when combined with the benefits to biodiversity and the local economy, weigh heavily in favour of the proposal. Taking all the above into account for the appeal scheme on its own merits, I find that the 'other considerations' in this case clearly outweigh the harm I have identified, and the very special circumstances necessary to justify the development exist. [27,43]

Development plan

107. The appeal scheme would not breach CS Policy SP2, which deals with small scale and community-based renewable energy developments. Furthermore, if very special circumstances were to exist then the proposal would accord with CS Policy LO1 and ADMP Policy SC1. The scheme would not fully square with CS Policy LO8 because this states that support for the diversification of the rural economy is subject to, amongst other things, the conservation and enhancement of the character of the landscape. The proposed development would not accord with that part of ADMP Policy EN1 that requires development to respect the character of the surrounding area, and would breach ADMP Policy EN4 concerning heritage. These breaches of relevant policies would be sufficient to bring the proposal into some conflict with the development plan when read as a whole. However, relevant development plan policies here are not entirely consistent with the balancing exercise in the *Framework* regarding sustainable development. In determining this appeal more weight should be given to the provisions of the *Framework*. [11-15,28,45]

National Policy and Guidance

108. The core planning principles set out in the *Framework* encourage the development of renewable energy, whilst recognising the intrinsic character and beauty of the countryside. Furthermore, the *Framework* provides for very special circumstances in the Green Belt. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework,* require in this case that a balancing exercise be performed to weigh the benefits of the proposed solar park against its disadvantages. For the reasons set out above regarding 'very special circumstances', the balance here falls in favour of the proposal. The evidence submitted demonstrates that the impacts of the appeal scheme could be made acceptable. I find, therefore, that the proposal would accord with the requirements for sustainable development set out in the *Framework*.

Conditions and obligations

109. SDC and the appellant reached agreement about possible conditions at the Hearing. I have considered the need for conditions and their wording in the light of the advice contained in the *Guidance*. [6]

110. A commencement period of three years would be appropriate here (Condition 1). Otherwise than as set out in any decision and conditions, it would be necessary that the development was carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). A condition would be required to specify that the permitted development was temporary and for a 25 year period (Condition 3). Decommissioning and restoration to a solely agricultural use would also be necessary (Condition 4). So too, would provision for restoration upon cessation of electrical generation from solar panels for a period of six continuous months (Condition 5). Drainage would need to be approved in the interests of the amenity of the area (Condition 6), but it would not be necessary to refer to the Flood Risk Assessment.

111. No pesticides should be used on the site and a biological management plan would need to be approved and implemented in the interests of biodiversity (Conditions 7 and 9). No external lighting should be installed on the site, and details would need to be approved about the CCTV cameras to be installed, in the interests of the appearance of the area (Conditions 8 and 13). A construction management plan would need to be approved and implemented in the interests of the amenity of the area (Condition 10). Details of hard and soft landscape works for both the site and the adjoining Wild Flower Meadow, along with a management plan, would need to be approved and implemented for landscape and biodiversity reasons (Conditions 11 and 12).

112. The scheme includes a permissive path and wild flower meadow, and it would be necessary to secure these by condition so as to ensure that the development was consistent with the proposal that was considered and assessed at the Hearing (Condition 14).

113. Given that no details have been submitted about access to the site, except for a drawing showing a track cross-section, development should not commence until all necessary off-site works for access and construction had been carried out in accordance with a scheme previously approved by SDC (Condition 15). Condition surveys for Skinners Lane and the shared access drive, along with provision for any necessary remediation works after construction and decommissioning, would be required in the interests of highway safety and the amenity of the area (Conditions 16-18). For the avoidance of doubt the conditions should also define the site and the residential property known as Skinners. In the event that the appeal is allowed, Annex A to this report lists the conditions that I consider should be attached to any permission granted.

114. The appellant intends to make financial contributions to a number of local groups and organisations if planning permission for the appeal scheme was granted. These commitments are not currently in a form that would ensure that they were delivered if permission were to be granted. However, any such deficiencies would be of no consequence here because none of the financial contributions provided in the documents submitted would be necessary to make

the scheme acceptable in planning terms. There is nothing to indicate that any other obligations would be necessary.

Conclusions

115. The Council received 123 representations about the application, including 113 letters in support of the proposal. At the appeal stage there were two written submissions objecting to the proposed development, and one written representations in support of the scheme. Measures to inform and involve the local community reasonably comply with relevant requirements. Local opinion about the proposal is divided. The appeal should be decided having regard to the development plan, and the determination made in accordance with it, unless material considerations indicate otherwise.

116. The public benefits arising from the generation of renewable energy would far outweigh the limited harm here to heritage assets. The proposal would be inappropriate development in the Green Belt. It would result in some harm to landscape character, but its adverse visual effects would be localised and limited. The wider environmental benefits associated with the increased production of energy from a renewable source that would result from the scheme weigh significantly in favour of the proposal. In my judgement, and for the reasons set out above, the 'other considerations' in this case, clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, and the very special circumstances necessary to justify the development exist.

117. The proposal would conflict with relevant development plan policies, but would accord with the requirements for sustainable development set out in the *Framework*. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Recommendation

118. I recommend that the appeal be determined on the basis of the amendments shown on Landscape Layout Drawing No.GEUK 1001-804-1500 D, and that the appeal be allowed and planning permission be granted subject to the conditions set out in Annex A of this report.

John Woolcock
Inspector

ANNEX A - CONDITIONS 1-18

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   GEUK 1001-804-0000 Revision D
   GEUK 1001-804-0001 Revision G
   GEUK 1001-804-1500 Revision D (or Revision B if the amendment at the appeal stage is not accepted by the Secretary of State)
   GEUK 4001-804-0001 Revision G
   GEUK 4001-804-0002 Revision G
   GEUK 5000-804-0002 Revision A
   GEUK 5000-804-0003 Revision A
   GEUK 5001-804-0001-96250 Revision A
   GEUK 9000-804-0001 Revision A
   GEUK 9000-804-1707 Revision A
   GEUK 9001-804-1706 Revision A

   For the purposes of these Conditions the Site is shown edged red on Drawing No.GEUK 1001-804-0000 Revision D.

3. The permission hereby granted is for the development to be retained for a period of not more than 25 years from the date when electricity is first exported to the electricity grid (Energisation Date), or in the event that electricity is not exported to the electricity grid from the date that works first commenced on the Site. Written confirmation of both the date works commenced and the Energisation Date shall be submitted in writing to the local planning authority within one month of the event occurring.

4. No later than 12 months before the end of the 25 year period granted by Condition 3, a Decommissioning Method Statement for the Site shall be submitted to and approved in writing by the local planning authority. The scheme shall make provision for the removal of all above ground structures, equipment and materials from the Site (including security fencing) and the restoration of the Site for a solely agricultural use. It shall also include details of:
   i. A traffic management plan for vehicles used in the decommissioning and restoration, including details of any temporary off-site works, along with provision for the restoration of these sites when no longer needed.
   ii. An ecological scoping survey.
   iii. A specific species survey (as recommended by the ecological scoping survey).
   iv. A detailed mitigation strategy (informed by the above surveys); and
   v. Provisions for the implementation of any necessary mitigation.
   vi. A timetable for decommissioning and site restoration.

   The approved Decommissioning Method Statement shall be implemented within six months of the end of the 25 year period granted by Condition 3, or such other period approved in writing by the local planning authority prior to the end of the 25 year period granted by Condition 3.

5. No development shall be carried out on the Site until an Operations and Maintenance Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include provisions for the reinstatement of the Site, or part thereof, to its original state upon cessation of electrical generation from solar panels for a period of six continuous months.

6. No development shall be carried out on the Site until a sustainable surface water drainage Scheme for the Site has been submitted to and approved in writing by the local planning authority. The drainage strategy for the Scheme should demonstrate that the surface water run-off generated up to and including the 100 year critical storm would not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so would not increase the risk of flooding either on-site or off-site. The Scheme shall include a timetable for its implementation along with a programme for the maintenance of drainage infrastructure for the duration of this planning permission. The Scheme shall be implemented in accordance with the approved details.

7. No pesticides shall be used on the Site.

8. No external lighting shall be installed on the Site.

9. No development shall be carried out on the Site until an updated Biodiversity Management Plan for the Site and the adjoining Wild Flower Meadow has been submitted to and approved in writing by the local planning authority. The Plan shall include avoidance measures and a detailed ecological enhancement strategy. The development shall be carried out in accordance with the approved Plan and the Site and the adjoining Wild Flower Meadow shall thereafter be managed in accordance with the Plan for the duration of this planning permission.

10. Notwithstanding the information submitted as part of the planning application, no development shall be carried out until a detailed Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include details of wheel washing facilities, temporary surface treatment, times of working and traffic management. The development shall be carried out in accordance with the approved plan.

11. No development shall be carried out on the Site until full Details of hard and soft landscape works for both the Site and the adjoining Wild Flower Meadow have been submitted to and approved in writing by the local planning authority. These Details shall include:
    i. Details of hard surface treatment.
    ii. Tree protection measures.
    iii. Planting plans (identifying existing planting, plants to be retained and new planting).
    iv. A schedule of new plants (noting species, size of stock at time of planting and proposed number/densities).
    v. The benches and information board to be installed on the Wild Flower Meadow.
    vi. A programme of implementation.

    Hard and soft landscape works shall be carried out in accordance with the approved Details.

12. No development shall be carried out on the Site until a Landscape Management Plan for the Site and the adjoining Wild Flower Meadow has been submitted to and approved in writing by the local planning authority. The Plan shall include provision for the replacement of dead, removed or seriously damaged trees or plants in the next planting season with others of a similar size and species for the duration of this permission. The Site and the adjoining Wild Flower Meadow shall be managed in accordance with the approved Plan for the duration of this planning permission.

13. No development shall be carried out on the Site until full details of the location and height above ground level of all CCTV cameras to be installed on the Site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and no cameras shall be installed on the site except as shown in the approved details.

14. No development shall be carried out on the Site until a Scheme to secure the provision of a Permissive Path and the Wild Flower Meadow have been submitted to and approved in writing by the local planning authority. The Scheme shall include the following:
    i. Details of the route of the Permissive Path, based on that shown on Landscape Layout Drawing No.GEUK 1001-804-1500 D.
    ii. Details of the dimensions, surfacing, accessible kissing gates and signage for the Permissive Path.
    iii. Details of a management plan to ensure that the Permissive Path remains unobstructed and available (except where necessary to maintain its permissive status, the details of which shall be specified in the management plan) and in a suitable condition for use by the public.
    iv. A legally binding agreement or licence to provide the Permissive Path and the Wild Flower Meadow in accordance with the above details for the duration of this planning permission.

15. No development shall be carried out on the Site until all necessary off-site works for access and construction have been carried out in accordance with a Scheme which has been previously submitted to and approved in writing by the local planning authority. The Scheme shall include:
    i. Any necessary works to provide access for HGVs along Skinners Lane and its junction with the B2027.
    ii. Any necessary works to provide access for HGVs between Skinners Lane and the Site.
    iii. Any proposed temporary off-site compound(s) for unloading/loading, storage and parking.
    iv. A timetable for the implementation of all off-site works.
    v. Copies of any necessary permissions, consents or approvals obtained for off-site works.

    The Scheme shall also include measures for the restoration of any temporary off-site compound(s) for unloading/loading, storage and parking, along with a timetable for their restoration, and these measures shall be implemented as approved.

16. Prior to the commencement of the development hereby permitted, a condition survey of Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to and approved in writing by the local planning authority.

17. Within three months of the Energisation Date or the date of completion of the installation of the panels hereby permitted a condition survey and report for Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to the local planning authority. The report shall identify whether there has been any deterioration in the surface of the lane/drive when compared to the survey submitted under Condition 16. If there is any deterioration a schedule of remedial measures, a timescale for their implementation and a methodology for a further condition survey and report and remedial measures shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved timescale and details.

18. Within three months of the completion of decommissioning in accordance with Condition 4 a condition survey and report for Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to the local planning authority. The report shall identify whether there has been any deterioration in the surface of the lane/drive when compared to the survey submitted under Condition 16. If there is any deterioration a schedule of remedial measures, a timescale for their implementation and a methodology for a further condition survey and report and remedial measures shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved timescale and details.

    For the avoidance of doubt in Conditions 16-18 Skinners is the residential property located to the west of the appeal site, which is accessed from the shared drive that extends off Skinners Lane, and is the last dwelling before the existing bridge on the farm track that leads to the Site.

ANNEX B - APPLICATION PLANS

Site location & connection cable route	GEUK 1001-804-0000 Revision D
Preliminary layout plan	GEUK 1001-804-0001 Revision G
Landscape layout	GEUK 1001-804-1500 Revision D
(or Revision B if the amendment at the appeal stage is not accepted by the Secretary of State)	
Section through site @ AA'	GEUK 4001-804-0001 Revision G
Section through site @ BB'	GEUK 4001-804-0002 Revision G
Proposed security fence elevation	GEUK 5000-804-0002 Revision A
Proposed security gate elevation	GEUK 5000-804-0003 Revision A
Indicative proposal based on 60 cell solar panel range	GEUK 5001-804-0001-96250 Revision A
Substation drawing	GEUK 9000-804-0001 Revision A
Inverter and transformer detail drawing	GEUK 9001-804-1706 Revision A
Access track drawing	GEUK 9000-804-1707 Revision A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mike Holmes	Principal Planning Officer.

FOR THE APPELLANT:

Richard Tilley MA MRTPI MRICS	CgMs Ltd.
Daniel Corcoran	GEUK.
David Hares CMLI MBIAC	Landscape Architect.
Arthur Bell	GEUK.

INTERESTED PERSONS:

Cllr Stuart McGregor	Ward Member for Edenbridge North.
Terri Scanes	Local resident.
David Norris	ADN Planning Ltd representing local residents.
Sue Rule	Sustainable Edenbridge.
Julian Hatcliffe	Local resident.
Peter Atfield	Skinners Farm.
Mark Atfield	Skinners Farm.
Jill Davison	Edenbridge Town Council.
Christine Lane	Edenbridge Town Council.
Christine Burges	Local resident.
George Gotobed	Local resident.

DOCUMENTS SUBMITTED AT THE HEARING (HD)

Document	1	Addendum to appellant's statement of case, including:
	1.1	Appendix A - Landscape Statement.
	1.2	Appendix B - Alternative Site Search and Agricultural Land Impact Report.
	1.3	Appendix C – Qualifications and Experience.
Document	2	Landscape Layout Drawing No.GEUK 1001-804-1500 D.
Document	3	Written submission by Ben Brownless.
Document	4	Statement of Common Ground dated 15 December 2015.
Document	5	Statement by Sue Rule on behalf of Sustainable Edenbridge Group.
Document	6	Statement by Julian Hatcliffe.
Document	7	Statement by Mark Atfield.
Document	8	Statement by Terri Scanes.
Document	9	Statement by Edenbridge Town Council.
Document	10	Suggested conditions.
Document	11	Enlargement of ownership boundary between the end of Skinners Lane and the appeal site.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

The Planning Inspectorate

Appeal Decision

Site visit[1] made on 15 July 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2020

Appeal Ref: APP/D1265/W/19/3241953
Land at Higher Farm, Fifehead Magdalen, Dorset, SP8 5RT.

- 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 Next Power Higher Farm Limited against the decision of Dorset Council (the LPA).
- The application Ref. 2/2019/0470/FUL, dated 28 March 2019, was refused by notice dated 14 October 2019.
- The development proposed is the construction of a solar farm and associated development, including perimeter fencing, CCTV cameras and landscaping (amended description).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The LPA's decision is based upon various revisions to the application as originally submitted. These include a reduction in height of the proposed solar panels to 2.6 metres above ground level, additional hedge planting, a revised Traffic Management Plan, further ecology work, a revised site design and a revised landscape masterplan. I have taken these revisions into account.

3. This 21.4 ha appeal site[2] forms part of the settings of a number of listed buildings[3]. It also forms part of the settings of the Fifehead Magdalen Conservation Area (FMCA), the West Stour Conservation Area (WSCA) and the Stour Provost Conservation Area (SPCA). On behalf of the appellant, it is accepted that the proposal would harm the settings of some[4] heritage assets.

Main Issue

4. The main issue is whether the benefits of the proposal, including the production of energy from a renewable resource, outweighs any harmful impacts, having particular regard to the effects upon the character and appearance of the area and the significance of various designated and non-designated heritage assets.

Reasons

Planning Policy and Other Relevant Published Documents

[1] As part of my visit, I noted the relationship between the appeal site and properties within the surrounding area. I was able to assess the likely impact of the proposal upon these buildings and the occupants without needing to take up the invitations to enter several of the properties during the COVID-19 pandemic.
[2] The 'footprint' or area inside the proposed perimeter fencing would comprise approximately 16 ha.
[3] The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.
[4] These include the SPCA, Stour Provost Mill, Mill House and The Old Rectory.

5. My attention has been drawn to numerous planning policies, Acts, Statutory Instruments, strategies/statements and other published documents. I briefly refer below to those which are of most relevance to this appeal.

6. The development plan includes the North Dorset Local Plan Part 1 (LP) that was adopted in 2016. The most relevant policies to the determination of this appeal are 3 (climate change), 4 (the natural environment), 5 (the historic environment) and 22 (renewable and low carbon energy).

7. The National Planning Policy Framework (the Framework) is an important material consideration that carries considerable weight. Amongst other things, it states that the purpose of the planning system is to contribute towards the achievement of sustainable development. In meeting the challenge of climate change the planning system should support the transition to a low carbon future and support renewable and low carbon energy. When determining applications for such development local planning authorities should approve applications if its impacts are (or can be made) acceptable.

8. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets. The target for carbon emissions was initially set at 80% of the 1990 baseline figure by 2050. This was amended to 100% 'net zero' by section 2 of the Climate Change Act 2008 (2050 Target Amendment) Order SI 1056 in July 2019. This constitutes a legally binding commitment to end the UK's contribution to climate change.

9. The UK Solar PV Strategy sets out guiding principles for the deployment of solar energy development in the UK. Amongst other things, this recognises that solar PV assists in delivering carbon reductions, energy security and affordability for customers. It acknowledges that large scale developments can have a negative impact on the rural environment and on local communities. This national Strategy is several years old and has moderate weight.

10. My attention has also been drawn to the Bournemouth, Dorset and Poole Renewable Energy Statement (RES) that was published in 2013 and which, amongst other things, aims to facilitate renewable energy development. This local non-statutory document carries limited weight.

11. Whilst not forming part of the development plan, the North Dorset Landscape Character Area Assessment[5] (LCAS) 2008, the Dorset Landscape Character Assessment 2009[6] and the Landscape Sensitivity to Wind and Solar Development in North Dorset District (LSA) 2014[7] are material considerations. The LCAS and the LSA form part of the evidence base to the LP and can be given considerable weight.

12. The key characteristics of the North Dorset Limestone Ridges LCA include, elevated open plateau areas of undulating farmland landscape with distinctive sloping edges in places, thick dense hedgerows and open views from higher areas. The key characteristics of the Upper Stour Valley LCA include a varied but generally flat, pastoral river valley landscape.

[5] The appeal site lies within the North Dorset Limestone Ridges landscape character area (LCA) and the eastern boundary abuts the Upper Stour Valley LCA.
[6] I understand that the main body of the appeal site lies within the Limestone Hills landscape character type (LCT) and part of the eastern boundary is within the Valley Pasture LCT. This Assessment has moderate weight.
[7] The North Dorset Limestone Ridges LCA is identified as having 'moderate-high' sensitivity to solar farms of 10 to 30 ha in size and the Upper Stour Valley LCA as 'high' sensitivity to such developments.

13. The key characteristics of the Limestone Hills LCT include varied landform, diverse scenery with mixed farmland and dense hedgerows, expansive generally open landscape, some key parkland landscapes and associated features. Management objectives include conserving the intimate character of incised valleys, replanting new hedgerow trees and conserving parkland landscapes. Key characteristics of the Valley Pasture LCT include flat and open valley floor landscape with meandering river channels which often floods. Management objectives include conserving the strong visual unity of the valley.

Benefits

14. On behalf of the appellant, I have been informed that the anticipated[8] MWp from the proposed development would be 14.3WMp (circa 13.6GWh), which would be sufficient to power 4,387 homes annually[9]. The proposal would provide a clean, renewable and sustainable form of energy and would accord with the thrust of the UK Solar PV Strategy and RES. It would assist in meeting the Government's commitment to achieving 'net zero' carbon emissions by 2050 and make a valuable contribution towards cutting greenhouse gas emissions. In combination with other renewable and low carbon energy schemes it would assist in tackling climate change. These wider environmental benefits can be given substantial weight in the planning balance.

15. The proposed development would provide some new tree and species rich hedgerow planting, including 'gapping up'/reinforcement of existing hedges. Wide green rough grassland/wildflower corridors would also be provided around the margins of the fenced area. These measures would enhance the landscape qualities of the area and together with proposed bird and bat boxes, would provide new and improved wildlife habitats. The proposal would accord with the duty[10] to conserve biodiversity. These local environmental benefits can be given moderate weight in the planning balance.

16. The proposal would provide some support for the construction industry and could assist in helping to create and sustain employment during the current economic downturn. Some construction workers could also use some local services and the development would generate additional income for the landowners, enhancing farm incomes and possibly diversifying some farm businesses. This would accord with the Government's objective of promoting a strong rural economy. In addition, the proposal would assist in increasing the security and diversity of electricity supply. These economic benefits are important considerations that can also be given moderate weight.

17. These public benefits must be weighed in the balance.

Character and Appearance

18. The appeal site comprises three adjoining pasture fields[11] with boundary hedgerows and trees. It forms part of an elevated open plateau of undulating farmland and one of the fields (F3) slopes gently downwards in an easterly direction towards the River Stour. Several public rights of way bisect the site

[8] Dependent upon the final row spacing of the photovoltaic panels.
[9] On behalf of the appellant, it has been calculated that using Ofgem's latest Typical Domestic Consumption Value the proposal could power 4,689 homes annually.
[10] Section 40 of the Natural Environment and Rural Communities Act 2006.
[11] F1, F2 and F3. F3 is the eastern most field and F1 is the western most field.

and the long-distance Stour Valley Way links the settlements of West Stour (to the north), Stour Provost (to the east) and Fifehead Magdalen (to the north).

19. The appeal site does not form part of a designated landscape and other than the corridor along the River Stour this part of the countryside is not especially tranquil. Nevertheless, from everything that I have seen and read, including the appellant's Landscape and Visual Impact Assessment and the review of this document by those acting on behalf of some interested parties, the appeal site lies within an intimate valley landscape and an attractive rural area.

20. The LPA and some interested parties have argued that the site forms part of a 'valued landscape' to which paragraph 170(a) of the Framework[12] applies. In support, my attention has been drawn to paragraph 2.9 of the LP which states that the valley of the River Stour is an important landscape feature in North Dorset. However, this does not mean that the appeal site forms part of a 'valued landscape'. All landscapes have some value and are likely to be important to local communities. Whilst the valley of the River Stour is an attractive and popular landscape feature, the site would need to form part of a landscape that exhibits some demonstrable physical attributes.

21. In this regard, and whilst not planning policy, the LPA in determining the application assessed the site's attributes having regard to widely used guidance[13]. I agree with the assessment within the planning officer's report that the landscape within which the appeal site sits is of medium quality/condition, has medium scenic quality, does not posses rare elements or features, is highly representative of the above noted LCTs, has high conservation interest, high recreational value, medium perceptual qualities and low to medium cultural/artistic associations. Overall, this leads me to find that the site forms part of a landscape that exhibits demonstrable physical attributes so as to amount to a 'valued landscape'. Whilst the Framework requires such landscapes to be protected and enhanced, neither this nor the development plan places an embargo on proposals for renewable energy.

22. The proposed development would introduce very many rows/arrays of solar panels within the site. In addition, numerous metal clad inverter cabins (approx. 12m x 3m x 3.2m high), a substation, communication buildings, storage/battery containers, a switchgear building, 4m wide access track, 2m high perimeter deer fencing and CCTV cameras would be provided. There would be limited hedgerow removal and the existing field pattern would be maintained. Whilst the new tree and hedgerow planting, 'gapping up' of hedgerows and management regime[14] would reduce the impact, the proposal would markedly change the character and appearance of the site.

23. The attractive, unspoilt green open qualities and pleasing natural attributes of F1, F2 and F3 would be replaced by regimented rows of uniform solar panels mounted on metal frames, with a scatter of various ancillary buildings and set inside a fenced compound. This overtly utilitarian form of development would considerably erode the rural and pastoral character of these fields and diminish their contribution to the key landscape characteristics of the North Dorset Limestone Ridges LCA and the Limestone Hills LCT. This change in character of

[12] The Framework does not define what is meant by a 'valued landscape'.
[13] Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment by the Landscape Institute and Institute of Environmental Management & Assessment. This can be helpful in identifying a 'valued landscape'.
[14] This would include maintaining the hedges at 3m high.

F3 would also contrast sharply with the key characteristics of the Upper Stour Valley LCA. Whilst the impact of this landscape change would be localised it would be adverse and weighs against granting planning permission.

24. The proposed development would be seen from many sections of the public rights of way that bisect the site and the surrounding landscape. Whilst I understand that the appellant and the Council's Senior Ranger have discussed diverting some sections of the footpaths that cross the site, the development would be prominent from the existing and any diverted sections. Instead of continuing to experience and enjoy walking across pleasant open fields with views across the rural landscape, in future, 'high sensitivity'[15] receptors would, at close quarter, experience row upon row of solar panels and a significant loss of amenity when using the public rights of way across the site.

25. Given the limited height of the proposed solar panels, intervening vegetation (existing and proposed) and landform/topography, beyond a distance of about 1km from the site it is unlikely that the proposed development would give rise to any significant adverse visual impacts. However, when seen by 'high sensitivity' receptors using the Stour Valley Way to the north and east, the rows of solar panels and some of the ancillary buildings would appear as conspicuous and incongruous additions to this open elevated plateau and considerably detract from the appearance of this part of the countryside. This would be especially so for the development proposed in F3, where the rows of solar panels would cascade down this east facing slope and seriously intrude into the very attractive unspoilt rural scene along the River Stour. This element of the proposals would disrupt the visual unity of this part of the valley. These adverse visual impacts also weigh against granting permission.

26. I am mindful that the proposed development would be largely reversible and the impacts would be limited to a period of 40 years. However, this is a very long period of time, during which the adverse impacts would be experienced by very many people, including those using the popular Stour Valley Way. Limiting the development to a 25 year period would foreshorten these harmful landscape and visual impacts and could have had a bearing in the overall planning balance. However, the appellant's agent has informed me that this would render this 'subsidy free' development unviable[16].

27. There is nothing of substance to diverge from the appellant's assessment that the proposals would result in any harmful cumulative landscape or visual impacts. However, the harm that I have identified above to the character and appearance of the area leads me to find that the proposed development would conflict with the provisions of LP policy 4, Government objectives for 'valued landscapes' and the management objectives for the Valley Pasture LCT. This harm carries considerable weight in the overall planning balance.

Heritage Assets

28. The appeal site forms part of the countryside setting to a number of designated heritage assets. One field (F2) also comprises part of the former parkland to Fifehead House (now demolished), a non-designated heritage asset. Whilst elements of the proposal would be seen from and in association with many of

[15] I disagree with the appellant's assessment that users of these footpaths and the Stour Valley Way are 'medium sensitivity' and 'medium to high sensitivity' receptors. Most, if not all, would be using these rights of way for the purposes of enjoying the amenity of the countryside and/or relaxation.
[16] It reasonably follows that a condition precluding development in F3 would also render the scheme unviable.

these heritage assets, seeing the development would not in itself amount to an adverse impact upon their heritage interest or significance. In many instances, the combination of distance and topography or intervening buildings/structures or vegetation would avoid any adverse impacts arising from the proposals. Having considered all of the evidence/representations and following my site visit, I set out below my findings in respect of the likely significant impacts.

The Church of St. Michael at Stour Provost

29. The significance of this Grade I listed coursed rubble and ashlar church, which dates from the 13th century, is derived primarily from its architectural qualities, which include its nave (part 14th century), south tower (part 15th century), north aisle (16 the century), chancel, porch, fenestration, tie-beam roof and font, as well as its historic interest, including its fabric and as a long-standing place for religious activity and worship within this part of Dorset.

30. As noted within the consultation response of Historic England, this church overlooks the Stour Valley and the appeal site forms part of the gentle, rolling rural landscape setting of this designated heritage asset. The unspoilt, green open qualities of the appeal site assist in affording an appreciation and understanding of the special architectural and historic interest of this listed building. However, there are only glimpsed views of parts of the appeal site from a small section of the churchyard. The site makes a very small contribution to the significance of this designated heritage asset.

31. Some rows of the proposed solar panels (those in F2 and F3) and some inverter buildings would be visible in glimpsed views from part of the churchyard. The utilitarian form and appearance of these would detract from the green open qualities of the appeal site and, to a limited extent, would erode the contribution the site makes to the historic landscape setting and significance of this church. In the context of the Framework, this would amount to less than substantial harm. If there is a sliding scale of harm within this category the proposal would be towards the lower end. Nevertheless, harm to the significance of this high grade designated heritage asset carries considerable weight in the planning balance.

The Old Rectory

32. The significance of this two storey, two range 19th century Grade II listed house is derived primarily from its architectural qualities, which include its coursed, square rubble walls, hipped slate roof and sash windows, as well as its historic interest, including much of its fabric and association with the church. As I saw during my visit, the west elevation is prominent within the local landscape including views from F2 and F3, as well as some other parts of the surrounding countryside. The unspoilt, green open qualities of parts of the appeal site assist in affording an appreciation and understanding of the special architectural interest of this listed building and its historic landscape setting.

33. Many of the rows of proposed solar panels and some inverter buildings, especially those proposed in F3, would be prominent in some views to and from this designated heritage asset. The utilitarian form and appearance of these elements of the proposal would detract from the green open qualities of the appeal site and, to a limited extent, would erode the contribution the site makes to the historic landscape setting and to an appreciation of the significance of this listed house. In the context of the Framework, this would

amount to less than substantial harm. If there is a sliding scale of harm within this category the proposal would be towards the middle. This harm carries considerable weight.

Mill House and Stour Provost Mill

34. The significance of these Grade II listed early 19th century buildings are derived primarily from their architectural qualities, which include the stone walls, slate and tiled roofs, windows, as well as their historic interest, including associations with milling in this part of Dorset and the remains of the mill machinery in Stour Provost Mill. The adjacent river and surrounding fields, including F3, form part of the historic countryside and riparian setting of these designated heritage assets and assist in affording an appreciation and understanding of the role of these listed buildings within the local landscape.

35. Many of the rows of proposed solar panels and some inverter buildings, especially those proposed in F3, would be prominent in views to and from these designated heritage assets. The utilitarian form and appearance of these elements of the proposal would detract from the green open qualities of the appeal site. For the development proposed in F3, this would considerably erode the contribution the appeal site makes to the historic landscape/riparian setting of these listed buildings and to an appreciation of their heritage interest/significance. This would amount to less than substantial harm. If there is a sliding scale of harm within this category the proposal would be between the middle and upper end. This harm carries considerable weight.

Conservation Areas - The SPCA, FMCA and the WSCA

36. At its nearest, the appeal site is approximately 100m to the north east of the FMCA, approximately 400m to the west of the SPCA and about 500m to the south of the WSCA. The significance of these CAs is derived primarily from their architectural interest, which includes the contribution made by the various listed buildings, as well as their historic interest, which includes the arrangement and layout of buildings and spaces within the streets and the association with their rural surrounds. The appeal site forms part of the extensive countryside and characterful settings to these CAs and assists in affording an appreciation and understanding of their historic rural landscape settings. However, there is nothing of substance before me to substantiate the argument that intervisibility between these CAs adds to their heritage interest.

37. Some elements of the proposed development would be visible from parts of the CAs. However, due to distance, topography, intervening buildings/structures and vegetation there would be no adverse impacts upon the significance of the FMCA or the WSCA and no harm to their extensive rural settings.

38. In contrast, from the western edge of the SPCA, including around The Old Rectory, Mill House and Stour Provost Mill, the development proposed in F3 would markedly intrude into and detract from the characterful and unspoilt rural setting of this CA. The harm that I have identified above to the significance of these three listed buildings would diminish the contribution that they make to the special qualities of the SPCA and, in turn, erode the heritage interest of this CA. This would amount to less than substantial harm. Much of the heritage interest of the SPCA would be unaffected and if there is a sliding scale of harm within this category the proposal would result in a moderate level of harm to CA as a whole. This also carries considerable weight.

Former Parkland to Fifehead House

39. The proposed rows of solar panels and the inverter/transformer building that are proposed for F2 would amount to a modern, utilitarian form of development that would be ill-fitting within a parkland landscape. However, this parkland appears to be in various ownerships and only fragments of this 'designed' landscape are now discernible, including a few parkland trees and hedgerows.

40. The proposed development would entail the retention of these features and include a management regime for the boundary vegetation. Sheep grazing would also continue. These aspects of the proposal would assist in maintaining important elements of the parkland and the new deer fencing would not be out of place. Overall, the proposal would result in a small adverse impact upon the ability to appreciate the significance of this non-designated heritage asset. This carries some limited weight in the planning balance

The Heritage Balance

41. When the above harm to designated and non-designated heritage assets is weighed with the public benefits of the proposal I find this matter is finely balanced. Mindful that the development would be reversible and temporary in nature, the heritage balance just tips in favour of granting planning permission. The proposal would accord with the provisions of LP policy 5.

Other Matters

42. The appellant's supporting evidence[17] demonstrates that: there are no reasonably available alternative sites within the area for accommodating the proposed development; the proposals would avoid using the best and most versatile agricultural land with the land continuing to be used for sheep grazing and; there would be no significant increase in the risk of flooding.

43. There have been a large number of objections from many of those living within the surrounding area, including extensive representations made on behalf of a local residents group (No Solar on the Stour). Concerns have also been raised by Fifehead Magdalen Parish Council, The Stours Parish Council and the local Member of Parliament. Whilst I note the strength of local feeling public opposition is not in itself justification for withholding planning permission.

44. In this regard, some of the representations amount to a 'blunderbuss approach' and if I was to address each and every matter raised by interested parties this decision would comprise a weighty tome. Whilst I shall touch on some of these fears and concerns, as required, I have focused on the main issues in dispute between the LPA and the appellant.

45. The proposed development would alter the outlook from some properties in the surrounding area. However, seeing a development does not in itself amount to a harmful impact. No part of the proposals would be so close or too high as to have any serious adverse impact upon those living nearby. The new landscape planting would also reduce the impact of the development. Whilst there would be noise and other disturbance for some residents during the construction phase this would be for a limited period and would not be so great as justify withholding permission.

[17] This includes details of a site search and selection process, an Agricultural Land Classification Assessment and a Flood Risk Assessment.

46. During the construction phase there is likely to be a considerable increase in traffic along sections of the local highway network, including the junction with the A30 and the 'c' class road (C21) to the north west of the site. As part of my visit I saw the layout of this junction and noted the width and alignment of the C21. However, the Highway Authority has advised that subject to the use of appropriate planning conditions as part of an approval there would be no highway justification for withholding permission. This matter was considered by the LPA when it determined the application and I agree with its assessment that permission should not be withheld on highway grounds.

47. The adverse impacts on the character and appearance of the countryside that I have identified above could deter some visitors. However, the impact would be very localised and there is nothing to substantiate the fears of some interested parties that this would have a significant effect on tourism. There is also nothing to substantiate the fears of the local residents' group that the solar panels would cause glint and glare and pose a hazard to a local aerodrome.

48. There is also no evidence to substantiate the concern of some interested parties that the development would be unable to connect to the electricity grid. The appellant has refuted this allegation and I note from the Planning Design and Access Statement that was submitted with the application that grid availability formed part of the appellant's site search. I also note that the project viability included grid connection costs and the proposals only proceeded to application stage after this had been established.

49. Some interested parties have argued that there is adequate existing provision for renewable energy development within Dorset, including a recently approved solar park near Spetisbury. However, the Framework states that applicants are not required to demonstrate the overall need for renewable energy schemes. Moreover, targets for renewable energy generation are not ceilings that cannot be exceeded and unless climate change is adequately addressed the effects will be experienced everywhere. Certain parts of the country, such as the South West, also have a higher incidence of solar radiation than other areas and a greater theoretical energy potential. As a consequence, areas like Dorset are likely to experience greater pressure for accommodating solar farms/parks.

50. I note the findings in other appeal decisions[18] that have been drawn to my attention and the decision of the Secretary of State for Business, Energy and Industrial Strategy to grant a Development Consent Order (ref. EN010085) for a solar generating station with a gross electrical output of over 50MW and an energy storage facility on the north Kent coast (Cleve Hill Solar Park). Each case must be determined on its own merits and no two sites or schemes are exactly the same. The landscapes to which these other decisions relate are very different to the North Dorset Limestone Ridges and the Upper Stour Valley and the impact upon heritage assets was different. These other decisions do not set a precedent that I must follow.

Overall Planning Balance/Conclusion

51. When all of the above are weighed together, I find that the benefits of the proposal, including the production of energy from a renewable resource and the wider environmental benefits, are insufficient to outweigh the totality of the harmful impacts to the character and appearance of the area and to the

[18] APP/K1128/A/13/2206258 and APP/E2530/A/14/2218270.

significance of various designated and non-designated heritage assets. This in turn leads me to find that the development would be an inappropriately sited renewable energy scheme (mainly because of what is proposed in F3) that conflicts with the provisions of LP policies 3 and 22. The adverse impacts of the development could not be made acceptable and the proposal also conflicts with the Government's objectives for renewable and low carbon development.

52. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adroddiad

gan Melissa Hall BA(Hons), BTP, MSc, MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11.04.2019

Report

by Melissa Hall BA(Hons), BTP, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11.04.2019

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 62D

The Developments of National Significance (Wales) Regulations 2016

Application by Elgin Energy EsCO Limited

Land between B4256 and Charles Street, Wauntysswg Farm, Abertysswg, Rhymney, Tredegar NP22 5BQ

Cyf ffeil/File ref: DNS/3213639

Abbreviations used in this report:

ALC	Agricultural Land Classification
BGCBC	Blaenau Gwent County Borough Council
CA	Coal Authority
CCBC	Caerphilly County Borough Council
CEMP	Construction Environmental Management Plan
CMRA	Coal Mining Risk Assessment
CTMP	Construction Traffic Management Plan
DAM	Development Advice Map
DNS	Development of National Significance
EES	Ecological Executive Summary
EIA	Environmental Impact Assessment
GGAT	Glamorgan Gwent Archaeological Trust
HIA	Heritage Impact Assessment
HIAA	Heritage Impact Assessment Addendum
LIR	Local Impact Report
LDP	Local Development Plan
LVA	Landscape and Visual Appraisal
LVAA	Landscape and Visual Appraisal Addendum
MAFF	Ministry of Agriculture Farming and Fisheries
NRW	Natural Resources Wales
PINS (Wales)	The Planning Inspectorate (Wales)
PPW	Planning Policy Wales
ProW	Public Right of Way
PV	Photovoltaic
SAM	Scheduled Ancient Monument
SINC	Site of Important Nature Conservation
SLA	Special Landscape Area
SoCG	Statement of Common Ground

TAN	Technical Advice Note
The CIL Regulations	The Community Infrastructure Levy Regulations 2010
The 1990 Act	The Town and Country Planning Act 1990 (as amended)
The Procedure Order	The Developments of National Significance (Procedure) (Wales) Order 2016
The WBFG Act	The Well-Being of Future Generations (Wales) Act 2015
TSAIA	Tree Survey and Arboricultural Impact Assessment
UU	Unilateral Undertaking
VILL	Visually Important Local Landscape
WG	Welsh Government
ZTV	Zone of Theoretical Visibility

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DNS Application Ref: DNS/3213639

Site address: Land between B4256 and Charles Street, Wauntysswg Farm, Abertysswg, Rhymney, Tredegar NP22 5BQ

- The application, dated 6 July 2018, was made under section 62D of the Town and Country Planning Act 1990 (as amended by the Planning (Wales) Act 2015).
- The application is made by Elgin Energy EsCO Limited.
- The application was confirmed as valid on 2 August 2018
- Site visits were carried out on 2 October 2018 and 22 November 2018.
- The development proposed is described as a 30MW solar park, access and ancillary development.

Secondary Consent Applications

- No secondary consent applications are being made.

Summary of Recommendation: That planning permission be refused.

Procedural Matters

1. In accordance with Article 5 of The Developments of National Significance (Procedure) (Wales) Order 2016, the applicant notified PINS (Wales) on behalf of the Welsh Ministers of the proposed development on 21 December 2017.

2. Further to the applicant's request, made pursuant to regulation 31(1) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 ("the Regulations"), PINS (Wales) provided a Screening Direction on 2 February 2018 confirming that the development is not "EIA Development" [1].

3. On 6 February 2018, PINS (Wales) wrote to the applicant with a Notice of Acceptance of a proposed application for a DNS under Article 6 of The Procedure Order. The submitted application was subject to appropriate pre-application consultation and publicity ending on 25 June 2018, and was accompanied by a Pre-Application Consultation Report, dated July 2018.

4. On confirmation of the validity of the application on 2 August 2018, PINS (Wales) undertook the specified consultation and publicity measures as required by the Order. Caerphilly County Borough Council ("CCBC") and Blaenau Gwent County Borough Council ("BGCBC") subsequently submitted their Local Impact Reports ("LIR") on 29 August 2018 and 6 September 2018, respectively.

5. The applicant subsequently indicated a wish to submit additional information to respond to matters raised in the LIR's. As a consequence, Notice under Section 62L(5) of the 1990 Act of suspension of the determination period was given on 5 October 2018. The parties were advised that under Regulation 15(2) of the DNS Regulations, the Local Planning Authorities were required to submit clarifications on specific matters in their LIRs. The applicant was required to submit the revised Landscape and Visual Appraisal ("LVA") and Heritage Impact

[1] PINS is authorised by the Cabinet Secretary for Environment and Rural Affairs to provide that screening direction.

Assessment ("HIA") which were to take the form of addendums to the original versions to make it clear what had been updated.

6. Following the submission of the further information, Cadw and the relevant Local Planning Authorities were consulted. In parallel, the further information was published, and a press notice and correspondence to interested parties confirmed that they had the opportunity to submit representations on the further information.

7. In December 2018, and after the submission of the application, Planning Policy Wales 10 ("PPW") was published and replaced PPW 9 with immediate effect. Accordingly, the parties were given an opportunity to comment on the implications of PPW 10 for the proposed development. I have taken these comments into account in making my recommendation.

8. Based on the Application Documents, the Pre-Application Report, the consultation responses and the LIRs, the application was to be considered under the written representations procedure. I carried out an accompanied site visit on 2 October 2018. Due to the onset of inclement weather conditions during that visit, and a request from CCBC in its LIR for an assessment of an additional viewpoint from the Cefn Y Brithdir Beacon along the Rhymney Valley Ridgeway Walk, I re-visited the additional viewpoint unaccompanied on 22 November 2018.

9. However, in light of the content of the additional information submitted by the applicant and the responses received, a topic specific Hearing session was held on 30 January 2019 in respect of visual and landscape impacts and the effect on the historic environment.

10. Although the Councils had each provided a set of suggested conditions, those suggested by BGCBC did not include the reasons for imposing the conditions. Additional conditions were also discussed at the Hearing session with the main parties. A complete set of conditions and reasons, agreed between the Councils and the applicant, were submitted after the close of the Hearing session in line with that discussed. This matter is dealt with later in this report.

11. I had sight of a draft Unilateral Undertaking ("the UU") at the Hearing session, with the executed UU submitted after its close. I have had regard to the obligations in the UU in coming to my recommendation. This matter is dealt with later in this report.

12. I have structured the documents and plans lists as follows:

    - Prefix A – Documents and plans submitted with the application;
    - Prefix B – Documents submitted since the application was accepted as valid, including consultation responses and the LIR.
    - Prefix C – Documents submitted as additional information under Regulation 15(2) of the DNS Regulations, including the consultation responses to that information.

Site and Surroundings

13. The site comprises the Nant Tysswg upland valley, extending to some 58ha. The majority of the land is a series of fields of agricultural improved grassland with plantation woodland in the southern part of the site where the valley narrows. To the north and west of the site lies an area of open countryside and the B4256. To the east and south-east lies Charles Street and the sloping valley hillside with Mynydd Bedwellte beyond. The Nant Tysswg watercourse runs in the base of the valley from north to south along the western boundary.

14. The site is located to the south-west of Tredegar and Ebbw Vale, to the east of Rhymney and some 0.2km to the north east of Abertysswg. A public house known as the Mountain Ash Inn lies beyond the highway to the east of the site, the Tredegar and Rhymney Golf Club lies to the west accessed via the B4256 and a private dwelling known as Cefn Golau Cottage lies to the north.

15. Access to the site is currently derived from Charles Street through Wauntysswg Farm, albeit a new dedicated access would be formed from the B4256 to the north west of the site. A Public Right of Way ("PRoW") lies within the eastern periphery of the site, running broadly parallel with Charles Street.

16. The extent of the solar farm is wholly within the administrative boundaries of BGCBC. The access to the site and cable route, together with the temporary site compound, car parking and turning area fall within CCBC. The only other aspect of the scheme within CCBC is an area of off-site habitat enhancement for Curlew on the western side of the valley.

17. The site is located within the Mynydd Bedwellty, Rhymney Hill and Sirhowy Sides Special Landscape Area ("SLA") as designated by the adopted Blaenau Gwent LDP 2012. It is bounded to the east by Mynydd Bedwellte Site of Importance for Nature Conservation ("SINC"). The Northern Rhymney Valley Visually Important Local Landscape ("VILL") adjoins the application site to the west and south-west, as defined by the adopted Caerphilly Local Development Plan ("LDP") 2010.

18. There are several identified heritage assets within the site; these are located on the western edge and include the remains of a Post-Medieval barn and some features from the early extractive industry in the area. Cefn Golau Cholera Cemetery, which is a Scheduled Ancient Monument ("SAM"), is located approximately 400 metres to the north of the application site.

Proposed Development

19. The application proposes the installation of free-standing, static solar photovoltaic (PV) panels, anticipated to generate 30,000 KW (30 MW) of electricity per annum[2], as described in detail in *Document Ref A WAUN-007* and laid out in the indicative arrangement shown in *Document Ref A JPW0622-WAU-002Rev l.*

[2] Sufficient to power in the order of 9,000 homes.

20. It is made up of three main components:

- Solar panel modules
  The dark blue or black coloured solar panels would be mounted in pairs on static aluminium frames, arranged in a series of rows up to a height of 3 metres at the highest point and tilted southwards at an angle of, typically, 10-25 degrees.

- Inverters
  Inverters would be required to convert the DC generated by the PV panels to grid compatible alternating current.

- Substation
  The substation would consist of a pre-fabricated building containing switchgear to increase the voltage to feed into the National Grid.

21. A 2.4 metre high timber post and wire deer proof fence would also be erected around the site with gates at key access points to the site.

22. During the construction period, up to 100 employees could be present on site. The applicant anticipates that teams of construction staff would commute in vans and cars, resulting in high levels of car sharing with the maximum staff vehicles anticipated on site at peak construction periods amounting to no more than 50 vehicles. Due to the proposed hours of construction, the majority of these trips are expected to take place outside of peak travel periods and would, in any event, be of a temporary nature.

23. Following construction, the site would operate for a period of 30 years, but would not require any permanent staff presence during its lifetime. The installation would be monitored remotely, albeit there would be regular maintenance visits by a team of engineers on two or more occasions per year in addition to regular cleaning and landscape maintenance. The frequency of vehicular trips would be expected to be no more than 3 or 4 visits per year, typically undertaken by a light goods vehicle.

Environmental Assessment (The applicant's case)

Landscape and Visual Impact

24. The applicant submitted an LVA with the original application, which was undertaken with reference to the Guidelines for Landscape and Visual Impact Assessment 3rd Edition 2013 and NRW's LANDMAP guidance (*Document Ref A WAUN-008*). The scheme was assessed in respect of key landscape and visual receptors, the LANDMAP Aspect Areas and relevant planning policy.

25. To assess effects, a Zone of Theoretical Visibility (ZTV) model was developed to identify that a 5 km radius study area was sufficient for the scale of the project. The ZTV also served to identify a range of viewpoints, which include those from closer range at Wautysswg Farm and the SAM, from higher land such as Charles Street / unnamed road and the B4526, and from long range such as those from High Street, Rhymney and the Rhymney Valley Ridgeway Walk. The LVA contains photographic views from each viewpoint and photomontages with the proposed development.

26. The LVA found that an analysis of the LANDMAP Aspect Areas reveals that any potential adverse effects on landscape character within these areas is likely to be very localised. The Cwm Tysswg Visual and Sensory Aspect Area, containing the application site, is of a lower order in terms of the hierarchy of landscape evaluation. The primary landscape qualities of the Aspect Areas would be maintained and respected.

27. Of the twelve representative viewpoints, it found that seven local views would undergo Substantial or Major effects on visual amenity as a result of the proposed development at year 1, with one undergoing Moderate effects. The remaining viewpoints would undergo either a Minor or Negligible effect.

28. The value of local views was considered to be high as the application site is within the locally designated SLA. With the exception of occasional overhead power lines and clusters of turbine development, often visible at distance in good visibility, there are few detractors. Due to the scale of the proposed development, much of the lower-lying agricultural land would be converted to photovoltaic infrastructure, changing the character of the host landscape for the 30-year life of the project.

29. The solar array would be low-lying in close range views, hugging the valley floor thus preserving the open nature of the sensitive, historic landscape. The distinctive open skyline with panoramic views to other ridges would be maintained, as would open views from the minor unnamed road along the Mynydd Bedwellty ridge, cited in the SLA designation as the only example in Blaenau Gwent. The limited inter-visibility with the lower-lying local valley settlements, arising from the topography and landscape components including established blocks and belts of woodland, would limit effects on visual amenity from the surrounding area. The site benefits from a high level of visual containment created by the surrounding landscape. Longer range views demonstrate that the proposed development would have either no effect or a negligible effect on landscape character and would be viewed by few receptors from upland locations to the south west of the site, where successive and sequential views of turbines development are already available.

30. Consequently, the LVA concluded that there are a very limited number of visual receptors that would undergo the highest effects. These are limited to those in the immediate vicinity of the site, namely residents living in nucleated farm complexes and private residences scattered throughout the study area, walkers using the PRoWs and access land and road users. The proposal would appear as a prominent new element within local views but not to such an extent that it would prevent receptors enjoying views to the expansive landscape setting in which the proposal would be seen.

31. In November 2018, and following on from issues raised in the LIRs, the applicant submitted the Landscape and Visual Appraisal Addendum ("LVAA") (*Document Ref JPW0888 HD LVA addendum v0*).

32. Amongst other things, it sought to re-establish its position regarding the assessment of the impact of the development on tranquillity together with the assessment of the visual impact on the East of Rhymney Visual and Sensory Aspect Area even with the addition of a new viewpoint. It clarified that,

contrary to CCBC's claims, assessments of the impacts on the highway surrounding the site and of PRoWs were carried out to inform the LVA.

33. It also provides an assessment of the VILL NH2.1 Northern Rhymney Valley non-statutory designation, as requested by CCBC. It concludes that the proposal would result in a mainly localised effect on this designation, resulting generally in a Low magnitude of change on the characteristics of the wider VILL.

34. An additional viewpoint at Cefn Y Brithdir Beacon along the Rhymey Valley Ridgeway Walk has been provided. In this respect, the LVAA concludes that the proposed development and the three operational turbines Pen Bryn Oer would be seen in succession from this viewpoint and their effects correspondingly reduced particularly given the scale of the proposed development in this expansive landscape.

35. In addition to responding to the points raised in the LIRs, the LVAA incorporates amendments following the applicant's own detailed review of the submitted LVA. Of particular note is a re-assessment of Viewpoint 5. In light of the re-assessment, it is considered that the size of the site has been overstated and, consequently, the impact of the scheme on the Cefn Golau Cemetery. Whilst the overall landscape sensitivity remains High, based on detailed visual assessment utilising the proposed photomontage, the change in the view is not prominent with few visual receptors affected. It is therefore considered that the change is of Negligible magnitude. Consequently, with a High sensitivity and a Negligible magnitude of change, there would be a Minor visual effect from this representative viewpoint with the proposed development in place.

Historic Environment

36. The applicant submitted a Heritage Impact Assessment (HIA) with the original application (*Document Ref A WAUN-009*) The HIA was prepared in accordance with the requirements of PPW and local planning policy. It focusses on the potential of the site and the significance of the unknown archaeological resource in relation to the likely impact of the proposed development on it and on any associated monuments. This study also considers the impact of the proposed development on any above ground heritage assets, including any effect on their settings within 2km of the site boundary.

37. It identifies the presence of several identified heritage assets on the site. These are all located on the western edge of the site area and include the remains of a Post-Medieval barn and some features from the early extractive industry in the area, including an early mine level and workings, a gully, and some small pits.

38. The site also lies within an area of high historic landscape value known as the Bedwellte Fieldscape, including a recorded extractive ironworking industry site. The Tredegar Ironworks Cholera Cemetery SAM is located approximately 400 metres to the north.

39. The HIA has considered the potential for heritage assets with an archaeological interest to be present on the site, based on the known archaeological remains that are presently recorded in the vicinity. The potential has been assessed as Low for the Prehistoric, Roman, Early Medieval and Medieval periods. The potential for non-agricultural Post-medieval features was also assessed as Moderate-High and the potential significance for these periods as High, especially

with regard to assets which may relate to the historic extractive industry in the area.

40. Overall, it concluded that the proposed development would have a Low non-visual impact on the heritage assets within the site area, especially if a mitigation strategy were adopted; that is to not extend the area of development to the western edge of the site which has been identified as the main location for archaeological and historic features.

41. The main impact which would result from the proposals has been identified as an effect on the setting of heritage assets. This would result in a Negligible tending to Minor Adverse impact on the setting of extractive industry area EA072 and a Moderate Adverse unmitigated direct impact on physical remains associated with it, reducing to Negligible with appropriate mitigation. There would be an overall Minor Adverse impact on the setting of the SAM and a Minor Adverse tending to Moderate Adverse impact on the Bedwellte Fieldscape including Cwm-Tysswg Farm. Due to the topography of the site area and the views from the surrounding area, no mitigation is possible, although it is important to note that the photovoltaic scheme would only be in place for 30 years and is fully reversible with regard to settings.

42. In light of the revised advice provided to PINS (Wales) by Glamorgan Gwent Archaeological Trust ("GGAT") which was not incorporated into either LIR, and the request for additional information from BGCBC in its LIR with regard to the location of heritage assets identified within the site and the commitment to mitigation measures, a subsequent Heritage Impact Assessment Addendum ("HIAA") (*Document Ref 1233-A*) has been submitted.

43. The HIAA restates the amendments made in the later iterations of the deskbased assessment following GGAT's revised comments and further considers the potential effects of the proposed development on the setting of heritage assets following a thorough on-site assessment.

44. It has been confirmed that the access road would consist of no more than a farm-track type feature and that suitable mitigation should involve a programme of archaeological monitoring and recording to ensure that any direct effect is reduced to a Negligible impact. A similar programme of monitoring and recording should be implemented where heritage assets have been identified within the area of extractive industry in the southern part of the proposed site area, along with careful placing of panels to minimise the effect on surviving above ground features. Additionally, given the limited below-ground impact resulting from the insertion of photovoltaic arrays, it is the conclusion of the HIAA that the proposed development would result in a Negligible impact to buried heritage assets that are likely to be very robust by their nature.

45. The main outstanding issue revolved around visual impact on the setting of heritage assets. These broadly consist of two elements; the SAM and the affected areas of the extractive industry and Cwm-Tysswg Farm forming part of the Bedwellte Fieldscape.

46. A second site visit undertaken on 30th October 2018 led to the reassessment of the potential effect on views to the south from the cemetery, as supported by the photomontage prepared as part of the LVA. As a consequence of this re-assessment, it is considered that the visual impact likely to be experienced from the cemetery

represents little more than a slight colour change within a very limited area. As such, the proposal would result in a Negligible impact tending to a Minor Adverse impact.

47. Turning to views towards the cemetery. The nature of this heritage asset is such that it comprises dark coloured headstones with a low above ground profile in an area of rough vegetation that are difficult to discern within the landscape. There is the presence of far more dominant existing features within it (including Cefn Golau Cottage and the range of dilapidated agricultural buildings). There are a number of views towards the cemetery where there would be inter-visibility with the proposed development. These include:

    - Dynamic views from the road across the panels towards the cemetery, becoming more oblique northwards towards its junction with the higher unnamed road to the east, after which no inter-visibility applies. The cemetery itself can be recognised along this route only through the modern fencing that delineates it and which itself has a detracting effect on the setting of the asset. Given the generally oblique and transitory nature of the inter-visibility and the virtual impossibility of appreciating the monument over these distances, the HIAA concludes that the views towards the cemetery from the south and southeast have no relevance in their ability to affect the significance of the asset and therefore effectively represent amenity views.

    - Views from the east-west of the B4256 to the north of the cemetery have the same limited degree of inter-visibility in that the proposed development would be either not noticeable at all or would represent no more than a slight colour change to the south. As such the effects of the proposed development from this receptor is considered negligible.

48. Nonetheless, some consideration must be given to the effects in regard to communal value, in that knowledge of the cemetery does not necessarily require sight of it. In assessing this communal value, the HIAA considers that the cemetery relates to Tredegar, from which it was almost certainly located to avoid any visibility. Views from the south and east would not either in the past or, broadly speaking, in the present have been relevant and do not consequently result in an appreciable effect on heritage significance. As such the effects of the proposed development from these receptors is considered Negligible tending to Minor Adverse impact.

49. The area of heritage potential (ruined barn, gullies and pits) within the central western part of the site area is not designated but represents a recorded heritage asset. The proposed development would have an undoubted visual effect upon its setting. The use of the area for industrial purposes is long in the past and, while it is difficult to appreciate the asset itself through a general absence of above-ground evidence (evidential value) with the exception of the ruins of a stone barn, a gully, some pits and a number of spoil tips, the fieldscape itself is well-preserved and, in this regard, it retains some historic value, as well as communal and aesthetic value in how it is appreciated today. The construction of the proposed development would have an effect on the appreciation of the asset, despite its general lack of above ground elements, as well as an effect on its associative features, but historic field boundaries will be retained within the proposals. Nonetheless, to a considerable degree, the visual impact will affect the amenity value rather than the heritage significance of the affected areas. As a result, it is considered that the impact on the setting of these features would represent a Minor Adverse tending to Moderate Adverse impact.

50. The access road would appear visually no more than a farm track generally in keeping with the surrounding landscape. Consequently, it is the opinion of the HIAA that such a trackway, which would see very little traffic during the operational phase, would have a Negligible impact on the setting of the undesignated heritage asset recorded as EA072.

Agriculture

51. An Agricultural Land Classification Report has been submitted (*Document Ref A WAUN-010*) which presents a desk top assessment of the quality of the agricultural land. It confirms that the quality of the land is limited to a maximum of Grade 4 according to the Ministry of Agriculture Farming and Fisheries (MAFF) 1998 Agricultural Land Classification ("ALC") Guidelines.

52. It therefore concludes that the site does not comprise any of the "best and most versatile" agricultural land according to PPW and comprises, at best, poor quality Grade 4 land as defined in the MAFF 1988 ALC guidelines due to a climate and soil wetness limitation.

Ecology

53. An Ecological Executive Summary (EES) has been submitted (Do*cument Ref A WAUN-013*). The baseline of the ESS has been informed by a Preliminary Ecological Appraisal and an Upland Bird Survey carried out in May and June 2017. An Ecological Mitigation Plan proposes measures to minimise potential adverse ecological impacts associated with the development.

54. The EES summarises the habitats present within the survey area. Within the application site, the fields are generally species-poor. Higher value habitats primarily occur outside of the development site, but a few localised areas of unimproved acid grassland, acidic flush and semi-improved acid grassland occur within the development footprint.

55. The Mynydd Bedwellte SINC bounds the application site to the east. Its particular qualifying features include acid grassland, heath, marshy grassland and mire.

56. The upland bird survey found eight bird species which were considered to be breeding within the survey area; seven of which are Species of Principle Importance in Wales or UK Biodiversity Action Plan priority species. A single breeding pair of Curlew is considered to be important at a local level, and possibly up to County level. The numbers of breeding pairs of other species were considered to be important at the level of the site and immediate surroundings.

57. In order to protect habitats, the layout of the solar arrays avoids impacts on high value habitats to the north (outside the application site) and to the south(within the application site). Habitats buffers would be established between the construction working area and the boundary of the Mynydd Bedwellte SINC, with a perimeter fence creating a protective barrier from the SINC and other areas of unimproved acid grassland adjoining the development during both construction and operation.

58. In terms of species protection on site, the layout would retain tussocky, marshy grassland field boundaries. The whole of the solar park development would remain unlit at night to avoid any reduction in the value or use of existing bat flight lines and foraging over the lifetime of the development. The layout has been designed to protect nesting habitats for many bird species with the retention of patches of dense scrub, extensive gorse thicket and scattered larger trees. Habitat of highest potential value for reptiles would be protected within the site design, including densely vegetated banks alongside the stream, piles of stones, exposed rock adjoining rank vegetation and marshy grassland. The stand-off between the solar panels and the field boundaries across the development would maintain an interconnected network of habitat of potential value for reptiles.

59. For compensation and biodiversity gain, in the southern part of the application site, approximately 1,750m2 of conifer plantation on peaty soils would be felled and cleared in order to establish new marshy grassland adjacent to the existing species-rich habitat.

60. Off-site habitat enhancement is proposed which takes the form of a Curlew Habitat Enhancement Area on the western side of the valley, which would involve ground manipulation to create localised pooling and adapting management techniques (i.e. grazing) to maintain medium height sward favoured by breeding Curlew.

61. The scheme has been designed to maintain the existing hydrological system and ensure that soils remain waterlogged for the majority of the year to help maintain the value of habitat. The hydrological scheme design would specifically maintain or replicate the natural patterns of drainage and recharge, maintaining the water quality and the total volume of water entering the stream and control the peak flows.

62. All watercourse crossing points would have a low impact bridge design. Task specific ecological method statements would be prepared for works adjacent to streams, which would define the working area, watercourse protection measures, broader environmental protection procedures, and any localised post-work habitat restoration.

63. All tracks and access roads would be made out of permeable material (gravel or reinforced grass) reducing any potential increase in runoff and silt traps would be incorporated into the system so that suspended sediments would not enter the streams. Construction soil compaction would be controlled through restrictions on any vehicle access into marshy grassland.

64. A management and monitoring regime would be established to maintain the system and assess the success of the measures over the lifetime of the development. It would include a monitoring report prepared after each round of monitoring and issued to the Local Planning Authority. In the event of an adverse change, remedial actions would be promptly implemented and proposed modifications to the management regime would be agreed with Natural Resources Wales ("NRW") and the Local Planning Authority.

Glint and Glare

65. Glint and Glare Assessments have been submitted which consider the potential effects of solar glint and glare as a result of the proposed solar panels.

66. The assessment carried out by Charlotte Peacock Associates (*Doc Ref A WAUN-014A*) deals primarily with the potential glint effects. The assessment concludes that existing screening by vegetation, topography and buildings would eliminate glint effects at the majority of the receptor points analysed. Potential residual glint effects on residential properties, amenity receptors, roads and public rights of way are not considered to be significant and therefore no additional mitigation measures are recommended or required.

67. The assessment carried out by RPS (*Doc Ref A WAUN-014B*) deals primarily with glare. The potential effects of the proposed development upon the representative views and landscape character have been assessed. There would be the potential for glare upon 8 of the 25 observation points used for purposes of the assessment. Potential glare upon the transient view from the observation point on Charles Street would be a 'potential for temporary after image' between early March to late October at 17.00 – 18.15, with a possible daily range from 5 to 35 mins per day. This glare would be glimpsed and would require road users to look away from the direction of road to experience it. There would be a Minor Adverse degree of effect upon this view.

68. There would be mostly open views to the proposed development from two of the observation points along the PRoW Rhymney FP64 and The Mountain Ash Inn and, as such, the greatest potential for glare would be upon the views from these two receptors of High sensitivity. Upon the view from the PRoW, there would be the potential to experience 'potential for temporary after image' between late February to mid-October at 05.50–07.00, with a possible daily range from 3 to 40 mins per day within the right weather conditions. Upon on the view from The Mountain Ash Inn there could be a possible daily range from 5 to 40 mins per day of 'potential for temporary after image' between mid-February to late-October at 16.50 – 18.15. There would be a Low to Negligible magnitude of change upon these High sensitivity observation points by the presence of glare at restricted times, resulting in a Moderate to Minor Adverse degree of effect.

69. Turning to the potential effect on landscape character, there would be potential for glare upon 3 LANDMAP Visual and Sensory character areas within the study area. There would be the possibility of experiencing potential for 'temporary after image' glare from within a restricted area of the Mynydd Bedwellte Visual and Sensory Character Area for a up to duration of 40 mins a day in the early evening (16.50 – 18.00) from mid-February to late-October. Glare would be uncharacteristic within this part of the Visual and Sensory Character Area but would only be experienced for a limited amount of time within the correct weather conditions. Overall, there would be a Negligible magnitude of effect upon this Visual and Sensory Character Area of High sensitivity, resulting in a Minor Adverse degree of effect.

Hydrology and Flood Risk

70. A site-specific Hydrological Assessment has been carried out to assess the potential hydrological impacts as a consequence of the proposed development on identified ecologically sensitive areas along the southern, eastern and western extents of the site (*Document Ref A WAUN-015*).

71. In respect of flood risk, the TAN 15 Development Advice Map ("DAM") indicates that the whole site is located in Zone A, defined as areas considered to be at little or no risk of fluvial or coastal/tidal flooding. NRW surface water flood mapping indicates that the majority of the site is at 'very low' risk of flooding. Localised areas within the application area associated with low lying land and field drains are defined as being at low to high risk of surface water flooding. The susceptibility to groundwater flooding is low. The risk of flooding from reservoir failure has been assessed as low.

72. In terms of the hydrology, the surface water flow pathways are all estimated to flow in a west-southwest direction following the downward slope of the natural contours. The percentage increase in impermeable area would be negligible and ordinarily would not require any surface water management scheme. The incorporation of appropriate management techniques would, however, mitigate potential increase in runoff from the solar park site. The solar park design, as well as the surface water and soil management measures outlined, would ensure that there would be a negligible alteration to local drainage patterns and flow directions.

73. SuDS techniques through design-in prevention would be incorporated into the final design, where required, and would work in conjunction with existing field drainage to manage the discharge of any excess water from the site. Where construction has resulted in soil compaction, the areas between panel rows would be tilled / scarified to an appropriate depth and then re-seeded with an appropriate vegetation cover. Any existing field or tile drainage system would be restored where affected by construction and maintained for the lifetime of the development. Tracks and access road would be constructed out of permeable materials.

Traffic and Highway Safety

74. A Construction Traffic Management Plan ("CTMP") has been submitted (*Document Ref A WAUN-012*) which seeks to ensure that the development works would be organised and delivered in a manner that would mitigate and safeguard the highway impact, highway safety and amenity of the area.

75. It outlines that the construction is scheduled to last for up to 4 months (16 weeks), with up to 100 staff on site at different phases of the construction. The scale and volume of vehicle movements associated with the development construction period is not considered to have any significant impacts on the operation of the local highway network.

76. Construction HGVs would route to the site from the A4048 from the east or the A465 / A469 from the west via the B4256. Access would be taken from the eastern side of the B4256 where the new access junction is proposed.

77. All materials and plant associated with the development process would be stored within the footprint of the application site. A site compound would be provided on the site access road, where loading and unloading areas for plant and materials are provided within the application site to enable construction and to ensure such activities are undertaken off the public highway.

78. It is anticipated that the majority of deliveries would be made via articulated low loader vehicles and rigid HGVs. Deliveries would vary in amount per day during the construction period with an average of approximately three deliveries (three inbound / three outbound movements) per day over the 16 week period.

79. In terms of working hours, all work would be conducted during traditional construction working hours of 07:00 to 18:30 Monday to Friday with limited construction activities on Saturdays between 07:00 and 13:00. No construction activities would take place on a Sunday or Bank Holiday.

80. The CTMP identifies the construction traffic generation, including the estimated volume and type of vehicles that would be generated throughout the construction phase of the development together with a construction vehicle route to and from the A469. A vehicular access design has also been prepared, which demonstrates the ability of low loaders to turn in and out of the site. Temporary signage is proposed in the vicinity of the site access during the construction period to warn drivers of the site entrance.

81. The CTMP also considers environmental impact measures, including air pollution, dust and dirt control, noise control, fuel consumption / emissions and waste management together with a construction travel plan.

82. Development measures to be employed include covering any skips and vehicles to prevent overspill, wheel washing facilities, employing local contractors and the implementation of a waste management strategy.

Coal Mining

83. A Coal Mining Risk Assessment and Minerals Assessment ("CMRA") has been submitted which is based on the information available at the time of production (*Document Ref A WAUN-011*). Geological mapping shows that the site is underlain by superficial deposits of Glacial Till, that overlie bedrock of the Coal Measures. The map shows coal seams 'No. 2 Rhondda' and 'Fochriw' sub-crop within the site boundary. Above the deep seams named in the Coal Authority ("the CA") Coal Mining Consultants Report, there are twenty coal seams of limited thickness shown on the geological sequence for the site. Geological faults are indicated to be present in the northwest and southwest of the site, aligned in a generally north-south orientation. Four abandoned adits are shown on the geological map on or adjacent to the western boundary and these show an easterly direction of entry towards the site.

84. The CMRA concluded that there is a Moderate to High risk from unknown workings, and from known and unknown mine entries. The risk from known workings is considered Low. The site lies within an area designated for protection of minerals and would therefore temporarily sterilise the coal reserves for the duration of its use as a solar photovoltaic park. These effects would be

temporary and would not result in a permanent loss of the mineral resource protected through the coal safeguarding areas.

Trees and Arboriculture

85. A Tree Survey and Arboricultural Impact Assessment ("TSAIA") has been prepared based upon the findings of a tree survey carried out on 15th November 2017 to assess the existing trees in terms of health, condition, form and overall significance within the local environment (*Document Ref A WAUN-016).*

86. It found that the majority of trees surveyed include isolated scrubby vegetation including hawthorn, holly, birch and grey willow or mature spruce plantation with early-mature self-seeded spruce regeneration. These category 'C' trees are considered to be of low arboricultural quality, however they do provide habitat and a degree of wildlife benefit. Where these trees have grown and developed into mature & late-mature specimens, they have been categorised as 'B' trees on account of their material conservation value.

87. There are two mature oaks within the study area that are considered to be of high quality and have been classified as retention 'A' trees.

88. The proposed solar park could be accommodated with the retention of most of the existing trees. The proposed layout would involve the removal of two trees, a category 'C' grey willow and a category 'B' hawthorn. The removal of the spruce plantation has been proposed to compensate for the loss of grassland habitat.

89. The proposed layout would require minor amendments to the setting out of the fencing and solar panels to accommodate 10no. trees together with amendments to the access road adjacent to 2no. trees.

90. The TSAIA also details the methods of protection for trees, including the design of tree protection barriers and ground protection, precautions outside the construction exclusion zone, the design of roads, driveways and paths near trees.

Planning Policy

91. At a national level, PPW and Technical Advice Notes (TANs) set out WG's policies and principles on different aspects of planning. Those of relevance here include:

- PPW Edition 10 (December 2018)
- TAN 5: Nature Conservation and Planning (2009)
- TAN 8: Renewable Energy (2005)
- TAN 15: Development and Flood Risk (2004)
- TAN18: Transport (2007)
- Practice Guidance: *Planning Implications of Renewable and Low Carbon Energy Development* (February 2011)

- Welsh Assembly Government Energy Policy Statement '*A Low Carbon Revolution*' (March 2010)

92. At a local level, planning policy is set out in the LDPs for BGCBC and CCBC as follows:

Blaenau Gwent County Borough Council

93. The development plan is the Blaenau Gwent LDP, adopted in November 2012. The Council outlines the relevant policies as:

- Policy SP7 (Climate Change) is an overarching strategic policy which seeks to address climate change and reduce energy demand to improve the sustainability of the valley communities. It encourages more of the County's electricity and heat requirements to be generated by renewable and low / zero carbon technologies.
- Policy SP9 (Active and Healthy Communities) is a strategic policy which aims to encourage active and healthy communities by promoting leisure activities, protecting and improving existing open space and leisure facilities and protecting accessibility to natural greenspaces.
- Policy SP10 (Protection and Enhancement of the Natural Environment) states that Blaenau Gwent's unique, natural environment and designated landscape will be protected, and, where appropriate, enhanced. This will be achieved through ensuring that the locally identified SINC and Local Biodiversity Action Plan species are protected and enhanced alongside those attributes and features which make a significant contribution to the character, quality and amenity of the landscape.
- Policy SP11 (Protection and Enhancement of the Historic Environment) seeks to protect, preserve and enhance Blaenau Gwent's distinctive built environment.
- Policy SP12 (Securing an Adequate Supply of Minerals) ensures that existing mineral reserves are safeguarded.
- Policy SB1 (Settlement Boundaries) defines the settlement boundaries in order to manage spatial growth and prevent inappropriate development in the countryside.
- Policy ENV2 (Special Landscape Areas) defines Blaenau Gwent's SLAs within which new development is expected to conform to the highest standards of design, siting, layout and materials appropriate to the character of the area.
- Policy ENV3 (Sites of Importance for Nature Conservation) designates SINCs.
- Policy DM1 (New Development) is a criteria based policy which requires new development to be of a sustainable design, take into account amenity considerations and be accessible and safe in highway terms.
- Policy DM4 (Low and Zero Carbon Energy) seeks to encourage major development proposals to incorporate schemes which generate energy from renewable and low / zero carbon technologies.

- Policy DM14 (Biodiversity Protection and Enhancement) states that development proposals will only be permitted within, or in close proximity to sites designated as SINCs where it maintains or enhances the ecological importance of the designation.
- Policy DM15 (Protection and Enhancement of the Green Infrastructure) supports new development provided there is no loss in connectivity within the strategic green infrastructure network which comprises an SLA.
- Policy DM16 (Trees, Woodlands and Hedgerow Protection) requires no unacceptable harm to trees, woodland and hedgerows that have heritage value or contribute to the character or amenity of a particular location.
- Policy DM19 (Minerals Safeguarding) makes clear that development proposals will not be permitted where they would permanently sterilise important mineral resources within the aggregate and coal safeguarding areas identified on the proposals map.
- Policy M1 (Safeguarding of Minerals) identifies the mineral resources to be safeguarded on the LDP Proposals Map.
- Policy M3 (Areas where Coal Working will not be Acceptable) refers to the areas on the Proposals Map where coal working will not be acceptable.

Caerphilly County Borough Council

94. The development plan is the Caerphilly LDP, adopted in November 2010, and the following policies are listed as relevant:

- Policy SP1 (Development Strategy) is a strategic policy that requires development proposals to promote the north of the County as a tourist, employment and residential area, provide appropriate forms of growth and serve to address existing problems of deprivation in order to sustain and develop communities consistent with the underlying principles of sustainable development.
- Policy SP8 (Minerals Safeguarding) is a strategic policy which seeks to safeguard known resources of coal, sand, gravel and hard rock and maintain a landbank of aggregate reserves.
- Policy CW2 (Amenity) states that there should be no unacceptable impact on the amenity of adjacent properties or land, overdevelopment of the site and / or its surroundings or constrain the development of neighbouring sites.
- Policy CW3 (Design Considerations: Highways) supports development proposals that have regard for the safe, effective, and efficient use of the transportation network.
- Policy CW15 (General Locational Constraints) resists development that would prejudice the implementation of wider comprehensive redevelopment or constrain the development of any adjacent site for its allocated land-use.

- Policy CW4 (Natural Heritage Protection) supports development that conserves and where appropriate enhances the distinctive or characteristic features of the SLA or VILL.
- Policy NH2 (Visually Important Local Landscapes) identifies VILLs to be protected which, in this case, is the NH2.1 Northern Rhymney Valley.
- Policy MN2 (Minerals Safeguarding) identifies those areas on the Proposals Map that are to be safeguarded for minerals.

Local Impact Reports *(Document Ref's B LIR-BGCBC and LIR-CCBC)*

95. Given that the extent of the solar farm is wholly within BGCBC, with only certain elements falling within CCBC, both Councils have submitted LIRs dealing with their particular areas of concern.

Blaenau Gwent County Borough Council

96. BGCBC's LIR presents its assessment on a number of matters, particularly the principle of development, ecology, glint and glare, highways, flood risk and drainage, minerals and coal mining risk, trees, historic environment, landscape and visual impact and economic benefit. It also includes suggested planning conditions should permission be granted. The main points are summarised below.

Principle of development

97. The solar park would increase the installed renewable energy capacity to 20%, helping to meet local as well national, UK and European renewable energy targets. It is therefore supported in principle by Policy SP7 which, amongst other things, seeks to encourage more of the County Borough's electricity requirements to be generated by renewable technologies.

98. In terms of land use, the application site is located outside the settlement boundary where the aim is to prevent inappropriate development in the countryside. Policy SB1 which relates to settlement boundaries does not specify the types of development that are typically acceptable within countryside locations, but instead defers to national planning policy.

99. Renewable energy is identified as a potentially acceptable farm diversification use and Planning Policy Wales considers only agricultural land with grades of 1, 2 and 3a to be amongst the best and most versatile land that should be conserved as a finite resource for the future. The ALC Report submitted with the planning application concludes that the application site is at most grade 4 in terms of quality and, as such, there is no requirement to demonstrate an overriding need for the proposed development. It is also recognised that sheep can continue to graze the land while the solar park is in operation and the land can be restored to the existing agricultural use at the end of its 30 year operational life.

Ecology

100. There are a few localised areas of higher value habitat within the development footprint and semi-natural marshy grassland in the southern section of the

application site. The latter would not be directly affected by the proposed solar arrays or associated infrastructure.

101. The proposed layout would avoid the higher value habitats to the north (outside the application site) and to the south (within the application site) and a buffer strip (approximately 5 m) would be established between the development area and the boundary of the Mynnyd Bedwellte SINC. A 5 m buffer between the solar arrays and watercourses/hedges would also be established within the development site, where possible, and the perimeter fence would create a protective barrier between the development and both the SINC and other surrounding areas of habitat value during both construction and operation. Further habitat related mitigation measures are included within the Ecological Mitigation Plan and a Construction Environmental Management Plan ("CEMP"), which could be secured via a condition.

102. The solar park would impact upon an area of purple moor-grass and acid flush in the north-western corner of the site. In order to compensate for this loss, the applicant proposes to create new areas of marshy grassland/flush habitat in the southern part of the application site.

103. With regards to birds, the Upland Bird Survey identifies a number of species of conservation interest breeding within the study area. As the potential loss of the single breeding pair of curlew could be significant at a County level, a compensatory offsite breeding habitat is proposed on land west of the Nant Twysswg. However, more detail is considered necessary within the Ecological Mitigation Plan in relation to the curlew habitat enhancement area. The Council's Ecologist also supports NRW's recommendation in their response at pre-application consultation which stated that the curlew habitat enhancement area must have physical boundaries, such as relevant field boundaries.

104. In respect of bats, reptiles, amphibians and invertebrates, no unacceptable impacts are likely to occur provided that the measures set out within the Ecological Mitigation Plan are implemented. The Ecological Mitigation Plan should, however, be revised to address the above matters before the granting of any planning permission. Alternatively, a modified Ecological Mitigation Plan could be secured through an appropriately worded condition.

105. In summary, the proposed solar park would not have an unacceptable effect on the ecological interests of application site, provided that the proposed mitigation and compensation measures were successfully implemented. In this context, the anticipated effect of the proposed development on ecology would be neutral and accordingly, the proposal would be in accordance with Policies SP10, DM1 and DM14.

Glint and Glare

106. The initial glint and glare assessment, prepared by Charlotte Peacock Associates Ltd, indicates that the potential residual glint effects on residential properties, amenity receptors, roads and public rights of way are not considered to be significant. The further report, prepared by RPS, indicates that while there is some potential for glare at some observation points the magnitude of change is either negligible or low. When compared with the sensitivity of the observation

points, the degree of effect is either no effect or moderate to minor adverse. The worst affected observation point within the County Borough is the Mountain Ash Inn, with an anticipated degree of effect of moderate to minor adverse.

107. The Council's Specialist Environmental Health Officer has considered the findings of the Glint and Glare Assessments and has raised no objection to the proposed solar park. However, given that the Mountain Ash Inn would experience minor to moderate adverse effect as a result of glint and glare from the proposed development, the effect is considered to be negative.

Highways

108. The Construction Traffic Management Plan confirms that the primary access to the application site would be taken from a new vehicular access junction the eastern side of the B4256, which is within the jurisdiction of CCBC. As such, there is no requirement to agree highway accommodation works to construct the new access junction with BGCBC as Highway Authority. Furthermore, the submitted CTMP states that access routes for all associated development construction vehicle movements would be via the highway network of CCBC. It is therefore considered that the proposed solar park would have a neutral effect on the safe, efficient and effective use of the highway network of Blaenau Gwent.

Flood Risk and Drainage

109. The NRW DAM indicates that the site is located in Zone A, defined as an area considered to be at little or no risk of flooding. The NRW surface water flooding map also indicates that the majority of the site is at a very low risk with some localized areas at low to high risk of surface water flooding. The latter is associated with localised low lying areas and field drainage where a degree of natural ponding may occur. Surface water is generally conveyed in west/southwesterly direction.

110. The submitted Hydrological Assessment states that the proposed development would result in a negligible increase in impermeable area, no alteration to local drainage patterns and no increase in suspended sediments within drainage channels or surface water. Whilst no specific surface water management is considered necessary, sustainable drainage techniques would be incorporated, where required, into the development, which would work in conjunction with the natural field drainage to manage any potential increases in surface water discharge from the application site.

111. The Council's drainage engineer is satisfied that the proposed solar park would have only a negligible impact upon the surface water regime within the application site and as such, has raised no objection to the proposal. The proposed development would therefore have neutral effect in relation to surface water drainage and flooding and is considered to be in accordance with Policies SP7 and DM1 in respect of this matter.

Minerals and Coal Mining

112. The application site is located entirely within a coal safeguarding area and the north western corner of the site is partially covered by a sandstone

safeguarding area. BGCBC LDP Policy DM19 states that development proposals will not be permitted where they would permanently sterilise important resources within Aggregate and Coal Safeguarding Areas. Criterion D of the Policy does, however, allow temporary development that can be implemented and restored within the timescale the mineral is likely to be required. The proposed solar park is considered to be a temporary development over a 30 year period and the application site would be restored to its current agricultural use at the end of its operational life. Moreover, there is no known current commercial interest in working coal from the application site and two alternative areas of search for the extraction of pennant sandstone are allocated within the LDP. It is also worth noting that coal working would not be supported in a small area within the north eastern corner of the site as it is designated as an area where coal working will not be acceptable. The proposed development would therefore have a neutral effect in relation to the safeguarding of minerals and is considered to be in accordance with Policies M1 and DM19.

113. The submitted Coal Mining Risk and Minerals Assessment concludes that there is a moderate to high risk from unknown workings, and from known and unknown mine entries on the application site. As such, the Assessment recommends intrusive site investigation works to be carried out to determine the presence or otherwise of shallow mine workings to confirm: the depth of the known workings and thickness of overlying rock in association with the four adits shown within or adjacent to the western boundary; and the presence of unrecorded workings and mine entries in the remainder of the site. The Council's Geotechnical Engineer has considered the Coal Mining Risk and Minerals Assessment and has raised no objection to the proposed development subject to the intrusive site investigation (and any recommended remedial works) being secured and undertaken prior to the commencement of development. This can be achieved via an appropriately worded condition and provide one is imposed the proposal would be in accordance with Policy DM1 in respect of this matter.

Trees

114. The proposed solar park can be accommodated on the application site whilst retaining the majority of existing trees. The submitted Tree Survey and Arboricultural Impact Assessment indicates that the proposed layout would require the removal of just two trees: a grey willow (category 'C' – minor value) and a hawthorn (category 'B' – moderate value). The spruce plantation located in the southern part of the site would also be removed to compensate for the loss of purple moor-grass and acid flush habitat. Provided that adequate compensatory planting is secured by condition, the proposed development would have a neutral effect and be in accordance with the requirements of Policy DM16.

Historic Environment

115. In terms of statutory historic environment designations, a Scheduled Ancient Monument (SAM - Cefn Golau Cholera Cemetery) is located approximately 400 metres to the north of the application site. It is acknowledged that the proposed solar park has been revised since pre-application consultation was initially

undertaken with the Local Planning Authority in 2016, which has increased the separation distance between the development proposal and the SAM. However, the HIA, prepared by Foundations Heritage[3], states that the revised solar park would result in a Significant Adverse effect on the communal and aesthetic value of the SAM with regard to views to the south, and concludes that the overall impact on the setting of the SAM would be Moderate Adverse. As such, the proposed solar farm is contrary to Policy SP11, which seeks to protect, preserve, and where appropriate, enhance nationally designated sites, such as SAMs. Accordingly, the effect of the proposed development on the historic environment is considered to be negative.

116. The HIA also considers the potential for heritage assets with an archaeological interest to be present on the site. The potential has been assessed as low for the Prehistoric, Roman, Early Medieval and Medieval period features, and moderate-high for non-agricultural Post-medieval features. The Assessment concludes that the proposed development would have a low non-visual impact on the heritage assets within the site area. Concerns have, however, been raised by the Council's Heritage Officer and GGAT who state that the HIA does not meet the Chartered Institute for Archaeologist's standards and guidance for historic environment desk-based assessment, nor does it provide an adequate basis for assessing the balance of impact and mitigation. As such, it considers that there are several matters that need to be addressed through the submission of a revised assessment, including clarification of the extent of the development and details of mitigation measures.

117. Based on the above, the Council's Heritage Officer is of the opinion that proposed development would have range of negative effects (of various levels of significance) on the historic environment.

Landscape and Visual Impact

118. Within the SLA, Cwm Tysswg is identified as one of three main landscape types. Its primary landscape features are of secluded farmland that is undisturbed by industrialisation, with pleasant views into the Rhymney Valley. The approach to land management encourages the continued use as farmland.

119. The LVA[4] acknowledges that with the exception of the occasional overhead power lines and clusters of turbine development, there are few detractors within the local landscape. It also recognises that much of the lower-lying agricultural land within Cwm Tysswg would be converted to photovoltaic infrastructure, changing the character of the host landscape for the 30 year life of the development. As such, Major or Substantial effects on landscape character have been identified for the following local aspect areas: Cwm Twysswg Visual and Sensory Aspect Area (major effect), Mynydd Bewelllte Visual and Sensory

[3] BGCBC's comments in respect of the HIA are made on the basis of the original Assessment submitted with the DNS application. The HIAA was subsequently submitted in November 2018, with BGCBC's comments in respect of the same detailed later in this Report.

[4] BGCBC's comments in respect of the LVA are made on the basis of the original Assessment submitted with the DNS application. The LVAA was subsequently submitted in November 2018, with BGCBC's comments in respect of the same detailed later in this Report.

Aspect Area (substantial effect), Bedwellte Fieldscape Historic Aspect Area (major effect) and Cultural Landscape Aspect Area (substantial effect).

120. Consequently, the proposed solar park within a blind valley would change the local landscape character from one of historical upland farmland characteristics to one of an industrial renewable energy site. As such, the effect on local landscape character is negative.

121. With regards to the impact on visual amenity, the LVA summaries the effects of the proposed solar park on visual receptors and representative viewpoints. The effects on those located within Blaenau Gwent County Borough include two residential properties experiencing Substantial effect, a public highway and PROW experiencing Moderate effect, Charles Street experiencing Moderate to Substantial effect, the unnamed road / junction of public footpath 339/8/1 experiencing a Substantial effect and the SAM experiencing a Major effect.

122. In respect of cumulative impacts, the LVA indicates that, in particular, the blades of the three turbines at Pen Bryn Oer appear as a larger component in the views closer to the site and have the potential to draw attention to the solar arrays in the valley floor (paragraph 11.22). Moreover, it states that " in close range views, the presence of wind turbine and solar development in combination would be heightened by the other in a combined cumulative effect and would change the local landscape character of the upland plateau which is largely unspoilt, with few detractors". The LVA also provides a summary of the potential cumulative effects of the proposed solar park in combination with the operational wind turbine sites from representative viewpoints. Of the five viewpoints within the Blaenau Gwent County Borough, all have potential visibility with wind turbine sites, varying between combined visibility, successive visibility and sequential visibility.

123. The LVA concludes that effects of highest significance are limited to those in the immediate vicinity of the application site, namely local residents living in nucleated farm complexes and private residences, walkers using the public rights of way and access land and road uses. These receptors would experience major landscape change that would have significant negative effects on visual amenity and the local landscape characteristics. It is also argued that there are significant cumulative effects associated with the proposed development in the context of other renewable energy schemes within the surrounding area. Accordingly, the proposed solar park is considered to be contrary to Policies SP10, DM1 and ENV2.

Economic Impacts

124. The proposed solar farm would employ up to 100 staff during the construction period, bringing direct employment benefits and indirect benefits to the local economy in terms of additional money being spent within the local economy. This economic benefit would, however, be temporary with the construction period only expected to last 4 months. During its life time, the solar park does not require any permanent staff presence, with infrequent monitoring, cleaning and general maintenance.

125. There is also the potential for the proposed solar park to have a negative effect on activity and heritage tourism, which contributes to meeting Objective 8 of the LDP. Amongst other things, the latter seeks to diversify the economic base into tourism and leisure industries. The local area in which the development is proposed has a number of popular visitor sites and routes that would be affected by the proposal, namely public rights of way, the Homfray Trail, Tredegar and Rhymney Golf Club, Cefn Golau Cholera Cemetery, Cefn Golau Pond and Mountain Ash Inn with proposed holiday cottages. These local assets are used by both local residents and visitors and both the LVA and HIA indicate that, to varying degrees, they would be negatively affected by the proposed development. In particular, the Mountain Ash Inn would be affected in terms of both visual amenity and glint/glare. There is therefore the potential for the local economic benefits of the proposed solar park to be negated by a negative effect on activity and heritage leisure/tourism.

Caerphilly County Borough Council

126. CCBC's LIR concentrates on the likely impact of the proposed development on the area of the site falling within CCBC and therefore focuses on landscape, glint and glare, highways, residential amenity, historic environment and habitat impacts.

Landscape Impacts

127. The proposed development would represent a sizeable and significant visual impact upon the VILL within CCB, as defined in the Caerphilly County Borough Local Development Plan adopted in 2010. The site is located immediately adjacent to the Caerphilly Borough to the north east of the settlement of Abertysswg. The landscape in general is predominantly agricultural with pockets of linear settlement confined to the northwest-southeast aligned valleys. Isolated and sometimes nucleated farms and private residences are distributed throughout the study area.

128. The LVA states the site is located in a landscape that is of high sensitivity to change due to it being an important Cultural and Historic valued landscape as classified by LANDMAP. The VILL has a distinctive strong visual character which is a predominantly upland and open area with distinctive rock outcrops, upper valley sides and extensive views across the Rhymney valley.

129. The LVA carries out a detailed baseline study and analysis of the Landscape Character Visual and Sensory data, which is limited to Visual and Sensory data within a 2km radius of the site. The LVA assesses the tranquillity as High. However, it is stated that, "It is not considered that the tranquillity levels would change as a result of the Proposed Development." However, views of major infrastructure covering 58ha with its ordered uniform appearance would affect the viewers' perception of tranquillity, as tranquillity is a quality intrinsically associated with the presence of nature, visually pleasing surroundings and relaxing atmosphere, characteristics not generally associated with solar arrays of this magnitude.

130. It is agreed that the visual impact on the Rhoslas aspect area is low and generally screened by topography from this aspect area, but the assessment of

the East of Rhymney aspect area underestimates the impact as views of the site are afforded which would be higher magnitude of medium value with a Moderate Adverse effect on the East of Rhymney Visual and Sensory Aspect Area.

131. However, the LVA omits to assess the VILL NH2.1 Northern Rhymney Valley non statutory designation, which is afforded protection within the LDP due to the overall combined LANDMAP evaluation being either Outstanding, High or Moderate for the five LANDMAP aspect areas.

132. It is also noteworthy that the Visual and Sensory values are frequently only reduced by the adjacent urban development, and LDP VILL designation serves to protect the landscape from further degradation. The LDP acknowledges that the primary landscape qualities and features of the VILL are its predominantly open upland landscape. It contains distinctive rocky hillsides with rock outcrops, upper valley sides and views across the Rhymney valley which give it a strong upland character, which is only occasionally limited by topography or vegetation.

133. With Sensitivity therefore considered High and magnitude High, the overall effect is considered to be Substantial adverse on the quality of this VILL. Therefore the LVA has underestimated the adverse effect that the proposed 58ha solar farm would have on this locally significant landscape and would result in significant and substantial visual impact on the visual quality found in this tranquil open upland landscape.

134. The LPA does not concur with the assessments relating to Landform and Enclosure, Landscape Pattern and Complexity and Settlement Pattern. The proposed solar farm would be seen from sensitive, close and midrange receptors, in context as larger than the adjacent settlement of Abertysswg. It would be seen as out of scale with the landscape dominating the field system, and the rigid gridlines, conflicting in lower lying areas with the more intimate and complex landscape pattern associated with the Abertysswg urban fringe.

135. The LVA assesses Baseline Visual receptors within the ZTV which are generally acceptable, with the exception that it is not agreed that the 58ha solar farm would appear as a very small component in the wider composite view notable from sensitive landscape and visual receptors. The adverse visual effect on residential properties located within CCB is limited to a small number of properties located on the north east and eastern fringes of Abertysswg and would not result in any substantial visual impact as views are generally either oblique or limited to upper floors or generally filtered by existing vegetation.

136. It is accepted that the short time scales for the construction and decommissioning of the proposed development would not give rise to notable Landscape Character or Visual effects above those assessed for the 30 years operational period. The LPA concurs with the assessment of the construction period as Substantial Adverse effect on visual amenity.

137. The LPA generally concurs with the viewpoint selected within the CCB are acceptable with the exception of Viewpoint 10 which required additional assessment and baseline and montage photographs from the adjacent PRoW

FP270 Gelligaer. It also considers that the cumulative assessment from Viewpoints 6, 7 and 9 underestimates the impact of views of the operational wind turbines at Pen Bryn Oer with successive and sequential effects for walkers heading north and south on the PRoW giving rise to an increased cumulative adverse effect on the receptor.

138. In conclusion, therefore, the proposed solar farm would have a negative impact on the landscape.

Glint and Glare

139. In terms of residential receptors, glint effects would not be experienced by residents within properties where they did not have a direct view of the panels causing the glint. In addition, the glint effects are likely to only come from a few panels on the site at any one time with this area moving across the site for the duration of the glint effects. For these reasons potential glint effects on residential properties are not considered to be significant.

140. One amenity receptor was chosen due to its proximity to the site. Glint effects at this receptor are predicted to occur for no more than 32 minutes during the early morning between 6:03 AM and 6:52 AM. Due to the angle of the property (southwest away from the site) and early morning timing of the potential glint, the effects on this receptor are not considered to be significant.

141. The road points selected are points at which the site is considered to be most visible from vehicles using these roads. Due to the transitory nature of the road-based receptors and early morning timings of the potential glint effects the impacts are not considered to be significant.

142. The points selected along footpaths are points at which the site is expected to be most visible by members of the public, and only 11 may experience glint effects. When intervening vegetation, topography and buildings are taken into account, the potential for glint effects at 7 of these points is eliminated. Due to the transitory nature of the receptors and early morning timings of the potential glint effects the impacts at this receptor are not considered to be significant.

143. Predicted glint effects at the other 3 receptors are predicted to occur for no more than 17 minutes between 5:09 PM and 6:02 PM. Vegetation and topography would slightly reduce these effects. When the transitory nature of any views which would be experienced by people walking or cycling along these public rights of way is considered the potential significance of any glint effects is further reduced.

144. Taking into account the existing screening and worst case predictions for glint effects, glint is not considered to represent a significant impact on pedestrians or cyclists in the vicinity of the site.

145. No significant impacts are predicted as a result of glint effects from the proposal. Infilling of the existing hedgerows around the site would enhance the existing screening and further reduce any potential residual glint effects. It is recommended that new and existing planting surrounding the site is maintained to provide continued screening benefits throughout the operation of the solar farm.

146. The conclusions of the assessment are accepted, and the impacts of the development in respect of glint and glare would be neutral.

Highways

147. The impacts of the development on the highway would be significant but temporary, along roads that already accommodate commercial traffic as well as public service vehicles. Therefore the overall impact would be neutral.

Residential amenity

148. There are no residential properties within Caerphilly Borough whose amenity would be directly affected by the solar farm once built.

149. Construction traffic would be noticeable for the residents of the adjacent properties, and would cause some disturbance. However, that impact would be temporary, lasting only some four months, at the beginning and at the end of the project.

150. Overall, there would be a significant but temporary impact, which would be neutral.

Historic Environment

151. The main impact of the proposals has been identified as having a substantial adverse impact on the setting of extractive industry area EA072. The Southeast Wales Industrial Ironworks Landscapes project describes this site as a small extractive area depicted on 1st edition OS maps consisting of two gravel pits to the west, a trial level and an old ironstone level in the north. The proposed trackway from the site to the B4256 also has the potential to affect upstanding elements of EA072 in which case the impact could be moderate-substantial adverse.

152. The impact of the access road is not wholly known at present, since the mitigation measures have not been set out. Therefore, it is considered that as the scheme stands, the impact would be negative.

Habitat Impact

153. The access and cable route and bridge would if properly mitigated have a minor impact on habitat and species, but there is little evidence about the nature and temporary impacts of the compound, car parking and turning area, and their mitigation and restoration. The land by its nature is wet and would require excavation or consolidation to make it suitable for the proposed use. On that basis, it is considered that the impact would be negative.

Consultation Responses (original application submissions)

Natural Resources Wales (Document Ref B CON-NRW)

154. The applicant's ecological surveys recorded a single breeding pair of curlew within the application site. The Executive Summary suggests the breeding Curlew is important at local level and possibly county level. The proposal would have adverse impacts on this species. As part of the proposals, off-site habitat enhancement is proposed (on the western side of the valley) through ground

manipulation to create localised pooling and adapting management techniques (i.e. grazing) to maintain medium height sward favoured by breeding curlew.

155. NRW reviewed the proposed measures at pre-application stage and advised amendments to the area including that the boundary of the area should be aligned to the relevant field boundary. The rationale is that an area without any boundaries may be difficult to manage appropriately, whereas an easily identifiable area can be managed properly over the medium and long term without ambiguity.

156. The final submission documents refer to the Curlew Habitat Enhancement Area which has been amended to include the introduction of fencing. However, the introduction of fencing to the enhancement area represents an increase in perches for potential predators, potentially undermining the mitigation/compensation measures. It is considered that there are better solutions available.

157. On that basis, it is considered that fencing is not appropriate and further detail on management and monitoring (with a submitted plan) is required to ensure the enhancement area is secured over the lifetime of the development. As such it is advised that, in the event of planning permission being granted, a planning condition is attached to the permission to secure full details, including monitoring and management techniques, for the Curlew Habitat Enhancement Area prior to the development commencing.

Wales and West Utilities (Document Ref B CON-WWU)

158. According to the mains records Wales & West Utilities has no apparatus in the area. However, gas pipes owned by other gas transporters and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used.

Aneurin Bevan University Health Board (Document Ref B CON-ABUHB)

159. The development is not considered to require an environmental impact assessment (EIA) but the applicant has undertaken a detailed hazard and risk appraisal as part of their submission.

160. The proposed development would not produce any emissions to air or water or noise during its operation. There may be some short term increase in noise and traffic during construction but this would be mitigated by controlled working hours, the absence of heavy plant on site and the low number of vehicular movements within and beyond the site.

161. Operations would not involve storage of any hazardous materials on site, or waste disposal, while surface water infiltration and drainage characteristics would not be affected by the development.

162. The development would require provision of a buried cable to connect to the nearest distribution point at Ebbw Vale a condition is suggested to ensure that the developer consults with the relevant statutory undertakers with regard to

location and installation of the cable and with the local authority contaminated land officer to agree controls regards any potential risks from ground contamination within the agreed route.

163. Consequently, the Health Board has no grounds for objection based upon the public health considerations contained within the application and the risk assessment undertaken.

The Coal Authority ("the CA") (Document Ref B CON-CA)

164. The application site falls within the defined Development High Risk Area; within the application site and surrounding area there are coal mining features and hazards which need to be considered. CA records indicate that the site is within an area of thick coal seam outcrops and the presence of a recorded mine entry (adit): 313206-001. In addition, the CA has in the past been called upon to deal with a surface hazard on this site.

165. The applicant has submitted a Coal Mining Risk and Updated Mineral Assessment. Based on this review of existing geological, historical and coal mining information, the assessment considers that the site is at a moderate to high level of risk from unrecorded mine workings and the presence of recorded / unrecorded mine entries. Appropriate recommendations have been made that intrusive site investigations are considered necessary, particularly in the areas of proposed ancillary buildings.

166. The applicant has considered surface coal resources and the likely impact that the proposed development may have on the sterilisation of the coal reserves within this area. However due to the temporary nature of the proposed development, the land can be restored to its previous use. Thus, the proposed development would not result in the permanent loss of this mineral resource and the CA has no concerns in this regard.

167. The CA considers that a thorough assessment of the coal mining risks associated with the proposed development has been undertaken by a suitably qualified and experienced professional and therefore meets the requirements of Planning Policy Wales. In order to ensure that sufficient information is provided by the applicant to demonstrate that the site is, or can be, made safe and stable for the development proposed, it is recommended that a condition be imposed requiring a scheme of intrusive site investigations, the submission of a report of findings arising from the intrusive site investigations, any remedial works and/or mitigation measures considered necessary and the implementation of the remedial works and/or mitigation measures. On this basis, the CA raise no objection to the proposal.

Glamorgan Gwent Archaeological Trust (Document Ref B CON-GGAT)

168. The Heritage Desk Based Assessment meets current professional standards and has gathered information relating to the historic environment from all relevant sources, and has assessed the likely impact of the proposed development

against that information[5]. It concludes that the potential for features from the Prehistoric, Roman, Early Medieval and Medieval is low, and moderate to high potential for post-Medieval; and that with mitigation the impact would be low.

169. Appropriate archaeological work would be needed to ensure that mitigation is undertaken to identify and record the known historic assets, and that such provision extends to mitigation for responding to the discovery of previously unknown historic assets or finds during the development works. It is therefore recommended that a condition requiring the applicant to submit and implement a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any grant of planning permission.

Cadw (Document Ref B CON-CADW)

170. Cadw objects to the impact of the proposed development on the nationally important scheduled monument known as Tredegar Ironworks Cholera Cemetery. It is noted that the HIA has focussed almost entirely on the impact of the proposed development on views outwards from the cemetery and has failed to take account of the effect of the scheme on views towards the cemetery.

171. The Cholera Cemetery has evidential, historical, aesthetic and communal heritage values. The evidential values include the remains of the buried individuals, the gravestones and markers. The presence of ornate headstones demonstrates some attempt to mark the passing of the dead, but one of the tragedies of the epidemic was that often entire families were wiped out. This, combined with prevailing social horror of the disease, led to many being buried in unmarked graves. The location of the cemetery and its relationship with its surroundings is itself an evidential value; the deliberate isolation being a physical manifestation of the fear that cholera represented for 19th century industrial communities.

172. The historical value of the cemetery links with the records of the cholera outbreaks at Tredegar. The outbreaks there were not unique but the survival of the cemetery is a rare physical reminder of such dreadful events which can otherwise seem isolated from the wider story of industrial and social progress. Links with families and individuals buried within the cemetery also contribute to its historical values as does the link with improvements in social health which ultimately led to the control of cholera in Britain.

173. The aesthetic values of the cemetery include its isolation and relationship with the landscape. The HIA has suggested that views from the cemetery were probably not uppermost in the minds of those planning it; it was the isolation and separation from the living that mattered. This is probably correct. However, there is no question that it is the isolation and sense of remoteness that is the overriding quality of the cemetery as it is experienced today and that

[5] BGCBC's LIR concern regarding whether the HIA met the Chartered Institute for Archaeologist's standards and guidance for historic environment desk-based assessment was raised on the basis of earlier correspondence from GGAT in respect of the pre-application submission. In subsequent correspondence to PINS (Wales), GGAT confirmed that it is satisfied with the standard of the HIA.

the views to the south and southwest – the direction of the proposed development – are the most evocative. The bleakness and loneliness of the location is a key part of understanding what it represents historically and today and the sense of separation that was forced upon the victims by the survivors who, fearing for their lives, wished to distance themselves from sources of a terrifying contagion.

174. The communal values of the cemetery include the links with nearby communities and any surviving relatives, as well as a broad link with the industrial story of the South Wales industrial valleys.

175. Even within the limitations of the assessment provided, the proposed development is likely to have a significant adverse impact on the setting of the scheduled monument which would impact directly on its heritage values, as illustrated by the applicant's own analysis accompanying the application. The imposition of the solar farm would substantially alter the landscape setting removing the cemetery's sense of isolation and no actions are proposed that would reduce or mitigate the impact.

Blaenau Gwent County Borough Council (Document Ref B CON-BGCBC)

176. The Council supports the drive towards increasing the Nation's energy supply from renewable energy and fully recognises the benefits in terms of both climate change mitigation and energy security. In doing so, the Council has approved several wind turbines and a solar park within County Borough, which are currently contributing the Nation's supply of renewable electricity.

177. It is, however, essential that the right developments are delivered in the right locations without unacceptable impacts on the local area. Unfortunately, the Council is of the view that the proposed solar park at Wauntysswg Farm does not meet this essential requirement and, for the reasons set out below, formerly objects to the proposed development and respectfully requests that the planning application be refused.

178. The application site is located in an attractive upland rural landscape with pleasant views into the Rhymney Valley. The local landscape has been undisturbed by industrialisation and, with the exception of the occasional overhead power lines and clusters of wind turbine development, has few detractors. The proposed solar park is of such a scale that the local landscape character would be transformed from one of historical upland farmland characteristics to one of an industrial renewable energy plant. Whilst it is recognised that the site would be restored to its agricultural use at the end of the solar park's operational life, the unacceptable level of harm to the local landscape would be experienced for a significant period of time (30 years).

179. There are numerous visual receptors within the local area, including residential properties, businesses and users of the local roads and public rights of way. The applicant's landscape and visual assessment indicates that the proposed solar park would have significant adverse visual effects on numerous receptors and viewpoints within the local area. The proposed development would undoubtedly appear as dominant feature within this blind valley given the topography of the site and its relationship to vantage points in close proximity and at a higher

level. It would also have a cumulative impact with surrounding wind turbines. The Council is therefore of the opinion that the proposed solar park would have an unacceptable visual impact on the character, quality and amenity of the landscape, and accordingly, conflicts with LDP Policies SP10, DM1 and ENV2.

180. In terms of the SAM, the applicant's HIA states that the solar park would result in a significant adverse effect on its communal and aesthetic value with regard to views to the south, and concludes that the overall impact on the setting of the SAM would be Moderate Adverse. Planning permission should only be granted in exceptional circumstances if a development has a significant adverse impact on the setting of a SAM and the proposed development is considered to conflict with LDP Policy SP11.

Tredegar Town Council (Document Ref B CON-TTC)

181. The Town Council supports developments that reduce the impact of climate change and would give a welcomed boost to the area with the use of local contracting firms.

182. However, Members strongly oppose the development, which would be prominent from every direction. A development of this nature raises concerns relating to the visual impact that it would have on a remote, beautiful area of Tredegar. No information had been received on how this would look visually and how the glare would impact on residents and road users.

183. Members are mindful of how the proposal would impact on local business including Tredegar & Rhymney golf course and the Mountain Ash Inn. It also raises concern regarding the impact the development would have on the setting of Cefn Golau Cholera Cemetery SAM, anglers using Cefn Golau Pond, and walkers using PRoWs. There is concern in respect of the removal of so many trees that act as habitat and screening, which raises questions as to whether tree planting would mitigate the loss of habitat and screen the site from key areas. The timing of the ecological survey is questioned as there were a number of species missing.

184. Although the applicant states that the whole scheme can be removed, there are no details of recycling and if a bond would be put in place to make sure that the development would be removed at the end of the life of the project. There are also issues in respect of how damaged panels could be disposed of safely.

Other Interested Parties

185. Although representations have not been received from other interested parties in respect of the application formally submitted, the applicant's Pre-application Consultation Report (*Document Ref A WAUN-005*) details the responses received in respect of their consultation exercises carried out. In summary:

- Two letters of objection were submitted citing visual impact and litter as the main areas of concern.
- A petition of objection containing 151 was submitted on the grounds that the development would disrupt the protected wildlife, blanketing the surrounding fields of the Abertysswg Mountains and positioned from the

Aber Forest up to Cefn Golau Pond, and would encounter untold HGV traffic.

186. A letter was also received from Mr Nick Smith MP dated 24 January 2018 advising that he had been contacted by constituents who live near to Wauntysswg Farm, who are objecting to the application as they believe the proposed size of this installation would have the effect of industrialising a solely rural valley. In light of the constituents' concerns, full consideration should be given to the environmental impact of the proposal on the valley.

Consultation Responses (amended information)

Caerphilly County Borough Council (Document Ref C ACON-CCBC)

187. The main change is the introduction of viewpoint 13 from Cefn Y Brithdir Beacon along the Rhymney Valley Ridgeway Walk. Whilst the LPA generally concurs with the baseline view information in relation to human influences and detractors both in the foreground, it is worth noting that the only human influence in the middle ground, where the solar farm will be visible, is the existing coniferous woodland. This woodland sits well within the existing landform and is less of a detractor due to its being limited to the steep valley side to the south of the site.

188. The LPA agrees with the assessment at this sensitive viewpoint that the value of the view is considered to be High for both views from the VILL and the long distance Rhymney Valley Ridgeway Walk public right of way (PRoW). However, the LPA would assess the magnitude of change for walkers and the view from the VILL as Medium, as the proposed development would be a new detracting element in the view, being visible in the middle ground. Views are oblique but they are the main views experienced from the PRoW when walking north, with the eye drawn to the east and north/east. Therefore, the LPA does not concur with the assessment on visual amenity, as with a High Sensitivity and Medium Magnitude of change, the effect on Visual Amenity should be increased to Major adverse.

189. With regard to the cumulative effect, the existing communication mast in the foreground and the operational wind turbines in the background are clearly visible in the field of view experienced from this viewpoint for walkers travelling north, as well as in succession for those walking south. The proposals would also present adverse sequential effects for walkers heading both north and south, who would therefore experience an adverse cumulative effect from this sensitive viewpoint.

190. CCBC's original LIR concluded that the proposed solar farm would have a negative impact on the landscape. The additional viewpoint does not change that assessment, but serves to reinforce it.

191. In terms of the HIAA, the main impact of the proposals has been identified as having a substantial adverse impact on the setting of extractive industry area EA072. The proposed trackway from the site to the B4256 also has the potential to affect upstanding elements of EA072 in which case the impact could be moderate-substantial adverse.

192. In terms of the impact of the access road on historic assets, the HIAA confirms that the access road would consist of no more than a farm-track type feature. It therefore identifies suitable mitigation as involving a programme of archaeological monitoring and recording to ensure that any direct effect is reduced to a negligible impact.

193. On the basis of the revised information, it is concluded that the impacts of the development on the historic environment within Caerphilly County Borough would be neutral.

Blaenau Gwent County Borough Council (Document Ref C ACON-BGCBC)

194. The HIAA is considered to be a distinct improvement on the original submission, and it is now considered to be of an acceptable standard. Notwithstanding this general acceptability, the HIAA only appears to suggest measures that would help mitigate the adverse impact of the proposed solar park on archaeological remains and is not clear on whether they would actually be implemented. For instance, the HIAA highlights the potential to avoid identified archaeological remains through the design of the proposal and only recommends a programme of archaeological recording where it is not possible to preserve these remains in situ. It is, however, evident that the development proposal has not been designed in a manner which avoids a number of the identified archaeological remains located on the central western part of the site. It would therefore be of benefit if the applicant were to confirm the exact extent of the impact on the identified archaeological remains and to provide clarity on the anticipated mitigation strategy.

195. With regard to the impact of the proposed solar park on the setting of the Schedule Ancient Monument (SAM) of Tredegar Ironworks Cholera Cemetery and other historic assets, the Council's Heritage Officer is of the opinion that the HAA understates the impact on the settings of these assets and represents a dramatic change of opinion from the original assessment. This is particularly evident in respect of the assessment of the impact on the setting of the Cholera Cemetery SAM, which is recognised within the HIAA as a unique historic asset, due to it being the only known surviving cholera cemetery in Wales whose historic value cannot be undervalued. The Council's Heritage Officer is of the view that the HIAA consistently undervalues the Cholera Cemetery SAM's heritage value in respect of the proposal's impact on its setting.

196. The HIAA states that the setting of the Cholera Cemetery SAM primarily revolves around the sense of isolation and should be considered predominantly in an aesthetic and communal sense. Moreover, open views, particularly to the south and southwest, are identified as integral to how the Cholera Cemetery SAM is experienced today, while Cadw has previously highlighted the relevance of views towards the SAM from the surrounding area. Views outwards from and towards the Cholera Cemetery are considered in turn below.

197. With regard to the views outwards in a south and southwest direction from the Cholera Cemetery SAM, the HIAA recognises that the proposed solar arrays and associated infrastructure are likely to represent a noticeable intrusion in the landscape that would further detract from the setting of the SAM. Moreover, the proposed solar park is likely to result in an adverse effect on the communal and

aesthetic value with regard to views to the south. As such, even though the HAA has downgraded the impact of the proposal on the setting of this historic asset from a Moderate to Minor Adverse impact, the impact of the proposal remains negative.

198. In respect of the views towards the Cholera Cemetery SAM, the HIAA's claim that other views towards the Cemetery would be unaffected by the proposed development is not accepted. Whilst it is acknowledged that the Cholera Cemetery SAM would not be visually prominent when viewed from the surrounding area, it is discernible from the south (as viewed from road) by virtue of the existing perimeter fence that delineates its location, and from the west (as viewed from road) by virtue of the mid-dark grey coloured headstones which contrast with the colour of the surrounding vegetation. The location of the Cholera Cemetery is also familiar to many local people within the surrounding area, irrespective of its visual prominence.

199. The proposed solar park is of such a scale that the local landscape character would be transformed from one of historical upland farmland characteristics (referred to as Bedwellte Fieldscape) to one of an industrial scale renewable energy park. This impact is acknowledged in the HIAA which indicates that the proposal would have a Moderate Adverse impact on the Bedwellte Fieldscape. When viewed from the south and west, the Cholera Cemetery SAM would be seen in juxtaposition to the proposed solar park and, as such, it is considered that the aesthetic value of isolation and remoteness would be adversely affected. This impact would be particularly pronounced for local people who have the greatest awareness of the cemetery and for whom the cemetery is reminiscent of a link to the industrial past. It is agreed that no practicable mitigation for the impact of the proposed solar park on the setting of the Cholera Cemetery SAM is possible.

200. The Council therefore disagrees with the overall conclusions within the HIAA and remains of the view that the proposed solar park and associated infrastructure would have a significant negative effect on the setting of the Cholera Cemetery SAM.

Cadw (Document Ref C ACON-CADW)

201. The HIAA relies heavily on photomontages included in the LVAA which show that the proposed development would not be as visible in views from the scheduled monument as previously thought. It concludes that the visual impact likely to be experienced from the cemetery represents little more than a slight colour change within a very limited area. It concludes, therefore, that the proposals would result in a Negligible Impact (no appreciable effect on the setting of any asset) tending to a Minor Adverse impact (slight visual changes to a few key aspects of historic landscape and the settings of any asset)".

202. The HIAA fails to fully understand that views are only part of the factors which determine the setting of a monument. In this case, a significant element of the setting of the SAM is the isolation and sense of remoteness, which is the overriding quality of the cemetery as it is experienced today. The ruined farm buildings and dilapidated nature of boundary walling rather than detracting from the views actually portray to the modern viewers a sense of abandonment,

isolation and desolation surrounding the cemetery, thus emphasising the banishment of the buried individuals from the community of Tredegar.

203. It is Cadw's opinion that their previous comments overstated the impact of the proposed development on the setting of the SAM particularly due to the then perceived high visual impact of the development in the views from the scheduled monument. However, it does not agree with the HIAA evaluation that the impact would be negligible to minor adverse. It continues to consider that the proposed development would have an adverse impact on the setting of the monument because it would alter the sense of isolation and abandonment which is a major factor in how it is understood, experienced and appreciated. Therefore, without any mitigation the proposed development would have a moderate to high adverse impact on the setting of the scheduled monument.

204. The HIAA suggests that the existing fencing around the cemetery has a negative impact on the asset. It is also suggested that the replacement of this fence with a facsimile of the original fencing would be beneficial to the setting of the asset and that this would, to some degree, offset any adverse impact resulting from the proposed development.

205. It is therefore Cadw's opinion that without any mitigation, the proposed development would be likely to have a significant adverse impact on the setting of the SAM. However, with the introduction of the mitigation identified above, the proposed development would have a moderate adverse impact on the setting of scheduled monument and reduce the impact to a more acceptable level.

206. As such, a replacement fence would be appropriate mitigation and should form part of the proposed development. However, the new fencing should be paid for directly by the developers and not as part of any proposed community fund as suggested in the HIAA. If this were secured, Cadw would withdraw its objection as the level of impact would be reduced to an acceptable level.

Appraisal / Main Issues

207. Although a Statement of Common Ground has not been submitted, it is evident that there is agreement between the main parties in respect of the principle of the development and its impact on agricultural land, ecology, glint and glare, hydrology and flood risk, highway safety, coal mining and trees. It is the effect of the development on landscape and visual impact and on heritage assets that is at issue between the parties.

208. In light of the foregoing, I consider the main issues to be:

- The effect of the proposal on the character and appearance and visual amenity of the area.
- Whether the development would preserve or enhance heritage assets.

209. I will go on to consider the other matters of the impact of the development on agricultural land, ecology, glint and glare, hydrology and flood risk, highway safety, coal mining and trees.

Principle of Development

210. The application site lies outside the settlement boundaries defined by BGCBC LDP Policy SB1, which aims to manage spatial growth and prevent inappropriate development in the countryside. Nevertheless, this Policy is silent on the types of development that are typically acceptable within countryside locations, deferring instead to national planning policy. Be that as it may, in-principle support for the proposal is afforded by BGCBC LDP Policy SP7, which seeks to encourage more of the County's electricity requirements to be generated by renewable technologies.

211. National Planning Policy on renewable energy developments is set out in PPW and the associated Technical Advice Note (TAN) 8: Renewable Energy. Further guidance is provided in the Practice Guidance: Planning Implications of Renewable and Low Carbon Energy, February 2011.

212. PPW 10 explicitly links the planning system and the provisions of the Well-being of Future Generations Act ("the WBFG Act"). Any statutory body carrying out a planning function must exercise those functions in accordance with the principles of sustainable development as defined in the WBFG Act. A key planning principle as outlined in PPW is achieving the right development in the right places. It sets out National Sustainable Placemaking Outcomes, one of which is to grow our economy in a sustainable manner which can be achieved by *inter alia* generating our own renewable energy[6].

213. PPW makes it clear that the planning system plays a key role in delivering clean growth and the decarbonisation of energy, as well as being crucial in building resilience to the impacts of climate change[7]. Welsh Government's renewable energy target is for Wales to generate 70% of its electricity consumption from renewable energy by 2030[8].

[6] Figure 4 of PPW
[7] Paragraph 5.7.1 of PPW
[8] Paragraph 5.7.16 of PPW

214. There is no dispute that the development would increase the installed renewable energy capacity in the County, contributing to meeting local and national, renewable energy targets, reducing reliance on energy generated from fossil fuels and actively facilitating the transition to a low carbon economy. To this end, it would embrace the WBFG Act goals to achieve a globally responsible, prosperous and resilient Wales.

215. Nevertheless, a prosperous and globally responsible Wales also values the quality of landscapes and the historic environment, which should be protected and enhanced for the sake of their special characteristics and nature conservation value as well as the way in which they contribute to wider social, economic and cultural objectives. PPW therefore acknowledges that the planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts[9] (*my emphasis*).

216. TAN 8 states that '*Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported*"[10] (*my emphasis*).

217. In summary, therefore, planning policies at national and local level are consistent in their aim to achieve energy development that is sustainable and that does not cause any significant adverse environmental impacts. Overall, development is supported that is appropriate to its context and meets the well-being objectives established within PPW.

218. The development represents a high efficiency method of generating electricity. I therefore attach significant weight to the contribution the development would make to producing energy from a renewable source in order for Wales to meet its carbon and renewable targets, as part of WG's overall approach to tackling climate change and increasing energy security. Nevertheless, I must also balance that significant benefit against the potential environmental impacts of the proposal in considering whether the scheme would be inherently sustainable. This report therefore considers those potential impacts in turn.

Landscape and Visual Impact

219. I acknowledge that the application site does not fall within any statutory landscape designation. PPW advises that in circumstances where protected landscape designations are considered in the decision-making process, only the direct irreversible impacts on statutorily protected sites should be considered[11].

220. Nevertheless, PPW also recognises that the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places[12]. It adds that where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission[13].

[9] Paragraph 5.7.7 of PPW
[10] Paragraph 3.15 of TAN 8
[11] Paragraph 5.9.17 of PPW
[12] Paragraph 6.3.3 of PPW
[13] Paragraph 6.3.4 of PPW

221. Notwithstanding the advice in PPW, s38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations under the planning acts to be made in accordance with the Development Plan unless material considerations indicate otherwise. In designating SLAs, BGCBC has considered landscape character at the outset of formulating its LDP Policies. In doing so, it has identified the special qualities that it seeks to protect and enhance. In particular, LDP Policy ENV2 states that it expects new development to conform to the highest standards of design, siting, layout and materials appropriate to the character of the SLA.

222. The LVA identifies the key features of the site and its immediate surroundings as it relates to the SLA designation. Of particular note, is its predominantly agricultural landscape with an extensive length of the valley side with no development, pockets of linear settlements confined to the northwest-southeast aligned valleys and scattered isolated farm complexes and private residences. Human influence is confined to the surrounding highway network, forestry plantation, clusters of renewable energy infrastructure (consisting of wind turbines) and pockets of industry development.

223. Whilst the application site boundary is only partly within the administrative boundaries of CCBC to the north-west, the site bounds the Northern Rhymney Valley VILL, which has two areas separated by the urban development of Abertysswg[14]. The Council confirms that the visual character of the VILL is a predominantly upland and open area. Distinctive rocky hillside with rock outcrops, upper valley sides and views across the Rhymney valley give it a strong upland character, limited in places by topography and / or vegetation. The upland sense of place is complicated by urban edges and visual detractors (pylons) but increases with elevation and views out.

224. The applicant observes that as the majority of the rural BGCBC (outside settlement boundaries) falls within an SLA. Consequently, it is the applicant's view that there would be only a localised impact on the landscape. Be that as it may, I note the conclusion of the LVA that the intrinsic qualities of the SLA are such that the site is located in a landscape that has high sensitivity to change.

225. The LVA identified major or substantial effects on landscape character for the following Aspect Areas: Cwm Twysswg Visual and Sensory Aspect Area (Major effect), Mynydd Bewelllte Visual and Sensory Aspect Area (Substantial effect), Bedwellte Fieldscape Historic Aspect Area (Major effect) and Cultural Landscape Aspect Area (Substantial effect).

226. The land use of the application site would change from one of agriculture to renewable energy infrastructure, thus altering its character for the lifetime of the development. Its sheer size is such that it would appear as a substantial mass in the landscape. The panels would have a height of up to 3 metres, a flat, dark appearance and would be formed in regimented rows. Its rigid and ordered appearance would be completely at odds with the more organic form of the site. The array of flat, dark

[14] This is a non-statutory designation that seeks to protect the distinctive features or characteristics of the visual and sensory aspects of the landscape. VILLs have been identified using only the visual and sensory layers of LANDMAP; generally, those landscapes of some visual and sensory importance but that did not rate sufficiently in conjunction with other aspects to justify inclusion within the revised CCBC SLAs.

coloured panels spreading out over a significant area of land currently characterised by green, open fields, would have a deadening effect on the landscape.

227. Thus, although major or substantial adverse effect on landscape character would be restricted to localised areas, overall, they would represent significant components in the valley. In these areas, the development would unacceptably alter the existing rural agricultural landscape, including an SLA whose primary landscape features include 'secluded farmland, undisturbed by industrialisation…', to a dominant industrial landscape characterised by closely grouped engineered structures.

228. It would realise the concern outlined in TAN 8's Practice Guidance: *Planning Implications of Renewable and Low Carbon Energy Development* that a solar array can result in a regular pattern of PV panels, ancillary buildings and security fencing occupying substantial areas of land, leading to the creeping urbanisation of the countryside[15].

229. At the hearing session, the applicant's representatives explained that the original drafting of the LVA was carried out on a larger scheme than that which formed the basis of the application. Photomontages / visualizations were introduced quite late in the process. For the purposes of the LVAA, the Viewpoints were re-assessed following a site visit and detailed visual assessment, which resulted in a lesser magnitude of change than originally thought in respect of certain Viewpoints.

230. I accept that Viewpoint 5 in the LVA overstated the size of the site, and based on the revised scheme, the southern edge of the solar park would be in the order of 400 metres from the SAM. Such factors contributed to the conclusion in the LVAA that the change in view from the SAM would not be prominent with few visual receptors affected, resulting in a Negligible magnitude of change and thus a Minor visual effect.

231. I note BGCBC's contention that following its subsequent site visit it became evident that visibility of the solar array would be greater than the photomontages suggest, tending to good visibility from certain viewpoints. Consequently, it considers that the corresponding magnitude of change and likely effect would be greater in some instances.

232. Whilst photomontages are helpful in the LVA process, the assessment of change and effect is subjective to an extent. Although restricted in some views from intervening higher landform, based on the evidence before me and my site visit, I consider that there would be good visibility of the development from public vantage points notwithstanding the re-assessment of Viewpoint 5 in the LVAA.

233. The predicted change and effect from a number of Viewpoints as described in the LVA have not been affected by the re-assessment undertaken in the LVAA; for example, from the Mountain Ash Inn (private residence and public house), the view is considered to be of High value, High susceptibility and High sensitivity, with the overall effect to be Substantial. To the east and south east of the site, where enclosure levels decrease and receptors emerge onto the open access land along Charles Street and the unnamed road, the effect on visual amenity would be Major

[15] Paragraph 8.4.8 of the Practice Guidance

tending to Substantial. The predicted effect on the PRoW which passes through the farm complex[16] and footpath Rhymney FP64 are assessed as Substantial.

234. It seems to me that there are a number of opportunities for resident and members of the public to use the surrounding rural area, relaxing and enjoying their leisure time. For example, from Charles Street and the unnamed road at higher ground, the solar array would dominate the valley floor with its dark coloured, regimented form. Travelling towards the site, a viewer's eye would be drawn to this alien form which would represent a distinctive visual interruption and occupy a large proportion of the overall vista. That is, the development would be conspicuous and highly visible from a number of Viewpoints of Medium and High sensitivity, detracting from the otherwise pleasant rural scene and adversely affecting the experience of the user.

235. Furthermore, the LVA concludes that in close range views, the presence of wind turbine and solar development in combination would be heightened by each other in a combined cumulative effect and would change the local landscape character of the upland plateau which is largely unspoiled with few detractors. This matter further convinces me of the harmful visual impact of the proposed development in combination with other renewable energy development in the vicinity.

236. In terms of the effect of the proposed development on CCBC's VILL, the LVAA finds that the portion of the VILL closest to the application site is considered to be of Medium value and susceptibility as it has been provided with a Moderate evaluation in the Landmap Assessment. It therefore concludes that the overall sensitivity is Medium and, with a Low magnitude of change, the proposed development would have a Minor effect on the VILL.

237. The LVA assesses the likely impact of the development from several Viewpoints along the Rhymney Valley Ridgeway Walk PRoW[17]. It concludes that from Viewpoint 9, which is to the south of Pontlottyn, the sensitivity is considered to be High with a Medium magnitude of change, resulting in a Major effect. From Viewpoint 13 Cefn Y Brithdir Beacon along the Rhymney Valley Ridgeway Walk, the LVAA assesses the sensitivity as High with a Low magnitude of change, resulting in a Moderate visual effect.

238. I heard from CCBC that, from the south-western side of the valley, the rural character of the landscape dominates. It argues that the sensitivity of the VILL and the Rhymney Valley Ridgeway Walk PRoW should be given greater weight given its status and that it is used frequently as a main walking route. Because of the topography, and few detractors in the mid ground, the Council contends that the eye is drawn to the outcrop of rock and the predominantly rural landscape where the solar array is proposed. It therefore agrees with the LVA assessment that the value of the view from both the VILL and the PRoW is high but considers that the magnitude of change should be assessed as Medium owing to the proposed solar park representing a new detracting element in the view being visible in the middle ground. Consequently, it

[16] Whilst Table 3: Summary of Effects on Visual Receptors and Representative Viewpoint shows the Effect on Viewpoint 1 Restricted Byway 339/24/1 (passing through Wauntysswg Farm) as Moderate, the text in paragraph 10.18 of the LVA describes a High magnitude of change as a result of the direct views of the development at close range which, with a High sensitivity, would result in a Substantial effect on visual amenity.

[17] Viewpoint 13 View from Cefn Y Brithdir Beacon along the Rhymney Valley Ridgeway Walk was added following the request of CCBC in its LIR.

does not agree with the assessment of visual effect as with a High sensitivity and Medium magnitude of change, the effect should be increased to Major.

239. At the Hearing session, the applicant argued that as the PRoW runs in a north-west south-east direction, users would be walking and looking in the direction of travel rather than towards the application site. The panoramic views and distance would further reduce the impact of the development with moving elements in the landscape drawing the eye. The development would be seen mainly as a colour change from this distance, not dissimilar to the colour of the existing plantation.

240. I do not disagree that the solar park would be discernible from Viewpoint 13, as evidenced by the fact that the existing woodland can clearly be made out at this distance. Neither do I dispute that the value of the view is High given that it is located within CCBC's VILL and contains extensive and open views across the valley towards BGCBC's SLA. Nevertheless, this view has several detractors in the foreground (namely the communications tower and fencing), wind turbines on the horizon and the Tafarnaubach Industrial estate in the distance just below the skyline and directly above the application site. It is these influences, together with the distance from the application site, that would reduce the development to a relatively small component in the landscape that would not have a significant harmful visual impact from this vantage point.

241. However, I consider that the visual effect of the proposal would alter along the length of the Rhymney Valley Ridgeway Walk. As such, from Viewpoint 9 the visibility of the development would increase and its effect would be harmful; a large proportion of the mass of the solar array would be visible in the mid-ground and from a wide panoramic view, changing the local landscape character of the upland plateau which is largely unspoilt. To this end, it would compromise the view from sections of the PRoW and the qualities of the VILL, specifically the views across the Rhymney valley which give it a strong upland character and a sense of place increased by long-ranging views out towards the application site.

242. I do not disagree with the LVA assessment that the turbines at Pen Bryn Oer may be visible from the CCBC Viewpoints, but as only the tops of the blades are visible in the distance, the cumulative effect with the proposed development would not be significant.

243. Whilst over time, additional planting has the potential to soften the visual impact of the development, the topography of the site and surrounding area is such that it is not possible to screen the development to any effective extent.

244. Notwithstanding my conclusion that the development would not have a serious adverse impact on certain viewpoints and that the cumulative effect with the existing turbines would not be significant, I nonetheless find that it would have a harmful effect on the visual quality and extensive upland views characteristic of the VILL which could not be adequately screened.

245. Thus, the development would conflict with BGCBC LDP Policy ENV2 which expects proposals to conform to the highest standards of design, siting, layout and materials appropriate to the character of the SLA. It would also conflict with CCBC LDP Policy CW4 which supports development that conserves and where appropriate enhances the distinctive or characteristic features of the VILL.

246. Renewable energy schemes are, by their very nature, likely to result in some impact on the character and appearance of the countryside. However, in this case and for the reasons I have given, I conclude that the degree of harm inherent in the proposal would weigh against the grant of planning permission.

Historic Environment

Archaeology

247. Dealing first with archaeological remains. PPW sets out a presumption in favour of the physical protection *in situ* of nationally important archaeological remains which are likely to be affected by a proposed development[18].

248. The HIA found that the potential for non-agricultural Post-medieval features is moderate to high. The potential significance for these periods is high, especially with regard to assets which may relate to the historic extractive industry in the area.

249. GGAT subsequently advised that a condition should be attached to any planning permission requiring the submission and implementation of a written scheme of investigation for a programme of archaeological work to protect the archaeological resource.

250. At the Hearing session, the parties agreed that the access road would consist of a farm track type surface, that the layout of the solar array could be fine-tuned in the central western part of the site to avoid the remains of the barn and extractive industry features [19], and that a scheme of mitigation could be secured by condition[20]. I am therefore satisfied that a condition securing the programme of archaeological works and its implementation would adequately protect the archaeological resource.

Setting of Heritage Assets

251. Turning to the other area of disagreement between the parties, that is the impact of the proposed development on identified heritage assets present on the site. The main area of contention relates to the effect of the development on the setting of the Tredegar Cholera Cemetery SAM and the affected areas of the extractive industry and Cwm-Tysswg Farm forming part of the Bedwellte Fieldscape.

252. BGCBC LDP Policy SP11 seeks to protect, preserve and enhance Blaenau Gwent's distinctive built environment, which includes SAMs. PPW is clear that in circumstances where protected historical designations and buildings are considered in the decision making process, only the direct irreversible impacts on statutorily protected sites and buildings and their settings should be considered[21] (*my emphasis*). TAN 8 adds that in respect of solar thermal and solar photovoltaic systems, other than in circumstances where visual impact is critically damaging to an ancient monument, proposals for appropriately designed schemes should be supported.

253. The scheduling description states that the SAM consists of the remains of a cholera cemetery from the epidemics which swept many emerging industrial communities in

[18] Paragraph 6.1.24 of PPW
[19] Condition 6 of the recommended conditions at Annex A requires details of the precise siting, layout and design of the array
[20] Condition 11 of the recommended conditions at Annex A
[21] Paragraph 5.9.17 of PPW

the 19th century. As in many areas, a separate cemetery was created on a hilltop away from the town, owing to fears of infection from the dead. The cemetery was scheduled in 2000 but remains in an increasingly dilapidated and poorly maintained condition; I observed that it has approximately 25 surviving upright headstones and is enclosed by an unsympathetic modern steel fence.

254. I note the observations in the HIA that the cemetery is located in an isolated position with extensive views of an open landscape and was constructed in this position in response to a single emotional driver, which was fear. It considers that the original purpose of the cemetery, built to take the victims of a stigmatised epidemic, would have involved little consideration of any aspect of the landscape beyond isolation. That is, the cemetery would have fulfilled a pragmatic function in the separating of the dead from the living.

255. In terms of significance of the heritage asset, therefore, part of its historic heritage value lies in it representing a rare physical reminder as one of the few known surviving cholera cemeteries. I also concur with the views of interested parties that a large part of the evidential and aesthetic heritage value of the cemetery is derived from its isolated and remote location and its relationship with its surroundings. Whilst it is accepted that views from the cemetery were unlikely to have been a consideration for the affected families, there is no question that the isolation and remoteness, together with the sense of bleakness and loneliness, are the overriding qualities of the cemetery as it is experienced today and that the views to the south are the most evocative.

256. It was acknowledged in the HIA that the main views to the south and southwest from the cemetery, and from the higher ground to the north and east, all incorporated a wide-angle view of the site area[22]. It therefore concluded that the impact on the views to the south would be Significant Adverse in that there would be a complete change to landscape character in this direction. The overall impact on the setting of the monument was assessed to be Moderate Adverse in that only some key aspects would be changed[23].

257. Nevertheless, the HIAA re-assessed the potential effects of the development on the heritage assets. Based on a detailed site visit, a review of the LVAA and the proposed photomontage at Figure 33 of the LVA (View from the Cefn Golau Cholera Cemetery), it found that the visual impact likely to be experienced from the cemetery would represent little more than a slight colour change within a very limited area. Hence it concluded that the proposals would result in a Minor Adverse impact (slight visual changes to a few key aspects of historic landscape and the settings of any asset) on views to the south. Also taking into account the limited visual effect with regard to views looking towards the cemetery, the HIAA concludes that the overall impact on the setting of the SAM would be Minor Adverse.

258. At the Hearing session, the applicant's representatives explained that the original HIA assessed the potential impacts of the development on a larger

[22] Paragraph 10.3.1 of the HIA
[23] Paragraph 11.4.15 of the HIA

scheme and that the site visit was carried out based on the panels extending up the valley sides (hence the Significant Adverse impact predicted).

259. Nevertheless, Cadw disagrees with the HIAA evaluation that the overall impact would be Minor Adverse tending to Negligible. Rather, it continues to consider that the proposed development would have an adverse impact on the setting of the monument because it would alter the sense of isolation and abandonment which is a major factor in how it is understood, experienced and appreciated.

260. BGCBC is also of the opinion that the HIAA understates the impact of the setting of this asset, which is recognised within the HIAA as a unique historic asset due to it being the only known surviving cholera cemetery in Wales whose historic value cannot be underestimated. It also reiterates Cadw's view regarding the importance of the sense of isolation.

261. Despite its revised position in respect of likely impacts arising from the development, the HIAA recognises that the proposal is likely to represent a 'noticeable' intrusion in the landscape that would further detract from the setting of the SAM[24]. It also continues to acknowledge that the solar park is likely to result in an adverse effect on the communal and aesthetic value in respect of views to the south[25].

262. At the Hearing session, the discussion focussed partly on the downgrading of the perceived impacts with reference to Table 2.2: 'Table of Impacts Criteria' in the HIAA. It identifies that adverse effects caused to archaeological resources, including SAMs and their settings, results in a Substantial Adverse impact (*my emphasis*). The applicant's representatives suggested that the 'Archaeological Resource' column should not include the settings of SAMs (but should relate to direct impacts on archaeological resources only) given that there is another column in the table dealing specifically with setting. As a consequence, and on the basis of the re-assessment that there would be minor changes to key historic landscape elements and only slight changes to the setting of any asset, the finding that the impact would be 'Slight Adverse' tending to 'Negligible' is considered by the applicant to be justified.

263. The applicant has also drawn my attention to the complex of dilapidated agricultural structures between the application site and the SAM, which are considered to provide an intrusion into the landscape. To my mind the condition of these structures merely adds to the sense of melancholy, which is characteristic of the setting of the SAM.

264. Notwithstanding the arguments put to me regarding the criteria for assessing the likely effect of the development, I am satisfied that the assessment did not rely solely on the inclusion of this Table in the HIAA. Be that as it may, there is no doubt that the re-assessment in the HIAA represents a dramatic change in the anticipated effects of the development on the setting of the SAM. I have difficulty aligning the removal of an area of panels from the valley sides with a shift from 'Significant Adverse' to 'Minor Adverse' insofar as a substantial area of land would continue to be covered by the solar array. I have not been

[24] Paragraph 11.4.10 of the HIAA
[25] Paragraph 11.4.13 of the HIAA

persuaded that the revised scheme would not continue to represent a complete change to landscape character in this direction. Neither am I convinced that it would represent a minor change to key historic landscape elements and have little appreciable effect on the setting of the heritage asset.

265. I also accept that the solar park would be a static development that is not manned. However, the proposal would result in the introduction of modern infrastructure development covering an extensive area of land which would adversely affect the sense of isolation and remoteness that is characteristic of the setting of the SAM and, in particular, its evidential, aesthetic and communal value that forms part of its significance.

266. I have also taken into account the views towards the SAM which were assessed more fully as part of the HIAA. BGCBC considers that the SAM is a visually prominent site which sits at the head of the agricultural valley in a green isolated setting and is discernible from the south by virtue of the existing perimeter fence and from the west by the headstones. In any event, it considers that the cemetery is familiar to local people irrespective of its visual prominence.

267. Based on my own observations, the submitted photomontages and discussions at the Hearing session, relevant views across the panels and towards the cemetery are restricted mainly to dynamic views from the highways which bound the site. In light of the generally transitory nature of the inter-visibility, the limited opportunity to appreciate the SAM over these distances, and other visual detractors (such as the refurbished dwelling and the modern cemetery fencing), the views towards the cemetery from these vantage points have little ability to affect the significance of the asset. Nevertheless, Cadw reiterates that views are only part of the factors that determine the setting of a monument.

268. In considering the communal value (in that knowledge of the cemetery does not necessarily require sight of it), local people know of its location and the SAM is discernible, even if not visually prominent. Given the impact of the proposal on the sense of isolation and remoteness as already described, an appreciable effect on heritage significance would be apparent. I would reiterate the findings in the HIAA that this impact would be particularly pronounced for local people who have the greatest awareness of the cemetery and for whom it is reminiscent of a link to the industrial past and provides a distinct and well-defined sense of place[26].

269. I note the views of Cadw that it would be possible to mitigate the adverse impacts of the development to a more acceptable level by replacing the modern fence with a facsimile of the original thereby benefitting the setting of the asset. Whilst a replacement fence of a more sympathetic design would undoubtedly improve its visual impact and thus the setting of the SAM, I do not agree that it would offset the harm caused by the development to the sense of isolation and remoteness of the setting. I will explain later in this report why I do not

[26] Paragraph 11.4.12 of the HIAA.

consider that such a benefit should form the basis of a planning condition or a S106 Agreement.

270. The HIA also identified Moderate Adverse impact on the setting of the Bedwellte Fieldscape, including Cwm-Tysswg Farm and a Substantial Adverse impact on the setting of EA072 (extractive industries area) from the construction of the proposed trackway to the degree that much of its setting's value would be lost.

271. The HIAA revised this position and found that the proposal would have a Minor Adverse tending to Moderate Adverse effect on the Bedwellte Fieldscape and a Negligible tending to Minor Adverse impact on the setting of extractive industry area EA072. It identified a Moderate Adverse unmitigated impact on direct physical remains associated with it, reducing to Negligible with appropriate mitigation.

272. Although there is a general absence of above-ground evidence with the exception of the ruins of a stone barn, a gully, some pits and a number of spoil tips, the fieldscape itself is well-preserved and, in this regard, it retains some historic value, as well as communal and aesthetic value in how it is appreciated today.

273. The construction of the proposed development would have an effect on the appreciation of the heritage assets, but historic field boundaries would be retained within the proposals. The access road would be no more than a farm track generally in keeping with the surrounding landscape. Consequently, I concur with the assessment in the HIAA that such a trackway, which would see very little traffic during the operational phase, would have a Minor Adverse tending to Negligible impact on the undesignated heritage assets with appropriate mitigation.

274. Be that as it may, I find that there would be a direct and significant adverse impact on the setting of the statutory heritage designation (the SAM), in conflict with the general thrust of PPW. The proposal would also be contrary to BGCBC LDP Policy SP11, which seeks to safeguard nationally designated sites from inappropriate development.

Agricultural Land

275. PPW states that agricultural land of grades 1, 2 and 3a is the best and most versatile land, and should be conserved as a finite resource for the future[27].

276. As is evident from the applicant's submissions, the land is classified as Grade 4 land under the ALC criteria. It does not therefore represent the best and most versatile agricultural land as defined in PPW.

277. Consequently, the proposal would not result in the loss of the best and most versatile agricultural land. Therefore, its loss over the 30 year lifetime of the proposal is not a factor that would attract significant weight in the consideration of the application.

[27] Paragraph 3.54 of PPW

Ecology

278. The key principle in any new development proposal is to protect and enhance biodiversity. This is supported at national planning policy level within PPW and TAN 5 and at the local level in BGCBC LDP Policies SP10, ENV3 and DM14.

279. The larger fields within the application site are predominantly semi-improved grassland, short grazed and species poor as result of agricultural management and improvement.

280. Whilst the site supports Habitats of Principal Importance[28] and UK Biodiversity Action Plan priority habitats, including acid grassland, purple moor grass and rush pastures, the grassland habitats of high conservation value within the site are primarily located in the northern and southern extremities. The layout of the solar array would largely avoid impacts on the high values habitats, with the array located primarily on areas of semi-improved grassland and species-poor rush pasture.

281. In this context, the loss of species poor habitat would not be significant. A new area of marshy grassland / flush habitat in the southern part of the site would compensate for the loss of a localised area of purple moor-grass and acid flush in specific areas which, overall, represent a small percentage of the total extent of this habitat type within the site. A set-back perimeter security fence, together with the incorporation of a buffer between the array and water courses in the design of the scheme, would create a protective barrier and avoid negative impacts on watercourses.

282. Turning to the Mynydd Bedwellte SINC. The working area and development footprint would lie outside of the designated site, and all the features of the SINC lie upslope of the development. It therefore follows that they will not be directly affected by the development proposal.

283. Furthermore, in order to avoid adverse impacts during the construction phase, a condition attached to any planning permission requiring the submission of a CEMP proposing a series of mitigation measures during the construction phase would ensure habitat protection. Relevant measures as outlined in the Ecological Mitigation Plan ("EMP") include a minimum stand-off created by fencing between the development working area and the boundary of the SINC and good environmental working practices across the entire site.

284. Notwithstanding the above, I note the observations of BGCBC and NRW that more detail is considered necessary in relation to the physical boundaries of the off-site Curlew habitat enhancement area proposed on the western side of the valley. I consider that that the outstanding details can be adequately dealt with by condition.

285. Based on the conclusions in the EES and the implementation of the proposed mitigation measures as outlined in the EMP and secured by condition, I am satisfied that there would be no significant harmful impacts on ecological features. The proposed development would meet the requirements of BGCBC

[28] Natural Environment and Rural Communities Act 2006

LDP Policies SP10, ENV3 and DM14, which require new development to respect and protect the natural environment including protected habitats and species. It would also be consistent with the objectives of TAN5 to protect nature conservation interests.

Trees and Arboriculture

286. With the exception of the removal of two trees, the proposed solar park could be accommodated with the retention of the remainder of the existing trees. The removal of the spruce plantation has been proposed to compensate for the loss of grassland habitat.

287. Overall, the loss of the two trees is not considered to be significant. Provided that the compensatory planting is delivered and landscaping is secured by condition in the event of planning permission being granted, the proposal would not have a harmful adverse effect on trees within the site. It would therefore accord with the requirements of BGCBC LDP Policy DM16 in this respect.

Glint and Glare

288. The glazing used for the panels is designed to absorb light rather than reflect it. Even so, it is clear from the submitted Glint and Glare Assessments that there is the potential for some reflection of sunlight, producing glint or glare, from several of the observation points at specific times of the day.

289. Nevertheless, I do not consider that the potential residual glint effects on residential properties, amenity receptors, roads and public rights of way are so significant as to have an unacceptable impact.

290. In this context, I consider that the proposal would comply with BGCBC LDP Policy DM1 and CCBC LDP Policy CW2 which require development proposals to have no unacceptable impact on amenity.

Hydrology and Flood Risk

291. As the site is located in Zone A of the TAN 15 DAM map, there would be little or no risk of fluvial or coastal / tidal flooding.

292. In terms of surface water flooding, NRW's map shows the majority of the site at very low risk of flooding with localised areas of low-lying land and field drains being at low to high risk of surface water flooding. It is estimated that the surface water flow pathways flow in a west-southwest direction following the downward slope of the natural contours of the land.

293. As I understand it, the percentage increase in impermeable area is negligible and ordinarily would not require any surface water management. However, the Hydrology Assessment suggests that SuDS design could be incorporated into the final design, where required, to work in conjunction with the existing field drainage.

294. BGCBC's Drainage Authority has raised no objection to the development in this regard. Neither has BGCBC sought a condition in the event of planning permission being granted securing a SuDS scheme.

295. Having regard to the foregoing, I do not consider that the development would raise any flood risk concerns of itself or increase the risk of flooding elsewhere on the site or in the immediate surroundings. Consequently, a condition requiring the incorporation of a SuDS scheme to manage surface water would not be necessary.

296. The proposal would accord with BGCBC Policy SP10 which seeks to ensure that new development does not have an unacceptable adverse impact upon the water environment. It would also meet with the objectives of TAN 15 to ensure the risks of flooding are assessed and managed for any new development as it relates to sustainability principles. This matter is therefore neutral in the planning balance.

Traffic and Highway Safety

297. The construction phase of the development would inevitably result in additional traffic movements associated with deliveries and personnel travelling to and from the site. However, the submitted CTMP explains how the transport impact would be managed and minimised during the construction period.

298. In this context, and whilst it is evident that there would be some increase in demand for parking and storage facilities, together with the use of public roads, these would be short-term impacts only and there is sufficient capacity within the highway network to accommodate the demands.

299. I viewed the position of the proposed access from the B4257 at my site visit. I am satisfied that the proposed construction access would have sufficient forward visibility in both directions and would provide a suitable route for construction vehicles.

300. Once operational, the development would not require any permanent staff presence and only a very low number of personnel on site during regular maintenance visits on one or two occasions per annum. I am also satisfied that the infrequent use of the proposed access for future traffic demands associated with the operational phase would be acceptable.

301. I also note that no objections have been received from the Highway Authorities at CCBC or BGCBC.

302. Consequently, based on the evidence before me, the proposal would not give rise to any significant highway safety concerns either during or post construction. As such, it would accord with CCBC LDP Policy CW3 to have regard for the safe, effective, and efficient use of the transportation network, safely accommodate the scale and nature of traffic and provide appropriate levels of parking. It would also meet with the objectives of TAN 18 in this regard. This matter would be neutral in the planning balance.

Coal Mining

303. The application site falls entirely within a coal safeguarding area, with a small area within the north eastern corner of the site falling within an area identified in the BGCBC LDP where coal working will not be acceptable. In addition, the

north western corner of the site is also covered by a sandstone safeguarding area.

304. It is accepted that the development would have a lifespan of 30 years, and would therefore temporarily sterilise the reserves for the duration of its use as a solar park. I have no evidence before me to suggest that the mineral resource would be required within that time.

305. I consider that this temporary effect would not result in the permanent loss of the mineral resource. Consequently, the coal safeguarding area would not be compromised and the development would not prejudice future extraction as required by BGCBC LDP Policies SP12, M1 and DM19 and CCBC LDP Policies SP8 and MN2.

The Planning Balance

306. Decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. To this end, I have taken into account the relevant BGCBC and CCBC LDP Policies.

307. The requirement of the WBFG Act to make decisions "in accordance with the sustainable development principle" means acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

308. In addition to setting out well-being goals, the WBFG Act also states that in undertaking sustainable development public bodies should consider the five ways of working. In coming to my recommendation, I have had regard to the extent to which the proposal contributes to the well-being goals.

309. The weight to be given to energy development in determining planning applications is set out in paragraph 5.9.17 of PPW, which states that "*Planning authorities should give significant weight to the Welsh Government's targets to increase renewable and low carbon energy generation, as part of our overall approach to tackling climate change and increasing energy security"*.

310. My attention has been drawn to the letter from the Minister for Natural Resources dated 15 March 2016, which reiterates the role of the planning system in helping to tackle climate change and the support that PPW gives to the transition to a low carbon society. The letter emphasises that planning decisions need to be taken in the wider public interest, in a rational way, informed by evidence, where issues are balanced against other factors. The letter also recognises that there are policies in place to protect against unacceptable adverse impacts.

311. I place meaningful and significant weight on the contribution the solar park would make to meeting the renewable energy targets outlined in PPW and the principle that the development would support the transition to a low carbon future in a changing climate. It would meet the well-being goals insofar as it would contribute to a more prosperous, resilient, healthier and globally responsible Wales.

312. I also acknowledge the neutral effects of the development in terms of the quality of agricultural land, glint and glare, ecology, trees and arboriculture, hydrology and flood risk, traffic and highway safety, and coal mining. These factors weigh in favour of the development insofar as they are not in conflict with several of the well-being goals outlined in PPW.

313. On the other hand, and for the reasons identified above, I have found that the development would have a significant adverse effect on the SLA and VILL and that it would considerably harm the character and distinctiveness of this rural location. The proposal would also cause material harm to users of the PRoWs. Furthermore, it would have a significant adverse impact on the setting of the SAM in conflict with the thrust of national planning policy.

314. The proposal would thus be contrary to LDP Policies to protect the countryside for its own sake, protect the special qualities of the County Borough's landscapes and safeguard the setting of a heritage asset. To this end, it would conflict with the well-being goals in PPW to achieve a Wales of vibrant culture, cohesive communities and resilience.

315. I do not consider that the impacts could properly be addressed within the landscape. When taken in the round, the harm caused by the proposal to the character and appearance of the area and the setting of an important heritage asset would be substantial.

316. In considering these issues together, I do not consider that the benefits of the proposal, whilst providing supported renewable energy, would outweigh the harm to landscape character and the heritage asset.

317. I note the applicant's contention that the solar park would be in place for a period of 30 years only and would be fully reversible in terms of its visual impact on the landscape or the setting of any heritage asset. However, this time period represents a generation, during the lifetime of which, the harm to the character and appearance of the area and to the setting of a heritage asset would subsist.

Obligations and Conditions

Unilateral Undertaking

318. Regulation 122 of the Community Infrastructure Levy Regulations 2010 ("the CIL Regulations") stipulates that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is: (a) necessary to make the development acceptable, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

319. An executed Unilateral Undertaking ("the UU") under Section 106 of the Town and Country Planning Act has been submitted which secures a planning obligation for the erection of a fence around the perimeter of the Tredegar Ironworks Cholera Cemetery.

320. The applicant argues that the mitigation via the planning obligation suggested by Cadw would comply with the statutory tests and case law in respect of the use of planning obligations. In respect of the necessity test, the case of *R (on the*

application of Tesco Stores Ltd) v Forest of Dean District Council [2015] EWCA Civ 800 is cited as establishing the principle that it is a matter of planning judgement as to whether a benefits package could help mitigate harm. My attention is also drawn to *R v Plymouth City Council, ex parte Plymouth & South Devon Co-operative Society Ltd [1993] JPL 1099* in which the Court of Appeal held that planning obligations which included the provision of an art gallery display, birdwatching hide and a contribution towards a creche were lawful and could be taken into account as material considerations.

321. It is also argued that the UU is directly related to the development given Cadw's view that it would mitigate against the impact of the development and that there is a clear geographical link between the fence and the proposed development. The applicant considers that this position is supported by *Tesco Stores Ltd v Secretary of State for the Environment and others [1995] 2 All ER 636* where it was held that the test as to whether a planning obligation was a material consideration was whether it had some connection with the proposed development which was not *de minimis*. The applicant also considers that the replacement of the fence has been recommended by Cadw as mitigation rather than the provision of some extraneous planning benefit that is completely unrelated to the development.

322. I have had regard to the case law cited in considering whether, in this case, the planning obligation in the UU would meet the tests outlined in the CIL Regulations. I accept the principle that it is a matter of planning judgement as to whether a benefits package could help mitigate harm.

323. In these particular circumstances, it is recognised by all parties that the existing fence around the SAM has an adverse visual impact on the heritage asset. I note the close geographical proximity of the SAM to the application site and the opinion of Cadw that the planning obligation would mitigate against the adverse impact of the development. However, in my view a replacement fence would be a benefit that would serve only to improve the setting of the asset itself, rather than alleviate the harm caused by the proposed development. Whilst it would undoubtedly be an aesthetic improvement through the removal of an inappropriate modern addition, it would not directly resolve the problems associated with the impact of the development on the sense of isolation and remoteness which forms a fundamental part of the setting of the SAM.

324. I can take into account off-site benefits of a proposed development provided that such benefits are related to or connected with that development in a real (as opposed to fanciful or remote) way. Whether there is such a relationship or connection in a particular case will be fact-specific. The future of the SAM is not dependent on the replacement of the fence. The whole purpose of the energy development is completely unrelated to the SAM or its setting. In such circumstances, despite their close physical proximity, I am not convinced by the arguments put to me that the two components are linked or that there is a connection that goes beyond *de minimis*.

325. Hence, I do not find that it has been demonstrated that the planning obligation is necessary to make the development acceptable or that it is directly related to the development. It would not therefore meet all three tests outlined in Regulation 122 of the CIL Regulations. Even if I am wrong on this point, I do not consider that the replacement fence would alleviate the harm caused by the development to the sense

of isolation and remoteness of the setting, as already discussed at paragraph 269 of this report.

326. The executed UU can be found at *Document Ref C PLGOB UU* in the event that Welsh Ministers should find to the contrary.

327. It is also important to note that Welsh Office Circular 13/97 '*Planning Obligations*' advises that if there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable. Thus, planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. The applicant has also suggested a condition requiring the erection and maintenance of a replacement fence prior to energisation, which is detailed later in this report.

Planning Conditions

328. A set of suggested conditions in the event of planning permission being granted were submitted by the Councils in their LIR's (*Document Ref B BGCBC LIR and B CCBC LIR*) and were discussed by the main parties at the Hearing session. Additional conditions were also discussed at the Hearing which, in addition to those submitted in the LIRs, were included in the set of agreed conditions and reasons received thereafter. I have had regard to the suggested conditions and whether they meet the tests outlined in WG Circular 016/2014 '*The Use of Conditions for Development Management*'. The recommended set is now included as an Annex to this report.

329. In accordance with the provisions of Section 91 of the 1990 Act, the standard condition specifying a time limit for the commencement of development is recommended. A condition requiring the development to be completed in accordance with the approved plans would be necessary in the interests of clarity. I have removed the reference to the list of documents as I am not satisfied that their inclusion is sufficiently precise to make the condition enforceable. Any specific issues requiring further consideration are dealt with by condition elsewhere.

330. In light of the temporary nature of the development, a condition requiring the planning permission to endure for a period of 30 years is reasonable. Similarly, conditions requiring removal and remedial works in the event that the solar park ceases to export electricity to the grid for a continuous period of 12 months, together with a Decommissioning Plan, are necessary if the reason for the development can no longer be justified and the environmental effects of the decommissioning process are to be controlled.

331. In the interests of visual amenity and for protecting any buried archaeological remains, conditions requiring full details of the precise siting layout and design of the solar arrays, the invertors and substations, the telecoms tower, the mounted CCTV cameras, routes for underground cabling and a scheme for landscaping are entirely appropriate.

332. In order to protect heritage assets, conditions relating to historic environment mitigation and an archaeological watching brief are necessary.

333. To give due regard to ground stability issues, and as the CMRA concluded that the there is a moderate to high risk from unknown mine workings and from known and unknown mine entries, a condition is recommended requiring an assessment of the stability of the land.

334. Conditions requiring details of the access, temporary compound, parking and turning areas are not only required in the interest of highway safety and visual amenity but also to protect habitat and any affected heritage assets.

335. Requirement relating to the submission and agreement of a CEMP, the construction details of the bridge crossing and a final plan for the Curlew Enhancement Area are necessary in the interests of biodiversity and to ensure that existing habitat and species are protected during construction and that the suggested mitigation measures are implemented.

336. At the Hearing session, the main parties agreed that a restriction on lighting would be appropriate to control light spillage and ensure that disturbance to wildlife and residents is minimised.

337. The additional condition suggested by the applicant in relation to securing replacement fencing around the SAM reads as follows:

> "*Prior to energisation a replacement fence to the satisfaction of Cadw shall be erected at the Tredegar Ironworks Cholera Cemetery Scheduled Ancient Monument. Thereafter the fence shall be maintained for the duration of the life of the development.*
>
> *Reason: To ensure that the setting of the Scheduled Ancient Monument is protected and mitigates the impact of the development*."

338. It would be *ultra vires* to require work to land over which the development has no control, or which requires the consent of a third party. Nevertheless, the '*Grampian*' condition suggested is worded in a negative form providing that the development is not functional until the works have been completed on land that is not in the applicant's control i.e. the replacement fencing works around the SAM. The applicant asserts that there is a reasonable prospect that the fence could be erected within the time limit for development commencing as the determining authority (Cadw) and relevant parties (landowners and applicant) are all willing.

339. Having regard to paragraph 3.47 of Welsh Government Circular 016/2014 '*The Use of Planning Conditions for Development Management*', and by amending the wording of the condition in the interest of precision, I see no reason why, in theory, such a condition could not be imposed in the event that Welsh Ministers are minded to grant planning permission for the development. However, as I have found that the replacement fence around the SAM would not make the development acceptable, such a condition would be unreasonable and unnecessary.

340. Even so, if Welsh Ministers are minded to grant planning permission with such a condition, the following is recommended:

> "*Prior to energisation, a replacement fence shall be erected at the Tredegar Ironworks Cholera Cemetery Scheduled Ancient Monument in accordance with details which have first been submitted to and approved by the Local Planning*

Authority. Thereafter the fence shall be maintained by the applicant (or successor) for the duration of the life of the development.

Summary of Conclusions

341. My overall conclusion is that the proposed development would have a significant harmful effect on the character and appearance of the area and on a designated heritage asset that would not be outweighed by the benefits of the proposed renewable energy development. In this context, I find that the development would not satisfactorily reflect the principles of sustainable development promoted through PPW and the WBFG Act, nor would it comply overall with the Development Plans.

Recommendation

342. I recommend that planning permission be refused. However, if Welsh Ministers are minded to grant planning permission, Annex A lists the conditions that I consider should be attached to any permission granted. A copy of the executed UU can also be found at *Document Ref C PLGOB UU* in the event that Welsh Ministers consider it to be directly related and necessary to make the development acceptable.

Melissa Hall

Inspector

Documents

WAUN-006	Planning Statement
WAUN-007	Design and Access Statement
WAUN-008	Landscape & Visual Appraisal
WAUN-009	Heritage Impact Assessment
WAUN-010	Agricultural Land Classification Report
WAUN-011	Coal Mining Risk Assessment and Updated Mineral Assessment
WAUN-012	Construction Traffic Management Plan
WAUN-013	Ecological Appraisal
WAUN-014A	Glint and Glare Assessment
WAUN-014B	Glint and Glare Assessment
WAUN-015	Hydrological Assessment
WAUN-016	Tree Survey and Arboricultural Impact Assessment
1233-A	Heritage Impact Assessment Addendum
1233-B	Heritage Impact Assessment Addendum Sheet
1233-C	Addendum to Heritage Impact Assessment Summary Note
JPW0888 HD LVA addendum v0	Landscape and Visual Appraisal Addendum

Plans

Drawing reference: JPW0888-DNS- 005	DNS Site Application Plan
Drawing reference: JPW0622-WAU-002 Rev I	Proposed Site Layout Plan
Drawing reference: 17/611/01	Tree Location and Constraints Plan
Drawing reference: 17/611/02 Rev A	Tree Protection Plan
Drawing reference: JNY8819-01	Junction Layout and Visibility Splays

Annex A

Recommended conditions in the event of planning permission being granted:

1. The development to which this permission relates must be begun not later than the expiration of 5 years beginning with the date on which the permission is granted.

2. The development shall be carried out in accordance with the details of the following approved plans and documents, except where amended by conditions attached to this planning permission:

   i. Drawing reference: JPW0888-DNS-005 DNS Site Application Plan;
   ii. Drawing reference: JPW0622-WAU-002 Rev1 Proposed Site Layout Plan;
   iii. Drawing reference: 17/611/01 Tree Location and Constraints Plan;
   iv. Drawing reference: 17/611/02 Rev A Tree Protection Plan;
   v. Drawing reference: JNY8819-01 Junction Layout and Visibility Splays.

3. This planning permission shall endure for a period of 30 years from the date when electricity is first exported from the solar farm to the electricity grid ('First Export Date'). Written notification of the First Export Date shall be provided by the developer to the Local Planning Authority no later than 1 calendar month after that event.

4. If the solar park hereby permitted ceases to export electricity to the grid for a continuous period of 12 months the developer shall notify the Local Planning Authority in writing. A scheme shall be submitted to the Local Planning Authority for written approval within 3 months of the end of the 12-month period, for the repair or removal of all infrastructure. The scheme shall include, as relevant, a programme of remedial works where repairs to infrastructure is required. Where removal is necessary the scheme shall include a programme for removal of all infrastructure approved under this permission, including details of site restoration measures following the removal of infrastructure. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

5. Not later than 12 months prior to the end of this permission, a Decommissioning Management Plan shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for, inter alia, the removal of all infrastructure approved under this permission and the restoration of the site. The approved scheme shall be fully implemented within 6 months of the expiry of this planning permission, unless otherwise agreed in writing by the Local Planning Authority.

6. Prior to the commencement of any works associated with this development full details of the precise siting, layout and design of the solar arrays, including cross-sections and details of nonreflective finishing materials, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

7. Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the proposed invertors, district network operator substation and client substation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

8. Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the proposed lattice telecoms tower shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

9. Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the mounted CCTV cameras and associated poles, including the precise siting thereof, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

10. All electrical cabling between the solar park and the grid connection shall be installed underground. Prior to the commencement of any works associated with this part of the development, details of the routes of underground cabling shall be submitted to and approved in writing by the Local Planning Authority.

11. No development shall take place until a written scheme of historic environment mitigation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the programme of work will be carried out in accordance with the requirements and standards of the written scheme.

12. No development or site clearance shall commence until the Local Planning Authority has been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.

13. No development shall take place until an assessment of the stability of the land (and the surrounding area) has been carried out in accordance with a methodology which must first be submitted to and approved in writing by the Local Planning Authority. The results of such an assessment including any intrusive site investigation works identified as being necessary shall be submitted to the Local Planning Authority before works commence on site. If any land instability issues are found during the site investigation, a further report specifying the measures to be taken to remediate the site to render it suitable for the development hereby approved shall also be submitted to and approved in writing by the Local Planning Authority before works commence on site. The development shall not be brought into use until all the measures identified as necessary in any reports that are approved by the Local Planning Authority are implemented and the Local Planning Authority is provided with a validation

report, signed by a suitably qualified person that confirms that such measures and/or works have been fully implemented.

14. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The submitted scheme shall include:-

    i. Indications of all existing trees (including spread and species) and hedgerows on the land clearly identifying those to be lost or retained;
    ii. Measures for the protection of retained trees or hedges throughout the course of development;
    iii. Details of ground preparation, planting plans, number and details of species;
    iv. Maintenance details for a minimum period of 5 years; and
    v. A phased timescale of implementation.

15. All planting or seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or any alternative timescale that may be approved in writing by the Local Planning Authority before works commence on site. Any trees, shrubs or plants which within a period of 5 years from implementation of the planting scheme die, are removed or become seriously damaged or diseased, shall be replaced by one of the same species and size in the next available planting season.

16. No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following:-

    i. A risk assessment of any potentially damaging construction activities;
    ii. Identification of "biodiversity protection zones";
    iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
    iv. The location and timing of sensitive works to avoid harm to biodiversity features;
    v. The times during construction when specialist ecologist need to be present on site to oversee works;
    vi. Responsible persons and lines of communication;
    vii. The role and responsibilities on site of an Ecological Clerk of Works or similarly competent person; and
    viii. The use of protective fences, exclusion barriers and warning signs.

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

17. Prior to its construction, details of the access road for the development shall be submitted to and agreed in writing with the local planning authority. Those details shall include materials and the method of drainage. The access road shall be constructed in accordance with the agreed details prior to the commencement of any other part of the development.

18. Prior to the first use of the access to the development hereby approved, the first 10 metres shall be surfaced in in accordance with the details approved under Condition 17.

19. Prior to their construction, details of the temporary compound, car parking, turning area and wheel washing facilities shall be submitted to and agreed in writing with the local planning authority. The details shall include materials, structures, boundary treatment, means of drainage, surfacing, plant and machinery, lighting, and any storage including liquids. The compound, car parking and turning area shall be constructed in accordance with the agreed details.

20. Prior to the construction of the temporary compound, car parking and turning area, details of the mitigation of the impact of those facilities on the existing habitat and species, and method and timing of restoration following their removal from site shall be submitted to and agreed in writing with the local planning authority. The agreed details shall be complied with and the site restored in accordance with the agreed details.

21. Prior to its construction details of the bridge crossing the Nant Tysswg shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed scheme.

22. Notwithstanding any details indicated within the Ecological Mitigation Plan, no development shall be carried out until a final plan for a Curlew Habitat Enhancement Area has been submitted to and approved in writing by the local planning authority. The plan must include details of future monitoring and management. The Curlew Habitat Enhancement Area will be implemented in accordance with the approved details.

23. Prior to the commencement of development, details of any temporary lighting for the construction period shall be submitted to and approved in writing by the Local Planning Authority. The temporary lighting shall be installed in accordance with the approved details for the duration of the construction period only. With the exception of the temporary lighting, no floodlights or any other form of external lighting shall be installed at the site.

The Planning Inspectorate

Appeal Decision

Virtual Hearing Held on 20 & 22 April 2021

Unaccompanied Site Visits made on 19 April & 21 April 2021

by Cullum J A Parker BA(Hons) MA MRTPI MCMI IHBC

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

Decision date: 4 May 2021

Appeal Ref: APP/K2420/W/21/3266505
Hangmans Hall Farm, Twenty Acre Lane, Sutton Cheney, Nuneaton, CV13 0AJ

- 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 Mr David Meehan of Elgin Energy EsCo Limited against the decision of Hinckley and Bosworth Borough Council.
- The application Ref 19/01256/FUL, dated 6 November 2019, was refused by notice dated 8 July 2020.
- The development proposed is described as '*Construction of a solar park, to include the installation of solar photovoltaic panels to generate approximately 35 MW of electricity, with DNO and Client substations, inverters, perimeter stock fencing, access tracks and CCTV. Landscaping and other associated works.'*

Decision

1. The appeal is dismissed.

Applications for costs

2. At the Hearing an application for partial costs was made by the Appellant. This is the subject of a separate decision.

Preliminary Matters

3. I undertook two site visits; one before opening the Hearing and a second one during the Hearing. Prior notice was given to the main parties and this matter was raised during my opening, where no parties sought an accompanied site inspection.

4. During my site inspections I saw that site notices had been placed at various public places, including entrance points for Public Rights of Ways. I have also been provided with copies of notification letters and a newspaper notice. Whilst the Hearing was undertaken as a virtual event, I am content that the appropriate notices have been given in this instance.

5. I note that near to the appeal site lies the Ashby Canal Conservation Area. The main parties agreed at the Hearing that any impact on this designated heritage asset including its setting arising from the proposal does not constitute a reason for the refusal of permission. Nor did they suggest its dismissal on this basis. I see no reason not to concur with that position.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character of the countryside;
- The effect of the proposal on the significance of nearby heritage assets, with specific regard to the Registered Battlefield 'Battle of Bosworth (Field) 1485' and, if any harm or loss to that significance, whether there is clear and convincing justification for this;
- The effect of the proposed development on buried archaeology interests.

Reasons

Character of the countryside

7. The appeal site is located broadly to the west of the Registered Battlefield 'Battle of Bosworth (Field) 1485' and to the south of Sutton Cheney. Permission is sought for the construction of a solar park on a site of approximately 62 hectares. This would consist of ground-mounted solar arrays in rows on an east-to-west alignment together with associated works. Planning permission is sought for a 30-year operational period, following which the solar park would be decommissioned and the appeal site returned to agricultural use.[1]

8. Whilst accepting that the proposal would be 'adverse in nature for both landscape and visual effects' the Appellant's landscape expert concludes that this would be Minor adverse and localised and/or could be mitigated. To the contrary, the Local Planning Authority's (LPA) landscape expert concludes that the impact would be Moderate-Major adverse. In both cases, these are assessments and conclusions undertaken in accordance with GLVIA 3.

9. Whilst this can be a useful tool in determining how to assess impacts on landscape, it is clear that the LPA's reason for refusal refers to 'significant adverse impact' on the undeveloped and rural character of the countryside. In this respect, the proposal would result in a change to the character of the appeal site from roughly ten open fields used for a mixture of pastoral or arable farming to a majority of the site being covered by solar arrays, with the potential for some pastoral farming taking place around these.

10. I acknowledge that the appeal site is not visible in its entirety as one entity. Nonetheless, at the very least, users of the PROW and to a lesser extent surrounding highways, will see rows of industrial human-made solar arrays rather than the natural beauty and open character of the countryside that is currently present. I note the Appellant's point that the site could be partially screened through implementation of the submitted *Environmental Enhancement Strategy* (EES). However, this relies in part, on allowing reinforced stretches of hedges growing to a locally uncharacteristic height of around 4 metres, where the prevailing pattern is of closely clipped hedges of around 2 metres in height.

[1] As detailed in the Appellant's *Appeal Statement of Case*, pages 4-6, dated January 2021

11. Ms Ahern, for the LPA, explained at the Hearing that the Appellant's LVIA had placed too much emphasis on physical definitions. Instead, she suggested it is important to take into account the natural, cultural and perceptual elements of the landscape and how this results in an experience of ruralness associated with people and history. This approach appears to be both proportionate and logical given that how humans interact with the natural environment extends to more than just visual senses.

12. In the LPA's view, the proposal would result in a large-scale development that would adversely affect its rural and tranquil nature. It would also intrude on perceptions of field patterns, the rural setting of the nearby villages, and that the site directly links into and contributes to the strong historical character of the area.

13. Mr Cook, for the Appellant, directed the Hearing to Paragraph 170)b) of the Framework, which requires that planning decision should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. In this respect, he put forward that the proposal would be assimilated into the landscape, and that the proposal takes into account the receptor site and how the works fits into this.

14. However, the fact remains that the proposal would introduce numerous rows of solar arrays, deer fencing, and other associated structures that would be at odds with the prevailing rural character of the area – not only in simple visual terms, but also in terms of how the site links into the natural, cultural and perceptual elements of the wider area. This is especially acute in this instance given the proximity of the Registered Battlefield and how the landscape and character of the area has both changed but has also retained features of interest that relate to all three elements Ms Ahern identifies.

15. I note the points made by the Appellant that the site cannot be easily seen in its entirety, and that the EES, which can be secured by means of a planning condition, provides for various enhancements – such as tree and hedge planting. I also note that the EES suggests the provision of a 'heritage trail route' by providing a short stretch of permissive footpath near to the Ashby Canal, utilising a diverted existing PROW T65/2 that would dogleg around the site, and diverting existing PROW T68/3 for a short part to potentially provide an educational facility in the form of a circle of logs and opening up some views towards the Registered Battlefield. There is also the opportunity to provide new information boards and public art as set out in the EES. These are commendable activities which, nonetheless, could potentially take place regardless of whether permission was forthcoming or not.

16. I therefore conclude that the proposal would have a significant adverse effect on the character of the countryside and that the mitigation measures proposed are insufficient to detract from or mitigate this. Accordingly, it would be contrary to Policies DM2, DM4, DM11, and DM12 of the *Sites Allocation and Development Management Policies Development Plan Document (2016)* SADMPD, which amongst other aims seeks to ensure development in the countryside will be sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. It would also conflict with Paragraph 170 of the Framework as indicated above.

Impact on the significance of the Battle of Bosworth (Field) 1485

17. Full details of the historical record are presented in the evidence of the main parties, which I will not rehearse here. However a brief synopsis is useful. The Battle of Bosworth took place on 22 August 1485. Whilst taking place over a few hours and directly concerning only a few thousand men, its importance in English history cannot be understated.

18. It is generally regarded to be the key event signifying the end of the War of the Roses, seeing the dynastic change between the House of York part of the Plantagenet family with the death of Richard III, to the start of the Tudor dynasty under Henry VII, and the era from which history moved from the medieval to the early modern period. The Battle itself is notable for other reasons too, such as the last battle in which an English King died on the battlefield and the first extensive use of artillery in England in such a manner.

19. In terms of significance, as suggested by the Appellant's heritage expert[2], the significance of the battle site largely lies within the bounds of the Registered Battlefield; as extended following the reinterpretation of the landscape. Nevertheless the appeal site makes a modest contribution to how the Battlefield is experienced and the events of 1485. Historic England identify four key elements including Topographical integrity, which indicates that whilst agricultural land management has changed since the battle, the battlefield remains largely underdeveloped and permits the site of encampments and the course of the battle to be appreciated. It is possible to see this within the wider landscape, which the appeal site forms part of, where there is generally an absence of large-scale developments, structures or buildings of a man-made nature outside of existing settlements.

20. It is important to note that the appeal site itself lies outside of the Registered Battlefield, which was mostly recently extended in 2013 following further study of both the landscape archaeological and documentary evidence. Nonetheless, the Framework indicates that the setting of a heritage asset are the surroundings in which the heritage asset is experienced. This is a logical starting point in assessing any potential impact arising from the proposal.

21. Both main parties agree in their respective written submissions that the proposal would result in less than substantial harm to the significance of the Registered Battlefield 'Battle Bosworth (Field) 1485'. However, they disagree on the magnitude of that harm on a scale within the less than substantial harm threshold. The Appellant considers that it would be to the lower end of any such spectrum whereas the LPA considers it would be to the higher end. Beyond the reference within the national Planning Practice Guidance, which indicates that the within each category of harm, 'the extent of harm may vary and should be clearly articulated'[3], there is no explicit spectrum.

22. To articulate here, the harm in this case would principally be the impact on views from and to the Battlefield[4], the erosion of shared landscape characteristics between the appeal site and the Battlefield, and the loss in how an observer would experience the events of August 1485 through tracing the most recent and constantly developing interpretation of the events of the battle

[2] See G Stoten Heritage Appeal Statement, Page 23, paragraph 6.51
[3] Paragraph: 018 Reference ID: 18a-018-20190723 Revision date: 23 07 2019
[4] As articulated by G Stoten Heritage Appeal Statement, page 25 onwards

through the landscape. The latter two aspects even in light of how the landscape has changed since 1485 through various changes in the rural landscape including with agricultural farming practices and the insertion of the Ashby Canal, for example.

23. As such, and as a matter of planning judgement, I concur with the views of the main parties that the proposal would result in at least less than substantial harm to the significance of the Registered Battlefield through adverse changes in its setting arising from the proposal. This is a view that concurs with those of the Government adviser on the historic environment, Historic England, who consider that the proposal site lies within a highly sensitive location within the setting of the Battlefield which will harm its significance.

24. Considerable importance and weight should be given to the need to conserve such assets in a manner appropriate to their significance. The Framework indicates at Paragraph 196, where less than substantial harm is identified this should be weighed against the public benefits of the proposal. This is echoed in the pre-Framework publication *Overarching National Policy Statement for Energy (EN-1) July 2011*[5] at section 5.8 and in particular paragraphs 5.8.12 to 22.

25. In this case, the Appellant considered the benefits[6] to be (summarised here):

    (i) The generation of renewable energy and the contribution to a low carbon economy; with the proposal generating electricity to power around 10'500 homes and contributing to meeting the UK's commitment to reduce greenhouse gas emissions by 100% or net zero compared to 1990s levels by 2050, and be in accordance with Paragraph 148 of the Framework which sets out that the planning system should support the transition to a low carbon future in a changing climate. It would also be for a time limited period of 30 years;

    (ii) The provision of a heritage trail and education facility which would enhance public access by including permissive paths to form a circular walk linking with other existing Public Rights of Way and the provision of interpretation boards;

    (iii) Landscape enhancements which are considered to create a more coherent landscape framework across the appeal site which would enhance landscape character;

    (iv) Ecological enhancements which include additional planting, re-profiling of existing ponds, and the provision of bat and bird boxes; and,

    (v) Economic benefits including construction jobs and a capital investment of around £35 million.

26. Taken together, I do not find that these public benefits outweigh the less than substantial harm to the significance of the designated heritage asset through changes to its setting. These changes would deprive future generations of

[5] As indicated within the document itself, EN-1 is likely to be a material consideration, see paragraph 1.2.1.
[6] Detailed in pages 29 to 32, Planning Appeal Statement of J Walker, January 2021, and confirmed orally at the Hearing by P Burrell.

being able to understand and experience the events leading to and of the battle itself, and appreciating the rural character of the Battlefield and the wider context. Even taking into account the time limited nature of the proposal – for around 30 years after which it would be removed – this would be an extensive period of time where people will be deprived of features within its setting that contribute to its significance.

27. Accordingly, the proposal would be contrary to Policies DM2, DM4, DM11, DM12 of the SADMPD, which, amongst other aims, seek to ensure that the benefits of the proposal will outweigh any harm caused and that proposals that adversely affect the Bosworth Battlefield or its setting should be exceptional and such proposal will be assessed against their public benefits. It would also be contrary to the Policies identified in the Framework and the paragraphs within EN-1; both of which are material considerations.

Potential impact on buried archaeological remains

28. Paragraph 189 of the Framework sets out that where there is potential for archaeological interest on sites, an appropriate desk-based assessment and, where necessary, a field evaluation should be undertaken. In this case a desk-based assessment was submitted by the Appellant. At the Hearing the main parties discussed various ways in which a field evaluation can take place; including geophysical/LiDAR surveying and a metal detector survey.

29. Leicestershire County Council (LCC), acting in its capacity as professional advisers to the LPA on archaeology, reaffirmed its position at the Hearing that due to the lack of trial trenching at the appeal site it is not possible to ascertain the significance of buried archaeological remains. In such circumstances, it considers that the decision-maker is then unable to undertake the balancing exercise set out at Paragraph 197 of the Framework.

30. If further field evaluation work was undertaken, such as trial trenching, the hypothesis of LCC is that this might further reveal the precise route of the 'Roman Mancetter Road', and such survey work might demonstrate the existence of a road on the same route during the late-medieval period at around the time of the Battle of Bosworth. If that were the case, then that road might have reasonably been used by Richard III and the Royalist host to travel to the camps from the Leicester direction in the days before the battle.

31. To the contrary, the Appellant points to the study by Foard and Curry in their book *Bosworth 1485: A battlefield Rediscovered* (2013), who concluded that this route was unlikely to be extant at the time of the battle. Instead, it is suggested that a route to the north of the appeal site known as 'Leicester Lane' was the most probable route.[7] However, there is little further evidence before me or that I have been directed to, such as metal detecting or trial trenching surveys, that corroborate this particular theory in depth.

32. I have also been directed to the position generally accepted between the main parties and Historic England that there is evidence of medieval landscape in the form of ridge and furrow within the appeal site. The Appellant contends that the presence of this feature within part of the landscape infers that it is very unlikely the Roman Road or other roadway following its line was still extant at the time of the Battle. At the Hearing, LCC further developed the hypothesis

[7] See G Stoten Heritage Appeal Statement, page 14, Plate 2, showing Figure 4.14 from Foard and Curry (2013)

that the geophysical surveys showed the potential line of the roman road in an arc across the northern part of the site which includes the area of ridge and furrow. This interpretation of the survey results was disputed by the Appellant.

33. The metal detector survey report conclusion found that 'a number of finds of Roman date were made, including some of a character unusual for a rural site. The distribution of these finds has some similarity with the line of the Mancetter Road which is postulated to have passed through this area'. The same survey found that 'no finds that could be clearly related to the Battle of Bosworth…were made'[8].

34. Clearly there is an incomplete picture in the evidence before me. The geophysical survey has found evidence of ridge and furrow medieval farming practices; yet it is unclear whether there is any discernible evidence to the route of the Roman Road passing through the site and even less clear whether such road was present at the time of the Battle of Bosworth. At the same time, I heard that geophysical surveys can provide limited information in which to ascertain such details. Conversely, there is metal detecting surveying which found a number of finds from the Roman period in roughly the location of where the Roman Mancetter Road may have been located (in the north east edge of the site).

35. My role is to consider what is reasonable and proportionate based upon the available evidence before me. As identified elsewhere, the Battle of Bosworth was a dynasty changing epochal event in English and British history. Even today, as will future generations, we are still learning about the events that took place in late August 1485. I have no doubt as to the professional expertise of the Appellant's heritage witness. Nevertheless, despite evaluation carried out to date, I cannot be assured of the specific nature or significance of the potential buried archaeological remains.

36. An understanding of the significance of any heritage asset is the starting point for determining any mitigation, and therefore I am unable to assess whether the mitigation proposed would be appropriate. Similarly, I cannot be certain of the potential harm that may result to the archaeological interest from the appeal proposal, for example through the siting of solar arrays and the groundworks required.

37. The heritage asset might have archaeological interest which could be unlocked through further field evaluation which would enable a greater understanding of any remains and their wider context. On this basis, and given that the significance of the potential remains could be of local and potentially regional importance (or greater if associated with the adjacent Registered Battlefield), I find that the Council's approach is proportionate to the potential asset's importance and no more than is sufficient to understand the potential impact of the proposal. This approach is consistent with Paragraph 189 of the Framework which sets out that developers should submit an appropriate desk-based assessment and where necessary a field evaluation.

38. Furthermore, I do not consider that the imposition of a planning condition would provide adequate mitigation for the safeguarding of what amounts to a non-designated heritage asset, given the affected land immediately adjoins

[8] G Stoten Heritage Appeal Statement, Appendix 4, Metal Detecting Survey Report 2021 (Draft 4), University of Leicester Archaeological services, page 22

land that forms part of the Registered Battlefield. I acknowledge the Appellant's example of an appeal where an Inspector considered a suitably worded planning condition in order to address incomplete archaeology information (ref 3243720). I do not have the full details of that scheme before me. Nonetheless, that was on a different appeal site in Trafford, in a different part of the country and with no relationship with the Registered Battlefield at Bosworth.

39. I have carefully considered the archaeological matters arising in this instance and find that whilst the evidence is not compelling that there was a road present on the appeal site at the time of the Battle, the evidence is incomplete. I therefore conclude that the appeal proposal fails to provide sufficient evidence regarding potential archaeological remains or features of interest, such that I cannot be assured that material harm to archaeological remains would not result.

40. Accordingly, the appeal would fail to accord with Policy DM11, DM12 and DM13 of the SADMPD, which, amongst other aims, seeks to ensure that all proposals which have the potential to affect a heritage asset will be required to demonstrate an understanding of the significance of the heritage asset, and the impact of the proposal on the asset, and that particular regard will be had to maintaining archaeological remains of the Battlefield. Those Policies requires an approach to the conservation of archaeological remains that is consistent with the Guidance, Framework, and other material considerations such as EN-1. The proposal would also conflict with Section 16: Conserving and enhancing the historic environment of the Framework

Planning Balance and Conclusion

41. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, requires that if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

42. I have found that the proposed development would not accord with the adopted development plan Policies DM2, DM4, DM11, DM12 and DM13, nor when the SADMPD is considered as a whole. There would also be conflict with Policies of the Framework and the *Overarching National Policy Statement for Energy (EN-1) July 2011,* as aforesaid.

43. Material considerations put forward by the Appellant include a number of benefits in the form of; renewable energy at a time when local and national governments have declared a 'climate emergency' and are seeking to move to a low carbon economy, the provision and/or diversion of permissive and Rights of Way footpaths, landscape and ecological enhancements, and economic benefits. These benefits taken together are afforded significant weight. However, these material considerations are not sufficient to outweigh the conflict with the development plan and the harm identified in the three main issues.

44. Whilst I am not entirely convinced that such a balance is required in this case, the Appellant has suggested that 'any adverse impacts of the proposed development would be significantly and demonstrably outweighed by the benefits, were it to be found that the proposed development did not accord

with the development plan as a whole'[9]. This echoes the wording of Paragraph 11 of the Framework and Policy DM1 of the SADMPD.

45. For clarity, I find that the adverse impacts of allowing the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework and/or development plan when taken as a whole.

46. For the reasons given above, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

[9] Planning Appeal Statement (author J Walker), Page 34, Para. 9.36 (presented by P Burrell)

APPEARANCES

FOR THE APPELLANT:

Paul Burrell, BSc(Hons), DipUP, MRTPI	Executive Director	Pegasus Group - Planning
Andrew Cook, BA(Hons), MLD, CMLI, MIEMA, CENV	Executive Director	Pegasus Group – Environment
Gail Stoten, BA(Hons), MCIfA, FSA	Executive Director	Pegasus Group – Heritage

FOR THE LOCAL PLANNING AUTHORITY:

Rhiannon Hill, BSc(Hons) MA MRTPI	Team Leader, DM	HBBC
Paul Grundy, BSc(Hons) MA, PgCert	Senior Planning Officer (Conservation and GIS)	HBBC
Richard Clark BA(Hons) MA	Team Manager (Heritage)	Leicestershire CC
Sophie Clarke BA(Hons)	Senior Planning Archaeologist	Leicestershire CC
Kate Ahern BSc MSc CMLI	Director of Landscape Planning	Land Use Consultants Limited

DOCUMENTS SUBMITTED AT THE HEARING

1. Site Location and Land Rights Plan, Drawing Number P18-0089_31 Dated 24/04/2021
2. List of suggested conditions (amended) 21.04.2021
3. Template of a Permissive Path Agreement
4. Rebuttal Note Heritage

END

Department for Communities and Local Government

Gillian Slater
Wardell Armstrong International Ltd
Baldhu House
Wheal Jane Earth Science Park
Baldhu
Truro TR3 6EH

Our Ref: APP/H1840/W/15/3136031 & APP/P1805/15/3136033

25 May 2016

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD) AT RECTORY FARM, RECTORY LAND, UPTON WARREN, WORCESTERSHIRE
APPLICATION REFERENCES: (A) W/15/01035/PN (B) 15/0387

1. I refer to an e-mail of 24 May 2016 received by the Department from Wychavon District Council requesting a correction to the planning application reference number referred to in the Secretary of State's decision letter on the above case dated 23 May 2016.

2. As this request was made before the end of the relevant period for making such corrections under section 56 of the Planning and Compulsory Purchase Act 2004 (the Act), a decision has been made by the Secretary of State to correct the error. Accordingly, he has amended this reference in the attached decision letter and Inspector's Report.

3. Under the provisions of section 58(1) of the Act, the effect of the correction referred to above is that the original decision is taken not to have been made and an application may be made to the High Court within six weeks from the date of this notice for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

4. A copy of this letter and the amended decision letter have been sent to Wychavon District Council.

Yours faithfully

Jean Nowak

JEAN NOWAK

Department for Communities and Local Government

Gillian Slater
Wardell Armstrong International Ltd
Baldhu House
Wheal Jane Earth Science Park,
Baldhu
Truro
TR3 6EH

Our Ref: APP/H1840/W/15/3136031 & APP/P1805/15/3136033

23 May 2016

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD)
AT RECTORY FARM, RECTORY LANE, UPTON WARREN, WORCESTERSHIRE
APPLICATION REFERENCES: (A) W/15/01035/PN & (B)15/0387

1. I am directed by the Secretary of State for Communities and Local Government to say that consideration has been given to the report of the Inspector, Vicki Hirst BA(Hons) PG Dip TP MA MRTPI, who made a site visit on 4 January 2016 relating to your client's appeals against the decisions of Wychavon District Council (appeal A) and Bromsgrove District Council (appeal B) - (referred to hereafter jointly as "the appeals" and "the Councils") - to refuse planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL, in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) and (B) 15/0387 (also dated 21 April 2015) respectively. The proposal covers a single site which straddles the boundary between the two local planning authorities.

2. On 23 December 2015 the appeals were recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because they involve proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation, dismisses the appeals and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Communities and Local Government
Jean Nowak, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1626
Email: PCC@communities.gsi.gov.uk

Policy and Statutory Considerations

4. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

5. In this case, the development plan for Wychavon comprises the South Worcestershire Development Plan (SWDP) adopted 25 February 2016; and the Bromsgrove development plan comprises the saved policies of the Bromsgrove District Local Plan 2004. The SWDP replaced the Wychavon District Local Plan which was in force at the time the application was determined, but the Secretary of State agrees with the Inspector (IR4) that the general policies cited in the SWDP are similar to those in the Wychavon Plan. The Secretary of State considers that the development plan policies of most relevance to these appeals are those identified by the Inspector at IR16-23.

6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* March 2012 (the Framework), and the planning practice guidance first published in March 2014 (the guidance). He has also had regard to the Written Ministerial Statement of March 2015 referred to by the Inspector at IR28 and which, amongst other matters, concerns solar energy and the protection of the local and global environment.

7. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by this scheme or their settings or any features of special architectural or historic interest which they may possess. He has also given special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in accordance with section 72 of the LBCA Act.

Main Issues

8. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR128.

Harm to the Green Belt

9. The Secretary of State agrees with the Inspector that the appeals site lies within the West Midlands Green Belt (IR9) where the proposal would constitute inappropriate development (IR129). For the reasons given by the Inspector at IR131-134, the Secretary of State agrees with her that the proposed solar farm would have a significant adverse effect on the openness of the Green Belt and that, for the duration of its existence, it would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment, thereby adding significantly to the harm to the Green Belt (IR134).

Character and Appearance

10. The Secretary of State has given careful consideration to the Inspector's analysis of the scheme's impact on character and appearance and visual amenity at IR135-IR149. Whilst he accepts that the site does not contain any statutory landscape or conservation designations, he shares the Inspector's view that, for the reasons given at IR139, the proposed development would be an incongruous and alien intrusion that would be harmful to the landscape character of the area. The Secretary of State also agrees with the Inspector that the network of paths that cross the site would be dominated by the presence of the proposed development (IR145) to the extent that the enjoyment of a network of public rights of way would be significantly affected and harmed by the proposal.

Heritage Assets

11. Having carefully considered the Inspector's reasoning at IR150-157, the Secretary of State agrees that, whilst the proposed development would not cause harm to the nearby Upton Warren Conservation Area (IR151) or be harmful to the special interest or setting of West Lodge or its barn (IR152), it would be an alien and discordant feature within the pastoral setting of the Bowling Green Farmhouse and barn (IR153-154). The Secretary of State agrees with the Inspector that, for the reasons given at IR154-157, although the harm caused to Bowling Green Farmhouse and barn would be less than substantial for the purposes of paragraph 134 of the Framework, the fact that the overall scheme would be harmful to the setting of these heritage assets and would not therefore accord with the SWDP or national policy weighs significantly against the proposal.

Other matters

12. For the reasons given at IR158, the Secretary of State agrees with the Inspector that limited weight should be given to the benefit arising through additional planting of hedgerows and a wildflower meadow. He also agrees that, for the reasons given at IR159, the proposal would not give rise to any significant highway safety concerns and that potential highways impacts would be neutral in the planning balance. Furthermore, like the Inspector (IR160), the Secretary of State gives limited weight to the fact that the land is predominantly classified as Grade 3b and so would not represent the best and most versatile agricultural land as defined in the Framework.

Renewable energy

13. The Secretary of State agrees with the Inspector that, for the reasons given at IR161-162, the contribution that the proposed scheme would make to energy security and national renewable energy targets weighs significantly in its favour.

Very special circumstances

14. The Secretary of State has given careful consideration to the Inspector's arguments at IR163-174. Taking account of paragraph 91 of the Framework, which states that the very special circumstances for locating a renewable energy project in the Green Belt may include the wider environmental benefits associated with increased production of energy from renewable sources, he agrees with the Inspector that considerable weight should be given to those benefits (IR164). He also agrees that, for the reasons given by the Inspector, some weight should be given to the fact that the scheme would not utilise the best and most versatile land (IR165); but only limited weight to the temporary nature of the proposal which would then be removed after 25 years (IR165).

15. For the reasons given at IR166-167, the Secretary of State agrees with the Inspector that little weight should be given to the argument that there is no other available capacity or alternative sites in the Wychavon area. Like the Inspector, the Secretary of State attaches some weight to the ecological benefits which would ensue from additional planting of hedgerows and a wildflower meadow (IR168), and to the benefits to the local community through the creation of a new footpath (IR169). However, he also agrees with the Inspector (IR169) that any Unilateral Undertaking to provide a "fit for free" scheme would not meet national policy guidance.

16. The Secretary of State agrees with the Inspector (IR170) that the definitional harm to the Green Belt through the scheme being inappropriate development, along with the harm it would cause to openness and in not meeting the purposes of safeguarding the countryside from encroachment, should be weighed against the benefits outlined in paragraphs 14 and 15 above along with the harm to the setting of Bowling Green Farmhouse and barn (IR171). The

Secretary of State therefore also agrees with the Inspector (IR172) that the other considerations in this case do not clearly outweigh the harm identified, with no evidence that the impacts could be made acceptable, so that the very special circumstances necessary to justify the development do not exist. This leads the Secretary of State to also agree with the Inspector at IR173-174 that, considering the appeals proposal on its own merits and with regard to its particular context and circumstances, it would not be in accordance with the relevant development plans and would be in conflict with the objectives of the Framework and Guidance including the presumption in favour of sustainable development.

Conditions

17. The Secretary of State has considered the Inspector's assessment of the conditions at IR175-181 and the suggested conditions at Annex A of the IR. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that the suggested conditions would overcome his reasons for dismissing the appeals.

Conclusion

18. The appeals scheme amounts, by definition, to inappropriate development in the Green Belt which would also cause harm to the openness of the Green Belt and to its purpose in assisting in safeguarding the countryside from encroachment. It would also cause harm to the landscape character and visual amenities of the area and to the setting and significance of listed buildings. Against these considerations, the appeals scheme would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets and, by helping to improve the security of the energy supply, it would have direct and indirect economic benefits. Nevertheless, the Secretary of State is satisfied that the harm which this scheme would cause to the openness of the Green Belt and any other harm would not be clearly outweighed by other considerations and that the very special circumstances have not been demonstrated to justify this development in the Green Belt.

Formal Decision

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeals and refuses planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) to Wychavon DC and (B) 15/0387 (also dated 21 April 2015) to Bromsgrove DC respectively.

Right to challenge the decision

20. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

21. Copies of this letter have been sent to Wychavon and Bromsgrove District Councils, with notifications sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

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

Date: 17 March 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MR MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD)

WYCHAVON DISTRICT COUNCIL

BROMSGROVE DISTRICT COUNCIL

Site visit made on 4 January 2016

Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

File Refs: APP/H1840/W/15/3136031 & APP/P1805/W/15/3136033

APPEAL A
File Ref: APP/H1840/W/15/3136031
Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

- 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 Mr Markus Wierenga (Green Switch Developments Ltd) against the decision of Wychavon District Council.
- The application Ref W/15/01035/PN, dated 21 April 2015, was refused by notice dated 26 August 2015.
- The development proposed is the installation of a solar park with an output of approximately 8.94MW on land adjacent to Rectory Farm.

Summary of Recommendation: The appeal be dismissed.

APPEAL B
File Ref: APP/P1805/W/15/3136033
Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

- 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 Mr Markus Wierenga (Green Switch Developments Ltd) against the decision of Bromsgrove District Council.
- The application Ref 15/0387, dated 21 April 2015, was refused by notice dated 10 September 2015.
- The development proposed is the installation of a solar park with an output of approximately 8.94MW on land adjacent to Rectory Farm.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. As set out above this report is in relation to two separate appeals. Both relate to the same overall proposal with the substantive part situated within the administrative boundary of Wychavon District Council (Wychavon DC) and a smaller part located within Bromsgrove District Council's (Bromsgrove DC) jurisdiction. In determining the applications Wychavon DC took the lead. To avoid duplication I have referred to the appeal site and development in the singular and have considered the two appeals together except where indicated.

2. The appeals were recovered for determination by the Secretary of State on 23 December 2015. The reason for recovery is that the proposal is for significant development in the Green Belt.

3. A screening direction was given by the Planning Inspectorate as to whether the proposal is Environmental Impact Assessment (EIA) development within the meaning of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011 No. 1824). The direction given was that the proposal is not EIA development as the nature and scale of the development is such that no significant environmental impacts are likely. This direction accords with the screening opinion given by Wychavon DC[1].

4. Wychavon DC determined the application with regard to the adopted Wychavon District Local Plan (Wychavon LP). The South Worcestershire Development Plan

[1] Doc 1

(SWDP) was adopted on 25 February 2016 and supersedes the Wychavon LP and is the relevant plan against which Appeal A should be determined. The Council has provided information[2] in relation to those policies considered to be relevant and cites policy SWDP 2 as a replacement for policy SR7 and policy SWDP 25 as the replacement for policy ENV1 both of which are quoted in its decision notice. The appellant has made comments in relation to the implications of the SWDP. I have made my recommendations on the basis of the adopted SWDP and in relation to the main issues I am satisfied that the general content of the cited policies remains similar to those in the Wychavon LP.

5. I undertook an unaccompanied site visit to the site and surrounding area on 4 January 2016.

The Site and Surroundings

6. The site is located in the countryside and comprises some 19 hectares divided into approximately 10 small to medium sized fields by hedges and mature trees. The M5 motorway is situated to the immediate west, agricultural land lies to the north and a mixture of agricultural land and residential properties are located to the south. There are further agricultural fields to the east dividing the site from the A38 Worcester Road some 0.3km distant and which serves several commercial and residential properties to the east of the site. The village of Upton Warren, part of which is designated as a Conservation Area is situated approximately 0.6km to the south. Access to the site is currently obtained from Rectory Lane at the south west corner of the site.

7. Several public rights of way are located within the site boundaries, and follow the western and eastern boundaries and traverse across part of the site and follow its northern boundary. The paths connect to a network of paths within the surrounding countryside.

8. The triangular field comprising some 1.2 hectares in the north west corner of the site comprises the part of the site located within Bromsgrove DC's area and the remainder lies within Wychavon DC's administrative boundary.

9. The site falls within the National Character Area (NCA) 106 Severn and Avon Vales. It is within the Worcestershire Landscape Character Area Mid-Worcestershire Forest and Landscape Types Principal Timbered Farmlands and Wooded Estatelands. The character of the area is described as a rolling, agricultural landscape with woodland and the hedgerow pattern being key features, creating filtered views and a sense of enclosure[3]. The whole site lies within the West Midlands Green Belt.

Planning History

10. Applications for a solar park on the site were previously submitted to the two respective Councils. Following additional information being requested these applications were withdrawn prior to their formal determination[4].

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[2] Doc 16
[3] Doc 2
[4] Wychavon District Council ref W/14/00267/PN, Bromsgrove District Council ref B/2014/0752

The Proposal

11. The proposal would comprise an array of approximately 33,748 solar panels mounted on frames with a maximum height of some 2.33 metres with a tilt angle of 25 degrees. The panels would be orientated on an east–west alignment with gaps between rows of 3-4 metres. The proposal would also include a control building/substation, ten inverters in fibre glass enclosures distributed throughout the site and a wire mesh security fence around the perimeter with CCTV cameras.

12. New hedgerow planting is proposed, particularly along the eastern and northern boundaries to screen the rights of way and to provide biodiversity improvements and to the west of Rectory Farm buildings to provide screening. A picnic area managed as a wildflower meadow with information boards would be provided in the north east corner and improvements to links to the surrounding rights of way are also proposed[5].

13. Temporary access to the site would be taken from an existing entrance from the A38 for the construction phase. This would follow the southern edge of the existing substation into a construction compound/staging area. The operational phase of the development would use the existing access from Rectory Lane for occasional maintenance and cleaning purposes.

14. The proposal would provide a maximum output of 8.94MW of electricity under peak operating conditions.

15. Wychavon DC refused its application under delegated powers on 26 August 2015 and its reasons for refusal are set out in its decision notice[6]. Bromsgrove DC refused its application following a committee resolution on 7 September 2015. The reasons for refusal are set out in its decision notice dated 10 September 2015[7].

Planning Policy

The Development Plan

16. Wychavon DC's development plan comprises the SWDP. The development plan policies of particular relevance are policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27.

17. Policy SWDP 2 is a general policy relating to the development strategy and settlement hierarchy. The strategy and site allocations are based on principles including the safeguarding and enhancement of the open countryside, the encouragement and effective use and re-use of brownfield land and the maintenance of the openness of the Green Belt.

18. Policy SWDP 24 is concerned with management of the historic environment and requires development proposals affecting heritage assets to be considered in accordance with the Framework, relevant legislation and published national and local guidance. Policy SWDP 25 is a general policy relating to landscape

5 Doc 3
6 Doc 4
7 Doc 5

character and requires proposals to demonstrate that they have taken into account the latest landscape character assessment, that they integrate with the character of the landscape setting and that they conserve and take opportunities to enhance the landscape.

19. Policy SWDP 27 welcomes stand-alone renewable energy schemes and proposals will be considered favourably having regard to the provisions of other relevant policies in the SWDP.

20. Bromsgrove DC's development plan comprises the saved policies of the Bromsgrove District Local Plan 2004 (Bromsgrove LP). The policies of particular relevance to this appeal are policies DS2, DS13 and S39.

21. Policy DS2 states that permission for development in the Green Belt will not be given except in very special circumstances for the construction of new buildings unless one of several specified instances applies. The appeals proposal does not fall into the identified instances.

22. Policy DS13 is a general policy relating to sustainable development and the need for future development to be sustainable so that present demands do not compromise the ability of future generations to meet their own demands or enjoy a high quality environment.

23. Policy S39 requires careful attention to be paid to any proposal affecting the character of a Listed Building or its setting.

National Planning Policy

24. National planning policy on renewable energy development is set out in the National Planning Policy Framework (the Framework) and Planning Practice Guidance: Renewable and Low Carbon Energy (the Guidance).

25. In line with the UK's European obligations and targets for tackling climate change, as set out in legislation and a number of statements and strategies, the Framework requires local planning authorities to have a positive strategy to promote energy from renewable and low carbon sources and maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily including cumulative landscape and visual impacts. In determining proposals the overall need for renewable or low carbon energy is not required to be demonstrated and proposals should be allowed unless material considerations indicate otherwise and if impacts can be made acceptable[8]. The Framework provides a presumption in favour of sustainable development which means that development that accords with the development plan should be approved. Where the development plan is absent, silent or out of date permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or where specific policies in the Framework indicate development should be restricted such as Green Belts[9].

26. The Framework identifies that Green Belts serve five purposes including assisting in safeguarding the countryside from encroachment. Their essential

[8] Paragraphs 97 & 98, National Planning Policy Framework, March 2012
[9] Paragraph 14, National Planning Policy Framework, March 2012

characteristics are their openness and permanence. Paragraph 91 states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. This is, by definition, harmful. The Framework provides that substantial weight should be given to any harm to the Green Belt. In such cases developers will need to demonstrate very special circumstances if projects are to succeed, and such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

27. The Guidance recognises the negative impact that large scale solar farms can have on the rural environment, particularly in undulating landscapes and requires consideration to be given to landscape and visual impacts and the potential for mitigation for any impacts. Consideration is required to be given to encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, providing that it is not of high environmental value. Where proposals involve greenfield land the proposed use of any agricultural land should be shown to be necessary and poorer quality land should be used in preference to higher quality land and the proposal should allow for continued agricultural use where applicable and/or encourage biodiversity improvements around arrays.

28. In a Ministerial Statement on 25 March 2015, Sir Eric Pickles, the former Secretary of State for Communities and Local Government, emphasised that meeting energy goals should not be used to justify the wrong development in the wrong location including the use of high quality agricultural land. Large scale ground mounted solar photovoltaic farms that involve agricultural land should demonstrate that this is necessary and that poorer quality land is to be used in preference to land of a higher quality.

29. In respect of heritage matters, the Framework requires consideration to be given to the particular significance of any heritage asset that may be affected by a proposal. When considering the impact of a proposed development on that significance great weight should be given to the asset's conservation. Where a proposed development would lead to less than substantial harm to the significance of the heritage asset this harm should be weighed against the public benefits of the proposal[10].

Other Agreed Facts

30. No agreed statement of common ground has been submitted by the parties. However, Wychavon DC has confirmed in its statement of case that there are considered to be a number of areas of common ground with the appellant[11]. These are; the vehicle movements associated with the proposed development would be accommodated by the local highway network without detriment to highway safety; there would not be an adverse impact on flooding or surface water drainage; no objections are raised on archaeological, noise or heritage asset grounds; subject to detailed enhancement, management and mitigation

[10] Paragraphs 129, 132 & 134 National Planning Policy Framework
[11] Doc 6

conditions there would not be an adverse impact on biodiversity; the site does not constitute the best and most versatile land being classified as Grade 3b land; there is no evidence that the proposal would result in any unacceptable glint or glare; and no contributions for planning obligations are required.

The Case for Mr Markus Wierenga – Green Switch Developments Ltd

31. The appellant's case is set out in the two appeal statements in respect of the two appeals dated October 2015[12], the final comments dated December 2015[13] and the letter dated 4 March 2016[14] in relation to the implications of the SWDP. The material points are as follows.

32. The applications follow pre-application discussions with both Councils, a public exhibition regarding the proposal and previous applications to the respective Councils that were withdrawn following advice that further information was required.

Planning Policy and Guidance

33. The appeal proposal would result in the temporary use of the site for a period of 25 years to generate sufficient electricity from a renewable resource to meet the needs of approximately 2,682 homes, off-setting the emissions of 4,470 tonnes of CO_2 annually, while maintaining the site in agricultural use with enhanced ecological benefits. This is considered to represent sustainable development in line with national and local policy including strategic policy SWDP 1 of the SWDP. The proposal would also represent a form of agricultural diversification facilitating ongoing investment in the wider agricultural holding in line with national policy and the SWDP 2030 vision to support rural businesses. A nearby connection to the national electricity distribution network is available and there is a willing landowner. The proposal is deliverable and would make a significant contribution to renewable energy generation and carbon emission reduction targets which is supported by policy SWDP 27 of the SWDP. This policy does not require proposals to be compliant with other policies of the SWDP but to have regard to them and the reasoned justification acknowledges that the development of renewable energy and low carbon energy is a key means of reducing South Worcestershire's carbon dioxide emissions. It is considered that the proposal is supported by the development plan policies and the Framework's provisions.

34. The Ramblers Association in their consultation response consider the proposal has a minimal impact on the wider countryside and should not be visible from the M5 motorway or from the countryside to the west. It allows for continued agricultural use and incorporates biodiversity improvements and accords with the Guidance.

[12] Docs 7 & 8
[13] Doc 9
[14] Doc 17

Site Search and Identification

35. The applications were accompanied by an assessment of alternative sites[15]. This highlights the limited number of potential sites within Wychavon for a ground mounted solar farm and the lack of potential roof space. The SWDP objective to provide a better environment for today and tomorrow supports the proposal.

36. There have been relatively few large scale roof mounted solar proposals since the Feed in Tariff was introduced which reflects the difficulties associated with such development. Changes to the tariff are likely to dramatically reduce the financial attractiveness of any roof mounted array and it is considered that should suitable roof spaces be identified they should be developed as well as, not instead of other large scale solar arrays. Wychavon DC has stated that it has no grounds to contest any of the points and officers are unable to identify a suitable alternative previously developed site.

37. The government's intention is not to replace ground based solar with rooftop panels but for the two to support each other. The letter to local authorities by Greg Barker MP dated 22 April 2014 states that there is still a place for larger scale field based solar in the UK's energy mix. The financial, technical and physical ability to connect such development to the grid and the availability of such a site are critically important to project deliverability.

Impact of the proposed development on the Green Belt and very special circumstances

38. The site lies within the West Midlands Green Belt. It is accepted that the proposal represents inappropriate development. Very special circumstances have been put forward that demonstrate that substantial weight should be given to the considerable benefits associated with the proposal. The need for renewable energy infrastructure to be deployed beyond the urban areas is supported by the reasoned justification of policy SWDP 2 that recognises that it is appropriate that development should be restricted in the open countryside to those proposals supported by more specific SWDP policies such as policy SWDP 27 relating to renewable and low carbon energy. A number of solar farms have previously been granted within Green Belt locations throughout the UK and which demonstrate very special circumstances.

    a) South East of Yarnton, Cherwell District Council – 5MW solar farm on 18.25ha within the Oxford Green Belt. Very special circumstances were demonstrated to include a well contained and well screened site, temporary development, continuing agricultural use and sustainability. Permission was subsequently granted.

    b) Burton Farm, Bishopston, Stratford-upon-Avon – 4.4MW solar farm on 12.09ha within the Green Belt. Very special circumstances were demonstrated to include the limited visual sphere of impact of the solar farm, wider environmental benefits, farm diversification, ongoing agricultural activity, biodiversity enhancements, proximity to the electricity transmission system and temporary development. Permission was subsequently granted.

[15] Doc 10

c) Clayhill Farm, Westoning, Central Bedfordshire - 21MW solar farm on 36.2ha within the South Bedfordshire Green Belt. Very special circumstances included a well screened site and the generation of renewable energy. Permission was subsequently granted.

39. A recent appeal decision[16] for a 10 MW solar farm in the Oxfordshire Green Belt was allowed. The Inspector found that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. It was noted that renewable energy projects are not prohibited outright in the Green Belt, it is a matter of balancing any benefits they would bring forward against any harm they would cause. The Inspector accepted that the proposal would bring forward benefits of a significant scale in terms of the production of renewable energy and assist the ongoing viability and stability of a rural business. The latter draws strong support from paragraph 28 of the Framework.

40. A more recent appeal decision[17] for a 2.642MW solar farm in the Metropolitan Green Belt found the low level and horizontal nature of this type of development, the development not involving the removal of any existing trees or hedgerows and the sowing of the land with a wildflower seed mix and the biodiversity improvements combined with the renewable energy generating capacity to carry substantial weight in favour of the development. These factors apply to the appeal proposal.

41. The appeals proposal was accompanied by a report outlining the very special circumstances for the development in the Green Belt[18]. The circumstances are considered to be:

a) The scheme has been designed to minimise its landscape and visual impact through its low height and it would have little visual impact due to the flat nature of the land. The Ramblers Association response recognises that considerable effort has been made to mitigate the loss of outlook from rights of way with little visibility from the M5 and the countryside to the west and the strong wooded hedgerow to the east provides an effective screen. There would be some impact to the south on dwellings in Rectory Lane but not on the wider countryside and to the north impact should be minimal.

b) The proposal would generate a significant amount of renewable energy sufficient to meet the needs of approximately 2,682 average homes and reduce CO_2 emissions by 4,470 tonnes annually for 25 years. This would make a sizeable contribution to the aims and ambitions of Wychavon, Worcestershire and the UK and this merits appropriate weight given that the Framework describes the delivery of renewable and low carbon energy as central to the economic, social and environmental dimensions of sustainable development.

c) The proposal is temporary, would be installed within 3-4 months and after 25 years would be decommissioned, dismantled and removed in a 1-2 month period. There would be little soil disturbance and the temporary nature can

16 Planning Inspectorate Ref: APP/C3105/A/13/2207532
17 Planning Inspectorate Ref: APP/B5480/A/14/2227508
18 Doc 11

be controlled by condition. The temporary nature of the proposal has been confirmed in a number of solar farm planning appeal decisions[19].

d) There would be no permanent loss of agricultural land, agricultural activities could continue throughout the life of the solar farm as the scheme has been designed to facilitate sheep grazing and the land would be given a period of rest from intensive agricultural activities with the solar farm contributing to agricultural diversification and ongoing investment. The diversification benefits were recognised in a recent appeal decision[20] where the Inspector acknowledged that the development had to be seen in the context of farm diversification that would support the overall farm business. A solar farm provides far greater economic security than many other forms of diversification. Financial subsidies are provided for 20 years and are a guaranteed index-linked stream of income for this entire period or as long as the farm is operating whilst also allowing continued agricultural use of the land and biodiversity improvements.

e) The site is not the best and most versatile agricultural land and Wychavon DC accepts that poorer quality agricultural land has been used in preference to higher quality land. The scheme has been designed to Building Research Establishment guidance to enable the land underneath the panels to be grazed by sheep.

f) The assessment of alternative sites[21] highlights the limited number of potential sites within Wychavon for a ground mounted solar farm and the lack of potential roof space. Any alternative site which utilised the available connection to the grid is likely to also be within the West Midlands Green Belt.

g) The location, capacity, design and economic viability of any development which would generate electricity for export to the grid is dependent on the cost effective availability and deliverability of a suitable grid connection. There is available connection to the Upton Warren substation which lies adjacent to the site. The UK Solar PV Strategy Part 2 recognises the grid connection issues and they are also acknowledged in the Technical Research Paper “Planning for Renewable Energy in Worcestershire” published by Worcestershire County Council and reiterated in the Renewable Energy Capacity Study for the West Midlands commissioned by Telford and Wrekin Council. The issues relate to cost and maximum capacity which limits connections and requires costly upgrading or modifying. Given the emphasis on increasing the installed renewable energy generating capacity within the UK this scarcity of grid capacity places additional weight on optimising the use of any available grid connection.

Recent appeal decisions[22] have recognised that the lack of an available and affordable grid connection would prevent an otherwise suitable site becoming economically viable although available capacity is but one element in the

[19] Planning Inspectorate Refs: APP/D0840/A/14/2212340, APP/D0840/A/14/2213745, APP/Z6950/A/14/2213400, APP/000Y1138/A/13/2203766, APP/D3315/A/13/2203242

[20] Planning Inspectorate Ref: APP/D0840/A/14/2213107

[21] Doc 10

[22] Planning Inspectorate Refs: APP/Y3940/W/15/3005078, APP/X2410/A/14/2227418, APP/V2635/W/14/3001281

overall planning balance. In some instances given the practical need to limit the distance between the generation capacity and the grid, the availability of poorer quality land suitable for solar PV must be extremely constrained. The availability of a grid connection is not an overriding factor in the planning balance, but the lack of a grid connection is akin to the inappropriateness of a housing site where access and service connection costs are uneconomic, impractical and unsustainable. The availability of an affordable grid connection represents a significant contributory factor when identifying a suitable site for a solar farm. Any suitable site is likely to be within the Green Belt in either district due to the extent of the Green Belt designation and as grid connection costs increase with distance.

The Wychavon Intelligently Green Plan 2012-2020 published by Wychavon DC confirms that the appeal site is located within an area of above average domestic electricity consumption. The Renewable Energy Capacity Study for the West Midlands confirms that on average approximately 6% of electricity transported across the distribution networks is reported as losses. The decentralised generation of electricity from a renewable resource in close proximity to such domestic consumption would benefit from lower transmission losses.

h) A wildflower meadow would be created throughout the site in accordance with the Building Research Establishment's "Biodiversity Guidance for Solar Developments" and in line with other reports on maximising environmental benefits from solar parks[23]. The officer's report acknowledges that the proposed wildlife buffers and recommended working practices would also provide an opportunity to create areas of species rich grassland which would have a higher net biodiversity value than the current site use.

i) Community benefits would be available through the provision of a new footpath along the southern boundary and a new picnic area. A community renewable energy scheme has been offered which would involve the installation of solar domestic equipment to properties in close proximity to the site with the agreement of the relevant occupiers. The park would also provide economic and employment benefits.

42. These very special circumstances outweigh the inappropriate nature of the proposed development and on this basis are compliant with development plan policies.

Need for Renewable Energy Capacity

43. The need for the UK to increase its installed renewable energy capacity is documented within the Planning Statement[24] and is highly supported within the Framework. The Framework does not require the overall need to be demonstrated. When located in the Green Belt elements of many renewable energy projects will comprise inappropriate development and developers will need to demonstrate very special circumstances that may include the wider

[23] Bumblebee Conservation Trust Guidance; Natural England Technical Advice Note (TIN 01); Solar Parks – Opportunities for Biodiversity, German Renewables Agency, December 2010.
[24] Doc 12

environmental benefits associated with the increased production of energy from renewable sources. The proposal would generate a significant amount of energy as set out above.

44. The Wychavon Intelligently Green Plan 2012-2020 confirms that 77% of respondents support large scale renewable energy generation. It aims to double renewable energy in the district from 2011 levels by 2020. The Plan contains actions for delivery including working with Worcestershire County Council to market Wychavon as an attractive location for renewable energy generation and green businesses.

45. The draft Renewable Energy Strategy prepared by Worcestershire County Council acknowledges Worcestershire's reliance on centralised power generation and the increasing need for additional power sources. The National Grid's Winter Outlook 2014/15 notes that electricity margins are tighter than they have been and appropriate dispersed generation can help to stabilise the balance between supply and demand.

46. The Worcestershire Climate Change Strategy 2012-2020 notes the reliance of Worcestershire on imported electricity. Whilst there has been an increase in renewable energy generation from wind, hydro and solar in the County this makes up a very small proportion of the total energy used in the County.

47. There is a need for renewable energy capacity within both the Wychavon and Bromsgrove areas. There is a total electricity consumption in Wychavon of 615GWh/yr and 320.1GWh/yr in Bromsgrove. The UK Government target for 2020 is at least 15% of electricity being generated by renewable sources which would equate to 92.25GWh in Wychavon. 9.3% of this would be met by the appeal proposal and which would also represent more than a 10% increase in renewable energy generation within Worcestershire. The final version of the Renewable Energy Research Paper published by Worcestershire County Council states that as of October 2015 there was around 115MW of installed or consented larger scale renewable energy capacity in the county mainly derived from solar PV panels. There was also a further 40MW awaiting a decision. If all schemes were approved and built they would generate approximately 155GWh/yr of electricity and which would be capable of generating approximately 20% of Worcestershire's demand. The need for further installed electrical renewable energy capacity in both districts is both significant and urgent and should be attributed appropriate weight in the planning balance.

Benefits of the proposed development

48. The proposal would provide considerable renewable energy, agricultural, biodiversity, community and deliverability benefits as set out above and which should be given appropriate weight.

Landscape evidence

49. A Landscape and Visual Impact Assessment (LVIA)[25] accompanied the applications and a further appraisal of the effects of the proposal has been undertaken[26]. This responds to Wychavon DC's second reason for refusal. The

[25] Doc 2
[26] Doc 7

September 2014 appraisal established that the visual envelope of the site is generally defined by topography and vegetation. The Zone of Theoretical Visibility (ZTV) is particularly limited to within 2km of the development with visibility in reality being further restricted by hedgerows, wooded areas, other intervening vegetation, farm buildings and other development. The landscape is not of high value and by virtue of existing man-made elements would have a lower susceptibility to change.

50. The potential visual impacts established that impacts of moderate adverse or above could be generated to the footpaths UW 572/74/75/78/79 located within the site, Bridleway UW559/60 to the south west and footpath DG601 to the north. In the wider context of the extensive public rights of way network only a limited number are affected by the proposal and these are within or in immediate proximity to the appeal site.

51. Views from the public footpaths are not only of green space but experience views of the M5 motorway. The site is also crossed by three 66KV overhead lines and there are views of agricultural and industrial units, and the radio transmitting station. The views include man-made features.

52. The proposed planting would help screen views of the site within 5-7 years from the rights of way. This has not received an objection from the Ramblers Association. Several footpaths already experience tall hedge lined corridors and funnelled views and are intrinsic to the local landscape character and the introduction of hedge lined footpaths would therefore not be out of character and would help to integrate the site within the wider landscape.

53. The landscape already contains a number of existing geometric elements including the M5 motorway and the high voltage power lines. The field boundaries are to be retained and improved and the fields would not be sub-divided into smaller enclosures. Perimeter fencing would follow the lines of existing vegetation and would not be linear other than following existing straight hedgerows. The alignment of panels to hedgerows and trees creates a more organic edge dictated by the hedgerow pattern. The effect is not a geometric pattern but one that responds to the irregular field boundaries and safeguards the organic landscape.

54. The filling of hedgerow gaps can only be deemed to positively enhance the landscape.

Cultural Heritage Evidence

55. This evidence responds to the second reason for refusal in Bromsgrove DC's decision notice[27].

56. The Framework defines heritage significance as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic and its significance derives not only from the physical fabric of a heritage asset but also from its setting. Setting does not constitute a heritage asset in itself and therefore the assessment of harm must relate to the heritage asset and not its setting.

[27] Doc 8

57. The issue of identifying harm to heritage assets and their settings has been the subject of a number of High Court judgements. This is followed through in the Framework which stipulates that great weight should be given to the heritage asset's conservation and that substantial harm to or loss of a Grade II listed building should be exceptional whilst substantial harm to or loss of assets of highest significance, most notably scheduled monuments, protected wrecks, battlefield and Grade I and II* Parks and Gardens should be wholly exceptional.

58. Developments which would cause substantial harm to or total loss of significance of a heritage asset should be assessed against specific tests and should deliver substantial public benefits which outweigh any harm or loss. Where a proposal would lead to less than substantial harm to the significance of the designated heritage asset this harm should be weighed against the public benefits of the proposal.

59. A High Court judgement[28] held that "for harm to be substantial the impact on significance was required to be serious, such that very much, if not all, of the significance was drained away" and that in relation to setting "an impact would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced". It is therefore the effect of the impact upon significance where harm is derived. Whilst small effects can result in substantial harm it has been found that substantial harm is situated at the extreme end of the scale.

60. As set out within Historic England's "Setting of Heritage Assets" the protection of the setting need not prevent change. What is critical is whether that change is harmful, beneficial or neutral to the significance of the asset. This has been supported by a further High Court judgement[29] which found that preserving listed buildings and conservation areas in terms of character, appearance and setting means doing no harm which does not equate to no change.

61. Bromsgrove DC's refusal relates to West Lodge and Bowling Green Farmhouse and which were assessed within the submitted Heritage Assessment[30] and which established slight adverse impacts which would be temporary in nature. Both assets have been revisited for the appeal.

62. West Lodge is situated on higher ground to the north west of the appeal site and segregated from it by the M5 motorway. It has its origins in the 1600s with alterations in the mid-18th and 19th centuries. Its barn is individually listed. It has views of the bridge over the motorway, pylons, roofs within the business park and the transmitters at the transmitter station. Despite these intrusions its setting contributes to its significance.

63. The appeal site is not however visible from the principal elevation of the property and views to the south-east are entirely screened from view by intervening vegetation. There would be no sense of the presence of the solar farm from the asset and no loss of significance through visual effects to its setting.

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[28] Lang [2012] EWHC 4344 (Admin)
[29] Lindblom [2014] EWHC 1895 (Admin)
[30] Doc 13

64. Bowling Green Farmhouse dates from the 17th century with alterations and extensions in the 19th and 20th centuries. The property lies to the north east of the appeal site in an elevated position and there are views across open countryside to the distant Malvern Hills. The appeal site is located within the middle distance of this view and is seen as a series of strips of agricultural land between hedgerows. The view also includes highly visible and intrusive modern elements, principally two power lines and the radio transmitters. The M5 motorway is partially visible to the west and housing to the east. The centre of the view includes two wind turbines and the large business park roofs.

65. The setting does contribute to its significance in that the buildings' original rural context can still be experienced and appreciated. Due to the significant and substantial modern intrusions there is visual encroachment onto the rural setting of the house so as to lessen the contribution made by setting to the asset's significance.

66. The solar park would be partially visible from Bowling Green Farm but these views would be broken up by intervening tree cover within hedgerows. The solar panels would be facing to the south eliminating potential intrusive glint. There would therefore be a change to the current view and both the LVIA and the further landscape appraisal for the appeal confirm this is not of a level to warrant the refusal of permission.

67. Proposed mitigation measures would reduce the visibility of the appeal site from Bowling Green Farm through the cessation of hedge cutting, and allowing vegetation to grow to between 4-5 metres within the site and on its boundaries. The overall effect would be to limit views into the appeal site from the elevated position of Bowling Green Farm and thus considerably reduce the visual effects of the proposal from the heritage asset. This is expected to take 5-7 years to establish and would provide sufficient screening all year round.

68. The effect of reducing the degree of visibility would limit the impacts upon the significance of the asset as the sense of encroachment into the rural setting of Bowling Green Farm would be much reduced with the visibility of the rear of the panels being restricted to occasional glimpses and confined to the southernmost section of the site adjacent to Rectory Farm. The degree of change and the effect on the significance of the asset would be minimal and would constitute less than substantial harm in the terminology of the Framework. This would be at the lowest end of any defined spectrum and equates to the slight adverse effects identified within the Heritage Assessment.

69. The Barnwell High Court judgement[31] established that any planning decision which involves harm to a heritage asset is not a simple matter of the application of equal weight to opposing issues within the planning balance. The statutory duties under Sections 66 and 72 of the Listed Buildings and Conservation Areas Act require the decision maker to have special regard to the desirability of preserving the building or its setting. Justice Lindblom in dealing with Forge Field[32] confirmed that the duties in the Act do not allow the desirability of preserving the settings or listed buildings and the character and appearance of

[31] Barnwell Wind Energy Ltd v East Northamptonshire District Council and Others [2014] EWCA Civ 137

[32] Lindblom [2014] EWHC 1895 (Admin)

conservation area to be considered as mere material considerations to which weight can be attached as an authority sees fit. Where a development would harm the setting of a listed building or the character and appearance of a conservation area it must give that harm considerable importance and weight. The statutory duty serves to inflate the importance of the degree of harm in the planning balance irrespective of whether it is determined to be represent substantial or less than substantial harm.

70. The degree of weight was further clarified by Howell J QC[33]. As harm may vary, the considerable weight as a matter of law must be presumably the minimum weight that must be assigned however small any such harm may be rather than the invariable weight to be given to any such harm regardless of its degree.

71. In the case of West Lodge, no visual effects would be experienced due to the inability to view the appeal site from the asset. In respect of Bowling Green Farm, the effects represent very low levels of harm within the spectrum of "less than substantial harm" due to both existing modern visual intrusion and through the landscape mitigation measures. In applying the requirements of Section 66 the minimum degree of weight should be required with respect to the preservation of the setting of Bowling Green Farm in light of the perceived limited level of harm.

72. The original application was accompanied by a comprehensive archaeology and cultural heritage assessment[34]. No objections were raised by the County Archaeological Officer and Historic England and no reference is made in the Councils' reports to cultural heritage impacts. Whilst Bromsgrove DC's decision notice refers to policy S39 of its Local Plan this is titled "Alterations to Listed Buildings" and the proposal does not propose any alterations to listed buildings. It is concluded that the impact of the proposal on heritage assets is not of a magnitude that breaches the Framework and the heritage impact is not of a level to warrant a refusal.

Conclusion

73. The Rectory Farm site has been identified following a sequential spatial analysis to identify a suitable site within the Bromsgrove and Wychavon area. It has been demonstrated that very special circumstances exist to warrant the development of the site within the Green Belt. The identification of the site, its design and preparation and submission of the planning applications accords with the 10 commitments for solar farms prepared by the Solar Trade Association.

74. The impact of the proposal on heritage assets is not of a magnitude that breaches the Framework or warrants refusal.

75. The proposal would make a sizeable contribution to Bromsgrove, Wychavon, Worcestershire and national renewable and CO_2 reduction targets. It is considered that considerable benefits would arise from the appeal proposal but further mitigation could be provided by conditionally excluding the western fields from the proposal which would reduce the installed capacity to 5.38MW but would further reduce the impact of the proposal on any public footpaths and their users.

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[33] [2015] EWHC 539 (Admin)
[34] Doc 13

This should not be construed as an acknowledgement that the scheme would have a significant impact but is a gesture of goodwill by a developer attempting to placate all parties and deliver an important project. Having regard to the Wheatcroft principles no party is likely to be prejudiced by the conditional exclusion of these fields.

76. The proposal is in accord with the SWDP, the Framework and Guidance. The demonstrable benefits weigh considerably in its favour and outweigh any temporary and reversible impacts. Planning policy provides a presumption in favour of sustainable development and the appeals should be allowed.

The Case for Wychavon District Council

77. Wychavon DC's case is set out in its letter dated 4 December 2015[35]. The material points are as follows.

78. The Framework states that the purpose of the planning system is to achieve sustainable development with the three dimensions/roles of sustainable development being economic, social and environmental. There is a presumption in favour of sustainable development which means that schemes should be approved where they are in accordance with the development plan. Where a development plan is absent or silent planning permission should be granted unless the harm caused significantly and demonstrably outweighs the benefits of the scheme or where specific policies of the Framework indicate development should be restricted such as those related to the Green Belt. This site is located in the Green Belt.

79. It is not considered that the impacts of the scheme can be made acceptable. Proposals for development in the Green Belt will only be permitted where they would not detract from the open character of the Green Belt and would not conflict with the purposes of including land within it. The proposal would not be in accord with the development plan. The proposal is contrary to policy SWDP 2 which seeks to control development within the Green Belt to that which would not detract from its open character.

80. A relatively recent appeal decision[36] has tested the impact of solar parks on the Green Belt. The Inspector found that the concept of openness does not relate directly to visibility or visual harm but to a lack of development. The solar park and associated works would significantly reduce the openness of the Green Belt adding appreciably to the substantial harm by virtue of inappropriateness. Although the Framework recognises the very special circumstances may include the contribution to the reduction in greenhouse gases, this does not indicate that such a reduction, in isolation, outweighs harm by virtue of inappropriateness. In order to justify inappropriate development, all other considerations must clearly outweigh the harm to the Green Belt by virtue of inappropriateness and any other harm.

81. The weight to be attached to the harm to the Green Belt by virtue of inappropriateness is substantial. The harm resulting from loss of openness is added to this.

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[35] Doc 6

[36] Planning Inspectorate Ref: APP/Y3615/A/14/2212923

82. It is not considered that the submission has satisfactorily demonstrated very special circumstances. The benefits are noted but it is not considered that either individually or cumulatively these benefits would clearly outweigh the harm to the Green Belt identified.

83. The proposed development is not considered to be appropriate to, or integrate with the landscape character of the area and would not safeguard, restore or enhance the character of the natural environment in which it is proposed.

84. The Framework states that local authorities should approve applications for energy development if its impacts are or can be made acceptable. In this case, notwithstanding the proposed landscaping the proposal would appear unduly visually dominant and would detract from the visual amenities and the rural character and appearance of the rural landscape. The landscaping scheme would not overcome this detrimental visual impact.

85. Valued landscapes should be protected and enhanced under the Framework. No definition is given but it is reasonably considered that this landscape is valued by virtue of its contribution to the rural character and appearance of the surrounding landscape, the number of public rights of way that cross the site and the site's designation as Green Belt. It is not considered that the proposal would protect or enhance this valued landscape.

86. The majority of the site falls within the Principal Timbered Farmlands landscape type with the part of the site within Bromsgrove falling into the Wooded Estatelands landscape type. The key characteristics of the Principal Timbered Farmlands include the notable pattern of hedgerow trees, hedgerow boundaries to fields and small scale landscape with hedgerow trees creating filtered views. The pattern of hedgerows is important not only in providing the basic fabric for the hedgerow tree populations but also in emphasising scale and enclosure. It is vital for the retention of landscape character that the organic pattern of enclosure is preserved and that a geometric pattern is not superimposed by subdividing fields or enlarging others and employing straight fence or hedgelines.

87. The small scale and organic character of the local landscape can be clearly appreciated in views from the elevated footpath over the motorway and the imposition of a large scale solar park onto a small scale landscape with straight lines of panels and fencing within an organic landscape would not be sympathetic to the landscape character.

88. The proposed landscaping would place the existing footpaths within corridors of high hedging and fencing, funnelling views and removing the openness and enjoyment of views across open countryside that are currently experienced.

89. The low height of the solar panels is not disputed. However, the associated development would be higher, with the switch room and meter room being 4.485 metres high, the inverter building 3.635 metres high, the fencing and swing gate 2.412 metres high and CCTV camera towers over 3 metres high. It is not considered accurate to say that the proposed development would have little visual impact.

90. The appellant's statement refers to a Section 106 Agreement that was prepared in respect of a community benefit scheme for the provision of solar equipment to neighbouring properties. This would not appear to have been submitted at the

time of the planning application and is not included in the appeal appendices. Whilst the appellant claims that this would represent a very special circumstance it not clear how such a community scheme would, or could be secured through the planning system and would not be considered to meet the requirements of the Community Infrastructure Levy Regulations 2010 as it would not be necessary to make the development acceptable in planning terms.

91. The appellant accepts that the proposal would represent inappropriate development within the Green Belt. It is suggested that the application was refused on the basis of the perceived harm to the Green Belt. As the proposal would constitute inappropriate development, then by definition, the proposals would be harmful to the Green Belt in line with the Framework.

92. It is agreed that the local planning authority found the development acceptable in relation to a number of other grounds. However these would only be acceptable subject to relevant conditions.

93. The local plan against which the proposal was determined was silent on solar farm developments. As such the last bullet of paragraph 14 of the Framework was engaged which states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

94. It is the Council's case that there are specific policies in the Framework relating to the Green Belt that indicate that development should be restricted and that the adverse impacts of the proposals would significantly and demonstrably outweigh any benefits. This is a similar conclusion to that reached by the Secretary of State when considering a similar appeal[37].

95. The appellant has referred to the core planning principles listed under Paragraph 17 of the Framework. However it would appear that there are some purposeful omissions where the wording of the Framework "protecting the Green Belts around them" has been left out.

96. Reference has been made by the appellant to other permissions for solar farms in the Green Belt. However, these are all individual Council decisions and not decisions by Planning Inspectors.

97. Proposals should be considered on their own merits. Appeal reference APP/C3105/A/13/2207532 referred to by the appellant is a brief decision where the Inspector found the positives of the scheme to be the benefits of renewable energy production and assisting with the ongoing viability and stability of a rural business and which amounted to very special circumstances. There was no significant explanation how the Inspector in that case came to that conclusion.

98. In another cited case[38] the Inspector considered there would be a significant net gain for biodiversity and this, combined with the generation of renewable energy would constitute very special circumstances. This is significantly different to the current proposal where the Council's Landscape and Natural Heritage Officer raised concerns regarding the impact of the proposal. Neither of these cases is

[37] Planning Inspectorate Ref APP/T3535/A/13/2193543
[38] Planning Inspectorate Ref APP/B5480/A/14/2227508

considered to set any form of precedent for allowing inappropriate development in the Green Belt.

99. The planning application was accompanied by an assessment of alternative sites[39]. This assessment does appear to demonstrate that there are other grid networks within the district that would be outside the Green Belt. This is further evidenced by seven listed applications for solar parks/farms that have been granted permission in the district within the last two years.

100. It is not clear what proportion of the appellant's stated district need for renewable energy has been met by these approved schemes and it is not considered that it can be evidenced that Wychavon has any urgent or significant renewable energy need. The reference to the installed and consented renewable energy schemes in Worcestershire totalling 82MW does not include a list of schemes and it is not known how accurate this figure is as of today's date or whether the consented schemes have been included.

101. The fact that there would be no permanent loss of agricultural land is not considered a benefit of the scheme. If the land was not developed then there would be a continued agricultural use. The continued use for sheep grazing would at best be a neutral point and there is no evidence that the site has been subject to intensive agricultural activities that would benefit from a period of rest.

102. The appellant has suggested that the western fields could be conditionally excluded from development. Such a proposal has not been formally considered by the local planning authority or been through a statutory consultation process. This suggestion would seem to represent an acknowledgement that the existing scheme as submitted would have a significant impact.

103. A balancing exercise of associated benefits and negative impacts needs to be undertaken. The proposal represents inappropriate development within the Green Belt and by definition is harmful. The development would have a significant harmful effect on the openness of the Green Belt. The submission has failed to demonstrate the very special circumstances that outweigh the significant and in principle harm to the Green Belt.

104. The siting of the solar farm in the open countryside by virtue of its scale and siting would result in an alien, urbanising feature in the rural landscape. Notwithstanding the proposed landscaping, the proposal would appear unduly visually dominant and would fail to integrate, safeguard or enhance the character of the surrounding natural environment. The proposal fails to accord with policies SWDP 2 and SWDP 25 of the SWDP and national policy guidance.

105. Whilst weight is attached to the contribution the development would make to renewable energy generation this is considered to be significantly and demonstrably outweighed by the negative impacts of the development and the appeal should be dismissed.

[39] Doc 10

The Case for Bromsgrove District Council

106. Bromsgrove DC's case is set out in its report and update to committee dated 7 September 2015[40]. The material points are as follows.

107. The proposal for a solar park would not fall into any of the exceptions set out in Paragraph 89 of the Framework and amounts to inappropriate development in the Green Belt. In such cases paragraph 91 requires applicants to submit a case for very special circumstances in relation to renewable energy projects.

108. The proposal would result in a substantial development of a currently undeveloped area. It would be highly visible from Rectory Lane and from public footpath Nos 572 and 574 which lead from the motorway overbridge on Rectory Lane to the north and along the administrative boundary between Bromsgrove and Wychavon. The harm to openness would be considerable given the size of the application site and there would be harm to visual amenity from public vantage points and a number of residential properties. The harm to openness would be substantial.

109. The applicant has examined the visual impact thoroughly. However, this is not the appropriate test to apply in the Green Belt. The openness of the site does not relate directly to visibility or visual harm but to lack of development. The solar park and associated works would therefore significantly reduce the openness of the Green Belt resulting in substantial harm by virtue of inappropriateness. In accordance with paragraph 87 of the Framework inappropriate development is by definition harmful. In accordance with the Bromsgrove LP, the Framework and established case law, the harm arising from inappropriateness and any other harm to the Green Belt must be accorded substantial weight.

110. The applicant's planning statement[41] provides a detailed policy appraisal and considers that there are very special circumstances that outweigh the harm caused. The appraisal omits the key point that the presumption in favour of sustainable development provided in paragraph 14 of the Framework does not apply in the Green Belt where policies restrict development.

111. The ecological enhancement and community benefits cited do not amount to very special circumstances. The need to provide for renewable energy generation is an important part of national policy and the contribution the proposal would make is accorded moderate favourable weight.

112. The LVIA[42] finds that the impact on the surrounding landscape would be slightly adverse over the lifetime of the development and slightly beneficial thereafter. Worcestershire County Council's response to Wychavon DC suggested that the impact from additional sites in Bromsgrove should be considered. The time period of 25 years is considerable and it is not considered that the proposal is temporary and the temporary nature of the development and the lack of visual impact from receptors is given limited favourable weight. The larger part of the site would be highly visible from the northern part within Bromsgrove district.

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[40] Doc 14
[41] Doc 12
[42] Doc 2

113. The 2km alternative sites assessment area of search is limited with countryside areas outside the Green Belt not having the same constraint. The practicalities of grid connection do not amount to very special circumstances and a number of recent appeal decisions have made this clear.

114. The government's focus is to provide solar PV on domestic and commercial roof space and on previously developed land. In considering applications in the Green Belt a balancing exercise must be carried out. In this case the need to provide renewable energy carries moderate weight but is not sufficient to overcome the harm to the openness of the site which carries substantial weight.

115. The methodology used by the applicant for addressing the impact of the development on the setting of surrounding listed buildings is considered to be inadequate. Where potential harm has been identified a more detailed assessment should have been carried out particularly with regard to the setting of Bowling Green Farmhouse and West Lodge.

116. The 25 year lifetime of the development is not considered to be temporary. There is likely to be less than substantial harm to the setting of the heritage assets. This harm has not been outweighed by the public benefits associated with the need for renewable energy generation and the proposal is contrary to policy S39 of the Bromsgrove LP and national policy.

117. No other concerns are raised which would justify the refusal of permission.

Written Representations

Appeal Stage

118. The Planning Inspectorate received 1 response to Wychavon DC's notification letter of 3 November 2015 and 1 response to Bromsgrove DC's notification letter of 6 November 2015. The responses are on the case files. The letter from Dodford with Grafton Parish Council confirms that it has no objection but would like to see the part of the site that falls within the Dodford with Grafton Parish Council area properly screened and the land be put back to its original condition once the panels have been removed.

119. An objection from local resident Ms Janis Hodgkins states that the fundamental reasons for rejecting the application have not changed and a reversal of this decision would result in a blot on the Green Belt landscape and create a precedent for others to follow.

Application Stage

120. Written representations received at the application stage have also been taken into account and are on the case files. They are summarised in Wychavon and Bromsgrove DC's officer reports[43]. Wychavon DC records 5 letters of objection from local residents. In addition to the representations raised by a local resident at appeal stage the main concerns are: additional buildings are now proposed that were not in the original application; the proposal would industrialise agricultural land and would be visible from local houses and the motorway; impacts on ecology; the benefits would not outweigh the disadvantages; this is

[43] Docs 15 & 16

inappropriate development in the Green Belt and would impact on its openness; impact on Upton Warren Conservation Area; concerns with the use of Rectory Lane by construction and maintenance vehicles; and the proposal would have a severe financial impact on nearby properties.

121. Responses received from consultees and other organisations at the application stage have also been taken into account and are summarised in Documents 16 and 17. Worcestershire Regulatory Services, the County Highways Authority and Highways England raise no objection. Natural England and Worcestershire Wildlife Trust raise the potential for breeding birds in the nearby Site of Special Scientific Interest (SSSI) to mistake the panels for water and for insects to lay eggs on them reducing a food source for birds. They believe that these issues can be mitigated through the design of the panels being agreed and then monitored. Furthermore, Worcestershire Wildlife Trust suggest that the Construction Environmental Management Plan and Habitat Management Plan should reflect the recommendations made therein and for site management to contribute directly to biodiversity enhancement with monitoring included in any management plan. These comments are supported by Wychavon DC's heritage section which recommends conditions are attached to ensure the protection of hedgerows and trees and to ensure an appropriate design of perimeter fence for wildlife.

122. Worcestershire County Council as Flood Authority comments that the Flood Risk Assessment identifies the site as lying within flood zone 1. The Environment Agency's Flood Map for Surface Water shows a low to high risk of flooding in parts of the site and the grass will require good management to ensure the flood risk is not increased. Measures will need to be taken during construction to ensure that increased run off does not occur from soil compaction and a minimum 8 metre easement should be provided to and around all watercourses, sustainable drainage systems and other water infrastructure for maintenance access.

123. Worcestershire County Council's Historic Environment Planning Officer recommends conditional consent to ensure a programme of archaeological work. Worcestershire County Council's other departments support the application in principle subject to biodiversity restoration, provision for waste, evidence that the panels are outside the flood plain, inclusion of measures for minimising and reducing silt run off, further visual assessment, securing the provision of new rights of way and landscaping details.

124. Bromsgrove DC's drainage engineer has no objections subject to conditions being imposed in relation to surface water drainage. Its Conservation Officer is unhappy with the methodology used for assessing the impact on surrounding listed buildings. Where potential harm has been identified a more detailed assessment should have been carried out and in particular with regard to the impacts on Bowling Green Farmhouse and West Lodge. 25 years is not considered to be temporary and there is likely to be harm to the setting of these assets, albeit less than substantial harm. It is recommended that the application be refused.

125. Upton Warren Parish Council objects to the proposal on the grounds that it represents a substantial development in the Green Belt. The amenities and benefits being offered would not outweigh the considerable disadvantages both visually and in amenity value that the land currently enjoys. It is very likely that

despite the proposed new road, traffic would use Swan Lane and Rectory Lane which is a country lane used by walkers and horse riders.

126. Dodford with Grafton Parish Council makes the same comments as at the appeal stage. Stoke Parish Council does not support the application as it is too close to the motorway and would cause a distraction to drivers. It would have a bad visual impact on the area as a whole and would be built on reasonably good agricultural land.

127. The Ramblers Association are pleased that the ability to walk the rights of way is not compromised. The outlook from all of them would be adversely affected by the loss of surrounding green space. Conditions should be imposed to require new hedges and maintenance of existing. The new path along the southern boundary will go some way towards mitigating the loss of outlook from the existing paths. The proposal appears to have a minimal impact on the wider countryside and it should not be visible from the M5 motorway or from the countryside to the west. To the east the strong wooded hedgerow along the boundary will be an effective screen. The site lies within the West Midlands Green Belt which is of concern. If the Council is minded to refuse on the grounds that the proposal is contrary to Green Belt policy this would be supported.

Appraisal

128. The following appraisal is based on the evidence in the written representations summarised above and my inspection of the site and surroundings. In this section numbers in [ ] refer to paragraphs earlier in the report. I consider the main considerations upon which the decision should be based are:

- whether the proposal represents inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
- the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposal on the character and appearance and visual amenity of the area;
- the effect of the development on heritage assets and in particular the setting of the listed buildings Bowling Green Farmhouse and barn and West Lodge;
- the effect of the development with regard to other matters raised;
- the contribution of the development towards renewable energy targets; and
- whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Inappropriate Development

129. Paragraphs 89, 90 and 91 of the Framework identify the types of development that are inappropriate in the Green Belt. Paragraph 91 states that elements of

many renewable energy projects will comprise inappropriate development. In this case, the solar panel arrays, control building/substation, inverters, perimeter security fence and cameras would comprise such inappropriate development [26, 79, 80, 81, 91, 103, 107, 120].

130. Both Councils' development plan policies provide a general restraint on development in the Green Belt. This is in accord with the Framework's approach. The Framework states that inappropriate development, by definition, is harmful. Substantial weight should be given to this harm with inappropriate development only being approved in very special circumstances [17, 21, 26, 81, 91, 103].

Effect on the Green Belt

131. The essential characteristics of Green Belts are their openness and their permanence. One of their purposes is to assist in safeguarding the countryside from encroachment [26, 79, 103, 108, 109, 120].

132. The appellant contends that the scheme has been designed to minimise its landscape and visual impact and that it has little wider impact on the countryside. Nonetheless, I concur with both Councils' views that the concept of openness does not directly relate to visibility or visual harm. The critical aspect of openness is the lack of development [41, 80, 109].

133. In my assessment the solar panel arrays and associated development within some 19 hectares of undeveloped countryside would have a significant adverse effect on the openness of the Green Belt. Whilst I acknowledge the presence of the M5 motorway to the immediate west and other man made elements in the landscape such as overhead lines, the radio transmitting station and residential and commercial development to the south and east, an additional development of the scale proposed would have a further substantial impact on the openness of the Green Belt. Even considering Appeal B in isolation, in my view this smaller element of the proposal would still have a significant impact on the openness of the Green Belt [41, 49, 51, 53, 80, 103, 108, 120].

134. This impact on openness would be highly visible and whilst proposed for a temporary period, would be evident for a substantial part of the average person's lifetime. The proposal would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment. This would add significant harm to the Green Belt [26, 41, 49, 50, 51, 79, 80, 81, 84, 108, 109, 119, 120].

Character and Appearance

135. The applications were accompanied by a Landscape and Visual Impact Assessment (LVIA) which considered the landscape and visual effects of the proposal[44]. The site does not contain any statutory landscape or conservation designations and lies within National Character Area 106 characterised by its diverse range of flat and undulating landscape, sparsely distributed woodland but with a well wooded impression and small pasture fields. It is located within the Regional Character Area of Mid-Worcestershire Forest in Worcestershire's Landscape Character Assessment with the majority of the site falling into the Principal Timbered Farmlands landscape type. The character of this landscape

[44] Doc 2

type is described as a small to medium scaled wooded, agricultural landscape characterised by filtered views through densely scattered hedgerow trees. It is a complex, in places intimate, landscape of irregularly shaped woodlands, winding lanes and frequent wayside dwellings. [9, 49, 86, 87].

136. The north western corner and eastern boundary are located within the landscape type Wooded Estatelands which is described as a large scale, wooded agricultural landscape with key visual elements being the many large, irregularly shaped woodlands [9, 86].

137. The appellant's LVIA classifies the landscape value of the site as medium. It acknowledges that views are available from higher land surrounding the site increasing the susceptibility of the landscape to change but finds the hedgerow trees and areas of woodland decrease the scope for inter visibility. It finds the level of impacts during construction to be moderate adverse for the site and slight-moderate to the wider landscape. The impact on the site during operation is considered to be moderate adverse and for the wider landscape to be slight adverse [49, 50, 112].

138. The site is situated on relatively low lying land and comprises a mosaic of some 10 small pasture fields divided by hedges and trees. The wider landscape to the north is more expansive with larger fields on rising ground, whilst to the south and east the landscape is more developed with a mixture of residential and commercial development. The site retains much of the identified character and features of the Principal Timbered Farmlands landscape type despite its position immediately adjacent to the M5 motorway and the presence of other man made elements such as overhead lines. In my assessment the site makes an important contribution to the overall landscape character type [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].

139. Whilst the proposal would retain and enhance the existing field boundaries the development would fill the pattern of small fields with numerous regimented lines of panels and associated development. This would be of a scale and design that would directly contrast with the intimate, small scale of the landscape and its organic boundaries. The pattern of small pasture fields would be lost within the industrial scale of the development and which would be a prominent feature from a number of public viewpoints. I consider that the proposal would be an incongruous and alien intrusion that would be harmful to the landscape character of the area [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].

140. Appeal B relates to a parcel of land that falls within the Wooded Estatelands landscape type. Whilst this is acknowledged, the site appears as part of the more intimate pattern of fields associated with the Principal Timbered Farmlands landscape type due to its small pasture field characteristics and strong hedgerow boundaries to the M5 motorway to the west and to the larger scale agricultural fields to the east. The development of this part of the site as a stand-alone development would similarly be an alien intrusion into the landscape, albeit at a smaller scale and in my assessment would be harmful to the landscape character of the area [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].

Visual Amenity

141. Turning to visual effects, the M5 motorway follows the western boundary of the site and there are a number of public rights of way both within the site itself and within the wider countryside. The LVIA concludes that the proposal would result in very substantial adverse effects during construction and operation to the rights of way within the site, to bridleway UW 559/60 at the northern end of Rectory Lane and crossing the M5, and to footpath DG601 that adjoins the northern boundary and continues in a northerly direction towards the M5. It concludes that impacts to other footpaths to the north east and north would be nil-negligible adverse during operation due to screening and distance and slight adverse to footpath DG584/5 and bridleway DG563/4 west of the M5 [41, 50, 51, 52, 53, 84, 85, 89, 104, 108, 112, 118,120, 125, 126, 127].

142. I am satisfied from the evidence before me and my own observations on site that due to the location of the M5 within a cutting, the screening to the western boundary and due to the transient nature of motorists and the speeds at which they would be travelling, any visual impacts to users of the M5 would be negligible [49, 52, 126, 127].

143. In my assessment impacts to users of the southern portion of Rectory Lane, Grafton Lane to the north and the A38 to the east would also be negligible due to the topography, screening, distances involved and relatively low height of the solar panels [49, 50, 52, 127].

144. The proposal would be clearly visible from the network of paths that cross the site and traverse the eastern, western and northern boundaries and illustrated by viewpoints 2a, 3a, 3b, 4, 5a and 5b in the LVIA. Whilst the enjoyment of the paths is one of contrasts due to the negative influence of the M5, the views to the east and north are of an attractive and relatively undeveloped pastoral landscape with attractive hedgerow and mature tree boundaries. The paths are well trodden and link to the more tranquil paths to the north east. Users of the paths would be sensitive receptors to visual amenity [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

145. The paths within the site confines would be totally changed and dominated by the presence of the solar farm and I concur with the conclusions of the LVIA that the visual impact would be very substantial adverse. I acknowledge that the proposal would provide additional hedgerow planting which the appellant contends would minimise the visual impacts. However, additional hedgerow planting would alter the enjoyment of the paths to provide a dark, tunnel effect and the current experience of the small network of fields would be totally lost. In my assessment the enjoyment of this network of paths would be significantly affected and harmed by the proposal [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

146. The impacts to bridleway UW 559/60 would also be substantial. Full views of the proposal would become apparent when leaving the northern end of Rectory Lane and when crossing the bridge over the M5. Whilst these impacts would relate to a relatively short section of the bridleway the views would be elevated and sudden and would contrast significantly with the wider views of the countryside. There would also be views from the wider network of paths to the north and north east, and whilst these would be filtered to some extent by vegetation, the presence of the solar farm would be an alien and discordant

feature that would adversely affect the enjoyment of a significant network of public rights of way [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

147. There would also be impacts to residential properties, in particular to Rectory Farm situated to the immediate south of the site. The private amenity area for this property and its upper floor windows would be dominated by the solar farm due to its extent and close proximity. I consider that this would be harmful to the residents' living conditions [120].

148. The effect of Appeal B in isolation on visual amenity would similarly impact on the network of rights of way that traverse the site itself. Whilst there would be less impact on longer distance views due to the orientation of this part of the site, in my assessment the development of the north west corner of the site would cause very substantial adverse impacts to the visual amenities of the rights of way within the site [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

149. Taking into account the effect on both landscape character and visual amenity I conclude that the proposal would be harmful to the character and appearance of the area. Whilst I note that the Rambler's Association does not object and the appellant's contention that the proposal would become less visible as planting matures and the proposal has a temporary lifespan, the evidence before me suggests that the planting would take 5-7 years to establish. This is a large proportion of a 25 year permission and which in itself is a substantial proportion of the average person's lifetime. In my view the effects would be evident for a considerable length of time. The proposal would not be in accord with either council's development plan and in particular policy SWDP 25 of the SWDP and saved policy DS13 of the Bromsgrove LP [18, 22, 49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

Heritage Assets

150. Bromsgrove DC and a local resident have raised concerns at the impact of the proposal on heritage assets, and in particular the Upton Warren Conservation Area (the Conservation Area) and the Grade II listed buildings West Lodge and Bowling Green Farmhouse and barn. In assessing the impact of the proposal on these heritage assets I have taken into account Sections 16(2), 66(1) and 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the special character or appearance of conservation areas. Sections 16(2) and 66(1) require special regard to be paid to the desirability of conserving listed buildings or their settings or any features of architectural or historic interest which they possess. I have also had regard to the Framework and the Planning Practice Guidance: Conserving and Enhancing the Historic Environment. These seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed by this and future generations [15, 23, 29, 55, 115, 120, 124].

151. The appellant provided an Archaeological and Cultural Heritage Assessment with the applications[45] and has provided further heritage evidence in his appeal

[45] Doc 13

submissions[46]. The Conservation Area is situated some 450 metres to the south of the site. Due to the distances involved, the presence of existing development and topography and vegetation there is little inter visibility of the site with the Conservation Area and I am satisfied that the proposal would not cause harm to this designated heritage asset [55-72].

152. West Lodge is situated to the north west of the appeal site and is separated from it by the M5 motorway. It is located on high ground and has expansive views over the surrounding countryside. Nonetheless, I concur with the appellant's findings that the appeal site is not visible from the property and is entirely screened by vegetation. I do not find that the proposal would be harmful to the special interest or setting of West Lodge or its separately listed barn [61, 62, 63, 71, 115].

153. Bowling Green Farmhouse and its separately listed barn (referred to collectively as Bowling Green Farm by the appellant) lie to the north east and are situated in a commanding position with views over the surrounding countryside. Whilst they are seen in the context of other man made development such as the overhead lines, radio transmitters and to some extent the M5 motorway, their setting is predominantly derived from their agricultural surrounds and the pastoral landscape that rises up to them across undulating countryside. The listing description states that the farmhouse was originally part of the Grafton Manor estate. The appeal site occupies a position on the lower slopes rising up to the property but within its overall setting [64, 65, 66, 67, 68, 71, 115].

154. The proposal would be partially visible from Bowling Green Farmhouse and barn and would be seen within their setting when viewed from the south. Whilst the appellant contends that the proposed planting will limit views over 5-7 years in my view this is a substantial period of time within the lifetime of the solar farm as set out above. Due to the elevation of the listed buildings in the landscape I do not find that the proposed planting would reduce the inter visibility between the proposal and Bowling Green Farmhouse and barn to a degree where the proposal would no longer be viewed within their setting. I consider that the proposal would be an alien and discordant feature within the pastoral setting of the listed buildings. Although this would result in less than substantial harm it would be noticeable and significant [64, 65, 66, 67, 68, 71, 115].

155. In such instances paragraph 134 of the Framework requires the harm to be weighed against the public benefits of the proposal. As confirmed in the appellants' cited case law, harm to a heritage asset should not be weighed with equal weight to other opposing issues but given special regard to the desirability of preserving the building or its setting. Whilst the appellant states that any harm to the setting of Bowling Green Farmhouse is at the lowest end of the spectrum of harm, this harm should be given special regard [29, 68, 69, 70, 71, 74, 115].

156. The public benefits of the proposal in providing renewable energy weigh considerably in its favour. Furthermore, the provision of an additional footpath, picnic area and additional planting are in the public interest. Notwithstanding these benefits, I have concluded that the proposal would be harmful as it is inappropriate development within the Green Belt and would be harmful to its

[46] Doc 8

openness and to the character, appearance and visual amenities of the area and network of public rights of way. This harm would not be in the public interest and in my assessment outweighs the public benefits arising from the scheme. As such I find that the public benefits of the scheme would not be sufficient to outweigh the harm that this particular scheme would cause to the setting of Bowling Green Farmhouse and barn [12, 25, 29, 33, 41, 48, 58, 71, 130, 134].

157. The above conclusions relate to the effect of the overall scheme on heritage assets. I note that Bromsgrove DC raised heritage concerns in relation to its particular application and no objection on this ground was made by Wychavon DC. In relation to Appeal B, in view of the position of this part of the site at an oblique angle to Bowling Green Farmhouse and barn and its relatively small size and distance from the property, in my assessment this part of the proposal as a stand-alone scheme would not cause the same harm that I have identified. Nonetheless, the Act requires special regard to be paid to the desirability of conserving listed buildings or their settings and in having that regard in my assessment I conclude that the overall scheme would be harmful to the setting of Bowling Green Farmhouse and barn and would not be in accord with policy SWDP 24 of the SWDP and national policy. This matter weighs significantly against the proposal [15, 18, 29, 55-72, 115].

Other Matters

Ecology

158. Concerns relating to the impact on ecology and wildlife are noted. A preliminary ecological appraisal was provided with the applications and no objections have been raised by Natural England, Worcestershire Wildlife Trust, Worcestershire County Council and Wychavon DC's heritage section on this ground subject to appropriate conditions. On the evidence before me I have no reason to believe that the proposal would give rise to any impacts on ecology and wildlife and would have some benefits through additional planting of hedgerows and a wildflower meadow. I give these benefits some limited weight [12, 30, 41, 54, 11, 120, 121, 123,].

Highways

159. The impacts of traffic using Rectory Lane are acknowledged. The appellant's transport statement[47] sets out the proposed access arrangements with the creation of a new temporary access route from the A38 during construction and Rectory Lane being used during the operation. It is stated that its use will be infrequent with a negligible impact on the highways network. No objections have been received from the County Highways Authority and I viewed both the proposed construction access and Rectory Lane on my site visit. I am satisfied that the proposed construction access would have sufficient forward visibility in both directions and would provide a suitable route for heavier construction vehicles. I am satisfied that the infrequent use of Rectory Lane would be acceptable. I also note that Highways England raises no objection with regard to the impacts to the M5. I am satisfied on the evidence before me that the proposal would not give rise to any significant highway safety concerns. This matter would be neutral in the planning balance [30, 120, 121, 125, 126].

[47] Doc 14

Land Classification

160. The land is predominantly classified as Grade 3b land under the Agricultural Land Classification criteria and would not represent the best and most versatile agricultural land as defined in the Framework[48] and I give this matter some limited weight [27, 28, 30, 41, 126].

Renewable Energy

161. The development would clearly make a significant contribution to providing energy from a renewable source. The proposal would produce 8.94MW of electricity under peak operating conditions which the appellant states would meet the needs of approximately 2,682 average homes and reduce CO_2 emissions by 4,470 tonnes annually for 25 years. Whilst the Framework does not require proposals to demonstrate the need for renewable energy the proposal would clearly contribute to national targets in this respect [14, 25, 33, 41, 43-47, 75, 100, 105, 11, 114].

162. National planning policies support renewable energy proposals where there are no unacceptable impacts. The contribution that this proposal makes to energy security and national renewable energy targets weighs significantly in its favour [14, 25, 33, 41, 43-47, 75, 100, 105, 111, 114].

Very Special Circumstances

163. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. These will not exist, unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations [26, 80, 81, 103, 107, 109, 120, 125, 126].

164. The appellant has put forward a number of other considerations. Having regard to these matters I consider that significant weight should be given to the contribution that the scheme would make to the Government's targets on renewable energy and tackling climate change. The evidence provided by the appellant suggests that the proposal would meet 9.3% of the target 15% of electricity from renewable sources in the Wychavon area. Whilst Wychavon DC has queried whether the stated district's needs have been met by recently consented schemes, on the evidence before me the proposal would make a substantial contribution to local renewable energy needs and I afford this considerable weight [41, 43-47, 100, 111, 114].

165. It is noted that the proposal would not utilise the best and most versatile land and has been designed to enable continued grazing and agricultural use underneath the panels. This is in accordance with the requirements of the Framework and would enable the land to provide benefits from its continued agricultural use. I afford this some weight. The temporary nature of the proposal also means that any effects are removed after 25 years. However, as set out above, in my assessment 25 years is a significant length of time and comprises a substantial part of the average person's lifetime and I give this limited weight [30, 33, 41, 101, 116].

[48] Annex 2: Glossary, National Planning Policy Framework

166. The assessment of alternative sites indicates that there are few potential sites within the area for ground mounted solar farms or for roof mounted arrays. The search area for the alternative site assessment has been restricted to a 2km radius from the Upton Warren substation as this has capacity for connection. Nonetheless, I find this to be a very restricted search area and which has been effectively halved by the restrictions that the M5 places on connections from the west side of the motorway. I acknowledge the constraints that distance from the substation places on the financial viability of the proposal and the difficulties of finding suitable grid connection capacity. However, I have little substantive evidence before me that there are no other substations within a reasonable distance of the Wychavon area with connection capacity [33, 35-37, 41, 99, 113].

167. Furthermore, and recognising the extent of the Green Belt designation, the assessment gives no consideration to other sites outside the Green Belt that may be suitable for solar farms that could make the same or similar contribution to national and local renewable energy needs. Whilst I am sympathetic to the grid connection difficulties acknowledged in various reports and studies, on the evidence before me I am not persuaded that there is no other available capacity or alternative sites within the Wychavon area. I therefore afford this consideration little weight [33, 35-37, 41, 99, 113].

168. I give some weight to the potential benefits to the ecology of the site through the creation of a wildflower meadow, more species rich grassland buffer zones and additional hedgerow planting. I also give some weight to the potential benefits to the farm arising from the economic and employment security that it would bring. Diversification of agricultural businesses is supported by national planning policy[49] and is an objective of the SWDP [12, 30, 33, 41, 54, 101, 111].

169. There would also be some benefits to the local community through the creation of a new footpath along the southern boundary and the new picnic area and interpretation. The appellant has also stated that a Unilateral Undertaking would be given which would provide a “fit for free” scheme for the installation of solar domestic equipment to properties within a defined zone from the appeal site. The full Unilateral Undertaking has not been provided with the appeal documents. Nonetheless I do not consider that such a scheme would be reasonably related to the development proposed. On this basis any such undertaking would not meet national policy guidance as set out in the Framework and Guidance [12, 30, 41, 125].

170. Weighed against the benefits is the harm to the Green Belt by definition of it being inappropriate development and through the harm that it would cause to the openness of the Green Belt and in not meeting its purpose of safeguarding the countryside from encroachment. Whilst I note the Rambler’s Association views, in my assessment, the proposal would be harmful to the character and appearance of the area through its impact on the landscape character and visual amenities of the area. I consider that this would be of substantial significance [34, 127, 129, 130, 132, 133, 134, 149].

171. In addition, I have found that the proposal under Appeal A would cause less than substantial harm to the setting of Bowling Green Farmhouse and barn. This

[49] Paragraph 28, National Planning Policy Framework

harm is not outweighed by the public benefits arising from the proposal and would therefore not accord with national policy. This weighs substantially against the proposal [157].

172. In weighing the combined harm to the Green Belt with the other harm that I have identified I find that the other considerations in this case do not clearly outweigh the harm that I have identified. I have no evidence before me that the impacts could be made acceptable. As such the very special circumstances necessary to justify the development do not exist.

173. As such the proposal would not be in accord with policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27 of the SWDP, DS2 and DS13 of the Bromsgrove LP and would be in conflict with the objectives of the Framework and Guidance. The proposal would not be the sustainable development that the Framework provides a presumption in favour.

174. Wychavon DC and the appellant have cited numerous references to other applications and appeal decisions relating to solar farms. The balancing exercise required to be carried out in assessing proposals for renewable energy within the Green Belt is dependent on the critical aspects of each individual proposal and its particular context and circumstances. Whilst I acknowledge these decisions and note that some reach different conclusions on similar matters, the conclusions are based on a fine balancing exercise of benefits against any harm. I have considered the appeals proposal on its own merits and with regard to its particular context and circumstances and the cited decisions do not affect my assessment and recommendations on the planning balance of this particular proposal [38, 39, 40, 41, 80, 94, 97, 98,].

Conditions

175. Wychavon DC's statement of case includes a list of suggested conditions at its Appendix 1[50]. The appellant has responded that there is some concern with the requirement of conditions 3 and 11 (as numbered by Wychavon DC) that no development takes place until a soft landscaping scheme and details of the arrangements for the storage on site of obsolete or malfunctioning panels or equipment have been submitted to and approved in writing by the local planning authority. It is suggested that this be altered to require details to be agreed within 3 months of commencement of development or 3 months of commissioning of the solar farm in respect of condition 11. It is also suggested that condition 7 be altered as it appears draconian to require the solar panel array not to be energised until the local planning authority has acknowledged in writing the completion of the installation works as the works will be carried out in accordance with any permission.

176. Bromsgrove DC has provided a list of suggested conditions with its appeal questionnaire[51] and no response has been provided by the appellant in this regard.

177. I have considered the need for conditions, their wording and order in the light of the advice in the Guidance and attached at Annex A is a list of conditions that I

[50] Doc 6
[51] Doc 15

consider should be attached to any permission granted in respect of Appeal A. In relation to Appeal B it is noted that Bromsgrove DC suggested only 3 conditions. However, I consider that the same conditions are also relevant to the part of the site falling into Bromsgrove's jurisdiction. As such with the exception of condition 15 which wholly relates to development within the Wychavon part of the site the list of conditions is also recommended to be attached to any permission in respect of Appeal B.

178. Condition 1 relates to the standard time period for implementation. Condition 2 requires the development to be carried out in accordance with the submitted plans. To ensure any archaeological findings are protected and recorded condition 3 requires a programme of archaeological work to be approved. Conditions 4 and 5 are necessary to ensure that the site is appropriately landscaped and existing trees are protected from damage during construction. Although I acknowledge the appellant's concerns regarding the need to provide landscaping details prior to the commencement of works I consider it necessary that these are agreed at an early stage to ensure that landscaping features are retained and protected throughout the construction phase.

179. Conditions 6, 7, 8 and 9 are required to protect ecological interests. To ensure the visual impacts are minimised from obsolete equipment condition 10 is necessary and has been amended to enable the development to commence prior to the arrangements being agreed. Conditions 11 and 12 are necessary in the interests of residents' living conditions and highway safety. Condition 13 is required to protect the visual appearance of the area, but I have amended the wording to reflect the appellant's comments as any works is required to be carried out in accordance with the permission given and any conditional requirements. Condition 14 is required to ensure the development is decommissioned after 25 years and the land restored to an appropriate condition. I have included a clause that the development should be removed within 6 months of the cessation of the use of the site for the production of electricity to ensure that it does not remain vacant should the use cease before the end of 25 years. Condition 15 requires the temporary access to be removed following construction.

180. The appellant has suggested that some of the northern and western panels could be excluded from the development by condition and an alternative layout has been provided in this respect[52]. This would represent a significant change in the nature of the scheme and in my assessment would represent a substantially different proposal. In line with the Guidance[53] a condition that modifies the development is such a way as to make it substantially different from that set out should not be used.

181. Notwithstanding this, in my assessment the proposed amendment would not overcome my conclusions in relation to the harm by definition, of inappropriate development in the Green Belt, and the effect on the openness of the Green Belt and its purpose in safeguarding the countryside from encroachment. The harmful impacts to landscape character, visual amenity and the setting of the listed buildings whilst would be lessened to a small degree, would not be reduced

[52] Docs 7 & 8 Appendix A5.2
[53] Planning Practice Guidance: Use of Planning Conditions

to a level that in my assessment would render the development acceptable. In addition, the weight to be afforded to renewable energy provision would be somewhat lessened through the smaller contribution that would be made to renewable energy targets. As such I do not find that such a condition would overcome the harm that I have identified.

Conclusions

182. Decisions on the appeals are required to be made in accordance with the development plan unless material considerations indicate otherwise. In this case Bromsgrove DC has no specific policies in relation to renewable energy development and Wychavon DC provides general support for renewable energy schemes whilst having regard to other relevant policies in the plan. Both council's general policies in relation to the Green Belt are in accordance with the objectives of the Framework [16-29].

183. The proposal would be inappropriate development in the Green Belt. Both the overall development and the portion within Appeal B would cause harm to the openness of the Green Belt and its purpose in assisting in safeguarding the countryside from encroachment.

184. In my assessment the proposed development within both appeals would cause harm to the landscape character and visual amenities of the area.

185. The proposal in Appeal A would result in less than substantial harm to the setting of the listed Bowling Green Farmhouse and barn and this harm would not be outweighed by the public benefits of the proposal.

186. For the reasons set out above the other considerations put forward by the appellant do not clearly outweigh the harm to the Green Belt. This harm arises by definition as it comprises inappropriate development in the Green Belt and through the other harm to the Green Belt that I have identified. As such, the very special circumstances required to justify the development do not exist.

187. The proposal would conflict with policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27 of the SWDP, S2 and DS13 of the Bromsgrove LP and would be in conflict with the objectives of the Framework and Guidance.

188. For the reasons given above and having regard to all other matters raised, I conclude that both appeals should be dismissed.

Recommendation

153. I recommend that both appeals be dismissed. However, if the Secretary of State is minded to allow either or both of the appeals, Annex A lists the conditions that I consider should be attached to any permission(s) granted.

Vicki Hirst

INSPECTOR

Annex A – Recommended Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   SF0708-06

   SF0708-04 rev A

   SF0708-01 rev F

   LE12542-003

   PV Panel Array

   Typical 33KV switchroom and meter room WPD

   Inverter building GSS100A_002

   Fence GSS100A_003

   CCTV GSS100A_001

   Double swing gate GSS100A_004

   Typical trench detail
3. Prior to the commencement of development hereby permitted a programme of archaeological work, including a written scheme of investigation shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:

   a) the programme and methodology of site investigation and recording;

   b) the programme for post investigation assessment;

   c) provision to be made for analysis of site investigation and recording;

   d) provision to be made for publication and dissemination of the analysis and records of site investigation;

   e) provision to be made for archive deposition of the analysis and records of the site investigation;

   f) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

   The development shall not be first brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation approved under this condition and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

4. Prior to the commencement of development hereby permitted full details of the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The submitted details should include:

   a) a plan(s) showing details of all existing trees and hedges on the site. The plan should include, for each tree/hedge the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread;

   b) a plan(s) showing the layout of the tree, hedge and shrub planting and grass areas;

   c) a schedule of proposed planting indicating species, sizes at time of planting and numbers/densities of plants;

   d) a written specification outlining cultivation and other operations associated with plant and grass establishment;

   e) a schedule of maintenance, including watering and the control of competitive weed growth for a minimum period of five years from first planting.

   All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following completion or first occupation/use of the development, whichever is the sooner. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing with the local planning authority.

5. All existing trees and hedges on site, or branches from trees on adjacent land that overhang the site, unless indicated on the approved plan(s) to be removed, shall be retained and shall not be felled or pruned or otherwise removed within a period of five years from the completion of the development without the previous written consent of the local planning authority.

   Temporary fencing for the protection of all retained trees/hedges on site during development shall be erected, to a minimum height of 1.2 metres below the outermost limit of the branch spread, or at a distance equal to half the height of the tree, whichever is the furthest from the tree. Such fencing shall be erected in accordance with BS 5837:2005 before any materials or machinery are brought onto site and before any demolition or development including erection of site huts is commenced. This protective fencing shall be maintained on site until the completion of development, and nothing shall be stored or placed, nor any ground levels be altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning or any material within 10 metres of the extent of any canopy of any retained tree/hedge.

   If any retained tree/hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season

of such species, sizes and numbers and in position on site as may be specified by the local planning authority.

6. Prior to the commencement of the development hereby permitted, detailed specifications of the surface design of the solar panels and layout shall be submitted to and approved in writing by the local planning authority. The panels shall be broken up and designed in such a way to avoid impacts on wetland birds and invertebrates. The panels shall thereafter be installed and retained in accordance with the approved specifications.

7. Prior to the commencement of the development hereby permitted (including ground works and vegetation clearance) a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

   a) 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;

   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 or similarly competent person;

   h) use of protective fences, exclusion barriers and warning signs.

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

8. Prior to the commencement of the development hereby permitted a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include:

   a) description and evaluation of features to be managed;

   b) ecological trends and constraints on site that might influence management;

   c) aims and objectives of management;

   d) appropriate management options for achieving aims and objectives;

   e) prescriptions of management actions;

f) preparation of a work schedule (including an annual plan capable of being rolled forward for the lifetime of the development);

g) details of the body or organisation responsible for implementation of the plan;

h) ongoing monitoring and remedial measures.

The LEMP shall include details of the funding and legal mechanisms by which the long term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved LEMP shall be adhered to and implemented in accordance with the approved details.

9. Within one month of the commencement of construction works on the development hereby permitted, details of a bat roosting feature and bird nesting boxes shall be submitted to and approved in writing by the local planning authority. The approved features shall be provided and retained in accordance with the approved details prior to the first use of the development hereby permitted.

10. Within three months of electricity being first exported to the grid, details of the arrangements for the storage on site of any obsolete or malfunctioning panels or equipment shall be submitted to the local planning authority for approval in writing. The development shall be carried out and the site operated in accordance with the approved details.

11. Demolition, clearance or construction work and deliveries to the site in connection with the development hereby approved shall only take place between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or Bank Holidays.

12. Access and deliveries in association with the development hereby permitted shall be implemented only in accordance with the submitted Transport Statement dated April 2015.

13. The local planning authority shall be given written notification within 21 days of such time that electricity from the development is first exported to the national grid.

14. The solar farm shall be dismantled and all materials removed from site including the fencing, access track and sub-station and any associated infrastructure/development within a period of 4 months from the date of the cessation of exporting electricity from the site to the national grid or on or before 25 years of the date of this decision whichever is the sooner.

15. Within 6 months of the completion of the installation the use of the land for a temporary access and temporary construction compound shall be discontinued and the land restored as far as is practicable to its former condition.

NB With the exception of condition 15 which should be excluded from Appeal B all recommended conditions apply to both appeals

ANNEX B – LIST OF DOCUMENTS REFERENCED IN REPORT

Reference	Description
Doc 1	Wychavon DC's EIA Screening Opinion
Doc 2	Appellant's Landscape and Visual Impact Assessment, Sep 2014
Doc 3	Landscape Masterplan
Doc 4	Wychavon DC's Decision Notice
Doc 5	Bromsgrove DC's Decision Notice
Doc 6	Wychavon DC's Statement of Case
Doc 7	Appellant's Appeal Statement – Appeal A, Oct 2015
Doc 8	Appellant's Appeal Statement – Appeal B, Oct 2015
Doc 9	Appellant's Final Comments, Dec 2015
Doc 10	Appellant's Assessment of Alternative Sites
Doc 11	Appellant's Very Special Circumstances Report, Aug 2015
Doc 12	Appellant's Planning Statement
Doc 13	Appellant's Archaeology and Cultural Heritage Assessment, Sep 2014
Doc 14	Appellant's Transport Assessment, April 2015
Doc 15	Bromsgrove DC's List of Suggested Conditions
Doc 16	Wychavon DC's comments on the relevant policies of the South Worcestershire Development Plan, email 25 February 2016
Doc 17	Appellant's Response to the implications of the South Worcestershire Development Plan, 4 March 2016

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

The Planning Inspectorate

Appeal Decision

Site visit made on 10 February 2015

by J M Trask BSc(Hons) CEng MICE

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

Decision date: 5 June 2015

Appeal Ref: APP/Y3940/A/14/2221012
Land at Snarlton Farm, Snarlton Lane, Melksham, Wiltshire SN12 7QP

- 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 Mr St John Hughes of Sandridge Solar Power Ltd against the decision of Wiltshire Council.
- The application Ref 13/06140/FUL, dated 15 November 2013, was refused by notice dated 16 April 2014.
- The development proposed is a 80.5ha solar photovoltaic farm on land 2km to the east of Melksham, Wiltshire along with attendant equipment and infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for a 80.5ha solar photovoltaic farm on land 2km to the east of Melksham, Wiltshire along with attendant equipment and infrastructure at Land at Snarlton Farm, Snarlton Lane, Melksham, Wiltshire SN12 7QP in accordance with the terms of the application, Ref 13/06140/FUL, dated 15 November 2013, subject to the conditions in the attached schedule.

Preliminary Matter

2. Since the appeal was made there has been a change in the development plan (which is explained below) and another application for a solar farm in the area has been refused by the Council (details are given later in this Decision). I have taken these matters into account in my consideration of this appeal as I do not consider that this would cause prejudice to any interested party.

3. The proposed operational life of the solar photovoltaic farm is 25 years.

Main Issue

4. The main issue is whether any harmful impacts of the proposed development would outweigh the benefits of the scheme, including the production of electricity from a renewable source, having particular regard to:

   i. whether the proposed solar farm would be appropriately located on agricultural land; and

   ii. the effect upon the character and appearance of the area including any cumulative impact arising from other permitted solar farms within the area.

Reasons

Policy

5. Statute provides that the appeal is to be decided in accordance with the provisions of the development plan unless material considerations indicate otherwise. Since the application was refused the Wiltshire Core Strategy has been adopted by the Council and is now part of the development plan. The Core Strategy has replaced the West Wiltshire District Plan (2004) and Policies C1 and C34 of that plan have been superseded by Policies CP2, CP34, CP48, CP50, CP51 and CP52 of the Core Strategy but with the exception of Policy CP51 these policies are not particularly relevant to the main issues.

6. Core Strategy Core Policy CP42 is the most relevant policy. Among other things it supports standalone renewable energy schemes subject to satisfactory assessment of impact on the landscape, including any cumulative effects, and it seeks to avoid the use of the best and most versatile agricultural land. It also requires the consideration of Policy CP51.

7. While Core Policy CP51 generally seeks to protect, conserve and where possible enhance landscape character, any but the smallest standalone renewable energy scheme in the countryside is likely to have some negative effect on landscape character and visual amenity, at least within its near vicinity. Moreover Policy CP51 does not exclude all negative impacts but does seek that they are mitigated. Thus in terms of the effect upon the character and appearance of the area the issue is the magnitude of any negative effects after mitigation and how far they extend, including any cumulative effects with other developments.

8. The relevant policies of the Core Strategy are broadly consistent with the National Planning Policy Framework (the Framework) which is an important material consideration. The Framework includes a presumption in favour of sustainable development. This has three dimensions: economic, social and environmental. In relation to the environmental dimension, the Framework includes the core principle of protection of the countryside for its intrinsic value and it aims to protect and enhance valued landscapes (para 109). Other environmental considerations include meeting the challenge of climate change. In Section 10 the Framework promotes and seeks to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts (para 97). It also provides for the approval of renewable energy applications if the impacts can be made acceptable, unless material considerations indicate otherwise (para 98).

9. In relation to the economic dimension of sustainable development, economic growth in rural areas is supported by the Framework. It encourages diversification of agricultural and other land based rural enterprises. However, where significant development of agricultural land is demonstrated to be necessary, the Framework encourages the use of poorer quality land in preference to that of higher quality (para 112).

10. The Government's Planning Practice Guidance (the PPG) supports the Framework policies and has superseded Planning Practice Advice for Renewable and Low Carbon Energy (July 2013). The PPG recognises the potential impact of large-scale solar farms on the rural environment, particularly in undulating

landscapes. It encourages the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land. However, it does not preclude necessary development on agricultural land, subject again to a preference for poorer quality land over higher quality land. The PPG explains the Framework policy that all communities have a responsibility to help increase the use and supply of green energy but acknowledges that the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities.

11. I have also had regard to the overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3).

12. National policy in the Framework has not been changed by either the UK Solar PV Strategy or by subsequent letters and statements made by various Government Ministers and to which I have been referred. That dated 29 January 2014 emphasised that the impact on the landscape needs to be made acceptable and that this is a very high test. The letter dated 1 November 2013 did not support inappropriately sited solar PV and preferred the use of low grade agricultural land (25 April 2013), domestic and commercial roof space and previously used land (22 April 2014). The statement on 25 March 2015 referred to the need to consider the necessity of siting a proposal on agricultural land.

Land Use

13. Although not part of the reason for refusal the Council has since raised concerns in respect of whether the guidance in the PPG amounts to a requirement for a sequential assessment of site location. This relates to when a proposal involves agricultural land and the policy and guidance that poorer quality land should be used in preference to higher quality land.

14. The land is classified as primarily Grade 4 poor quality and is used for grazing and some forage crops; it is not the best and most versatile agricultural land. While the use of greenfield land is not encouraged, a site of this size could only reasonably be accommodated in the open countryside. Also the need for suitable grid connection limits the availability of potential sites.

15. The appellant has confirmed that other options have been assessed, such as on large car parks, but there is no similarly sized area in the vicinity available at a commercially viable rent and with suitable access to the national grid. Nevertheless, the site comprises predominantly poor quality Grade 4 land and I do not consider that there is a policy requirement for a more detailed assessment of possible alternatives.

16. However, even were the sequential test to be applied, given the scale of the proposed development, it is unlikely that it could be accommodated on brownfield sites or within urban areas. In order to avoid the use of more sensitive areas of countryside and higher quality land it is therefore necessary to use this poor quality agricultural land.

17. On my visit I noted that the heavy clay soil means that most of the land is laid to pasture with a few fields of crops for fodder on the higher eastern and northern parts of the site. While improvement of poor quality land is not unusual, in this case the appellant proposes the appeal site would also be

grazed by sheep and the farmers who work the land have confirmed that they are content that the height of the panels would be satisfactory and allow for sheep grazing as well as the solar installation.

18. I conclude that the proposal avoids the use of the best and most versatile land. It conforms to the requirements of the development plan and the Framework in that regard and is appropriately located on agricultural land.

Character and Appearance

19. The appellant's Landscape and Visual Impact Appraisal (LVIA) uses terms that describe the level of landscape and visual effects. These are Imperceptible, Slight, Moderate, Substantial and Severe. The Council uses the terms Not Significant, Minor, Moderate, Major and Severe. For the avoidance of doubt I consider the terms and definitions of the terms to be similar but have used the Council's terminology.

20. Most of the vegetation in the area is deciduous. While the appellant's LVIA was based on an assessment during summer months, I carried out my site visit in the winter. It was apparent that even without leaves the planting has a significant screening effect but the impact I have assessed would be considerably less in the summer when screening would be enhanced.

Landscape Character

21. The appeal site comprises 17 fields to the east of Melksham. The fields are worked by three farms, Snarlton Farm, Tanhouse Farm and Sandridge Farm.

22. The site is mostly on reasonably level ground and is part of a shallow valley with ridges to the north and south. There is a gentle rise in the land to the south of the site and part of the site is on the lower slope of the ridge to the north. There is an area of woodland (Morass Wood) on the northern slope and several woodland plantations adjoin the site. I have seen no evidence that these longstanding woodlands would be under threat during the 25 year life of the development.

23. Two lines of electricity pylons run through the site. Main roads run along the ridge to the north (A3102) and in the lower part of the valley (A365) and some houses have recently been built on the edge of Melksham to the west of the site. Nevertheless, the area otherwise retains a rural, tranquil, open and expansive character and appearance.

24. The site lies in an area defined as Avon Open Clay Vale in the *Wiltshire Landscape Character Assessment* and Melksham Open Clay Vale in the *West Wiltshire Landscape Character Assessment*. The main landscape characteristics of the area are identified as including wide open skies, long distance views, mixed use farmland with medium scale field patterns, hedgerows and a comprehensive footpath network. The management strategy for the Avon Open Clay Vale includes conserving the elements that contribute to the rural, tranquil landscape and the management strategy for the Melksham Open Clay Vale includes conserving and enhancing the landscape setting to Melksham including the hedgerow boundaries.

25. There is an existing solar farm at Craymarsh Farm, situated about 300m from the south west corner of the appeal site and another near Poulshot about 3km to the south east of the site. The proposal for a solar development at Rew Farm

(Ref 14/03736/FUL) has been refused permission. The Council has confirmed that the only other solar farms permitted within 5km of the site are near Broughton Gifford, which is on the other side of Melksham. I note that the planning permission for the Norrington Lane development near Broughton Gifford has recently been quashed[1]. Although there are several other solar farms in the wider area they are sufficiently distant from the site to ensure that they are not seen in the same view or seen soon before or after the proposed scheme when travelling along roads or public rights of way. Therefore they do not contribute to any harmful cumulative impacts on landscape character or visual impact.

26. The appeal site would cover an area of about 80.5ha. The proposal would result in the presence of regular rows of hard surfaced solar panels and the structures of the arrays and these, together with the associated new buildings and structures, would form a strong physical presence. The uniform nature of the development would give rise to a uniform appearance contrary to the subtle changes in land colour and texture currently apparent.

27. It is therefore clear that the proposal would alter the landscape character of the immediate area by the introduction of these new elements. However, the impact would be partially mitigated in that the existing hedgerows between fields would be maintained at a height of around 2.5m to 3.0m. Also the surrounding woodlands and the trees in the hedgerows would help break up and screen the development. Some new planting is also proposed, particularly along the western part of the southern boundary of the site and the southern part of the eastern boundary. The retention of hedgerows and the new planting would ensure that the field pattern, which is one of the main characteristics of the area, was retained.

28. The proposed development would also be low level and would not encroach on public rights of way. Accordingly, the other main landscape character features of the area, including the wide open skies, the availability of long distance views and a comprehensive footpath network would be retained.

29. The Craymarsh Farm development is relatively small and the additional adverse cumulative impact on landscape character resulting from the combined effects of the existing and proposed developments, over and above that resulting from the proposal itself, would be minor.

30. The proposal would have a regular industrial appearance and would not fully conserve the rural landscape or all of the landscape setting to Melksham and so would not be in accord with the relevant objectives of the landscape character assessment management strategies. The proposal would result in a major adverse impact on the local landscape and the character of the rural fields in which it is located. Nevertheless, as described above, given the wide open skies and large scale panoramas that characterise the area, the development would not be the defining characteristic of the area. The panels would only be seen at close distances or as occupying a part of a wider landscape. Accordingly, I agree with the conclusions of the appellant's Landscape and Visual Impact Assessment that the adverse impact on the wider area would be (in the Council's terms) minor to moderate.

[1] Gerber v Wiltshire Council [2015] EWHC 524 (Admin)

Visual Amenity

31. In terms of the visual impact of the development I have assessed the effect when seen from a number of viewpoints. Public rights of way surround the site and are widespread in the surrounding area. Recreational users of public rights of way are likely to be more sensitive visual receptors than, for example, car drivers who are passing quickly through the area and concentrating on the road. Bridleway MELW25a runs parallel to and about 120m south of the southern boundary of the site. There is a farm track along the north side of the hedge but the bridleway lies to the south of the hedgerow for the westernmost half of the length parallel to the site boundary. Along this section most of the site would not be particularly apparent as it would be at a lower level than the bridleway and screened by vegetation.

32. Along the eastern section the bridleway is to the north of the hedgerow and from this section the scale of the proposed development would be apparent. Some new hedgerow planting has been proposed by the appellant but this does not extend sufficiently far to the east to provide visual screening from this part of the right of way. Nevertheless, increasing the length of the proposed new hedgerow or strengthening the existing hedgerow by additional planting to increase the density and height would adequately screen the development. While I acknowledge that developing a dense and high hedgerow generally takes time, more mature planting at close centres is also possible. Thus satisfactory planting could be required by the imposition of a suitable condition and this is discussed later in this decision. It is likely that the higher part of the site would remain clearly visible from the bridleway but it would be seen against the backdrop of Morass Wood and Eighteen Acre Plantation to the north of the site and would be sufficiently distant to result in a moderate adverse visual impact in the context of the expansive views and wide open skies.

33. Prater's Lane bridleway (MELW40) runs along the western boundary of the site for about 1.5km. I walked along this part of the bridleway during my site visit. Apart from gateways the site is mostly screened from the bridleway, even for most horse riders, by a high hedge. In winter months the development would be visible through the hedge but views would be filtered. While the presence of the development would be apparent, most users of the bridleway would be moving and the glimpses of the solar arrays would have a limited and temporary impact as part of a longer journey.

34. Seend Ridge, the villages of Seend and Seend Cleeve and the abundant number of public rights of way around the villages lie about 2km to the south of the site, on the opposite side of the Kennett and Avon canal. The proposal is shown in Figure 6.18 of the LVIA which is a photomontage of the view from Viewpoint 12, which is similar to Committee View 4. The development would be most apparent from the upper levels of the ridge, particularly the footpath along the ridge to the rear of the village hall. The development at Craymarsh Farm is also visible from this footpath, albeit that it is at a low level and, even in winter, does not draw the eye as it is a relatively small element of a wider landscape.

35. The proposed solar arrays would generally be seen against the backdrop of Morass Wood and Eighteen Acre Plantation to the north of the site with Eight Acre Plantation and the small wood to the south of it (Memory Wood) screening the north west extremity of the development. The hedges would remain so the

field pattern would still be apparent and this would break up the development to some extent. Even so, the eye would be drawn to the development and from that to the solar farm at Craymarsh Farm. The proposed scheme would be large but even when seen together with the Craymarsh scheme, in the context of the panoramic views available from the ridge, it would not have a great visual impact. Nevertheless, it would result in the introduction of a large area of development and a significant change to the existing view which would result in a moderate to major adverse impact.

36. The A3102 at Sandridge Hill lies to the north of the site and is on elevated ground. The proposal is shown in Figure 6.17 of the LVIA which is a photomontage of the view from Viewpoint 5. Part of the development could be seen in the gap between Morass Wood and Eighteen Acre Plantation but otherwise the closest part of the development to the road, and the occasional property along it, would be generally screened by woodland and landform. The more distant part of the development would be visible from the road, as is that at Craymarsh Farm, but they would only be seen in fleeting glances by road users and only the rear of the arrays would be apparent. Thus in my view the visual impact would be minor to moderate adverse.

37. The view of the site from Sandridge Farm is largely screened by the Moonground and Hundred Acre Plantations and from Broad Lane Farm much of the site would be behind the gentle ridge on the south side of the site. I also visited other view points in the area but found no harm that would make a noticeable addition to that described above.

38. While the full extent of the development would not be seen from any one viewpoint, and it would be broken up by hedgerows, the scale of the proposal would be unlike anything else in the area. Any effects from glint and glare would increase the visual prominence of the development. The visual impact would vary from minor adverse from some viewpoints to moderate to major adverse from others.

39. The 4.1ha solar farm at Craymarsh Farm is clearly visible from other public rights of way that meet near the south west corner of the site with the bridleway passing through the development. Thus there would be some cumulative effect for those travelling along these routes as one solar farm would be seen soon after another. However, the Craymarsh Farm development is relatively small and subject to the completion of the additional or strengthened hedgerows described above the additional adverse cumulative visual impact resulting from the addition of the proposed development would be minor.

40. I have also had regard to the solar farm near Poulshot but this would add little to the cumulative impact as it is not prominent in the same views as the proposed scheme and would not be seen soon after or before the proposal when travelling through the area. The solar farms at Broughton Gifford are on the other side of Melksham and would not make a significant contribution to any cumulative impact.

Conclusions on Character and Appearance

41. The proposal in this case is a large scheme and there would be major effects on landscape character within each of the fields where panels would be located, as would be the case with any solar farm in the countryside. However, the scheme

would retain hedges and the field pattern, which are a key characteristic of the area. The hedges, woodland and low height of development would mitigate the effects on landscape character in the wider area. Other key characteristics such as the open views and expansive character would be retained and the solar farm would not become a defining characteristic. The cumulative impact would be little greater than the impact of the proposal itself.

42. With regard to Policy CP51, I conclude that there would be a major effect on landscape within the appeal site but minor or at most moderate effects on the wider landscape as a whole and that negative effects can be significantly mitigated.

43. In terms of visual amenity the main consideration is the effect on people viewing the site from public places and especially recreational users of public rights of way. The development would be screened by existing and proposed vegetation and this would limit the opportunities for viewers to perceive landscape change. The full extent of the site would only be apparent within the context of a wider landscape and the cumulative effect on visual amenity would be little greater than the impact of the proposal itself.

44. In terms of Policy CP51 I conclude that after mitigation the development would only have a significant effect when seen from a limited number of viewpoints and that these effects would be typically minor and only moderate to major in a few locations.

45. I conclude that while the proposed scheme would have a detrimental impact on the rural character of the local area there would be little effect on the overall tranquil, open and expansive aspects of the character and appearance of the wider area.

Benefits

46. There is in-principle support for renewable energy schemes in Policy CP42 and the Framework provides that the benefits of proposals in terms of renewable energy can be material considerations. The appellant advises that the proposed development would produce about 48,570 MWh of energy per year, which would be enough to supply around 11,400 homes. It would result in carbon dioxide savings of about 500,000 tonnes and 1,000,000 tonnes when compared to gas fired or coal fired power generation. It would contribute about 12% of Wiltshire's target of installed renewable electricity generated locally. This would be a large scheme that would provide a valuable contribution to cutting greenhouse gas emissions. This warrants considerable weight.

47. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Also there would be ecological enhancement of the appeal site through the replacement of poor productivity arable acreage with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough grassland. That would accord with guidance in the PPG that biodiversity improvements are to be encouraged around arrays.

48. The proposal would support economic growth in this rural area by providing an additional source of income and so increasing the financial security of farming enterprises. Thus it would represent farm diversification which is supported by the Framework. The agricultural function of the land would also continue by

means of sheep grazing and the site would thus be used effectively for agriculture as well as for electricity production.

49. There would be a financial investment in the local economy with employment opportunities and the need for accommodation during the construction period as well as the need to provide security over the 25 year operational period. However, I have seen insufficient details of the educational benefits claimed by the appellant to include them in the planning balance.

Other Matters

50. I have taken into account the letters of objection and concerns raised by local residents and Wiltshire Protect, the submission of a petition objecting to the proposal and also the many letters submitted in support of the scheme. I have also had regard to the views of the local Parish Councils and Town Council, two of which supported and one of which objected to the proposal. I understand the various concerns expressed and have taken them into account insofar as they are founded on valid planning reasons and supported by substantial evidence. They have been weighed together with all other material considerations.

51. There are a number of heritage assets in the wider area but given the distances from the site and the screening between there will be no noticeable effect on the significance of the assets or their settings. This view is supported by English Heritage and the Council's Conservation Officer.

52. I also note that the intention is to set up a community benefit fund to invest in the needs of the local community but I have seen no details of this and have not included it in the planning balance. I have had regard to all other matters raised but have found no other matters of sufficient weight to alter the planning balance.

Balance

53. Given the extent of the benefits and limited effects on landscape character and visual amenity of the wider area beyond the appeal site I conclude that overall the impacts would be acceptable and the proposal accords with the aims of the development plan and is also sustainable development for the purposes of the Framework.

Conditions

54. The Council has suggested a number of conditions. The solar installation should be required to be removed within 25 years of this decision, or if it ceases to be operational for a period of 6 months. Also the site should be restored by means of an agreed scheme of work to safeguard the character and appearance of the surrounding area. In the interests of precision I have modified the requirement in terms of restoring the land to its current standard. Also, in the interests of clarity and safeguarding ecological and biodiversity interests, I have included the Council's suggested condition in respect of a decommissioning ecological survey and scheme.

55. A condition requiring a detailed surface water run off limitation scheme is necessary to prevent any increased risk of surface water flooding. A construction traffic management plan, including provisions to safeguard access to the nearby school, is required to ensure highway safety and for the same reason visibility splays are required. Temporary fencing is necessary to protect

the public's right to use the public rights of way. In the interests of safeguarding ecological and biodiversity interests habitat surveys and any remedial work identified should be carried out. For the same reason the works should be carried out in accordance with the provisions of the Environmental Report.

56. The timing of construction operations should be limited and lighting during the operational phase restricted to protect local amenity. Notwithstanding the provisions of the Environmental Report a buffer strip shall be retained next to watercourses to minimise flood risk and protect biodiversity. Also a condition requiring a minimum height of the panels is necessary to ensure the area would be suitable for sheep to graze.

57. While proposals for planting and maintaining hedgerows have been put forward by the appellant it seems to me that the detailed proposals, including plant spacing, height at planting and limited cutting regime would not result in the timely establishment of the substantial hedgerows necessary to limit the visual harm that would otherwise result from the development. Strengthening of the existing hedgerow with new planting to increase the height or an additional length of high and dense hedgerow would also be required along the southern edge of the installation as described above. However, the Framework requires approval of renewable energy applications if the impacts can be made acceptable, unless material considerations indicate otherwise. In this case the imposition of a condition, as suggested by the Council, for a landscape management plan to be approved by the Council and for implementation of the landscaping scheme would result in the impact being made acceptable and are necessary to ensure a satisfactory landscaped setting and the protection of important landscape features.

58. Finally, in the interests of clarity and good planning, the approved drawings should be listed and the development required to be carried out in accordance with them.

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

J M Trask

INSPECTOR

Schedule of Conditions: 1 to 15
Appeal Ref: APP/Y3940/A/14/2221012
Application Ref: 13/06140/FUL

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The permission hereby granted shall be for a temporary period and shall expire 25 years from the date of this decision. Within 6 months of the date of expiry of this planning permission, or, if sooner, the cessation of the use of the solar panels for electricity generation purposes for a continuous period of 6 months, the solar panels together with any supporting/associated infrastructure including the inverter stations, security equipment, poles and fencing shall be removed from the land and the land restored to its former agricultural condition in accordance with a scheme of work to be submitted to, and approved in writing by, the local planning authority. The scheme of work, including a restoration plan and a decommissioning scheme that takes account of a recent ecological survey, shall be submitted to the local planning authority not less than six months before the removal of the installation.

3) No development hereby permitted shall commence until a detailed surface water run off limitation scheme together with supporting calculations and a programme for implementation have been submitted to and approved in writing by the local planning authority. The submitted details shall include the details of future ownership and maintenance for all drainage works serving the site. The approved scheme shall be implemented and maintained in accordance with the approved programme and details.

4) No development hereby permitted shall commence until a construction traffic management plan (CTMP) has been submitted to and approved in writing by the local planning authority and the construction shall be undertaken in accordance with the approved details. The CTMP shall include:

- A condition survey of the site access onto the A3102 and Prater's Lane bridleway, along with a detailed programme of measures to be employed to maintain the highway/PRoW from damage. Should any damage accrue attributable to the development, all damage shall be remedied in accord with details submitted to the local planning authority within 3 months and approved in writing;
- Exact details of the numbers, types and timing of delivery lorries to the site (which should avoid school departure / collection times);
- A scheme of signing and lining relating to the school and construction access, which should make drivers aware of the construction access and school arrangements;
- The procedures in place to ensure that lorry wheels are free of mud before returning to the highway;
- Details of all deliveries entering and exiting the site involving large HGV and other large vehicles to ensure safe access and egress at the site;
- Details of the site management co-ordinator who will ensure compliance with the CTMP;

- How users of public rights of way on and near the A3102 access shall be protected during the works; and
- Details of how construction workers' traffic and lorry traffic shall be accommodated (including turning provision) on the site.
  Any departures from the agreed Construction Traffic Management Plan shall be agreed in writing by the local planning authority prior to such actions or works being carried out on site.

5) No development shall commence on site until visibility splays, based on the drawing titled 'Sandridge Solar Farm Vision Splays for Site Access Plan' have been provided at the access point and have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres in the west direction and 160 metres in the east direction from the centre of the access. Such splays shall thereafter be permanently maintained free from obstruction to enable clear vision above the height of 1m above the level of the adjacent carriageway. Full details shall be submitted detailing the extent of hedge and tree removal and the protection of the school boundary and hedge re-instatement.

6) No development shall commence on site pursuant to the installation of the solar arrays or associated infrastructure until the temporary fencing has been erected in full accordance with the temporary fencing plan. The temporary fencing must be robustly secured to ensure it does not collapse to avoid any further obstruction of the Prater's Lane Bridleway. On completion of the installation the temporary fencing shall be removed entirely from the site and the bridleway shall be kept free from any other obstruction.

7) A habitat condition survey measured against the details listed within the Habitat Protection, Creation and Management Plan shall be undertaken by a professional ecologist during the period June to August and submitted for Local Planning Authority approval in the first, third and fifth years after the site first becomes operational. Where monitoring identifies any non-compliance, remedial measures will need to be identified, implemented and reported through an agreed procedure with the Council. The removal of hedgerows and ground preparation shall be undertaken during the period 1st September to 28th February. If done outside this period, any such works shall be preceded by a survey undertaken by a professional ecologist; and only undertaken in accordance with the ecologist's written advice.

8) The construction, site layout and site management works shall be undertaken in accordance with the details contained in the Habitat Protection, Creation and Management Plan as detailed within Figure 8.5 (in chapter 8 of the Environmental Report); and the Reasonable Avoidance Measures for Great Crested Newts as detailed within Appendix 8.2 of the same report.

9) During the construction phase no machinery shall be operated, no process shall be carried out and no delivery shall be taken or dispatched from the site outside the following hours; Mon-Fri 07:30 to 18:00, Saturday 08:00 to 13:00 nor at anytime on Sundays or public holidays.

10) Following the installation of the solar farm, there shall be no external lighting/illumination at or on the site unless otherwise approved by the planning authority following the submission of a separate planning application.

11) In addition to the provisions of condition 8 a buffer strip measuring 2 metres measured from the top of a bank of any watercourse, water body or ditch shall be retained at all times during the construction period. Thereafter, a managed buffer strip shall be extended to 5 metres to allow for the growth of a longer sward to improve habitat potential adjacent to all ditches, water bodies and watercourses.

12) The solar panels are to be positioned a minimum of 1000mm above ground level.

13) Notwithstanding details submitted as part of the application and in addition to the provisions of condition 8 no development hereby permitted shall commence until a landscaping scheme and landscape management plan has been submitted to and approved in writing by the local planning authority which shall cover tree, hedge and root protection measures, the on-site management of the existing hedgerows (which shall be allowed to develop to a minimum 3 m winter height), as well as producing exact tree and hedgerow planting details (including location, species, height at planting and spacing), permanent fencing details, hedgerow planting as described in this Appeal Decision and a programme for the infill and proposed new planting and its on-going management and monitoring which shall cover the lifetime of the development.

14) The approved landscaping scheme shall be carried out in the first planting and seeding season following the completion of the development. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees, hedgerow or plants which, within the period of twenty five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details or in accordance with a programme to be agreed in writing with the Local Planning Authority.

15) The development hereby permitted shall be carried out in accordance with the following approved plans:
Appeal Drawing Reference 001 - Site Layout and Construction
(Figure 3.1 within Environmental Report)
Appeal Drawing Reference 002 - PV Array Detail
(Figure 3.2 within Environmental Report)
Appeal Drawing Reference 003 - Typical Cable Trenching
(Figure 3.7 within Environmental Report)
Appeal Drawing Reference 004 - On Site Track Design
(Figure 3.8 within Environmental Report)
Appeal Drawing Reference 005 - Access Route to Site
(Figure 3.9 within Environmental Report)
Appeal Drawing Reference 006 Rev D - Vision Splays for Site Access Junction with A3102
(Figure 3.10 within Environmental Report)

Appeal Drawing Reference 007 - Existing and Proposed Floor Plan
Appeal Drawing Reference 008 - Indicative Security Camera
Appeal Drawing Reference 009 - Cross Section of Track & Temporary Fencing
Appeal Drawing Reference 010 - Existing and proposed elevations
Appeal Drawing Reference 011 - Block Plan
Appeal Drawing Reference 012 - 132kv Substation Details
Appeal Drawing Reference 013 - Digital Terrain Model (Topographical Plan)

Department for Communities and Local Government

Mr Joshua Mellor
Lightsource Renewable Energy Holdings Ltd
7th Floor
33 Holborn
London
EC1N 2HU

Our Ref: APP/X1925/V/15/3131943

Date: 31 October 2016

Dear Mr Mellor

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY LIGHTSOURCE SPV 114 LIMITED
LAND SOUTH OF THREE HOUSES LANE, THREE HOUSES LANE, CODICOTE, HERTFORDSHIRE, SG4 8SU
APPLICATION REFERENCE No. 14/02360/1

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Woolcock BNatRes(Hons) MURP DipLaw MRTPI, who held a public local inquiry on 7-10 June 2016 into your client's application for planning permission for the installation and operation of a solar farm and associated infrastructure, in accordance with application reference no. 14/02360/1 dated 1 September 2014.

2. On 27 July 2015, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority, North Hertfordshire District Council.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application should be refused.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and Statutory Considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

David Moseley, Decision Officer
National Planning Casework Unit
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6. In this case the development plan includes the saved policies of the North Hertfordshire District Local Plan No.2 with Alterations (LP), which was adopted in 1996. The Secretary of State considers that the development plan policies of most relevance to this case are those set out by the Inspector at IR9. The Secretary of State also acknowledges that the proposed submission North Hertfordshire Local Plan 2011-2031 was published for public consultation on 19 October 2016. He notes that this emerging plan at Policy SP11 looks to support proposals for renewable and low carbon energy development in appropriate locations and Policy NE12 identifies the impacts that will need to be assessed in considering such proposals. The Secretary of State has had regard to the emerging plan but given that it has not yet been subject to examination he gives it limited weight.

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). He has also had regard to the Written Ministerial Statement, dated 25 March 2015, which amongst other matters, concerns solar energy and the protection of the local and global environment.

8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the application scheme or their settings or any features of special architectural or historic interest which they may possess.

Main Issues

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR73.

Harm to the Green Belt

10. The Secretary of State has taken account of the Inspector's views at IR75-76 and agrees that the proposal would be inappropriate development in the Green Belt. The *Framework* states that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The *Framework* provides that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The Secretary of State agrees that the solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt and the security fencing and electrical equipment would also adversely affect the countryside. He attaches substantial weight to the harm which arises because the scheme is inappropriate development in the Green Belt. Like the Inspector (IR77), the Secretary of State considers the proposal would be at odds with one of the purposes of the Green Belt, and would erode its openness and harm the Green Belt.

The effect on the landscape character and visual appearance of the area

11. In respect of the scheme's impact on character and appearance, the Secretary of State agrees with the Inspector that the solar panels and associated infrastructure would be utilitarian structures in this countryside location. The construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area and the proposed development would introduce a discordant element at odds with the historic and mature landscape character of the locality. The Secretary of State agrees that the magnitude of change would be at least Medium, and possibly High, and with Medium sensitivity, this would result in an adverse effect of either Moderate or Moderate/Major significance for the landscape resource (IR 79).

12. Turning to visual effects, for the reasons given by the Inspector at IR80 the Secretary of State agrees that those using footpaths and the lane for recreational purposes and from nearby residencies the scheme would be likely to have an adverse effect on visual amenity. Furthermore he accepts the Inspector's view that the separation distance, local topography and blocks of woodland combine to limit the likely visual impact of the scheme in its wider context (IR81). The Secretary of State agrees with the Inspector's conclusion that the scheme would harm the character of the area, but would have a limited and localised adverse effect on its appearance, and would have an adverse effect of Moderate significance on the local landscape (IR82).

Agricultural land and soils

13. Having carefully considered the Inspector's analysis at IR83-85, the Secretary of State agrees with him that the likely loss of productivity from using 3.8 hectares of the best and most versatile agricultural land would weigh significantly against the proposal.

Biodiversity

14. For the reasons given by the Inspector at IR87, the Secretary of State concurs with his view that the proposed development would be likely to enhance biodiversity because of the tree, hedgerow and wildflower planting, and from resting the soil from intensive farming for 30 years. He also agrees with the Inspector that the conservation benefits weigh, to some extent, in favour of the proposal.

Heritage assets

15. The Secretary of State agrees with the Inspector at IR88 that the proposed development would not have a significant effect on the setting of any nearby listed buildings and would not adversely impact on the registered historic parks and gardens in the wider area. He concurs with the Inspector that any archaeological interest in the site could be safeguarded by imposing an appropriate condition and overall the proposal would have a negligible effect on heritage assets and would comply with LP Policy 16.

Highway safety

16. The Secretary of State agrees with the Inspector's comments at IR89 that there is no convincing evidence that construction traffic would significantly increase the risk to those using the local highway network, provided appropriate conditions were imposed. He notes that there is no objection from the Highway Authority subject to conditions and he agrees that there is no reason to find against the proposal on highway safety grounds.

Residential amenity

17. The Secretary of State agrees with the Inspector at IR90 that the proposed development would not have an overbearing or dominating effect on the outlook from nearby dwellings. Noise from electrical equipment could be controlled by the imposition of an appropriate planning condition, and so would not have an unacceptable adverse effect on the living conditions of nearby occupiers. He agrees with the Inspector that there are no reasons to find against the proposal on residential amenity grounds.

Drainage and flood risk

18. For the reasons given at IR91, the Secretary of State agrees with the Inspector that subject to the imposition of appropriate conditions drainage is not a consideration that weighs against the proposal.

Other considerations

19. The Secretary of State notes that permission is sought for 30 years and agrees with the Inspector at IR92 that for this period any harm to the landscape would be considered to be long term. He accepts the duration and reversibility of the development is a material consideration, but the loss of openness for this part of the Green Belt for 30 years, and the landscape harm, albeit reducing over time as screen planting matured, would endure for a long time. The Secretary of State agrees that the duration and reversibility of the development are factors that should be given limited weight in the planning balance.

Renewable energy

20. For the reasons given at IR95, the Secretary of State considers the scheme, with an estimated installed capacity of 5 MW and average electrical output of 4,575 MWhr/yr, would make a significant contribution to achieving renewable energy targets. Overall he agrees with the Inspector that the wider environmental and energy security benefits of the proposal weigh significantly in favour of approving the application (IR95). However, for reasons given by the Inspector at IR96, the Secretary of State also agrees with the Inspector that having taken account of the Applicant's sequential analysis there is nothing to require the study area used to contribute to national targets by means of solar energy development.

Very special circumstances

21. The Secretary of State agrees with the Inspector's analysis at IR97-101 and his considerations at IR102 that significant weight should be given to the contribution the scheme would make to the Government's commitment to tackle climate change along with the benefits from ecological enhancement and to the local economy. He agrees though that the disadvantages of the proposal include harm to the Green Belt, and to the character and appearance of the area, along with the use of 3.8 hectares of best and most versatile agricultural land. Furthermore, he agrees with the Inspector that substantial weight should be given to the harm to the Green Belt in the balancing exercise and that the other harm is also significant. Overall, the Secretary of State agrees with the Inspector that the 'other considerations' in this case do not clearly outweigh the harm, and the very special circumstances to justify the development do not exist.

Development plan

22. Given that the Secretary of State has concluded that very special circumstances to justify the development do not exist, and for the reasons given by the Inspector at IR103, the Secretary of State agrees that, overall, the proposal conflicts with the development plan when read as a whole. However, he further agrees that as the development plan is silent about renewable energy development, more weight should be given to the provisions of the Framework when determining this application.

National Policy and Guidance

23. The Secretary of State agrees with the Inspector's analysis set out in IR104 and agrees the proposal would not accord with the requirements for sustainable development set out in the Framework.

Planning conditions

24. The Secretary of State has given consideration to the Inspector's analysis at IR105-111, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set

out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing this planning application.

Overall conclusion

25. The Secretary of State has given careful consideration to the Inspector's overall conclusions at IR112-113. He agrees with the Inspector that the proposal would be inappropriate development in the Green Belt and that the other considerations in this case do not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, and the very special circumstances necessary to justify the development do not exist. The Secretary of State also concludes that the proposal would conflict with relevant development plan policies, and would not accord with the requirements for sustainable development set out in the Framework. He agrees that there are no material considerations that would indicate that a determination other than in accordance with the development plan is justified (IR113).

Public Sector Equality Duty

26. In accordance with section 149 of the Equality Act 2010, due regard has been given to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The Secretary of State has considered the protected characteristics of religion or belief, race, sex and disability.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's application for planning permission for the installation and operation of a solar farm and associated infrastructure on land south of Three Houses Lane, Three Houses Lane, Codicote, Hertfordshire, SG4 8SU in accordance with application reference no. 14/02360/1 dated 1 September 2014.

Right to challenge the decision

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

29. A copy of this letter has been sent to North Hertfordshire District Council and Rule 6 parties, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

David Moseley

David Moseley
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Date: 26 July 2016

Town and Country Planning Act 1990

Section 77

North Hertfordshire District Council

Application by

Lightsource SPV 114 Limited

Inquiry held on 7-10 June 2016

Land south of Three Houses Lane, Three Houses Lane, Codicote, Hertfordshire SG4 8SU

File Ref: APP/X1925/V/15/3131943

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- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990 (hereinafter the 1990 Act), on 27 July 2015.
- The application is made by Lightsource SPV 114 Limited to North Hertfordshire District Council (NHDC).
- The application Ref.No:14/02360/1 is dated 1 September 2014.
- The development proposed is installation and operation of a solar farm and associated infrastructure.

Summary of recommendation: The application be refused.

Procedural matters

1. The 'Application Site' comprises 22.21 ha of agricultural land in three fields. However, a revised scheme, limiting development to just one of these three fields, and reducing its generating capacity from 11.28 MW to 5 MW, is now proposed.[1] This field has an area of 8.4 ha and is referred to within this Report as the 'Site'.[2] The amended proposal removed from the original proposed development two fields that comprised grade 2 agricultural land. It also re-sited the production substations with inverters to a more central position within the Site. The revised scheme was the subject of further consultation. NHDC considered this amended application in deciding, in accordance with its officers' recommendation, that it was minded to approve the application and to grant planning permission. I deal in more detail later with the representations submitted about the initial application, the revised scheme, and those received at the Inquiry stage.

2. For clarity, I requested at the Inquiry that a drawing be submitted showing the 'Site' for the revised scheme, so as to distinguish it from the 'Application Site'.[3] I use these terms in this way throughout this Report. The Site lies within the North Hertfordshire Green Belt.[4] Some 3.8 ha (45.2%) of the Site is classified as grade 3a agricultural land, and the remaining 4.6 ha (54.8%) is grade 3b.[5]

3. The Secretary of State issued a screening direction, dated 4 March 2016, directing that this development is not Environmental Impact Assessment (EIA) development. I note that this letter refers to a temporary development for 25 years, whereas the submitted *Planning, Design and Assess Statement* refers to a temporary development with an operational life of approximately 30 to 35 years.[6] NHDC dealt with the proposal as a temporary scheme for 30 years, and that is the basis on which the evidence to the Inquiry was adduced. Notwithstanding

[1] The Application Site is shown on Location Plan, Drawing No.THL_02 dated 20 August 2014 at CDA5.1. The original scheme is at CDA4.1 and the revised scheme at CDA5.2.
[2] Statement of Common Ground (SoCG) at CDD1.
[3] ID27.
[4] ID18.
[5] Figure 2 CDA7.2. The *Framework* defines grades 1, 2 and 3a agricultural land as the best and most versatile (BMV) agricultural land.
[6] CDA7.5 paragraph 4.1.

the reference to a shorter period in the screening direction, there is nothing in the evidence before me to indicate that the proposal would, for the purposes of applying the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location.

4. The Planning Inspectorate wrote on 19 October 2015 to confirm that Knebworth Parish Council, Codicote Parish Council, Tim Wise and Nick Pellett were working together as a single Rule 6(6) party, and enquired who was lead contact. In an email dated 2 November 2015, Mr Kellet confirmed this, and that he was the lead contact. Codicote Parish Council confirmed its agreement to Mr Pellet appearing on its behalf at the Inquiry.[7] Confirmation from Knebworth Parish Council was also requested, but had not been submitted at the time the Inquiry closed.[8] However, I note the email from Martin Edwards to The Planning Inspectorate, dated 29 February 2016, advising that he had been instructed under the Bar Standards Board Public Access Scheme to act for Knebworth Parish Council, Codicote Parish Council, Mr Timothy Wise and Mr Nicholas Pellet in connection with the planning Inquiry into the called-in application. I refer to these parties in this Report as the Rule 6 Parties.

5. The Inquiry sat for four days. I undertook an unaccompanied site visit in the locality on 6 June 2016, and completed an accompanied site visit on 9 June 2016.

The site and surroundings

6. The Site lies about 1.2 km north of the village of Codicote and 1.7 km west of the hamlet of Old Knebworth.[9] The wider context is shown on Figure 1.1 of the Applicant's Landscape and Visual Impact Assessment (LVIA).[10] An aerial photograph submitted by the Rule 6 Parties shows the local context, including the nearby woodland, the lane, and the location of dwellings at Crouch Green (approximately 60 m north of the Site), Bradley Springs (approximately 190 m east of the Site) and The Node Estate.[11] Public Footpath 35 lies to the west of the Site and on the opposite side of the lane. It extends north-west and around Holl Lays Wood. Footpath 32 lies some 200 m to the south of the Site, beyond a belt of mature trees. This footpath extends from the lane, near to the buildings at Three Houses Farm, south-east past Node Wood to the B656, north of Codicote.[12] Vanstone Park Garden Centre is located approximately 170 m south-east of the Site, beyond a wooded area. Knebworth Woods Site of Special Scientific Interest (SSSI) is about 1 km north-east of the Site. Listed buildings in the area are shown on Figure 1.1 of CDA7.8. These include the Grade II listed farmhouse and two barns at Three Houses Farm. Four registered parks and gardens and Old Knebworth Conservation Area lie within 2 km of the Site.[13]

[7] ID22.1-22.3.
[8] ID22.4.
[9] SoCG.
[10] CDA7.8.
[11] ID17 Photograph 11.
[12] These footpaths are shown on the extract from the Definitive Map of Public Rights of Way at Appendix E of Mrs Leitch Proof of Evidence at CDD9.
[13] Designated and undesignated heritage assets are documented at CDA7.4.

7. The site lies within the Codicote Plateau Landscape Character Area (LCA 205) in the *North Hertfordshire and Stevenage Landscape Character Assessment*. The key characteristics of this area are a gently rolling upland plateau, with large arable parcels and grazing adjacent to Codicote, and varying sized blocks of woodland. It has an historic and mature landscape character interspersed with areas of intensive arable production, and small interlocking blocks of woodland framing views. In terms of landscape character sensitivities, the area would be vulnerable to further urbanising features, and at risk from development pressure and removal of hedgerows/boundary vegetation. It is a tranquil area, apart from the B656, with remaining roads narrow and winding. Overall, Codicote Plateau is considered to be of moderate to high sensitivity.

8. In terms of visual sensitivities, there are expansive views out of the character area where woodland/hedgerows are limited, but in areas of woodland views are framed and a sense of enclosure created. LCA 205 in visual terms is considered to be of moderate sensitivity. With its historic character, a recognisable sense of place, and the relatively tranquil character, Codicote Plateau is considered to be of moderate landscape value. The landscape capacity for utilities development is considered to be low because there are very few urbanising elements, such as masts, pylons or wind turbines, and few detractors in the area. The *North Hertfordshire and Stevenage Landscape Character Assessment* advises that new utilities development would have a major impact on the rural and historic character of LCA 205.[14]

Planning policy, guidance and Written Ministerial Statement

9. The development plan includes saved policies of the North Hertfordshire District Local Plan No.2 with Alteration, which was adopted in 1996 (LP). Policy 2 states that in the Green Belt the aim will be to keep the uses of land open in character, and that except for proposals within settlements, which does not apply here, or in very special circumstances, planning permission will only be granted for new buildings or changes of use of land which are appropriate in the Green Belt, and which would not result in significant visual impact. Policy 14 expects, in the circumstances which apply here, that development proposals take account of, and where possible show improvements to, the nature conservation value of the site and its surroundings. It adds that a management scheme may be required to maintain or enhance the site's nature conservation value. Policy 16 provides that development proposals may be permitted with conditions depending on the archaeological value and significance of the site.

10. The *National Planning Policy Framework* (hereinafter the *Framework*) provides that applications for renewable energy development should be approved if its impacts are (or can be made) acceptable. The *Planning Practice Guidance* (hereinafter the *Guidance*) refers to particular factors that would need to be taken into account, including that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land restored to its previous use. The Written Ministerial Statement, dated 25 March 2015, by The Right Hon Sir Eric Pickles (WMS) provides, amongst other things, that any proposal for a solar farm involving BMV agricultural land would need to be justified by the most compelling evidence.

[14] CDB4.2.

11. The emerging Draft North Hertfordshire Local Plan 2011-2031 Preferred Options is currently at consultation stage.

The proposed development

12. In addition to the solar panels (maximum height 2.1 m) the infrastructure proposed would include a District Network Operator (DNO) substation (5.5 m x 4.95 m x 4.4 m in height shown at CDA5.13), client substation (6.08 m x 2.51 m x 3.25 m in height shown at CDA5.11), an auxiliary transformer (external transformers within a 4 m x 4 m area with 2.1 m high fencing shown at CDA5.10), communications building (3.66 m x 3 m x 3 m in height shown at CDA5.12), storage shed (2.2 m x 3 m x 3 m in height shown at CDA5.12), composting toilet (1.5 m x 2.5 m x 3.03 m in height), two production substations each consisting of an inverter (7.25 m x 1.05 m x 2.48 m in height), transformer (within a 4 m x 4 m area with 2.1 m high fencing) and production cabin (2.2 m x 1.8 m x 2.28 m in height as shown at CDA5.8), 14 CCTV poles and cameras on 2.4 m high posts (shown at CDA5.15), along with internal access roads.

13. The perimeter of the solar panels would be marked by a 2 m high deer fence. Site access would be via a new access off Three Houses Lane, located about 60 m south-west of the existing access to the field, which would be closed and replaced by hedgerow planting. The new access would require the removal of 9.7 m of full hedgerow and partial removal/trimming of a further 8.8 m.[15] Proposed landscaping includes new boundary hedgerows, underplanting and infilling existing hedgerows, tree planting, along with wildflower meadows planted between the security fencing and boundary hedgerows.[16]

14. The scheme would have a generation capacity of 5 MW and based on the solar yield for the area would generate a calculated 4,575 MWhr/yr. This would be the equivalent electricity usage of 1,475 typical homes, with carbon dioxide emission savings of some 2,360 tonnes per year, or the equivalent of removing 525 standard cars from the road. The Applicant accepted a grid offer from the DNO, UK Power Networks (UKPN), on 10 June 2014.[17] The grid connection would be via an existing 33 kV overhead line located some 600 m to the west of the Site.[18]

The case for Lightsource SPV 114 limited

The Applicant's case is summarised as follows.[19]

15. The proposal constitutes inappropriate development in the Green Belt, which is by definition harmful, but restricted to impacts on openness and encroachment into the countryside. The level of potential harm is limited by the existing natural visual containment of the Site combined with additional proposed planting, the temporary and reversible nature of the proposal, and the level of openness that would remain within the proposed solar farm. Some 64% of the Site would be open grassland between and around the panels and between the fence and the

[15] ID16.
[16] Outline landscape proposals are shown at CDA5.3.
[17] ID6.
[18] The location of the 33 kV line is shown in Figure 3 of Mr Gudgeon's Proof of Evidence at CDD7.
[19] Based on ID26.

boundary vegetation. The temporary impact on openness would result in moderate harm to the Green Belt, and the encroachment into the countryside would result in limited harm to the Green Belt designation.[20]

16. The proposal would result in a minor alteration to landscape characteristics (arable farmland) with limited disruption to landscape features. The development would integrate into the local landscape through new planting, which would establish after 5 to 10 years, and enhance local landscape features. The magnitude of landscape impact would be Low, and with Medium landscape sensitivity, the overall significance of landscape effect would be Minor.

17. The Site benefits from a high degree of natural enclosure and visual containment, and so the degree of harm is substantially lessened in comparison to more open fields, such as those removed from the original proposal.[21] Additional planting would bolster the existing boundary hedgerows and fill in gaps in the eastern and south-western boundaries of the Site. After the proposed landscaping matured, views from the dwelling at Bradley Springs would be screened in the summer and heavily filtered in the winter, with minimal residual views from first storey windows.[22] The scheme would have no impact upon the residential amenity of other nearby properties, including Crouch Green.[23] The proposal would not result in any significant visual impacts, and so would not conflict with that part of LP Policy 2.

18. The Site has been used since 2014 as grazing land for cattle. Prior to this it was used for growing beans for animal feed. Part of the site is BMV agricultural land, but it would not be viable or practical to farm the field as a whole as 'good quality agricultural land'. Only a less demanding crop suitable for non-BMV land would be successfully cultivated on the Site. The proposal has been designed to provide for a continued agricultural use of the Site through grazing sheep. A grazing licence would be entered into at the same time as the lease.

19. The preference in the *Framework* for using areas of poorer quality agricultural land over higher quality land is reiterated in the *Guidance*. The WMS states that compelling evidence should be given to justify the use of higher grade land for solar farm development. A thorough site selection process has been undertaken. The Applicant's rigorous assessment process has resulted in 96% of sites being discarded in 2015.[24] Furthermore, the grid network is heavily constrained, with no capacity on the 11 kV line within 10 km of the site.[25] The sequential analysis therefore focused on a commercially viable study area around the 33 kV line upon which a grid offer had been accepted.[26] This study concluded that there were no viable sites of previously-developed land, or of any lower grade agricultural land with fewer environmental constraints than the proposed site. This provides compelling evidence to justify using 3.8 ha of grade 3a land.

[20] ID14.
[21] The Zone of Theoretical Visibility and location of Viewpoints 1-10 (VP) are shown at Figure 1.1 of CDA7.8.
[22] The relationship between the Site and Bradley Springs is shown on the photomontage for VP10 at CDA7.8.
[23] The woodland separating the Site from Crouch Green is shown at VP7.
[24] ID6.
[25] ID4 depicts UKPN heat map in relation to the Green Belt.
[26] CDA7.9.

20. The additional habitat enhancement measures proposed would result in a net biodiversity gain for the Site. These would include 150 m of new hedgerows and 750 m of infilling or under planting, seven new oak trees, field margins enhanced with wildflowers, climbing plants along the northern fence, and bird and bat boxes.[27] The proposal would comply with LP Policy 14. Although the development would be temporary, these benefits would be permanent, and would not arise without the solar farm. A recent study found a statistically significant greater biodiversity on solar farms with biodiversity management plans in comparison with agricultural fields.[28]

21. Approximately 120 vehicle loads would be necessary during the construction period of 10-14 weeks. The submitted Access Study concluded that the proposed construction route would be suitable for construction vehicles.[29] The access to the Site would be upgraded to safely accommodate construction traffic. The Highway Authority has not objected. An approved Construction Traffic Management Plan could be required by a planning condition.[30]

22. The cultural heritage assessment found the Site to have low potential for archaeological remains to be present, and that any that do exist would be likely to be of low significance and related to past agricultural practices. This is a matter that could be addressed by a watching brief during construction. The high hedgerows, undulating landscape and areas of woodland, along with the restricted nature of the setting of the nearest listed buildings to the Site, would mean that the proposed development would have no effect on the significance of any listed buildings. For similar reasons, the Site has no relationship with the historic parks and gardens in the wider area, or with Old Knebworth Conservation Area.[31] The proposal is compliant with LP Policy 16.

23. The proposed development would result in a small increase in impermeable surfaces across the Site. Swales are proposed to provide betterment in terms of drainage, ensuring that runoff rates would not exceed the current greenfield rates.[32]

24. The operation of the solar farm would be for a temporary period of 30 years, after which it would be dismantled and the Site restored, secured by means of an enforceable condition. The weight given by the Secretary of State to the temporary nature and reversibility of solar farms varies in the recovered appeals. However, in the most recent decision in the Green Belt it was concluded that some limited weight should be given to these factors.[33]

25. Previous Secretary of State decisions do not set a precedent for the assessment of solar farms in Green Belts.[34] The benefits and potential harm, and the levels of each, will depend on the specific characteristics of a site and the proposal. This application differs from the recovered appeals cited, in that NHDC

[27] CDA7.6, CDA5.3 and CDA7.11.
[28] ID12.
[29] CDA7.1.
[30] CDA7.3.
[31] CDA7.4.
[32] CDA7.7 and CDA7.12.
[33] ID5.16 paragraph 14.
[34] ID7 and ID5.11.

determined that the proposal accords with the development plan, and voted to approve the application.

26. It is important to distinguish between political rhetoric and actual planning policy and guidance. The only Ministerial statements of relevance to planning considerations are the two referenced in the *Guidance* and Government Energy Policy.[35] The fact remains that despite comments by some Ministers, the Government has not sought to amend planning policy to prohibit the development of solar farms on agricultural land of any grade, or within the Green Belt. Renewable energy development is specifically contemplated in the Green Belt.[36] Similarly, changes to subsidy mechanisms supporting solar PV developments were not aimed at preventing the deployment of solar PV at any scale, but at cutting costs. DECC anticipates deployment of 330-400 MW of solar generated electricity per year through to 2018.[37] The *Framework* refers to the responsibility on all communities to contribute to renewable energy generation, and to maximising renewable energy development whilst ensuring adverse impacts are addressed. It is likely that Green Belt land would be required to do so in North Hertfordshire and surrounding districts.[38]

27. This scheme would generate enough electricity to power the equivalent of 1,475 typical households.[39] The UK is relying on the cumulative increase in renewable energy generation across a large number of dispersed schemes. The *Framework* provides that even small-scale renewable energy schemes make a valuable contribution to cutting greenhouse gas emissions. The national target of achieving 15% of all energy consumption from renewables by 2020 is a material consideration in determining planning applications. The UK is currently projected to miss its legally binding target by 25%, and this might be optimistic given recent deployment below DECC projections.[40] Urgent action is required to deliver radical reductions in greenhouse gas emissions. The Three Houses Lane scheme is commercially viable, can be delivered in 2016/17, and would make a valuable contribution to the local economy.

28. The harm to the Green Belt is at most moderate, given the mitigation factors, but should be given substantial weight in accordance with paragraph 88 of the *Framework*. The potential for any other harm is limited, and the impacts acceptable, and so other harm should be given very limited weight in the balancing exercise. The benefits of biodiversity enhancement should be given substantial weight. The *Framework* is clear that the environmental benefits associated with increased renewable energy production may contribute to the very special circumstances justifying development in the Green Belt. The proposal would make a valuable contribution towards the UK's energy and carbon reduction targets, as well as security of energy supply, which should be given significant weight. Taken together, the benefits clearly outweigh the potential harm to the Green Belt, that the impacts will be (or can be made) acceptable,

[35] CDD5.
[36] Paragraph 91 of the *Framework*.
[37] ID15.1.
[38] ID4.
[39] CDD6 and CDD11.
[40] ID15.1 and ID15.2.

and that very special circumstances exist to justify the approval of this particular proposal.

The case for North Hertfordshire District Council

NHDC's case is set out in its closing submissions and committee report, the gist of which is as follows.[41]

29. NHDC did not undertake its own LVIA and defers to the contents of the LVIA undertaken by the Applicant. The characteristics of LCA 205 are simply a starting point in understanding the context. It is not made in relation to specific proposals, and less directly relevant to this proposed development. It is acknowledged that the construction of a solar farm with the required equipment would, by virtue of its nature and scale, affect the landscape character of the area. But this ought not to be given too high a significance when the assessment is taken in the round, and given that the Site is on a plateau with the surrounding landform falling gently southwards towards a small incised valley and Whitwell Road. Furthermore, landscape impact should be considered carefully against (a) relevant guidelines, (b) the particular location of the site, and (c) the mitigation measures. The landscape mitigation measures proposed, namely the planting of new hedgerows and hedgerow trees, which with appropriate maintenance and management would establish after 5 to 10 years, would not create an unacceptable impact on the character of the landscape. In visual terms, this area is well screened, and with the extensive mitigation measures, the visual impact over time would be quite minimal. Some close views from adjacent residential properties would change, but these would be minor changes.

30. There is no other suitable site comprising poorer quality agricultural land which does not have other fundamental technical or planning constraints. Therefore, the loss of BMV agricultural land ought to be awarded limited weight. The fact that 45% of the Site is of the lowest BMV agricultural land, coupled with the reversible nature of the development, weighs in favour of the proposal. However, NHDC could not enforce the grazing of sheep on the land. If the sheep were removed the continued part agricultural use of the land would cease.[42] Therefore little weight can be attached to the potential for sheep grazing.[43]

31. The significance of these changes must also be judged against the temporary nature of the proposal. Mr Pellet refused to engage with the point about these proposals being 'temporary', as a key consideration in favour of the development. His view speculates about variation of any decommissioning condition in the future. But it is not possible to speculate about what would happen in 30 years' time, beyond settling relevant conditions today.

32. The proposal is inappropriate development in the Green Belt, and would not safeguard the countryside from encroachment, which is one of the five purposes of Green Belt designation. Other harm would result from the loss of grade 3a and 3b agricultural land. The benefits in favour of the proposal include the substantial benefit to be gained from the contribution of the scheme to renewable energy needs, along with biodiversity enhancement, which ought also to be given

[41] ID25 and CDA10.
[42] ID9.
[43] CDA10 paragraphs 4.3.36 and 4.3.37.

substantial weight. The outcome of this balancing exercise is the clear demonstration of very special circumstances in favour of this development.

33. The development plan is silent on renewable energy. However, LP Policy 2 is consistent with Green Belt provisions in the *Framework*, but also imposes an extra hurdle to clear in relation to visual impact, after 'very special circumstances' have been demonstrated. Consideration must then be given to whether the proposal would result in significant visual impact.

34. NHDC did not completely disregard the WMS, or ignore objections to the application, as claimed by Mr McPartland MP. Members were made aware of the WMS. In relation to objections, NHDC exercised anxious scrutiny over the merits of the proposal, and undertook a careful balancing exercise. Mr McPartland's statement that Government stated policy and ministerial statements have the same force is clearly a mistaken understanding. The weight he attached to these statements on this basis is alarming, and his submission ought to be approached with great caution. Furthermore, Mr McPartland's understanding of how 'very special circumstances' is established bears no relation to the proper balancing exercise required in such Green Belt cases.

35. Very little weight should be given to Mr Pellet's unsubstantiated and very personal views and attitudes towards the proposal. He has no interest in the careful balancing exercise required to reach a sound judgement, and his understanding of what does or does not constitute very special circumstances is clearly misguided.

36. The Rule 6 Parties highlight four appeal decisions, but it is trite to point out that each decision ought to be considered on its own merits. For this application, the fact that the Green Belt would be impacted is not disputed, but the proposal enjoys many benefits, for example, screening that is likely to be enhanced further, along with a significant scaling back of the original proposals causing even less adverse impact. There is clearly a diversity of views taken by the Secretary of State in relation to the reversibility of schemes, ranging from a neutral view, to a factor of some influence, to no influence at all. This is a matter of judgement.

37. It is critical not to read into the withdrawal of subsidies for renewable energy schemes that somehow Government policy now actively discourages solar farms. The careful balancing exercise that needs to be undertaken here remains very much the same. The proposal would contribute to meeting targets for renewable energy and reducing greenhouse gas emissions, about which Government objectives remain unchanged, not least as they are enshrined in international treaties. Substantial weight should be given to these benefits. Moderate weight should be given to the biodiversity benefits of the scheme. There would be harm to the Green Belt by virtue of encroachment into the countryside and loss of openness, along with an adverse impact on the character the area. These factors should be given significant/substantial weight. However, the Site is well screened and harm to visual amenity should be given limited weight, bearing in mind that LP Policy 2 expects there to be 'significant' visual impact for the proposal to be deemed unacceptable.

38. The temporary nature of the proposal is key, as any harm would not be permanent and it is undoubtedly reversible. This ought to be considered in the

wider context of all the above and given moderate weight. The very special circumstances necessary to justify the development do indeed now exist.[44]

The case for the Rule 6 Parties

The gist of the case for the Rule 6 Parties is as follows.[45]

39. It is not for the Rule 6 Parties to demonstrate why planning permission should be refused. It is the role of the Applicant to justify its case, and for NHDC to justify its recommendation to approve the application. Since the revised scheme has been the subject of consultation there has been virtually no public support for the proposal.[46]

40. Two fundamental points lie at the heart of this application. The 8.4 ha Site is wholly within the Green Belt, and 3.8 ha of the Site is grade 3a BMV agricultural land. Thus the proposal is contrary to both national and local policy towards the Green Belt and involves the loss of a significant amount of BMV land. It is for the Applicant to demonstrate the existence of very special circumstances sufficient to outweigh the clear harm to the Green Belt by virtue of inappropriateness and any other harm.

41. NHDC acknowledges that all elements of the proposal which amount to development are inappropriate development. The main, if not only, benefit seriously advanced is the generation of 5 MW of renewable energy. NHDC also identifies "the potential biodiversity gains". These are extremely limited benefits to weigh against the undisputed harm to the Green Belt and any other harm. It is a matter of planning judgement for the Secretary of State. Harm to the Green Belt by reason of inappropriateness must be given "substantial weight".

42. The claimed biodiversity enhancements are not, in reality, a benefit. This highly rural environment does not require enhancement. The claimed benefits are, at best, mitigation measures, which must be discounted from the balancing exercise. Similarly, visual containment is not a benefit, nor is continued agricultural use.

43. It is well-established law that previous appeal decisions are capable of being a material consideration because like cases should be decided in a like manner, so that there is consistency in the appellate process.[47] Recent recovered appeal decisions in relation to similar development proposals are important material considerations. The benefits in the appeal at Common Lane, with 5 MW installed capacity, equate with the benefits advanced for the scheme at Three Houses Lane. In that case the Inspector recommended, and the Secretary of State agreed, that the Green Belt harm was not outweighed by the benefits advanced.[48] A solar park on 8.94 ha of Green Belt land at Upton Warren, which would have generated enough electricity for 2,682 homes, was rejected on Green Belt grounds by the Secretary of State.[49]

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[44] CDD8.
[45] This summary is based on ID24.
[46] CDD10.
[47] *North Wiltshire DC v SoS* (1993) 65 P.&C.R 137.
[48] ID5.15.
[49] ID5.16.

44. Lightsource Renewable Energy Ltd proposed a 5 MW solar farm at Hutton. This site was in the Green Belt and 85% of the site was grade 3a agricultural land. The Secretary of State agreed with the Inspector that this was inappropriate development in the Green Belt, and that the loss of openness would be experienced for a considerable time (30 years) and thus represented additional harm to the Green Belt, albeit less than the enduring harm of a permanent development. The Secretary of State added that the reversibility of the scheme should not be an influential factor in determining whether the scheme should go ahead.[50]

45. A scheme for a solar farm on 16 ha of land at Claverdon, which would generate 6,810 MWhr/yr and enough electricity for 1,294 homes, for its lifespan of 20 years, was recommended by the Inspector for refusal on Green Belt grounds. The Secretary of State agreed, finding that the proposal would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment, which would be an additional significant harm to the Green Belt.[51] Without exception, the Secretary of State has refused very similar schemes in Green Belts around the country. No arguments have been advanced to suggest that a different outcome could, or should, happen here.

46. A recurrent theme in these decisions is that Green Belt harm must be accorded "substantial weight".[52] This did not feature in the critical balancing exercise undertaken by NHDC, and so, for this reason alone, NHDC's decision is open to question. It is not possible to say that the benefits outweigh the Green Belt harm when that harm has not been accorded the appropriate weight. The Applicant has fallen into the same error. Neither has carried out a proper balancing exercise. The proposal faces two insurmountable policy objections – Green Belt and loss of BMV agricultural land, and the climate change benefits are insufficient to outweigh the harm.

The case for others opposing the scheme

Two interested persons gave evidence to the Inquiry, and a summary of their submissions is included below.

47. Stephen McPartland MP gave evidence to the Inquiry and submitted a written statement, which is summarised as follows.[53] NHDC disregarded the WMS dated 25 March 2015 and has consistently ignored the will of Parliament and clarifications from a variety of Secretaries of State. The Government has put in place the strongest provisions to protect the Green Belt.

48. The Site has traditionally grown wheat, maize and beans, so it is difficult to understand how the solar farm would increase farm income security. Farming subsidies for solar farms have been scrapped. The technology is intermittent because solar farms do not generate energy when the sun does not shine, and so the output cannot be controlled. Whereas with rooftop technology the electricity generated is capable of being used within the building/property, with the additional benefit of zero transmission losses.

[50] ID5.14.
[51] ID5.13.
[52] Paragraph 88 of the *Framework*.
[53] ID20.1.

49. NHDC have not listened to the local community, and have disregarded objections to the application, including those from the local parish councils. The area is a local beauty spot enjoyed by ramblers, cyclists, horse riders and the local pheasant shoot. It contains ancient forests, bluebell woods, wildflower meadows and rolling open countryside, within the sensitive Codicote plateau. The suggestion that the scheme would improve biodiversity is not substantiated, and the area does not need improved biodiversity. Local residents would have unrestricted views of the panels, and NHDC has not considered the glare impacts on nearby occupiers and ongoing traffic. Three Houses Lane is not a suitable place for a solar farm.

50. Three Houses Lane is a narrow single track lane, which is not designed for large high-sided HGV traffic. Major changes would be needed, which would destroy its character.

51. The UK is set to exceed massively targets for solar power, achieving almost 13 GW of solar energy capacity forecast for 2020. At the end of April 2016 overall UK solar PV capacity stood at 9,790 MW, an increase of 21% compared to April 2015. It is hard to justify that this Site is of any relevance to the Government for reducing carbon emissions and our reliance on fossil fuel energy. Fabricating solar panels uses energy and materials. Where they are made in overseas factories the UK is not reducing emissions, just exporting them elsewhere.

52. The suggestion that the use would be temporary is hard to believe when it would run for 30 years, and NHDC acknowledges that the developer can apply for a further planning permission.

53. The Applicant has not considered other brownfield sites, or sites outside a restricted study area. The study area used in the Applicant's sequential analysis comprises a 10 km radius from the centre of the Site, along with assumptions about grid connection, resulting in a 2 km wide corridor centred on the limited existing 33 kv/66 kv distribution network.[54]

54. David Hamid, a local resident, is concerned about HGVs using Three Houses Lane. The overhanging trees form a tunnel and branches are frequently broken off by large vehicles leaving the debris in the lane. Some HGVs will not deliver to his house because the drivers are concerned about damage to their vehicles. Given the width of the lane, if two HGVs met one would have to reverse, possibly a long way. There is also a problem with local flooding of part of the lane. Water can lie in this low lying area of the lane for a long time, and so the roadside ditch is not apparent. Vehicles have had to be pulled from this ditch.

55. Mr Hamid also commented on the number of objections submitted about the revised scheme. He understood that the original complaints about the scheme would be carried forward, and was not aware that it was necessary to object again. He clarified that his objection remains and that the amended scheme does not change his view.

[54] Figure 1 CDA7.9.

Written representations

Community consultation

56. A leaflet about the original 11.28 MW proposal was mailed to over 340 local residents and businesses in July 2014. A drop-in event was advertised and held on 7 August 2014, which was attended by approximately 35 people. Four completed feedback forms were received, with three supportive of the proposal and one undecided.[55]

Representations about the original 11.28 MW scheme

57. NHDC received 85 representations in support of the original application.[56] There were 203 objections.[57] A petition against the proposal with 20 signatures was also submitted. These are summarised in NHDC's Planning Committee Report.[58]

58. Some of these, both objections and submissions in support, can be read as an 'in-principle' objection/support for solar renewable energy schemes, rather than just a comment on the specific proposal.

Representations about the revised 5 MW scheme

59. The amendments to the scheme were advertised and this consultation resulted in 73 objections, 1 representation in support of the proposed development, along with 2 that just provided comment.[59] Consultation replies about the amended scheme are summarised in NHDC's Planning Committee Report, and the gist of these submissions is as follows.[60]

60. Support for the scheme was based on the need for rural communities to generate electricity in a clean and sustainable way, adding that there would be benefits for farm diversity, resting the soil from intensive farming, and biodiversity benefits from the hedges and trees.

61. The issues raised by objectors referred to the Green Belt and the use of good quality agricultural land. The application includes no compelling evidence about the use of BMV agricultural land. The nature, size and scale of the proposed industrial structures and the noise from inverters would be inappropriate and alien in this setting. The life span of 30 years would lead to other forms of development and the permanent loss of agricultural land and beautiful countryside. Traffic movements associated with the scheme would have a significant effect on the surrounding roads. The search area does not include large areas located outside the Green Belt. Much of the energy generated would be lost as it cannot be stored and would be produced in summer when demand is lowest. The harm to the environment would not be justified by a 5 MW scheme. There are no very special circumstances.

[55] CDA7.10.
[56] CDA8.1.
[57] CDA8.2.
[58] Paragraphs 3.1 and 3.2 of CDA10.
[59] CDA8.3.
[60] Paragraph 3.3 of CDA10.

Consultees

Consultation replies about the amended scheme are summarised in NHDC's Planning Committee Report, and the gist of these submissions follows.[61]

62. Knebworth Parish Council. Objects to the revised application on Green Belt grounds and its significant visual impact. Concern was expressed about development of the BMV agricultural land, contrary to the *Framework*. Three Houses Lane would be an inappropriate access for large delivery vehicles, with only one passing place for smaller vehicles. The development would not be temporary, once established it would either continue as a solar farm or be developed as a brownfield site. Without a proper tree survey an informed decision cannot be made about the impact on mature trees.

63. Codicote Parish Council. Objects to the revised scheme on the following grounds; prime agricultural land in the Green Belt, access not suitable and weight of traffic during construction period, and associated buildings too big.

64. Natural England (NE). Refers to its previous comments on the 11.28 MW proposal, to which no objection was raised with respect to the Knebworth Woods SSSI or the Chilterns Area of Outstanding Natural Beauty (AONB). However, NE left other matters for consideration by NHDC, including local landscape distinctiveness, protected species and biodiversity enhancements.

65. The original scheme involved the use of 17 ha of BMV agricultural land, and NE recognised, in the short-term, the likelihood that there would be a loss of potential agricultural production. However, NE considered that the original proposal would be unlikely to lead to a significant and irreversible long-term loss of BMV agricultural land, as a resource for future generations.

Inquiry stage

There were three written submissions at the Inquiry stage, which are summarised as follows. [Red folder on file]

Written submissions objecting to the proposed development (2)

66. Mr Stephen McPartland MP wrote to say that he had asked the Secretary of State to call in the application because NHDC had failed to provide any evidence that this application complies with 'the very special circumstances' test applicable on Green Belt land, and had disregarded the WMS dated 25 March 2015.

67. Mr and Mrs Pellet, residents of Crouch Green, submitted a report setting out their objections to the proposal. This included photographs, some of which were reproduced as ID17. The matters raised in the report are generally covered in the summary of the Rule 6 Parties case outlined above. Other matters particularly highlighted include the effect on the outlook from Crouch Green.[62] The report also noted that no local authority has any quota that it is required to fill for approving sites for the production of alternative energy sources.

[61] Paragraphs 3.5-3.12 of CDA10 and CDA9.
[62] The relationship between Crouch Green and the Site is shown in photographs numbered 9 and 10 at ID17.

Written submissions in support of the proposed development (1)

68. North Herts Friends of the Earth resubmitted their comments made on the original scheme, but added that the amendments strengthened the case for approval because they addressed concerns expressed by objectors in relation to visual impact and the use of good quality agricultural land.

Conditions and obligations

69. Suggested planning conditions in the event that planning permission was granted were discussed at the Inquiry and agreed by NHDC and the Applicant.[63] Local residents considered that more restrictive times for access by construction vehicles and for construction work should be imposed, and that additional conditions would be necessary regarding the condition of Three Houses Lane. I deal with these in more detail in my Conclusions section of this Report. No planning obligation under section 106 of the Act has been submitted.

[63] ID23.

Inspector's conclusions

Preliminary matters

70. The following conclusions are based on the written submissions, the evidence given at the Inquiry, and my inspections of the Site and its surroundings. In this section the figures in parenthesis [ ] at the end of paragraphs indicate source paragraphs from this Report.

71. The amended scheme was the subject of further consultation and the Inquiry provided an opportunity to make representations about the alterations. Therefore, dealing with the application on the basis of the amended scheme would not be prejudicial to the interests of any party. For the avoidance of any doubt about site boundaries, planning conditions could specify the differences between the Application Site and the Site for the proposed development. [1,2]

72. Notwithstanding that the screening direction referred to a temporary scheme for 25 years, and not 30 years, there is nothing to indicate that this proposal is EIA development. [3]

Main considerations

73. In the Secretary of State's call-in letter the matters about which he particularly wished to be informed for the purposes of considering this application included Section 9 of the *Framework*, concerning protecting the Green Belt, and Section 10, about meeting the challenge of climate change, with particular regard to the scale of the development and potential impact on the environment, together with any other matters the Inspector considers to be relevant. The evidence indicates that the main considerations here are as follows. [1]

(1) Whether the development conflicts with policy to protect the Green Belt and the effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it.

(2) The effects of the proposed development on the character and appearance of the area.

(3) The effects of the proposed development on agricultural land and soils.

(4) The effects of the proposed development on biodiversity.

(5) The effects of the proposed development on heritage assets.

(6) The effects of the proposed development on highway safety.

(7) The effects of the proposed development on the residential amenity of nearby occupiers.

(8) The effects of the proposed development on drainage and flood risk.

(9) Other considerations, including the duration and reversibility of the scheme.

(10) The contribution of the proposed development towards the generation of energy from renewable sources.

(11) If the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

(12) The extent to which the proposed development would be in accordance with the development plan for the area.

(13) The extent to which the proposed development would be in accordance with the *National Planning Policy Framework (*the *Framework)* and *Planning Practice Guidance (*the *Guidance)*.

74. I consider whether any permission should be subject to any conditions or obligations and, if so, the form that these should take, before considering my overall conclusions. The remainder of this report addresses the matters outlined above, and my recommendation is based on these findings.

Green Belt

75. The scheme would involve development that is not included in the exceptions set out in paragraph 89 of the *Framework,* and paragraph 90 does not apply. The advice in the *Framework* that elements of many renewable energy projects will comprise inappropriate development applies in this case to the proposed panels, electrical equipment and security installations. The proposal would be inappropriate development in the Green Belt. The *Framework* states that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The *Framework* provides that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

76. The solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt. I consider that the Applicant has understated the likely impact of the scheme on openness. The scheme includes security fencing and electrical equipment, which would also adversely affect the countryside. The resultant encroachment into the countryside would be at odds with one of the purposes of the Green Belt. [12,15,32,40,61,62,66]

77. The proposal would be inappropriate development in the Green Belt. Furthermore, it would be at odds with one of the purposes of the Green Belt, and would erode its openness. The proposed development would, therefore, harm the Green Belt. I next consider whether the proposal would result in any other harm, and then have regard to other considerations, so as to undertake the balancing exercise outlined above.

Character and appearance

78. The site lies within the Codicote Plateau Landscape Character Area (LCA 205), which is characterised by a gently rolling upland plateau, with large arable parcels and grazing, along with varying sized blocks of woodland. LCA 205 is vulnerable to further urbanising features, and at risk from development pressure, and considered to be of moderate to high sensitivity. [7]

79. The solar panels and associated infrastructure would be utilitarian structures in this countryside location. The construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The panels would be of a colour and texture that was not typical of its agricultural context, and so the proposed development would introduce a discordant element at odds with the historic and mature landscape character of the locality. The Applicant and NHDC understate the likely effects of the proposed development on the landscape character of the area. I consider that the magnitude of change would be at least Medium, and possibly High, and with Medium sensitivity, this would result in an adverse effect of either Moderate or Moderate/Major significance for the landscape resource. [6,7,12,13,16,29,49,63]

80. I turn next to visual effects. The surrounding woodlands and hedgerow along the lane would provide a high degree of screening for the proposed development from public vantage points, as is clear from VP7. Some glimpses might be possible through the vegetation, especially in the winter months, and the panels and some electrical equipment would be visible through the proposed new access off the lane, in the vicinity of VP8. Views from Footpath 35 (VP1) would be effectively screened. The adjoining woodland would limit views from Footpath 32, although there is a gap between the wooded areas about half way between the lane and VP9, where views towards the Site would be apparent in winter. However, the proposed hedgerow under-planting and infilling along the south-western boundary of the Site would reduce this to a minor impact. This view, when available, would also only occur for a short distance along this footpath. Those using the footpaths and lane for recreational purposes would have High sensitivity, but with a Low magnitude of effect, the scheme would be likely to have an adverse effect on their visual amenity of Moderate significance. The same would apply for nearby residential receptors.
[6,8,12,13,17,29,42,49,62,68]

81. The separation distance, local topography and blocks of woodland combine to limit the likely visual impact of the scheme in its wider context. In particular, there would be no intrusive views from the public areas associated with Vanstone Park Garden Centre. This is apparent from VP2, VP4, VP3, VP9 and VP5, from which the scheme would be likely to have an adverse visual effect of Negligible or Minor significance. [6]

82. The scheme would harm the character of the area, but would have a limited and localised adverse effect on its appearance. Overall, the proposal would have an adverse effect of Moderate significance on the local landscape.

Agricultural land and soils

83. The *Framework* provides that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing soils. It also adds that account should be given to the economic and other benefits of the best and most versatile (BMV) agricultural land, defined as grades 1, 2 and 3a land, and where significant development of agricultural land is necessary areas of poorer quality land should be preferred to that of a higher quality. This preference is reiterated in the *Guidance*, which goes on to refer to proposals allowing for continued agricultural use where applicable and/or encouraging biodiversity improvements around arrays of solar panels.

84. The scheme would use 3.8 ha of grade 3a agricultural land. The Applicant proposes to graze sheep between and around the solar panels, but there would be no obligation to do so. No specific condition to require grazing has been suggested. Furthermore, it does not seem to me that it would be reasonable to require this as part of an approved landscape scheme pursuant to suggested Condition 5. Not much weight can be given here to the likelihood that the Site would be used for grazing or continue in some other beneficial agricultural use. The scheme would, therefore, result in a loss of agricultural productivity. The fact that the Site is part grade 3b does not necessarily mean that the whole Site would be suitable only for a non-BMV agricultural land crop. The *Framework* requires that consideration be given to whether the development could be provided on areas of poorer quality land. [10,18,30,40,42,61,63,65,66,68]

85. The Applicant's sequential analysis study concludes that there are no deliverable sites on poorer quality land. However, the study area used comprises a 10 km radius from the centre of the Site, along with assumptions about grid connection, resulting in a 2 km wide corridor centred on the limited existing 33 kv/66 kv distribution network. Given that targets for renewable energy are national, there does not appear to be any basis for selecting such a limited study area. The sequential analysis study does not provide a compelling case for the utilisation of BMV agricultural land. [10,19,34]

86. I find that the likely loss of productivity from using 3.8 ha of the best and most versatile agricultural land would, in the circumstances that apply here, weigh significantly against the proposal.

Biodiversity

87. The evidence indicates that the construction of the scheme, subject to appropriate conditions, would not have an adverse effect on wildlife in the area. There is nothing to suggest that the development would harm protected species or Knebworth Woods SSSI. Nature conservation interests and any protected species could be adequately safeguarded by the imposition of appropriate planning conditions. Overall, the proposed development would be likely to enhance biodiversity because of the tree, hedgerow and wildflower planting, and from resting the soil from intensive farming for 30 years. These nature conservation benefits weigh, to some extent, in favour of the proposal. [6,20,42,49,60,64]

Heritage assets

88. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the setting of a listed building. However, the development would be sited some distance from listed buildings in the locality and separated by woods and hedgerows. The nearest listed buildings at Three Houses Farm have a limited setting that comprises the farmyard and its immediate context. The proposed development would not have a significant effect on the setting of any nearby listed buildings. For similar reasons, it would not adversely impact on the registered historic parks and gardens in the wider area. Any archaeological interest in the Site could be safeguarded by imposing an appropriate planning condition. Overall, the proposal would have a negligible effect on heritage assets, and would comply with LP Policy 16. [6,22]

Highway safety

89. There is local concern about HGVs using Three Houses Lane, which is understandable given its width, overhanging trees and poor drainage in places, and that construction would require 120 vehicle loads over a 10-14 week period. However, there is no convincing evidence that construction traffic would significantly increase the risk to those using the local highway network, provided appropriate conditions were imposed. Implementing a construction traffic management plan would also help to minimise any congestion or risk to highway safety. There is no objection from the Highway Authority subject to conditions, and no reason to find against the proposal on highway safety grounds. I deal with necessary planning conditions in paragraph 110 of this Report. [21,50,54,61,63]

Residential amenity

90. The proposed landscaping would not entirely screen out views of the solar panels, at all times, from nearby residential dwellings. However, given the separation distance and the intervening woodland/hedgerows, the proposed development would not have an overbearing or dominating effect on the outlook from nearby dwellings. Noise from electrical equipment could be controlled by the imposition of an appropriate planning condition, and so would not have an unacceptable adverse effect on the living conditions of nearby occupiers. There are no reasons to find against the proposal on residential amenity grounds. [6,67]

Drainage and flood risk

91. The submitted Flood Risk Assessment demonstrates that surface water run-off could be adequately controlled. There is scope within the Site to design and implement a drainage scheme that would ensure that the development did not significantly increase flood risk. The Environment Agency has no objection to the proposal. Subject to the imposition of appropriate conditions drainage is not a consideration that weighs against the proposal. [23]

Other considerations

92. Permission is sought for a period of 30 years. The development would be temporary, but for this period any harm to the landscape would be considered to be long term. However, it would be practical to reverse the effects on both the character and appearance of the area, and the Green Belt, within a generation. The *Guidance* advises that conditions can require the site to be restored to its previous use. The duration and reversibility of the development is a material consideration, but the loss of openness for this part of the Green Belt for 30 years, and the landscape harm, albeit reducing over time as screen planting matured, would endure for a long time. I consider that the duration and reversibility of the development are factors that should be given limited weight in the planning balance that applies here. [10,15,24,31,36,38,44,52,61]

93. The appeal decisions cited by the parties are of little help in determining this application on its own merits, as much depends on the particular circumstances, particularly the levels of harm and benefits in conducting the appropriate balancing exercise. Not much weight can be given to the submissions about other solar farm decisions. [25,36,43,44,45]

94. I have taken into account all other matters raised in the written representations and at the Inquiry, but there are no other considerations which would be influential in determining this application on its planning merits. [48,49,51,56-61,62]

Renewable energy

95. The scheme, with an estimated installed capacity of 5 MW and average electrical output of 4,575 MWhr/yr, would make a significant contribution to achieving renewable energy targets. The scheme would generate enough electricity to supply some 1,475 typical homes and reduce carbon dioxide emissions by about 2,360 tonnes per year. The proposal would also utilise the available grid connection, and could be delivered in 2016/17. The wider environmental and energy security benefits of the proposal weigh significantly in favour of approving the application. [14,26,27,48,51,60]

96. I have taken into account the Applicant's sequential analysis, and noted the availability here of a grid connection. However, I do not consider that the difficulty in finding suitable sites in the locality should be a decisive or influential consideration. Notwithstanding that the *Framework* refers at paragraph 97 to the responsibility on all communities to contribute to energy generation from renewable or low carbon sources, targets for renewable energy are set on a national basis. There is nothing to require the study area used in the Applicant's sequential analysis to contribute to national targets by means of solar energy development. [26,53,61,67]

Very special circumstances

97. Of the factors cited by the Applicant and others supporting the scheme, to be weighed in the balancing exercise as 'other considerations', significant weight should be given to the generation of electricity from a renewable source, which would make a valuable contribution to cutting greenhouse gas emissions. Paragraph 91 of the *Framework* provides that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

98. The proposed development could be constructed in 2016/17, and so could soon contribute to meeting targets for renewable energy. However, neither this, nor the existence here of a guaranteed grid offer from the DNO, are factors that should be given much weight as relevant 'other considerations' in their own right, because these would be an integral part of achieving the benefits of the renewable energy from the scheme as set out in the previous paragraph. However, some weight should be given to the resultant benefits of the scheme to energy security, to the local economy and to farm diversification.

99. The development would be temporary and reversible, but this just means that both the harm and the benefits would be time limited. Duration and reversibility are not factors that should be given much weight in determining whether 'very special circumstances' exist.

100. There is local opposition to the proposal, but also some local support. The weight of representations for and against the proposal is not a consideration that can be factored into the Green Belt balancing exercise.

101. The Applicant argues that non-Green Belt locations within the study area are severely limited. This may be so, but it cannot properly be a consideration to weigh in the 'very special circumstances' balancing exercise, given that targets for renewable energy apply nationally.

102. I consider that significant weight should be given to the contribution that the scheme would make to the Government's commitment to tackle climate change by reducing carbon dioxide emissions and towards energy security, along with some benefits from ecological enhancement, and the benefits that would result to the local economy. The disadvantages of the proposal include the harm to the Green Belt, and to the character and appearance of the area, along with the use of 3.8 ha of BMV agricultural land. Substantial weight should be given to the harm to the Green Belt in the balancing exercise that applies here. The other harm I have identified is also significant. Taking all the above into account, I find that the 'other considerations' in this case do not clearly outweigh the harm I have identified, and the very special circumstances necessary to justify the development do not exist. [28,32,34,35,37,38,41,46,47]

Development plan

103. The proposed development would accord with LP Policies 14 and 16 concerning, respectively, nature conservation and heritage considerations. However, if it is concluded that 'very special circumstances' do not exist here, the proposal would conflict with LP Policy 2. Given my findings about landscape effects, it would also conflict with that part of LP Policy 2 that requires development not to result in significant visual impact. Overall, these breaches would be sufficient to bring the proposal into conflict with the development plan when read as a whole. However, the development plan is silent about renewable energy development, and the emerging Draft North Hertfordshire Local Plan 2011-2031 Preferred Options is at consultation stage and therefore carries limited weight. In determining this application more weight should be given to the provisions of the *Framework*. [9,11,33]

National Policy and Guidance

104. The proposal would be at odds with the *Guidance* regarding poorer quality agricultural land being preferred to that of a higher quality. The core planning principles set out in the *Framework* encourage the development of renewable energy, whilst recognising the intrinsic character and beauty of the countryside. The *Framework* also provides for 'very special circumstances' in the Green Belt. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework,* require in this case that a balancing exercise be performed to weigh the benefits of the proposed solar farm against its disadvantages. For the reasons set out above regarding 'very special circumstances', I have found that the balance here falls against the proposal. The evidence submitted does not demonstrate that the impacts of the scheme could be made acceptable. Paragraph 14 of the *Framework* applies here because the development plan is silent about renewable energy development, but specific *Framework* policies concerning the Green Belt indicate that the development should be restricted. The proposal would not accord with the requirements for sustainable development set out in the *Framework*. [26,10,37]

Conditions and obligations

105. NHDC and the Applicant reached agreement about possible conditions at the Inquiry. However, at the round-table discussion about conditions local residents sought some additional restrictions. I have considered the need for conditions and their wording in the light of the advice contained in the *Guidance*. [69]

106. A commencement period of three years would be appropriate (Condition 1). Otherwise than as set out in any decision and conditions, it would be necessary that the development was carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). This condition should also clarify the Site and the Application Site. A condition would be required to specify that the development permitted applied only to the Site, and was temporary and for a 30 year period (Condition 3). Decommissioning and restoration to a solely agricultural use would also be necessary at the end of the temporary period, and upon cessation of electrical generation from solar panels for a period of six continuous months (Condition 4). An approved Decommissioning Method Statement would also need to provide for traffic management and to safeguard wildlife.

107. A landscaping scheme would need to be approved and implemented, which provided details about the proposed access, in the interests of the appearance of the area (Condition 5). A restriction on noise from the electrical plant would be necessary to ensure that the development minimised adverse impacts on the quality of life for those living in the area and enjoying the countryside (Condition 6). No external lighting should be installed on the Site, except for a motion sensor light on the DNO building (Condition 7). An archaeological Watching Brief would be necessary for local heritage reasons (Condition 8).

108. Local residents suggested that more restrictive times (0930-1630 Monday to Friday and not at all on Saturday or Sunday) should be imposed on construction traffic because of people using the lane during the school run. They also thought that construction work should not start until 0930, so as to safeguard local amenity. Concern was particularly expressed about piling for the solar panel frames resulting in noise and disturbance. The Applicant pointed out that restricting times of the operation might result in it continuing for a longer period, and that costs for plant hired on a daily basis would increase as a result, jeopardising the viability of the scheme. Given the limited overall time that construction/decommissioning would be likely to take, and the controls that could be imposed in an approved Construction Transport Management Plan and decommissioning scheme, it would not be necessary to impose more restrictive hours than those agreed by NHDC and the Applicant (Condition 9).

109. Construction details for the access and visibility splays would need to be submitted for approval because the submitted drawings do not indicate the proposed works in sufficient detail. The approved works would need to be implemented before construction vehicles entered the Site in the interests of highway safety (Condition 10). For similar reasons, a Construction Transport Management Plan would need to be submitted, approved and implemented (Condition 11). A Landscaping and Biodiversity Management Plan would need to be approved and implemented in the interests of nature conservation and the visual amenity of the area (Condition 12). Drainage would need to be approved and implemented so as not to increase the risk of flooding (Condition 13).

110. I share the concern of local residents about whether Three Houses Lane is currently in a suitable condition to accommodate the construction traffic necessary to complete the proposed development. The verges are in places badly damaged and the poor drainage is a significant problem. Notwithstanding that NHDC did not consider that any off-site works would be necessary to facilitate construction of the solar farm, it seems to me that some preparatory work would be required to ensure that the lane remained in a useable and safe condition during the construction period. Notwithstanding that the Highway Authority has not suggested any such condition, I consider that it would be necessary, in the interests of the safety and convenience of all those using the lane, to impose a condition requiring a scheme of preparatory works to be approved and implemented prior to the commencement of construction of the solar farm on the Site (Condition 15). For similar reasons, a condition would be necessary to undertake before and after surveys of Three Houses Lane, and to make good any damage to the lane from construction vehicles (Conditions 14 and 16).

111. In the event that planning permission is granted, Annex A to this Report lists the conditions that I consider should be attached. There is nothing to indicate that a planning obligation would be necessary.

Overall conclusions

112. The Council received 203 objections to the 11.28 MW scheme, and 85 letters in support of that proposal. Some of these were 'in principle' support or objection to solar farm development, and so should not be disregarded in considering the revised scheme. For the 5 MW scheme there were 73 written submissions objecting to the proposed development, and 1 written representation in support of the scheme. Measures to inform and involve the local community reasonably comply with relevant requirements. Opinion about the proposal is divided. The application should be decided having regard to the development plan, and the determination made in accordance with it, unless material considerations indicate otherwise. [39,55-61]

113. The proposal would be inappropriate development in the Green Belt. In my judgement, and for the reasons set out above, the 'other considerations' in this case do not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, and the very special circumstances necessary to justify the development do not exist. The proposal would conflict with relevant development plan policies, and would not accord with the requirements for sustainable development set out in the *Framework*. There are no material considerations here that would indicate that a determination other than in accordance with the development plan was justified. For the reasons given above and having regard to all other matters raised, I conclude that the application should be refused.

Recommendation

114. I recommend that the application (for the revised Layout shown on Plan No.3HL 012-11 dated 08.06.15) should be refused. However, if the Secretary of State is minded to disagree with my recommendation, Annex A lists the conditions that I consider should be attached to any permission granted.

John Woolcock Inspector

ANNEX A

CONDITIONS 1-16

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
   - Location Plan (Plan No.THL_02 dated 20.08.14)
   - Layout (Plan No.3HL 012-11 dated 08.06.15)
   - Inverter, Transformer and Production Cabin Elevation (Plan No.TYD 014-30-2 dated 06.06.15)
   - Typical Panels Elevation 3 Landscape (Plan No.TYP_P_E dated 10.09.14)
   - Site Auxiliary Transformer Plans and Elevations (Plan No.SITE_AUX_TRANSFORMER_01A dated 15.05.13)
   - Client Substation Elevation Design dated 25.08.14
   - Substation details (COMM-Storage) – Communications and Storage Building (Plan No.3HL 012-11 dated 03.02.15)
   - DNO Building Details (Plan No.DNO_01 dated 06.12.13)
   - Deer Fence – Inc. Mammal Gate (Fence Elevation)
   - Camera Pole and Foundation (CCTV Elevation) (Plan No.3HL 012-41 dated 03.02.15)

   For the purposes of these Conditions the 'Application Site' is shown edged red on Location Plan, Drawing No.THL_02 dated 20 August 2014, but the 'Site' is shown edged by the solid black line on Drawing No.THL_03 dated 14 June 2016, which is attached to this decision.

3. The permission hereby granted is for the development on the Site to be retained for a period of not more than 30 years from the date when electricity is first exported to the electricity grid (First Export Date), or in the event that electricity is not exported to the electricity grid from the date that works first commenced on the Site. Written confirmation of both the date works commenced and the First Export Date shall be submitted to the local planning authority within one month of the event occurring. This permission shall expire once the decommissioning and restoration has been completed in accordance with Condition 4. The permission hereby granted does not grant planning permission for any development within the Application Site except for development hereby permitted within the Site.

4. No later than 12 months before the end of the 30 year period granted by Condition 3, or within six months after the cessation of use of the solar panels for electricity generation, whichever is sooner, a Decommissioning Method Statement for the Site shall be submitted to the local planning authority for approval in writing. The use of the solar panels shall have ceased if they do not generate electricity for a continuous period of six months. The Decommissioning Method Statement shall make provision for the removal of the solar panels together with any supporting apparatus, mountings, cabling, foundations, inverter stations, fencing, CCTV cameras and other associated equipment from the Site and the restoration of the Site for a solely agricultural use. It shall also include details of:
    i. A traffic management plan for vehicles used in the decommissioning and restoration, along with provisions for surveying the condition of Three Houses Lane before and after completion of decommissioning, and for completion of any necessary remediation works.
    ii. An ecological survey and any necessary mitigation.
    iii. A timetable for decommissioning and site restoration.

   The approved Decommissioning Method Statement shall be implemented and its requirements completed within six months of the end of the 30 year period granted by Condition 3, or if cessation of use of the solar panels for electricity generation occurs earlier, then in accordance with the timetable in the approved Decommissioning Method Statement.

5. Notwithstanding the submitted landscaping proposals, a Landscaping Scheme, to include full details of the access and any vegetation removed, shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. Thereafter the approved Landscaping Scheme shall be carried out before the end of the first planting season following completion of the development and any trees, plants or hedges which die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species and shall be maintained for the duration of the development hereby permitted, unless the local planning authority approves in writing to vary or dispense with this requirement.

6. The Rating Level of the noise emanating from the electrical equipment hereby permitted shall not exceed 35 dB $L_{Aeq,1hr}$ when measured at any boundary of the Site and determined in accordance with the guidance and methodology set out in BS 4142:2014.

7. No external lighting shall be installed on the site, with the exception of the single motion sensor light to the DNO building, unless the prior approval of the local planning authority has first been secured in writing.

8. No development shall take place until arrangements have been made for an archaeological Watching Brief, to monitor development groundworks and to record any archaeological evidence revealed, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved arrangements.

9. In relation to the construction and decommissioning works for the development hereby permitted, no machinery shall be operated and no process shall be carried out on the Site except between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 13.00 on Saturdays, unless approved in writing in advance by the local planning authority.

10. Notwithstanding the details submitted with the application, no part of the development hereby permitted shall be commenced (within the meaning of Section 56 of the Town and Country Planning Act 1990), until the construction details of the junction of the proposed vehicular access together with visibility splays, of 2.4 m x 43 m in both directions, with the highway have been submitted to and approved in writing by the local planning authority. The details shall include provision for the access to be 6.1 m wide, with the first 15 m from the edge of the carriageway constructed in a hard surfacing material, and for any gates to be set back a minimum of 15 m from the edge of the carriageway and opening inwards to the Site. No vehicle associated with the construction of the solar farm shall cross the highway verge until the access has been constructed in accordance with the approved details. The visibility splays, within which there shall be no obstruction to visibility between 600 mm and 2.0 m above the carriageway level, shall thereafter be retained.

11. Notwithstanding the details submitted, no development shall take place until an updated Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details about construction traffic routes, the scheduling and timing of movements, any traffic control, signage inclusive of temporary warning signs, the management of junctions to, and crossing of, the public highway and other public rights of way, along with provisions for a 'banksman' to accompany any reversing vehicles both to and from the Site and along Three Houses Lane. The CTMP shall be implemented in accordance with the approved details for the duration of the construction period.

12. Notwithstanding the submitted Landscaping and Biodiversity Management Plan, dated 24 March 2015, the development hereby permitted shall be completed in accordance with an updated Landscape and Biodiversity Management Plan to be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The approved updated Landscape and Biodiversity Management Plan shall be implemented in full throughout the life of the development and no variations shall be permitted other than with the specific written consent from the local planning authority.

13. The development hereby permitted shall not be commenced until a detailed surface water drainage scheme for the Site, based on the Flood Risk Assessment prepared by Hyder Consulting, reference: 5001-UA007318-NE-UU41-01, dated 15 August 2014 (FRA), has been submitted to and approved in writing by the local planning authority. The drainage scheme shall include a restriction in run-off and surface water storage on site as outlined in the FRA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and shall thereafter be retained.

14. Prior to the commencement of the development hereby permitted, a condition survey of Three Houses Lane shall be submitted to and approved in writing by the local planning authority.

15. No development shall be carried out on the Site until any necessary off-site highway works have been carried out in accordance with a Scheme which has been previously submitted to and approved in writing by the local planning authority. The Scheme shall include any necessary works to provide access for HGVs along Three Houses Lane.

16. Within three months of the First Export Date or the date of completion of the installation of the panels hereby permitted a condition survey and report for Three Houses Lane shall be submitted to the local planning authority. The report shall identify whether there has been any deterioration in the surface of the Lane when compared to the survey submitted under Condition 14. If there is any deterioration a schedule of remedial measures, a timescale for their implementation and a methodology for a further condition survey and report and remedial measures shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved timescale and details.

ANNEX B

DRAWINGS FOR THE ORIGINAL AND THE REVISED APPLICATIONS

Drawings relating to the original scheme are set out in CDA4.1-CDA4.18.

Drawings relating to the revised scheme are set out in CDA5.1-CDA5.16.

APPEARANCES

FOR THE APPLICANT:

Joshua Mellor and Penelope Laurenson	Lightsource Renewable Energy Holdings Ltd.

They called

Chris Buckland BSc(Hons) MBA	Technical Director, Lightsource Renewable Energy Holdings Ltd.
Nick Gudgeon	Construction and Connections Director, Lightsource Renewable Energy Holdings Ltd.
Penelope Laurenson BA MRRP MNZPI MRTPI	Head of Planning, Lightsource Renewable Energy Holdings Ltd.

FOR NORTH HERTFORDSHIRE DISTRICT COUNCIL:

Hashi Mohamed of Counsel	Instructed by Nurainatta Katevu.

He called

Helen Leitch B MA MLI	Landscape and Urban Designer.
John Chapman	Area Planning Officer.

FOR RULE 6 PARTIES:

Martin Edwards of Counsel	Instructed by Mr Pellett, Mr Wise, Codicote Parish Council and Knebworth Parish Council.

He called

Nicholas Pellet	Local resident.
Tim Wise	Local resident.

INTERESTED PERSONS:

Stephen McPartland MP	Member of Parliament for Stevenage.
David Hamid	Local resident.

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

Document	1	The Applicant's Opening Remarks.
Document	2	The Council's Opening Remarks.
Document	3	Opening statement on behalf of the Rule 6 Parties.
Document	4	UKPN Heat map May 2016 and the Green Belt.
Document	5	Decisions submitted by Rule 6 Parties
	5.1	APP/C3620/W/14/3000674 Mynthurst Farm.
	5.2	APP/M2270/A/14/2226557 Badsell Road.
	5.3	APP/P0119/W/15/3004513 Green Farm.
	5.4	APP/P2365/W/15/3002667 Butchers Lane.
	5.5	APP/P2365/W/15/3011997 Tawdside Farm.
	5.6	APP/Z3825/A/14/2218035 Huddlestone Farm.
	5.7	APP/D0840/A/14/2229290 Butteriss Farm.
	5.8	APP/B5480/W/15/3007618 Clay Tye Farm.
	5.9	APP/F0114/W/15/3103260 Howgrove Farm.
	5.10	APP/M3645/W/15/3133066 Barrow Green Farm.
	5.11	APP/B9506/W/15/3006387 Limolands Farm.
	5.12	APP/B9506/W/15/3132171 Lepe Road.
	5.13	APP/J3720/W/15/3029788 Park Farm.
	5.14	APP/H1515/W/15/3134301 Havering Grove Farm.
	5.15	APP/A0665/W/15/3140162 Common Lane.
	5.16	APP/H1840/W/15/3136031 & APP/P1805/W/15/3136033 Rectory Farm.
	5.17	APP/Y3425/A/14/2222107 Cotwalton.
Document	6	Lightsource planning applications within North Hertfordshire and surrounding Council areas. Note on grid offer for Three Houses Lane site, which was accepted by Lightsource on 10 June 2014.
Document	7	Additional planning statement of evidence by Penelope Laurenson, June 2016. Appendix A: Appraisal of appeal decisions. Appendix B: Lightsource Planning Approvals.
Document	8	Appeal decisions submitted by Applicant.
	8.1	APP/Z3825/A/14/2222037 Sopers Copse.
	8.2	APP/C1570/W/15/3132904 Hill Hall.
	8.3	APP/T3535/A/13/2193543 Ellough Airfield.
	8.4	APP/C1760/W/15/3010697 Romsey Road.
	8.5	APP/Y1138/W/15/3004976 Dunsmore Farm.
	8.6	APP/Y1138/W/15/3135271 Stoneshill Farm.
	8.7	APP/B5480/A/14/2227508 Cranham Golf Course.
	8.8	APP/C3105/A/13/2207532 Rowles Farm.
Document	9	*Process for post construction sites with requirement for sheep grazing* Lightsource, 17 May 2016.
Document	10	*Solar Energy* RSBP Policy Briefing, December 2014.
Document	11	*Solar parks: maximising environmental benefits* Natural England Technical Information Note TIN101 2011.
Document	12	*The Effects of Solar Farms on Local Biodiversity: A Comparative Study* Montag, Parker and Clarkson, April 2016.
Document	13	*State of Nature* 2013.
Document	14	*Timmins and Gedling BC* [2014] EWHC 654 (Admin).

Document	15.1	Written statement regarding renewable energy targets prepared by Penelope Laurenson June 2016. [requested by Inspector]
	15.2	Correspondence dated 29 October 2015 from Amber Rudd and email dated 4 November 2015.
Document	16	Drawing showing visibility splays and hedgerow removal. [requested by Inspector]
Document	17	Photographs submitted by Mr Pellett.
Document	18	Extract from Local Plan Proposals Map showing Green Belt designation in the vicinity of the site.
Document	19	Note from Helen Leitch concerning drawing considered in consultation response.
Document	20.1	Statement by Stephen McPartland MP dated June 2016.
	20.2	Amber Rudd's speech on a new direction for UK energy policy 18 November 2015.
	20.3	Letter from Andrea Leadsom to Mr McPartland dated 15 February 2016.
	20.4	Written Statement to Parliament by The Rt Hon Sir Eric Pickles MP delivered on 25 March 2015.
	20.5	Letter from Brandon Lewis dated 7 June 2016.
	20.6	*Subsidies for solar farms to be cut to help safeguard farmland*, Defra and The Rt Hon Elizabeth Truss MP, 19 October 2014.
Document	21	Certificate to Mr Pellet for Hertfordshire's Countryside Heritage Project, dated 30 March 1990.
Document	22.1	Codicote Parish Council Minutes of Planning Committee held on Thursday 22 October 2015.
	22.2	Codicote Parish Council Minutes of Meeting held on Tuesday 23 February 2016.
	22.3	Email from Codicote Parish Council to Mr Pellett dated 9 June 2016.
	22.4	Email from Mr Pellet dated 10 June 2016 referring to request made to Knebworth Parish Council.
Document	23	Suggested conditions.
Document	24	Closing submissions on behalf of the Rule 6 Parties.
Document	25	The Council's closing remarks.
Document	26	Closing statement on behalf of the Applicant.
Document	27	Plan depicting 'Site' boundary, Drawing No.THL_03, dated 14 June 2016. [requested by Inspector]

CORE DOCUMENTS

CDA1	Application Form
CDA2	Consultation Letters x 4
CDA3	Site notices x 4
CDA4	*Original Plans (Superceded)*
CDA4.1	Three Houses Lane Layout [Plan no. THL_01_Rev4, dated 03.07.14]
CDA4.2	Three Houses Lane Layout [Plan no. THL_01_Rev5, dated 10.09.14]
CDA4.3	Three Houses Lane Layout [Plan no. 3HL 012-11, dated 17.02.15]
CDA4.4	Three Houses Lane Layout [Plan no. 3HL 012-11 dated 20.05.15]
CDA4.5	Outline Landscape Proposals [Plan no. 001, Issue 01]
CDA4.6	Outline Landscape Proposals [Plan no. 001, Issue 02]
CDA4.7	Outline Landscape Proposals [Plan no. 001, Issue 05]
CDA4.8	Outline Landscape Proposals [Plan no. 001, Issue 07]
CDA4.9	Outline Landscape Proposals [Plan no. 001, Issue 09]
CDA4.10	Biodiversity Plan [Plan no. Fig 2, Issue 04]
CDA4.11	Typical Panels Elevation 3 Landscape [Plan no. TYP_P_E, 23.07.14]
CDA4.12	Client side substation details [Plan no. CSR_01, dated 06.12.13]
CDA4.13	Transformer details [Plan no. TD_01, dated 27.11.13]
CDA4.14	Inverter details [Plan no. ID_01, dated 29.11.13]
CDA4.15	Substation details [Plan no. 3HL 012-31, dated 10.02.15]
CDA4.16	Communication building details [CB_01, dated 19.12.13]
CDA4.17	Storage building details [Plan no. SB_01, dated 18.12.13]
CDA4.18	CCTV pole details [Plan no. CCTV_01, dated 10.12.13]
CDA5	*Amended and Original Plans (To be determined)*
CDA5.1	Location Plan [Plan no.THL_02, dated 20.08.14]
CDA5.2	Layout [Plan no. 3HL 012-11, dated 08.06.15]
CDA5.3	Outline Landscape Proposals (Planting Plan) [Fig 1.8 Issue 11]
CDA5.4	Biodiversity Plan [Fig 2 Issue 06, dated 24.03.15]
CDA5.5	Photomontage Viewpoint 10 [Fig 1.11 UA007318 Issue 2]
CDA5.6	Drainage Strategy Plan [Plan no. 0100 Issue 3, dated February 2015]
CDA5.7	Outline Access Design and Visibility Splay [Plan no. 2001 Issue 3, dated February 2015]
CDA5.8	Inverter, Transformer and Production Cabin Elevation [Plan no. TYD 014-30-2, dated 06.06.15]
CDA.5.9	Typical Panels Elevation 3 Landscape [Plan no. TYP_P_E, dated 10.09.14]
CDA5.10	Site Auxiliary Transformer Plans and Elevations [Plan no. SITE_AUX_TRANSFORMER_01 Rev A, dated 15.05.13]
CDA5.11	Client Substation Elevation Design [dated 25.08.14]
CDA5.12	Substation details [COMM-Storage] - Communications and Storage Building [Plan no. 3HL 012-11, dated 03.02.15]
CDA5.13	DNO Building Details [Plan no.DNO_01, dated 06.12.13]
CDA5.14	Deer Fence – Inc. Mammal Gate (Fence Elevation)
CDA5.15	Camera Pole and Foundation (CCTV Elevation) [Plan no. 3HL 012-41, dated 03.02.15]
CDA5.16	Topographic Survey Sheets 1, 2 and 3 [Plan no.19981, July 2014]

CDA6	*Original Supporting Documents (Superseded)*
CDA6.1	Planning, Design and Access Statement [Report no. Three Houses Lane Design and Access Statement, dated August 2014, by Lightsource Renewable Energy Limited]
CDA6.2	Agricultural Land Classification Assessment [Report no. UA007318-R03, dated 15 August 2014, by Hyder Consulting (UK) Limited]
CDA6.3	Statement of Community Involvement [Report no. Three Houses Lane Statement of Community Involvement, dated August 2014, by Lightsource Renewable Energy Limited]
CDA6.4	Access Study [Report no. 5001-UA007318-UP33R-01, dated 13 August 2014, by Hyder Consulting (UK) Limited]
CDA6.5	Construction, Decommissioning and Traffic Management Method Statement [Report no. Three Houses Lane CDTM Method Statement, dated August 2014, by Lightsource Renewable Energy Limited]
CDA6.6	Ecological Assessment [Report no. 01-UA007318-EEC-R01, dated 14 August 2014, by Hyder Consulting (UK) Limited]
CDA6.7	Flood Risk Assessment [Report no. 5001-UA007318-NE-UU41-01, dated 15 August 2014, by Hyder Consulting (UK) Limited]
CDA6.8	Landscape and Biodiversity Management Plan [Report no. 002-UA007318-EEC-R01, dated 14th August 2014]
CDA6.9	Cultural Heritage Desk-Based Assessment [Report no. 0001-UA007200-UE21-Cultural Heritage Desk-Based Assessment, dated August 2014, by Hyder Consulting (UK) Limited]
CDA6.10	Landscape and Visual Impact Assessment [Report no. 01_UA007318_00, dated 15 August 2014, by Hyder Consulting (UK) Limited]
CDA6.11	Drainage Strategy [Report No. 5003-UA007318-UP33R-01 dated 9th October 2014, by Hyder Consulting (UK) Limited]
CDA6.12	Sequential Analysis Study [Report no. L.0306, dated September 2014, by Pegasus Group Limited]
CDA7	*Amended and Original Supporting Documents (To be determined)*
CDA7.1	Access Study [Report no. 5001-UA007318-UP33R-04, dated 5 November 2014, by Hyder Consulting (UK) Limited]
CDA7.2	Agricultural Land Classification Assessment [Report no. UA007318-R03v2, dated 9 January 2015, by Hyder Consulting (UK) Limited]
CDA7.3	Construction, Decommissioning and Traffic Management Method Statement [Report no. Three Houses Lane 5 MW CDTM Method Statement, August 2014, by Lightsource Renewable Energy Limited]
CDA7.4	Cultural Heritage Desk-Based Assessment [Report no. 0001-UA007200-UE21-Cultural Heritage Desk-Based Assessment, dated January 2015, by Hyder Consulting (UK) Limited]
CDA7.5	Planning, Design and Access Statement [Report no. Three Houses Lane 5MW Design and Access Statement, dated February 2015, by Lightsource Renewable Energy Limited]
CDA7.6	Ecological Assessment [Report no. 01-UA007318-EEC-R02, dated 19th December 2014, by Hyder Consulting (UK) Limited]
CDA7.7	Flood Risk Assessment [Report no. 5001-UA007318-UU41-03, dated 18 February 2015, by Hyder Consulting (UK) Limited]
CDA7.8	Landscape and Visual Impact Assessment [Report no. 01_UA007318_03, dated 18 February 2015, Hyder Consulting (UK)]

CDA7.9	Sequential Analysis Study [Report no. L.0313, dated January 2015, by Pegasus Group Limited]
CDA7.10	Statement of Community Involvement [Report no. Three Houses Lane Statement of Community Involvement, dated August 2014, by Lightsource Renewable Energy Limited]
CDA7.11	Landscape and Biodiversity Management Plan [Report no. 002-UA007318-EEC-R05, dated March 2015, by Hyder Consulting (UK) Limited]
CDA7.12	Drainage Strategy [Report No. 5003-UA007318-UP33R-03 dated 10 February 2015, by Hyder Consulting (UK) Limited]
CDA8	*Representations received*
CDA8.1	1st Consultation – Comments and support
CDA8.2	1st Consultation – Objections
CDA8.3	2nd Consultation – Comments and Objections
CDA9	Consultee Responses (Date Order, Recent First)
CDA10	Officer Committee Report
CDB1	National Planning Policy Framework
CDB2	North Hertfordshire District Local Plan No. 2 with Alterations – Saved Policies
CDB3	Ministerial Statement – March 2015
CDB4.1	North Herts Landscape Study Introduction
CDB4.2	North Herts Landscape Study Area 205 Codicote Plateau
CDB5	Planning Practice Guidance – Renewable and low carbon energy
CDB6	Planning Practice Guidance - Climate Change
CDB7	Planning Practice Guidance – Natural Environment
CDC1	All Correspondence received by Council on file (Date Order, Recent First)
CDC2	List of those notified on called in application for inquiry
CDC3	Council EIA screening opinion letter
CDC4	Council EIA screening opinion officer report
CDC5	Pre-application advice letter to applicant
CDD1	Statement of Common Ground
CDD2	Applicant Statement of Case
CDD3	Council Statement of Case
CDD4	Rule 6 parties Statement of Case
CDD5	Applicant Planning Witness Proof of Evidence
CDD6	Applicant Technical Witness Proof of Evidence
CDD7	Applicant Grid Witness Proof of Evidence
CDD8	Council Planning Witness Proof of Evidence
CDD9	Council Landscape Witness Proof of Evidence
CDD10	Rule 6 parties Witness Proof of Evidence
CDD11	Applicant Rebuttal to Rule 6 Parties Statement of Evidence

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

PLANNING
23 DEC 2016
FOR THE ATTENTION OF

Our Ref: APP/T2350/W/16/3147854

Mr Graham Donnachie
Green Cat Renewables
Stobo House
Midlothian Innovation Centre
Roslin
EH25 9RE

22 December 2016

Dear Mr Donnachie

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MULBRICK CLEAN ENERGY
LAND AT LITTLE SNODWORTH FARM, SNODWORTH ROAD, LANGHO, LANCASHIRE BB6 8DS
APPLICATION REF: 3/2015/0605

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard McCoy BSc MSc DipTP MRTPI IHBC, who undertook a site visit on 17 August 2016 into your client's appeal against the decision of Ribble Valley Borough Council to refuse planning permission for your client's application for planning permission for the erection of a ground mounted solar photo-voltaic array and associated infrastructure, in accordance with application ref: 3/2015/0605, dated 15 July 2015.

2. On 9 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Communities and Local Government
Richard Watson
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1627
Email: PCC@communities.gsi.gov.uk

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

6. In this case the development plan consists of the Core Strategy, '2008-2028 A Local Plan for Ribble Valley' (adopted 2014). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR 9-10.

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

Main issues

8. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 86.

Green Belt

9. The Secretary of State agrees with the Inspector that the type of development proposed is not listed in the Framework as a type of development deemed to be not inappropriate in the Green Belt (IR 87). He also agrees with the Inspector's assessment at IR88, that the proposal would introduce a development with a very distinctive industrial appearance into an agricultural landscape; that the solar arrays would be alien to this countryside location; that the scale and amount of development would result in a significant amount of built form being created; and this would lead to a major reduction in the openness of the Green Belt and would fail to assist with safeguarding it from encroachment.

10. The Secretary of State agrees with the Inspectors conclusion that this would result in harm to the Green Belt in conflict with CS Key Statement EN1 and that the harm to the Green Belt should be given substantial weight in accordance with the Framework (IR89).

Landscape Character and Visual Impact

11. The Secretary of State has considered carefully the Inspector's assessment at IR 90-91. He agrees with the Inspector that, given the undulating character of the appeal site and its immediate environs the solar panels, as engineered products with an industrial appearance, would not readily assimilate into the open countryside context. Added to which, the perimeter fencing, CCTV towers, inverter housing and substation buildings would increase the industrial character of the proposal in this rural location (IR 92). He also agrees, for the reasons set out at IR93 that the appeal proposal when seen from local vantage points would be a striking stand out feature and the overall scale of the proposal would create a dominant feature in the landscape, changing the character from agricultural to industrial. The Secretary of State agrees with the Inspector that this harmful change to the local landscape character would be moderate.

12. With regard to the visual impact the Secretary of State agrees with the Inspector that this would be restricted by the undulating nature of the landscape to the local roads and footpaths. He further agrees that from nearby vantage points, the proposal would appear as a highly prominent and alien feature that would be visually intrusive and that the scale of the proposal, spread over the three fields, would make it a stand out feature within this

area of undulating countryside with the effect that it would have an overbearing presence. As the effect would be localised, he agrees with the Inspectors consideration that this would result in moderate visual impact harm (IR 94). The Secretary of State also agrees that, even with the imposition of planning conditions, that the proposal would remain a stark addition to the local landscape when the solar arrays and associated infrastructure are seen for the local road network and PRoW networks (IR 95).

13. Overall, and like the Inspector, the Secretary of State agrees with the Inspector's conclusion that the proposal would result in moderate landscape character and visual impact harm when seen from local vantage points, in conflict with CS Policy DMG1 (IR 96).

Other matters

14. The Secretary of State notes the Council have considered the effect on ecology, highway safety, living conditions and agricultural land at application stage following advice from the County Highways Surveyor and the Councils Countryside Officer. The Secretary of State agrees with the Inspector that, subject to conditions, there would be no negative effects arising from the proposal in respect of these matters (IR97).

15. The Secretary of State agrees with the Inspectors consideration (IR98) that the proposal would not harm the setting of any heritage assets, and his conclusion that there would be no conflict with the desirability of preserving the settings of these listed buildings in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

16. The Secretary of State agrees with the Inspector that the previous appeal decisions referred to by the appellant are not directly comparable (IR99).

Benefits

17. The Secretary of State agrees with the Inspector that this proposal would help meet the renewable energy target for the Borough, and this is a benefit that weighs significantly in favour of this proposal (IR100). He also acknowledges that the proposal would provide economic benefits, including employment opportunities in the area, and agrees with the Inspector that this consideration should be given significant weight in favour of the proposal (IR101).

18. The Secretary of State notes the temporary nature of this proposal but he agrees with the Inspector that the identified harm would pertain for around 25 years which is a considerable time period. He gives this consideration limited weight in favour of the proposal (IR102).

19. The Secretary of State agrees with the Inspector that as there are other renewable energy developments in the area, the educational opportunities stated by the appellant would not be unique to this renewable energy development. This consideration is given limited weight (IR103).

20. The Secretary of State agrees with the Inspectors conclusion that, whilst there might be biodiversity benefits such as the creation of a wild flower habitat and a field margin suitable for bees, nesting birds, reptiles and small mammals well as improvements to the local PRoWs, it has not been demonstrated that the proposed use of the site is the only means by which such enhancements might be achieved and that the weight attached to these considerations should be limited (IR104).

21. The Secretary of State notes that the appellant claims that some renewable energy installations would need to be located in the Green Belt for installed capacity to reach desired levels. However he agrees with the Inspector that it has not been fully demonstrated that alternative sites are not available in the wider area, and this therefore limits the weight attached to this consideration (IR105).

Planning conditions

22. The Secretary of State has given consideration to the Inspector's analysis at IR108-110, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing the appeal.

Planning balance and overall conclusion

23. The Secretary of State has given careful consideration to the Inspector's assessment at IR 106-107. He agrees with the Inspector that the proposal would represent inappropriate development in the Green Belt, contrary to CS Key Statement EN1. In addition, he agrees that the proposal would reduce openness, and would fail to safeguard the countryside from encroachment. In line with the Framework, the Secretary of State attaches substantial weight to this harm. He also agrees that the proposal would result in moderate landscape character and visual impact harm, in conflict with CS Policy DMG1. The Secretary of State also agrees with the Inspector with his analysis at IR 107, and agrees that the other considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt and concludes that the very special circumstances necessary to justify the proposal do not exist.

Formal decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of a ground mounted solar photo-voltaic array and associated infrastructure, in accordance with application ref: 3/2015/0605, dated 15 July 2015.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

26. A copy of this letter has been sent to Ribble Valley Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Richard Watson

Richard Watson
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Date: 29 September 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

MULBRICK CLEAN ENERGY LLP

against a decision of

RIBBLE VALLEY BOROUGH COUNCIL

Site visit made on 17 August 2016

Little Snodworth Farm, Snodworth Road, Langho

File Ref(s): APP/T2350/W/16/3147854

File Ref: APP/T2350/W/16/3147854
Little Snodworth Farm, Snodworth Road, Langho, Lancashire BB6 8DS

- 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 Mulbrick Clean Energy LLP against the decision of Ribble Valley Borough Council.
- The application Ref 3/2015/0605, dated 15 July 2015, was refused by notice dated 16 October 2015.
- The development proposed is the erection of a ground mounted solar photo-voltaic array and associated infrastructure.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. The appeal was recovered for decision by the Secretary of State on 9 August 2016. The reason for the recovery was that the appeal involves proposals for significant development in the Green Belt.

2. Planning permission was refused for the following reasons:

    1) The proposed development is located entirely within the Green Belt. It is considered to represent inappropriate development in the Green Belt as defined in the National Planning Policy Framework (NPPF) and the Council does not consider there to be special circumstances that would outweigh the harm that will be caused to the Green Belt by reason of inappropriateness, and to the character and openness of the Green Belt as a result of the development. As such, the proposal would be contrary to the requirements of the NPPF and Key Statement EN1 of the Ribble Valley Core Strategy (Adopted Version).

    2) The proposed development would be harmful to the visual amenities and character of the locality by reason of the size, scale, incongruous appearance and inappropriate nature of the proposals; particularly with regards to the proximity of the development to adopted highways and the lack of any proposed natural screen planting/landscaping to mitigate the detrimental effects upon visual amenity. As such, the proposal is contrary to the requirements of Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version).

    3) The proposed development would have a detrimental impact on the appearance and character of the locality as experienced by users of the local footpath network contrary to Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version).

3. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies and the gist of the submissions made in writing, followed by my conclusions and recommendation. A list of suggested conditions is appended.

The Site and Surroundings

4. The appeal site comprises 3 no. fields and extends to around 10 hectares. It is located within the Green Belt, on land belonging to Little Snodworth Farm, an established Lancashire livery and farming business. It stands in an area of open,

undulating countryside, around 500m to the south of the village of Langho and around 1.7km to the south west of Wilpshire.

5. Two of the appeal site fields stand on either side of Snodworth Road at its junction with York Road. The third field is located further to the north-west in a location that does not immediately adjoin any adopted highway. Public footpaths cross 2 of the fields and there are other public footpaths immediately adjoining the appeal site. Three 50kW wind turbines (around 46m tall) are located nearby at Carr Hall.

Planning Policy

6. The NPPF states a presumption in favour of sustainable development at paragraph 14 while paragraph 93 makes clear that the provision of renewable energy infrastructure is central to the economic, social and environmental dimensions of sustainable development. Paragraph 98 states that an application for a renewable energy project should be approved if its impacts are or can be made acceptable and if material considerations do not indicate otherwise.

7. This is reflected in the Government's on-line Planning Practice Guidance (PPG) which states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. It goes on to state that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

8. The PPG makes clear that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology, and critically, the potential impacts on the local environment, including from cumulative impacts. The PPG confirms that the views of local communities likely to be affected should be listened to, and that while all communities have a responsibility to help increase the use and supply of green energy, this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. The PPG makes it clear that local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on landscape along with recognising that the impact can be as great in predominately flat landscapes as in hilly areas.

9. Key Statement DS2 of the adopted *Core Strategy 2008 – 2028 A Local Plan for Ribble Valley* (CS) sets out a presumption in favour of sustainable development while Key Statement EN1 states that the overall extent of the Green Belt will be maintained to safeguard the surrounding countryside from inappropriate encroachment. The development of new buildings will be limited to, inter alia, uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of the designation. Key Statement EN2 expects development to be in keeping with the character of the landscape.

10. Key Statement EN3 states that renewable energy proposals require the consideration of factors such as reducing the area's carbon footprint whilst recognising its exceptional environmental and landscape context. In addition, CS Policy DMG1 seeks to help deliver the vision for the area and gives an

overarching series of considerations that the Council will have regard to in achieving quality development including design, access, amenity, environment and infrastructure; while Policy DME5 supports renewable energy schemes where there would be no unacceptable harm to the local environment or amenity having regard to landscape and cumulative impact, and potential benefits.

The Proposal

11. Proposed is the installation of a 5MW solar photovoltaic (PV) array across 3 no. fields, classified as Grade 4 agricultural land. The array would comprise of 17,842 solar panels, mounted on structures capable of holding 48 panels and tilted at a fixed angle of 30°. The panels would reach a maximum height of 2.9m above ground level. The proposal also includes 4 no. inverter housing units (each measuring around 6m x 2.4m x 2.5m high with a flat roof), 1 no. electrical substation (measuring around 3.1m x 3.6m x 3m high with a flat roof), internal site access tracks, a site entrance point, a temporary construction compound, a wire perimeter fence (around 2m tall) and 6 no. CCTV towers (around 5m tall).

The Case for Mulbrick Clean Energy LLP

12. The appeal site is one of the most suitable within the Ribble Valley area for a development of this type. It is compliant with national and local policy and would:

- provide clean, sustainable energy for the equivalent of 1,000 homes, which exceeds the equivalent electricity demand for the nearest town of Langho,
- represent a significant investment in the rural economy, creating jobs (prioritising local contractors) at the construction, operation and decommissioning phases,
- enable the landowner to create 3 sources of income where currently only 1 exists, significantly boosting the rural economy which is a key focus of the NPPF,
- create a dual purpose for what currently exists as poor quality, Grade 4 agricultural land, fully optimising the potential for the land,
- be temporary, the effects of which are reversible, contributing a long-term biodiversity benefit, and
- deliver overwhelming benefits that would outweigh the perceived minor visual impacts.

13. The appellant contends that:

- neither the officer's report nor the Council's refusal reasons have justified why this development would constitute 'inappropriate development' in the Green Belt,
- the Council failed to provide due opportunity for liaison, consultation and comment whilst the application was being developed, in order to identify and address any potential concerns - the appellant was first made aware of the Council's concerns on the publication of Committee Report,

- the Localism Act places a duty on Councils to co-operate in relation to the planning of a sustainable development, encouraging greater liaison between planning officers and applicants - the Council failed to provide the proper opportunity to discuss the application, particularly as the proposed development neither conflicts with nor compromises the fundamental purposes of the Green Belt designation and, therefore, is not an inappropriate development,
- the implications on the visual amenities of the local area are considered to be overstated within the Committee Report and equally the potential benefits of the development have been overlooked,
- notwithstanding this, any potential harm to the Green Belt would be greatly offset by the development's contribution to renewable energy targets at the regional and local level, in addition to all of the other positive benefits associated with renewable energy developments which contribute to 'very special circumstances' as set out in NPPF, and
- the scheme satisfies all of the other environmental constraints considered in terms of ecology, landscape and visual impacts, glint and glare, cultural heritage impacts, hydrology, residential amenity and traffic safety.

14. The landowner is currently reliant on the livery business for income. The proposal would provide an alternative income source while maintaining an area for grazing smaller livestock, allowing the livery business to be scaled back sustainably.

15. It was understood that the application would be assessed against the Green Belt. There was no prior communication that there was concern regarding the landscape and visual impact, impact on local roads or the potential to impact on the experience of the local footpath network. As set out in NPPF, to have an effective and positive planning system, a pro-active and open approach is required from all parties, with advice to be provided in a timely manner. It is considered that due process was not fully observed. Indeed, many concerns raised within the Committee Report could have been resolved prior to them becoming an issue had these been communicated effectively.

16. Additionally, no consultation response from a Landscape Architect was received in respect of landscape and visual impact. It appears that the Planning Officer alone drew the conclusions in respect of these issues. By contrast, suitably qualified personnel undertook a balanced and comprehensive Landscape and Visual Impact Assessment on behalf of the appellant. The Council should also have consulted relevant experts for their professional opinion as opposed to drawing on personal opinions.

17. While 85 letters of objection were received from 80 local households, it is considered that no insurmountable objections were raised that had not already been addressed within the appellant's submitted assessments.

18. The proposed development represents around 0.0126% of the 79,440 hectares of Lancashire currently designated Green Belt. The Council's opinion is that the project would be inappropriate development in the Green Belt, and harm caused by the impact upon the character and openness of the Green Belt are not counterbalanced by the benefits of the scheme. Thus 'very special circumstances' do not exist to justify the scheme.

19. Para 5.10.10 of the National Policy Statement (NPS) for Energy Infrastructure (EN-1) states (in relation to inappropriate development) that "*Applicants should therefore determine whether their proposal, or any part of it, is within an established Green Belt and if it is, whether their proposal may be inappropriate development within the meaning of Green Belt policy*".

20. Paragraph 5.10.12 continues, "*It may also be possible for an applicant to show that the physical characteristics of a proposed overhead line development or wind farm are such that it has no adverse effects which conflict with the fundamental purposes of Green Belt designation*". Although not directly referring to a solar development, the NPS is applicable to energy infrastructure development and would seem to suggest that inappropriate developments are those that conflict with the fundamental purposes of the Green Belt designation.

21. With this in mind, Paragraph 79 of NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 sets out the 5 purposes of Green Belt. Quite clearly, the designation of the Green Belt was established without the prospect of renewable energy in mind, but with the main purpose of preventing urban sprawl into the countryside. The appellant strongly contends that the proposal would not contribute to urban sprawl or encroachment upon the countryside.

22. The proposal maintains large areas of green space, given that the rows are spaced between 6m to 10m apart. Indeed, the presence of a solar field limits the potential for further urban encroachment and merging of settlements. It also maintains a buffer of at least 0.5km between it and any settlement. The standard lifetime of developments of this nature is generally considered to be 25 years, during which grazing will continue. Following the operational lifetime of the development, all elements and structures will be removed, leaving no visible trace when the site is returned to its original condition. The site would not become Brownfield, and would therefore protect against settlement encroachment for its duration.

23. This was verified in the appeal decision for a solar farm at Rowles Farm, Bletchington (APP/C3102/A/13/2207532), where the appeal was allowed, "*The proposal is promulgated on a temporary basis and so the harm in the Green Belt and landscape terms would be both temporary and reversible.*"

24. This proposal neither conflicts with nor compromises the fundamental purposes of the Green Belt and it is questionable whether it would constitute inappropriate development within the Green Belt. It should also be highlighted that in areas not designated as Green Belt, the agricultural land is largely classified as Grade 3, which is of better quality and more versatile land than the Grade 4 land at Little Snodworth.

25. The perception of the loss of openness as the result of a development comes from the loss of a view – either where the solar panels block a valued line of sight, or contribute to a sense of clutter or enclosure within a view. A loss of openness could also result from a severance or restriction of access to Green Belt land. The proposal would appear as a different land covering from mid to long-range views, appearing as a dark blue colour similar to that of a body of water. The modest height of the panels (2.9m) means that the development would not interrupt views, block views or cause enclosure. It would be seen as part of the

landscape and would have a negligible impact on the perceived openness of the Green Belt.

26. As demonstrated by the viewpoint assessment, once outside of the immediate proximity of the site, the visual impact lessens significantly, as do the chances of the development interrupting or being overbearing on views. Therefore, the impact on the openness of the Green Belt is localised and not significant or adverse.

27. The proposal is located within the Lancashire Valleys landscape character area as set out in the Natural England Landscape Character Assessment. This is considered to have a strong sense of character, which is identified by agricultural land fragmented by towns, villages, and hamlets separated by a rural landscape of farmed land comprised of grazing fields, scattered small woodlands, dry stonewalls and farm buildings. The proposal would have a very limited impact on these key features.

28. It would occupy and directly affect a small section of this character area with negligible loss of rough grassland. It would be visible from parts of the wider character area as seen on the side of the hill. However, the rolling nature restricts views and coupled with a strong woodland presence throughout, visibility of the proposal would be limited over the character area. The area is well developed with man-made elements such as wind turbines, overhead pylons, and large farm steadings. Therefore, the presence of solar panels would not appear out of character with the current pattern of man-made development within the area.

29. The limited vertical extent of a solar development ensures a negligible impact upon the setting and special character of any towns or villages, particularly Langho or Wilpshire. Furthermore, the agricultural character of the area would be retained and enhanced, as the fields would be used for grazing small livestock. The proposal would therefore not conflict with the character of the Green Belt.

30. While the appellant does not consider the proposal to represent 'inappropriate development', it is contended that 'very special circumstances' exist which outweigh any perceived 'harm'. NPPF Paragraph 91 indicates that "such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."

31. In 2014, the Government published its Solar PV Strategy2 setting out a wide range of solar energy benefits including economic growth, energy security and action on climate change. Moreover, it indicates that a reduction in carbon emissions is a key benefit of deploying solar energy, and therefore should be considered as a benefit of the proposal that represents 'very special circumstances'.

32. The proposal would reduce the annual carbon emissions of the local area by approximately 1,100 tonnes of CO^2, constituting approximately 12% of the CO^2 emissions from the Ribble Valley. This from a project occupying just 1.7% of the Ribble Valley's land area. These figures are highly suggestive of 'very special circumstances'.

33. The CS sets out renewable energy targets for the Borough. It outlines a target of 20MW renewable generation capacity to be installed each year. As of December

2015 the total installed renewable generation capacity for the entire Borough stands at 5MW. Given that areas of the Ribble Valley area which are not Green Belt are predominantly urban or located within an Area of Outstanding Natural Beauty, the appellant would suggest that some renewable energy installations would need to be located in the Green Belt for installed capacity to reach desired levels.

34. Alongside the creation of renewable energy and sustainable development, the NPPF identifies farm diversification as a priority of rural land use planning. The proposed development would enable the landowner to generate 3 incomes (lease the land for solar generation, graze small livestock and continue the livery on a reduced scale).

35. In addition to the continued agricultural use of the site whilst providing additional revenue to the farming and livery business, there would also be the creation of employment opportunities in the local area during construction, ongoing maintenance and decommissioning, further contributing to the rural economy. Paragraph 28 of NPPF states that "*to promote a strong rural economy, local and neighbourhood plans should promote the development and diversification of agricultural and other land-based rural businesses*".

36. The proposal is likely to provide employment opportunities during the operation of the project. Operation and Maintenance Contracts of a development of this scale generally have a value of £50,000 per annum, equivalent to approximately 2 full time jobs for the duration of the project. Other contracts, such as security, will also provide employment opportunities throughout the project lifetime.

37. As stated within the appellant's Ecology Assessment, it is proposed that a Biodiversity Management Plan (BMP) would be implemented as a planning condition. The BMP would secure a long term benefit to local habitats and encourage species diversity in low quality Grade 4 agricultural land. The overall effect of improving the local biodiversity would lead to an improvement of the soils, potentially improving the quality grade of the land during the lifetime of the development. The BMP would implement particular measures within the appeal site including:

    - implementation of additional hedgerow native to the area,
    - enhancement of field margins by planting varieties of grass, nettle or pollen and nectar strips all of which would be suitable for bees, butterflies, nesting birds, reptiles and small mammals, and
    - improvement of grassland habitat with wild flower, wild bird seed mixes and clover which create greater biodiversity.

38. Additionally, impact on the environment as a result of climate change is unquestionably positive in reducing a community's reliance on fossil fuels to generate electricity. The proposal also presents unique educational benefits, through the implementation of a local education strategy.

39. The landscape is generally of a medium scale and characterised by rough or improved grassland, scattered shrubs, dry stone walling, clusters of trees, occasional farm steadings and houses, and small scale infrastructure associated with these, such as wooden pole electricity pylons. The locality lacks the special landscape features of the nearby areas of landscape designated as AONBs and

SLAs. In this context, it is contended that the impact of this medium scale solar development would be contained to within the immediate vicinity of the site and would not be "harmful to the visual amenities and character of the locality".

40. Refusal reason 2 pays particular attention to the proximity of the proposal to adopted highways. Only the lightly used York Road, which passes along the south and eastern edges of the development, has the potential to be noticeably affected. York Road/Parsonage Road connects Langho with Wilpshire and the stretch between these two settlements is 4.6km long. 1.3km has theoretical visibility, excluding any potential screening by vegetation, walls or buildings. Approximately 0.5km of the route would have clear views of the proposal as the road runs alongside. Only 1 side of the route would be affected, with views to the east of the road remaining unchanged.

41. It should be highlighted that, whilst there would be visibility along York Road, the road exists as a country road where traffic is light and there is a low number of road users. It is acknowledged that there would be visibility in close proximity of the proposal, as is the nature of any development. However, the proposal is largely not visible from the nearest towns and settlements such as Langho, or more frequently used roads such as Whalley Road (A666).

42. It has been demonstrated that by using the latest solar panel technology, the development would not cause unacceptable glint or glare impacts on users of the road. In relation to the "lack of any natural screen planting/landscaping", it was not considered appropriate to propose uniform hedgerow planting as this would jar with the pattern of vegetation in the area. Neither consultees nor the planning officer had ever suggested that additional hedgerow planting should be proposed. However, the appellant would be prepared to implement hedgerow planting subject to agreement with the Council.

43. Furthermore, there does not appear to be any consideration or attempt by the Council to reduce the potential visual impact via the implementation of some very simple and enforceable planning conditions. For example:

    - site boundary landscaping, such as hedgerows or trees native to the area and its character,
    - relocate electrical container units to a more hidden area and paint in a colour that would blend into the surroundings,
    - provide alternative security proposals to avoid the use of CCTV cameras such as infrared motion sensors, and
    - undertake site-levelling works to reduce the prominence of some of the higher elevated panels.

44. All of these examples are enforceable by planning condition and would reduce the perceived visibility of the proposal from such areas as York Road. Had this been known to be of concern, the appellant would have been able to undertake proactive engagement with the Council and consultees to ensure their satisfaction.

45. Figure 4.2 of the submitted Design and Access Statement illustrates the current network of footpaths in and around the area, demonstrating the proposed diversions. The affected routes would be FP15/FP12, FP13, FP16 and FP15a. Of

these routes, FP16 and FP15a require minor diversions. As FP15 is situated lower in the landscape than the majority of the proposal, the views over the Ribble Valley and the sense of openness remain intact. Despite the path travelling between the 2 areas of the site, there is no part where the development sits on either side of the path. As such there is always one open side to the path.

46. Much of FP13 is either screened by intervening woodland or within woodland itself, limiting any potential views of the proposal. FP15a, which joins FP15/FP12 at Little Snodworth Farm, would need to be diverted marginally to the west, along the boundary of the development. The full length of this short route (approximately 200m) would have views of the proposal. The views remain open to the north, north-west, west and south. Currently the unaffected views to the north-west are the most open and draw the eye.

47. FP16 would also need to be re-routed. Rather than cutting through the field, in which there are horses, it follows the edge of the field parallel to Snodworth Road and York Road. The appellant's viewpoints 1 and 2 illustrate the potential impact on this footpath. Along the Snodworth Road section the open views to the north and across the Ribble Valley remain intact and unaffected and, although the proposal is in close proximity, it does not significantly alter the character of the walking experience. There would be no noise or moving parts and the site would still be used for grazing, which helps retain the agricultural character currently present.

48. It should be noted that the perimeter fencing proposed is wooden post and wire deer fencing, which is commonplace in the countryside and not the industrial security fencing portrayed in the Committee Report. Although these 4 routes would have views of the proposal, on the whole the experience is brief. In the majority of cases the open views over the Ribble Valley would be retained. Whilst the solar panels would be new features alongside sections of the paths, they would not be dominant and would only occasionally interrupt views for short sections of the path.

49. Additionally, whilst these short sections of the footpath network would experience an element of change, this presents a unique educational opportunity and benefit. Again, with the enforcement of appropriate planning conditions, the appellant would like to implement and adopt a local educational strategy which could include such long term benefits such as:

    - the deployment of educational display boards displaying information on solar technology as well as wider renewable energy technologies, and the history of the area - this would present a very unique opportunity to view solar alongside existing wind turbines, creating an opportunity to greater inform users of the footpaths about the benefits of renewable energy technologies, and

    - encourage local school visits - it is known that renewable energy projects are now built into the education curriculum and this project represents an opportunity for local schools to go and visit, and be shown around, a renewable energy project where wind turbines and solar operate adjacently (equally, there may be an opportunity for electrical apprentices to visit the site and see first-hand the mechanics of a solar development).

50. Furthermore, the proposal presents an opportunity to have the existing footpaths upgraded to a high quality. They are presently in a fairly poor condition with limitations of access due to poor maintenance and therefore the development would create improved accessibility and increase the volume of footpath users.

51. It should be noted that the permissions required to divert these footpaths would be subject to a separate planning application to Lancashire County Council and will be submitted upon receiving consent. Any planning permission received is expected to be conditional on the agreement of the footpath diversions.

52. In summary, the Council did not given sufficient weight to the benefits and advantages of the proposal that represent 'very special circumstances' that permit development within the Green Belt. The proposal should not be considered as inappropriate development within the Green Belt as it does not contribute to the coalescence of settlements, does not signify encroachment into the countryside, and retains the agricultural usage.

53. Notwithstanding the above, the development presents advantages and benefits that clearly represent 'very special circumstances', notably the provision of clean, sustainable electricity to the nearest town of Langho. Very special circumstances were considered to have existed for the Carr Hall Wind Turbines, which have a maximum generating capacity of 150kW. The proposed solar development would have the capacity to generate 33 times more energy than the Carr Hall Wind Turbines.

54. Finally, the proposal satisfies all of the other environmental constraints considered in terms of ecology, landscape and visual impacts, glint and glare, cultural heritage impacts, hydrology, residential amenity and traffic safety.

The Case for Ribble Valley Borough Council

55. The PPG for *Renewable and Low Carbon Energy* states that the development of large scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. Nonetheless, it is stated that the visual impact of a well-planned and well screened solar farm can be properly addressed within the landscape if planned sensitively. Specifically, in relation to solar farm development the PPG states that a local planning authority will need to consider the following:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value,*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays,*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use,*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety,*

- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun,*
- *the need for, and impact of, security measures such as lights and fencing,*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset,*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges, and*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect. The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.*

56. The application site is located wholly with the designated Green Belt which is characterised by its openness and permanence. Any harm to the Green Belt is given substantial weight in the decision making process as stated in paragraph 88 of the NPPF. Paragraph 91 of the NPPF states, '*when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*'.

57. Paragraph 80 of the NPPF states that the Green Belt serves 5 purposes: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The proposal would be visually intrusive and would undermine open views across the site resulting in a significant loss of openness and a sense of clutter. In addition to the impacts that the arrays themselves would have on the openness and character of the Green Belt, the proposal also comprises a number of other elements such as the fencing, access tracks, inverter housing and substation building. As there are a number of inverters (6) within the site and the fencing not only surrounds the site, but subdivides it: the cumulative impact of all these elements is considered to magnify the impact of the proposals on the Green Belt. When viewed in its entirety, the proposal would be an industrial feature in a rural environment and would appear wholly incongruous and inappropriate.

58. The area containing and surrounding the proposal is rural in nature and is characterised by the sporadic arrangement of individual farmsteads. Solar panels are engineered products that have an industrial appearance. They are not, inherently, products that fit into a countryside environment. On the scale

proposed the solar panels, together with the fence and associated buildings, would result in significant encroachment into the countryside.

59. The appellant contends that following the operational lifetime of the development, all elements and structures would be removed, leaving no visible trace of the development and the site would be returned to its original condition. It would not therefore result in permanent development of Green Belt land. However, 25 years is a significant time period and there is no guarantee that planning permission would not be granted for a further period.

60. The Council considers the proposal to be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Section 9 of the NPPF is supplemented at a local level by CS Key Statement EN1.

61. The appellant claims that, unlike wind turbines, solar developments are not inappropriate development within the Green Belt and that they do not dominate or encroach on the sky-line, have little impact on the openness of the Green Belt and do not contribute to urban sprawl or encroachment upon the countryside. At an appeal in Chorley Borough relating to a solar farm covering approximately 18 hectares in a Green Belt location (APP/D2320/A/14/2222025) the Inspector found that the proposal was inappropriate development within the Green Belt. The Inspector opined that the main issues for consideration in assessing that appeal were (i) whether the proposed solar farm would cause any harm other than by reason of inappropriateness; (ii) other considerations to be weighed in the planning balance; (iii) and whether the harm caused would be clearly outweighed by other considerations.

62. The Inspector concluded that the proposed solar farm would result in a significant loss of openness of the Green Belt, significant encroachment in the countryside thereby undermining of the purposes of including land within the Green Belt, a minor adverse effect on the character of the landscape, a significant adverse effect on the visual amenity of the area and an adverse effect on the visual amenities of specified nearby residents.

63. Other considerations made by the Inspector related to the contribution of the proposal to energy security, reduction of greenhouse emissions and enhancement of biodiversity in the area. The Inspector concluded that the harm caused by reason of inappropriateness, by a significant loss of openness of the Green Belt, and by significant encroachment into the countryside; in addition to the harm that would be caused to the character of the landscape, to the visual amenity of the countryside and to the visual amenities of nearby residents, were not outweighed by the environmental and biodiversity benefits of the proposed renewable energy scheme. In the Inspector's opinion, therefore, the proposal was not sustainable development and the appeal was accordingly dismissed. In the Council's opinion, this appeal strongly supports the Council's claim that the proposed solar development is inappropriate development in the Green Belt.

64. Given that the proposed development is inappropriate development in the Green Belt by virtue of a significant loss of openness and encroachment into the countryside, it is necessary for the appellant to demonstrate very special

circumstances as to why the proposed development should be permitted. The appellant puts forward a number of claimed benefits.

65. The Council accepts that the reduction of around 1,100 tonnes of CO^2 per annum would be a benefit to be weighed in the planning balance. As for farm diversification, the appellant states that the proposed development would enable the landowner to generate 3 incomes. Whilst this would benefit the landowner financially it is not clear how it would benefit the wider community. The Council considers that farm diversification should be for alternative uses that maintain the rural/agricultural appearance and character of the locality, and also offer benefits to the local economy. Any benefits to the site owner would weigh very little in the balance against the harm caused to the visual amenities of the Green Belt.

66. In terms of economic benefits, the proposal would create employment opportunities during the construction period, ongoing maintenance and decommissioning of the site thus contributing to the rural economy. The appellant claims that employment opportunities would not be limited to the beginning and end of the proposed development and that 2 full-time jobs would be created for its duration. This would attract limited weight in favour of the scheme.

67. In respect of an educational benefit, the appellant claims that the solar array would be used in an educational capacity with display boards for passing walkers and school trips. The introduction of display boards would result in further clutter and any educational benefits would weigh very little in the balance against the harm caused to the visual amenities of the Green Belt locality.

68. As for ecology, the appellant claims that the proposal would have a positive benefit to biodiversity by providing shelter for habitats and wildlife allowing them to flourish in areas that would otherwise be exposed. Over the project lifetime this would result in significant benefits to the fields in which the panels are situated as the land and soils are given a break from intense farming allowing the soil to rejuvenate and replenish.

69. The Council considers that any improvements to the land and biodiversity over the proposal's lifetime could equally be achieved over the same period by the continued farming of the land using good agricultural practices. Improvements brought about by the implementation of good agricultural practices would also be a benefit without any visual harm. On the other hand, any benefits to the land and biodiversity that might result from the solar farm would not outweigh the duration of the harm to the visual amenity/character of the locality.

70. The appellant considers that the claimed benefits significantly outweigh the impact of the proposal on the Green Belt by reason of inappropriateness and refers to a development in this area granted approval on appeal for 3 no. 46m high wind turbines at the now closed Carr Hall Garden Centre (APP/T2350/A/13/2193882). That application was refused by the Council as inappropriate development within the Green Belt as the turbines would be harmful to its openness and permanence, and as no special circumstances had been demonstrated that would outweigh the harm caused.

71. The Inspector acknowledged that the turbines would constitute inappropriate development within the Green Belt. However, it was the opinion of the Inspector

that very special circumstances had been demonstrated stating: "*I heard that the existing electricity connection at Carr Hall Garden Centre is of insufficient capacity to serve all the equipment required to run the business. Further, that reliance on diesel generators has had an adverse impact on the business due to the seemingly ever increasing cost of fuel and the ability to offer potential franchises a reliable supply of electricity. The proposal would facilitate a three phase connection and, in addition to providing some renewable energy to the grid, would help secure and create local employment. I consider that these matters amount to the very special circumstances necessary to justify the development in the Green Belt. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.*"

72. The Council considers that the special circumstances referred to by the Inspector were exactly that. They were circumstances that related specifically to that application as the electricity would be provided to a local business helping to keep it viable and thereby securing and creating local employment and those special/specific circumstances applicable to the wind turbine case do not appertain to this application.

73. Whilst the environmental benefits of the proposal are considerable and acknowledged, on balance, it is not considered that this provides sufficient very special circumstances to outweigh the substantial harm that would be caused to the character and openness of the Green Belt by reason of the inappropriate nature of the development. The proposal is clearly contrary to the purposes of the Green Belt as set out in the NPPF and CS Policy EN1, and would result in harm to the Green Belt by virtue of a significant loss of openness and encroachment into the countryside.

74. CS Policies EN2 and DME2 aim to protect, conserve and enhance the quality of the landscape in the Borough. The Borough comprises extensive areas of open countryside much of which has an intrinsic value that contributes to its landscape value. CS Policy DMG1 also seeks to ensure that design of development and impact on amenity and the environment are considered in all proposals. In relation to renewable energy schemes, CS Key Statement EN3 requires the local authority to have particular regards to 'the immediate and wider impact of the proposed development on the landscape, including its visual impact and the cumulative impacts of development.' As no special circumstances have been demonstrated to justify this development in the Green Belt, the Council considers that the effects of this renewable energy development on the local environment should be considered on the same basis as any other type of development.

75. The local landscape is characterised by rolling hills, on top of which the site is situated, irregular field patterns and the long distance views over the Ribble Valley. A Landscape and Visual Impact Assessment (LVIA) has been carried out that the Council's Countryside Officer confirms as being in compliance with LVIA Practice for Impact Assessment. The Assessment concludes that, overall, the impact of the development on the landscape and visual resource would be low to medium.

76. However, when looking at specific viewpoints, the Assessment concludes that the effects on York Road would be high; on Snodworth Road would be medium; and on footpath 16 would be medium. Furthermore, intermittent views of the development site would be afforded from the A59 east of Copster Green although

the presence of shelterbelts provides some screening. The appellant states that York Road is a lightly used country road and that only approximately 0.5km of York Road would have clear views of the proposal as the road runs alongside it. Conversely, York Road is a well-used link between the settlements of Langho and Wilpshire and the town of Blackburn further south. When travelling north along York Road at its junction with Wilpshire Road the appeal site is clearly visible from a distance of around 800m on the approach. The boundaries to York Road and Snodworth Road are low dry stone walls and immediately inside these walls would be the 2m high security fencing, through which the 2.9m tall panels would be visible. Added to this would be 5m tall CCTV towers, 2 of which would immediately adjoin the boundary to York Road; and the 4 no. inverter cabins that have the appearance of storage containers.

77. The PPG for *Renewable and Low Carbon Energy* guides local authorities to assess the cumulative impact of renewable energy development. Cumulative visual impacts may arise where 2 or more renewable energy developments would be visible from the same point, or will be visible shortly after each other along the same journey. This is relevant to the appeal site as the proposed solar farm would be located on land adjacent to 3 wind turbines. When viewed collectively from York Road, Snodworth Road and the network of public footpaths in the immediate vicinity the renewable energy developments would be seen together as noticeable industrial features and this 'creeping industrialisation' of the open land surrounding Little Snodworth Farm would be completely inappropriate.

78. Whilst the appellant states that effective screening of the site could be ensured by imposition of landscaping conditions, any planting would itself be visually intrusive by undermining open views across the site. Furthermore, vegetation, even if standard plants are used, would take some years to become effective. Whilst the Council endeavours to work with developers to find solutions where possible, in this case it was considered that the principle of development was unacceptable, contrary to Green Belt policy and there was no reason to engage further with the developer.

79. It is clear that some significant effects on the landscape and visual amenity, as a result of the proposed solar farm, are inevitable. Moreover, the proposal not only comprises the installation of arrays but also introduces a number of other, incongruous, elements into the rural environment – such as the inverters, access tracks, substation and fencing. It is considered that these will have a particularly detrimental visual impact when viewed locally.

80. The Council does not consider this to be a development that is acceptable or appropriate with respect to its impact on the immediate locality. Whilst the LVIA might have concluded that the effects on the wider landscape are not significant, the Council considers that these effects are still nonetheless negative effects that, in the absence of special circumstances, strengthen the reasons to refuse this application.

81. The proposal would also adversely affect nearby Public Rights of Way (PRoW). The proposal would be highly visible in the immediate area particularly given the extensive PRoW network in the vicinity which would offer close and uninterrupted views of the development. The proposal, by virtue of its design, scale and close proximity to the adjacent PRoW network, would adversely impact on the enjoyment of users. This would be contrary to CS Policies DMG1 and DMB5 which

seek to ensure the protection of the PRoW network in situations where they will inevitably become less attractive, particularly where they provide a link between towns/villages and attractive open land, and are heavily used. Based on the level of public objection and a formal objection from the Ramblers Association, it is clear that the PRoW network in the surrounding area is well-used by local residents and visitors. The fact that the longest path through the site only takes a few minutes to walk does not alter the conclusion that those using the footpath, and the other footpaths through the site, would incur serious harm to their visual amenities whilst traversing the site, and their enjoyment of the countryside would be undermined.

82. The proposal would require the diversion of at least 2 public footpaths. This in itself is not a reason to refuse consent but were planning permission to be granted, all necessary Diversion Orders would need to be obtained prior to the commencement of development. However, the proposed diversions would still leave the footpaths very close to the proposal, thereby resulting in a significant change to the experience of walkers using these particular footpaths. The Council considers that the nature and appearance of the development is such that the change to the experience of walkers would be a negative one. In the absence of any proven 'special circumstances' the Council considers this to represent a sustainable reason for refusal of the application.

83. The Council considers that the proposal does not represent sustainable development as defined in the NPPF and would be contrary to the relevant CS Key Statements and Policies. The Council accepts that the scheme would provide environmental benefits based on the proposal seeking to contribute towards tackling climate change. However, this must be balanced against harm to the Green Belt as a result of inappropriate development, the harm the development would have on the visual appearance of the landscape and the adverse impacts of the development upon nearby PRoW. There are clearly a number of specific benefits for the appellant if this scheme was to be approved. Nevertheless, the wider social and economic benefits beyond this are not clearly quantifiable. In the Council's view, the development is contrary to national and local Green Belt policy, would not protect, conserve nor enhance the landscape and character of the area and any environmental, social and economic benefits associated with the scheme would be clearly outweighed by the demonstrable harm caused. In addition, the development would adversely impact on the enjoyment of users of the surrounding PRoW network by virtue of its size and proximity. It is for these reasons that the appeal should be dismissed.

Written Representations

84. At the application stage objections were received from Billington and Langho Parish Council, Wilpshire Parish Council and The Ramblers Association. In addition, 85 letters were received from 80 local households. Further representations objecting to the proposal have been received in respect of this appeal. In summary, the concerns raised related to: the effect on the Green Belt, highway safety, biodiversity and wildlife, landscape character and footpaths.

Inspector's Appraisal

(Numbers in square brackets denote source paragraphs)

Main considerations

85. The Council's reasons for refusal [2] relate to the Green Belt and the effect of the proposal in respect of landscape character and visual impact.

86. In which case, I consider the main issues to be:

    the effect of the proposal on the openness of the Green Belt and the purposes of including land within the Green Belt, in respect of any encroachment into the countryside,

    the effect of the proposal on landscape character and its visual impact, and

    whether any harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Green Belt

87. The NPPF states in paragraph 91, that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. While the appellant questions whether or not this proposal would be inappropriate development [24, 30], in my judgement it is not listed in the NPPF as a type of development deemed to be not inappropriate in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. The NPPF also makes clear that the essential characteristics of Green Belts are their openness and permanence so any reduction in these characteristics would also be harmful. The proposal would introduce a development with a very distinctive industrial appearance into an agricultural landscape. As engineered products, the solar arrays would be alien to this countryside location and this would serve to emphasise their intrusive and incongruous appearance. The scale and amount of development, which includes the solar arrays, several associated buildings and security fencing, would result in a significant amount of built form being created. This would lead to a major reduction in the openness of the Green Belt and would fail to assist with safeguarding the countryside from encroachment, which is 1 of the 5 purposes served by the Green Belt.

89. This would result in harm to the Green Belt in conflict with CS Key Statement EN1. The NPPF states that substantial weight should be given to any harm to the Green Belt.

Landscape character and Visual impact

90. The appellant submitted a Landscape and Visual Impact Assessment (LVIA) which includes 7 viewpoints, claimed to be representative of a range of views of the proposal, and a Zone of Theoretical Visibility with a radius of 5km [75]. The appeal site is located within the Natural England Landscape Character Assessment area; *Lancashire Valleys.* This is described as *broadly consisting of the wide vale of the rivers Calder and Ribble and their tributaries, running north-east to south-west between Pendle Hill, the Bowland Fells and the Southern*

Pennines. Although similar in nature conservation terms to the Lancashire and Amounderness Plain and the Morecambe Coast and Lune Estuary NCAs, the landscape here has a contrasting, intensely urban character. I agree with the assessment of the parties as to the character of the local landscape [27, 39, 58 and 75] and the location of nearby settlements, roads and footpaths [5 and 40].

91. The LVIA concludes that the overall impact of the proposal on the landscape and visual resource would be low to medium claiming that the impact would be fairly well contained to the footpaths adjacent to the site. In addition, when seen from further afield the LVIA concludes that the proposal would not constitute a dominant feature in any views. The LVIA notes that the landscape is of a medium scale quality and is characterised by farmsteads and wind turbines, into which the solar farm would fit with little contrast.

92. While I agree with the LVIA conclusion that over longer distances, views of the proposal would either be unobtainable (such as from Langho and the A666) or intermittent (such as from the A59 east of Copster Green), I nevertheless consider that the topography of the appeal site would result in the arrays being a very prominent feature in views from the nearby road and footpath networks. The proposal would be extant for what would be a considerable time period in the lives of local residents. In my judgement, given the undulating character of the appeal site and its immediate environs, which is typical of the wider landscape, the solar panels, as engineered products with an industrial appearance, would not readily assimilate into this open countryside context. Added to which, the perimeter fencing, CCTV towers, inverter housing and substation buildings would increase the industrial character of the proposal in this rural location.

93. Notwithstanding the presence of other man-made features in the area [28], the proposal when seen from local vantage points such as York Road, Snodworth Road and the nearby footpaths [5, 45], would be a striking, stand out feature. The overall scale, density and distribution of modules and associated infrastructure would create a dominant feature in the landscape, changing its character from agricultural to industrial. Given the localised nature of the effect of the proposal, I consider that the harmful change to local landscape character would be moderate.

94. With regard to visual impact, I consider that this would be restricted by the undulating nature of the landscape to the local roads and footpaths identified above. However, from these nearby vantage points, the proposal would appear as a highly prominent and alien feature that would be visually intrusive. The scale of the proposal, spread over the three fields, would make it a stand out feature within this area of undulating countryside with the effect that it would have an overbearing presence. As the effect would be localised, I consider that this would result in moderate visual impact harm.

95. I note the appellant's claim that the impact could be mitigated through the use of planning conditions [43] attached to any grant of planning permission. However, I consider that the mitigation measures would either take a considerable time period to become effective or would be limited in ameliorating the harmful impact of the proposal. Consequently, the proposal would remain a stark addition to the local landscape when the solar arrays and associated infrastructure are seen from the local road and PRoW networks.

96. In summary, although over longer range views the effect of the proposal would be negligible, when seen from the adjacent roads and footpaths it would dominate the scene in terms of its visual impact and would define landscape character. Accordingly, the proposal would result in moderate landscape character and visual impact harm when seen from local vantage points, in conflict with CS Policy DMG1.

Other matters

97. The effect of the proposal on ecology, highway safety, living conditions and agricultural land was considered by the Council at the application stage taking advice from bodies such as the County Highways Surveyor and the Council's Countryside Officer. I note from the officer report that the conclusion is drawn that subject to conditions, there would be no negative effects arising from the proposal in respect of these matters. From my assessment of the submitted evidence, I have no reason to disagree.

98. I further note the officer's conclusion that the proposal would not harm the setting of any heritage assets as a development within their settings. From my assessment of the submitted evidence, I have no reason to disagree and consider that there would be no conflict with the desirability of preserving the settings of these listed buildings in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

99. The appellant referred to a previous appeal decisions [23 and 53] claimed to be similar. However, I am not aware of the detailed considerations taken into account by those Inspectors. Furthermore, given the site specific circumstances in this instance, taking this appeal on its planning merits, I do not consider the cited appeal decisions to be directly comparable.

Other considerations

100. The appellant has put forward several matters [32, 33, 37, 49, 50 and 52] claimed as other considerations in favour of the proposal. Firstly, it is claimed that with a power rating of around 5MW, the proposal would generate sufficient electricity for around 1,000 homes for 25 years, equating to a reduction of approximately 1,100 tonnes of CO^2 emissions per year. As such it would help to meet the renewable energy target for the Borough. This is a benefit that weighs significantly in favour of the proposal.

101. The appellant put forward economic benefits pointing out that the landowner is currently reliant on the livery business for income. The solar development would provide an alternative type of income source while maintaining an area for grazing smaller livestock, allowing the livery business to be scaled back sustainably. Thus, the project would enable 3 diverse income streams where previously 1 existed. In addition the proposal would provide employment opportunities in the area. I give this consideration significant weight in favour of the proposal.

102. The appellant pointed out that the temporary nature of the proposal would mean that any harm would be temporary and reversible. However, the identified harm would pertain for around 25 years which is a considerable time period and I give this consideration limited weight in favour of the proposal.

103. The appellant also cited educational benefits including the deployment of educational display boards and school visits. However, there are other renewable energy developments in the area thus educational opportunities would not be unique to this renewable energy development. In which case, I give this consideration limited weight in favour of the proposal.

104. The appellant claims biodiversity benefits citing the creation of a wildflower habitat and field margin suitable for bees, butterflies, nesting birds, reptiles and small mammals, as well improvements to the local PRoWs. While that may be the case, it has not been demonstrated that the proposed use of the site is the only means by which such enhancements might be achieved. In which case, I give these considerations limited weight.

105. The appellant also claimed that areas of the Ribble Valley area which are not Green Belt are predominantly urban or located within an Area of Outstanding Natural Beauty and suggested that some renewable energy installations would need to be located in the Green Belt for installed capacity to reach desired levels. However, I consider that it has not been fully demonstrated that alternative sites are not available in the wider area and this limits the weight I attach to this consideration.

Planning balance

106. Although time limited to a period of around 25 years, the proposal would nevertheless represent inappropriate development in the Green Belt, contrary to CS Key Statement EN1. Inappropriate development is by definition harmful and should not be approved except in very special circumstances. In addition, openness is seen as an essential characteristic of Green Belts and the reduction in that quality arising from the proposal, along with the failure to safeguard the countryside from encroachment, would also be harmful. The NPPF advises that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The proposal would also result in moderate landscape character and visual impact harm when seen from local vantage points, in conflict with CS Policy DMG1.

107. While the proposal would not conflict with the policies of the NPPF in respect of the use of agricultural land and would not be harmful in terms of those matters set out above under *Other Matters*, these are neutral rather than positive considerations. Nevertheless, the aggregated benefits arising from the matters set out under *Other Considerations* above, lend substantial weight in favour of the proposal. However, the NPPF states that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In this case, the other considerations in favour of the proposal would not clearly outweigh the harm I have identified to the Green Belt, landscape character and visual amenity. Therefore, very special circumstances necessary to justify the proposal do not exist.

Conditions

108. I have considered the conditions put forward in the Council's Statement in the light of the advice in the NPPF and PPG. In addition to the standard time condition and a condition specifying the approved plans (as agreed at the site visit) in the interest of providing certainty, various other matters need to be

submitted for approval. In the interests of securing the operational lifespan of the development, a condition is necessary to inform the local planning authority when the development is first commissioned, along with a condition requiring the approval and implementation of a decommissioning scheme, in the interests of limiting the landscape impact.

109. Conditions are also necessary in respect of the siting and appearance of fencing/gates, inverter stations, access tracks and CCTV towers; the provision of a temporary compound structure; the submission of landscaping scheme and the treatment of the public footpaths that cross the site in the interests of safeguarding the visual amenity of the area.

110. In addition, conditions are required to; provide wheel washing facilities; secure the submission of a Construction Management Plan, Traffic Management Plan and Deliveries Management Plan; set out the hours of operation during construction and ensure all cables are laid underground, in the interests of highway safety and residential and visual amenity. Finally, in the interest of visual amenity, a condition is necessary in respect of external lighting.

Recommendation

111. Having taken account of all of the matters raised in the representations, including the appellant's frustration with the Council's handling of the application, I recommend for the reasons given above, that the appeal should be dismissed. However, in the event that the Secretary of State disagrees, I recommend that the conditions in the Annex below be applied.

Richard McCoy

INSPECTOR

Annex

1) Unless explicitly required by condition within this consent, the development must be begun not later than the expiration of three years beginning with the date of this permission.

2) The hereby permitted shall be carried out in accordance with the following approved plans: PV-222-01 (Site Layout Plan), PV-222-02 (Site Location Plan), PV-222-03 (Section Plan), PV-222-04 (Access Plan and PV Elevations); PV-222-04 (Inverter Station Sections), PV-222-06 (Sub-Station Sections) and PV-222-07 (Temporary Construction Compound).

3) The planning permission is for a period from the date of this permission until the date occurring 25 years after the date of commissioning of the development. Written confirmation of the date of commissioning of the development shall be provided to the Local Planning Authority no later than 1 calendar month after that event. ("Commissioning" is defined as the point at which the solar farm is put into active service or becomes "active", or is in use or useable condition)

4) Not less than 12 months prior to the expiry of this permission or if the solar farm hereby permitted ceases to operate for a continuous period of 6 months or more (whichever is sooner) the restoration details for the site shall be submitted for the written approval of the Local Planning Authority. This shall include a scheme of works for the decommissioning of the solar farm and associated equipment which shall include; a scheme detailing the removal of all surface elements and any foundations to a depth of 300mm below ground level, a scheme for restoration and aftercare, a timetable for the works and a decommissioning traffic management plan. The subsequent decommissioning of the site shall be carried out in accordance with the agreed details within 6 months of the date of its agreement by the Local Planning Authority.

5) Notwithstanding the submitted details, prior to the commencement of development, revised details of the siting and appearance of fencing/gates, inverter stations, access tracks and CCTV towers shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

6) Prior to the commencement of the development, full details of the provision of a temporary compound structure within the site shall be submitted to and approved by the Local Planning Authority. This shall include elevational details, details of the coating colours for all structures and all external surfacing materials of the development and a programme of works for the removal of the structure following completion of the construction phase of the development. The development shall be carried out in strict accordance with the approved details.

7) A scheme for the landscaping of the development and its surroundings shall be submitted prior to the commencement of the development. These details shall include all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or

landform and proposed finished levels. The scheme should include a landscaping/habitat creation and management plan and landscaping proposals should comprise only native plant communities appropriate to the natural area.

All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 25 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8) Prior to the commencement of development full details of the means of the treatment of the public footpaths that cross the application site (FP13, 15a and 16) shall be submitted to and approved in writing by the Local Planning Authority. This shall include full details of the colour, form and texture of all ground surfacing materials. All works shall be undertaken strictly in accordance with the details as approved.

9) Before the use of the site hereby permitted is brought into operation and for the full period of construction, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

10) Prior to construction, a Construction Management Plan, Traffic Management Plan and Deliveries Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include methods and details of construction including vehicle routing to the site, construction traffic parking, deliveries and the proposed temporary traffic regulation measures. The Construction, Traffic and Deliveries Management Plans shall be implemented and adhered to during the construction of the development.

11) In relation to the construction of the development hereby permitted; no machinery shall be operated, no process shall be carried out and no construction traffic shall enter or leave the site outside the hours of 08.00 – 18.00 Monday to Friday, nor outside the hours of 08.00 – 13.00 on Saturdays, nor at any time on Sundays or Bank Holidays unless approved in writing by the Local Planning Authority.

12) No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved.

13) All electricity and control cables shall be laid underground.

Department for Communities and Local Government

Ms Joanne Plant
Locogen Ltd
5 Mitchell Street
EDINBURGH
EH6 7BD

Our Ref: APP/B9506/W/15/3006387

30 March 2016

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY LOCOGEN LTD:
LIMOLANDS FARM, VAGGS LANE, HORDLE, LYMINGTON, HAMPSHIRE

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI who carried out a site visit on 12 August 2015 in relation to your company's appeal against the refusal of the New Forest National Park Authority (NPA) to grant planning permission for the construction of a ground mounted solar array, capacity up to 5 megawatts; ancillary infrastructure including fencing, security cameras, inverter kiosks and substation building in accordance with application ref: 14/00817, dated 26 September 2014, at Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire, SO41 0FP.

2. The appeal was recovered for the Secretary of State's determination on 2 November 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because the appeal site lies within the New Forest National Park and he wishes to consider himself whether or not the development proposal would have any impact on the National Park (NP).

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation and dismisses the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the New Forest National Park Core Strategy and Development Management Policies Development Plan Document (CSDM), adopted in December 2010. The

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Secretary of State agrees with the Inspector that the most relevant policies in the CSDM are CP4 and CP5 (IR24 and IR29-30). CP4 supports proposals to mitigate climate change through, *inter alia*, increasing small scale renewable and low carbon energy generation and CP5 says that renewable energy schemes that assist in contributing towards the achievement of the national renewable energy targets will be permitted where they are small-scale, located and designed to reduce visual impacts and do not have significant impacts on the special qualities of the NP.

5. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (the Framework) and the associated Planning Guidance (the guidance); the CIL Regulations 2010 as amended; the National Parks and Broads Circular (the National Parks Circular); the various statutory provisions which define and limit the purposes of National Parks (IR25-26); and the New Forest Management Plan 2010-2015 (IR28).The Secretary of State has also had regard to the Written Ministerial Statement (WMS): "Planning Update March 2015" which, amongst other things, concerns solar energy.

Procedural matters

6. As indicated at IR4, the Planning Inspectorate ascertained from the appellant, at the Inspector's request, that 29% of the site (approximately 3.9 ha) is Grade 3a (best and most versatile), 67% is Grade 3b and 4% is non-agricultural.

Main issues

7. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR136.

Landscape Character

8. The Secretary of State agrees with the Inspector (IR137) that the manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the 2 fields and (IR143) that there would be effects on LCA18. The Secretary of State has given careful consideration to the Inspector's reasoning at IR137-142 including the mitigating effects of existing and proposed screening and notes that the Inspector considers that the overall landscape character effects would only be moderate-minor to minor (adverse). However, as the Inspector has acknowledged that the manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the NP, the Secretary of State considers that significant weight should be given to that.

9. In taking this different view from the Inspector on the degree of harm caused, the Secretary of State has taken account of the NPA's reasoning and conclusion at IR46 that the development would result in a semi-industrial appearance which would be at odds with the rural character of the appeal site, harmful to the landscape character of the area and to the special qualities of the NP. He has also had regard to paragraph 115 of the Framework which requires local planning authorities to give great weight to conserving landscape and scenic beauty in NPs, which have the highest status of protection in relation to landscape and

scenic beauty and, in that regard, has taken account of the need to conserve the key positive landscape attributes of the area arising from its historic origins (IR45).

Visual amenity

10. The Secretary of State agrees with the Inspector (IR144) that no harmful visual impacts on residential amenity have been identified so that the main considerations relate to the possibility of views from public places.

11. The Secretary of State has given careful consideration to the Inspector's observations at IR145-151, but he disagrees with the Inspector's conclusion at IR152 that there would only be some very limited residual harm to visual amenity to weigh in the balance. He notes that this conclusion by the Inspector depends on the mitigation of visual effects by proposed planting and considers that more weight should be given to the harm caused by the time required for that to reach maturity. Furthermore, the Secretary of State is concerned that the proposed planting is then likely to have a permanent effect on the landscape of the NP while the intention is that the appeal scheme would have only a limited life, albeit extending over 30 years (see paragraph 18 below). Overall, therefore he gives moderate weight to the negative impact of the proposal on visual amenity.

National Park

12. The Secretary of State agrees with the Inspector at IR153 that, as a nationally designated landscape, the NP is highly sensitive to change, although he accepts that national policy does not preclude the development of solar farms in national parks. The Secretary of State notes that the main parties agree that the current proposal is not small scale (IR154) and he agrees with that assessment (see paragraph 14 below). He therefore concludes that the proposal is in conflict with CSDM Policy CP4 (which supports increasing small scale renewable energy generation) and all three elements of Policy CP5 (see paragraphs 13 and 14 below), and he gives substantial weight to that conflict.

13. The Secretary of State acknowledges that the appellants and the Inspector have cited other cases within the NP as precedents (IR154-160 and IR162), but he considers it appropriate to assess each case on its own merits and, while he notes the Inspector's assessment at IR158 that there would be no material cumulative visual or landscape effects with the other schemes cited, he balances that against the sheer quantitative impact of an increasing number of solar farms in the NP, which he sees as being at odds with the requirement in paragraph 115 of the Framework to give the highest status of protection to the landscape and scenic beauty of NPs. Therefore, while noting the conclusion of the LVIA referred to at IR161 that the appeal scheme would not harm the most sensitive and fragile landscapes, the Secretary of State nevertheless takes the view that that needs to be seen within the overall context of the purpose of the NP designation – where the less sensitive and less fragile landscapes should complement those of the highest order. He has given careful consideration to the evidence available to him on the potential impact of the scheme within the NP in the context of the requirements of paragraphs 115 and 116 of the Framework, and concludes that the exceptional circumstances have not been demonstrated that would satisfy the

requirements of those paragraphs. Nor does he see any justification for reducing the weight to be given to CSDM policies CP4 and CP5 under the terms of paragraph 215 of the Framework.

14. As the Inspector points out at IR162, “major development” is not defined in the Framework and the Guidance confirms that it is a matter for the decision–maker. Having regard to the scale of the proposal (IR46), the fact that the parties agree that it is not small scale (IR154), the description of it making a “significant contribution” at IR169 and the Inspector’s own concluding comments that it would be a major development (IR191), the Secretary of State, as decision maker, concludes that the proposal should be regarded as “major development”. He has then gone on to assess the appeal scheme against the three criteria set out in paragraph 116 of the Framework and concludes that exceptional circumstances have not been demonstrated in terms of the need for the scheme to be located on the appeal site; the scope and cost of alternatives; or the justification for the detrimental effect on the environment, the landscape and recreational opportunities and the limited extent to which those impacts could be moderated.

Impact on Best and Most Versatile Agricultural land (BMV)

15. The Secretary of State has carefully considered the Inspector’s arguments at IR164-167 in relation to the impact on BMV land, and he agrees (IR172) that the inclusion of BMV land in the development would not of itself warrant the dismissal of the appeal but would be a factor to weigh in the overall planning balance. However, while he acknowledges that the proposal would minimise the use of the BMV land within the site, it would still necessitate the use of about 3.9 hectares of Grade 3a agricultural land, which he sees as representing a significant proportion of the site.

16. He considers that the loss of this BMV land, other than for sheep grazing, weighs substantially against the proposal. He is not satisfied that, in accordance with the WMS of 25 March 2015 (see paragraph 5 above), “the most compelling evidence” has been provided to justify this proposal involving the loss of BMV land, and he does not consider that the appellants have demonstrated clearly that the use of BMV land for this scheme is necessary and justifiable in terms of its loss to the full range of farming practices for which it would otherwise be suitable; and he gives substantial weight to its loss. In coming to this conclusion, he has taken account of the fact that the appellants had taken no account of any differentiation between Grade 3a and Grade 3b agricultural land in drawing up the scheme until that information was sought by the Planning Inspectorate (IR4), despite the fact that paragraph 112 of the Framework requires planning authorities to seek to use areas of poorer quality land in preference to that of a higher quality.

Renewable Energy

17. The Secretary of State acknowledges that the proposal would have an installed capacity of 5MW with the availability of a grid connection and a willing landowner (IR169), and that this would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets. He gives substantial weight to the contribution the scheme would thereby make to the Government’s commitment to mitigate climate change by reducing carbon dioxide emissions and helping to improve the security of energy supply.

Other matters

18. The Secretary of State has also noted the Inspector's comments on commoner grazing rights for cattle (IR173-175), and agrees that the use of the appeal site for sheep grazing would accord with the aim set out in the planning guidance[1] of allowing for continued agricultural use. However, the Secretary of State considers that the use of the BMV land for sheep grazing needs to be seen in the context of other, potentially more productive, uses for the BMV land (see paragraph 15 above), and so he gives it very little weight as a benefit. He does, however, give moderate weight to the bio-diversity benefits of the proposed scheme, as described at IR176 and IR183; and also gives moderate weight to the benefits that would result to the local economy from long term farming security and farm diversification (IR181-182). With regard to the temporary nature of the scheme (IR177), the Secretary of State takes the view that 30 years is a considerable period of time and the reversibility of the proposal is not a matter to which he has given any weight. He considers that a period of 30 years would not be perceived by those who frequent the area as being temporary and that the harmful effect on the landscape would prevail for far too long.

Conditions

19. The Secretary of State has considered the proposed conditions, as set out in the Schedule to the IR, and the Inspector's comments on them at IR184-185. He is satisfied that these conditions are reasonable and necessary and would meet the tests of the Framework and the guidance. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing the appeal.

Planning obligation

20. The Secretary of State has considered the Inspector's comments at IR185 on the S106 Planning Obligation dated 26 June 2015, and agrees that the provisions are compliant with the Community Infrastructure Levy Regulations 2010 as amended.

Overall balance and conclusions

21. The Secretary of State concludes that, as the appeal scheme conflicts with CSDM Policies CP4 and CP5, it cannot be regarded as being in accordance with the development plan; and he is satisfied that, in accordance with paragraph 215 of the Framework, the relevant CSDM policies can be given full weight as being consistent with the Framework. Hence, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, he has gone on to consider whether there are sufficient material considerations to indicate that the appeal should nevertheless be determined otherwise than in accordance with the development plan.

22. With regard to the material considerations in favour of the scheme, the Secretary of State gives substantial weight to the contribution the scheme would make to the Government's commitment to mitigate climate change by reducing carbon

[1] paragraph 5-013-20130327

dioxide emissions and helping to improve the security of energy supply. He also gives moderate weight to the bio-diversity benefits of the proposed scheme and to the benefits to the local economy from long term farming security and farm diversification. However, against those considerations, the Secretary of State considers that, as a "major development", the scheme fails to accord with the terms of the Framework, particularly paragraphs112 and115-116, and he gives substantial weight to that conflict. He also gives substantial weight to the loss of 3.9 ha of BMV land for the appeal scheme in view of the lack of compelling evidence to justify that loss; and moderate weight to the negative impact of the proposal on visual amenity with no weight to the potential reversibility of the proposal.

23. Overall, the Secretary of State considers that the benefits of the scheme are outweighed by the factors weighing against it and that there are no exceptional circumstances that would nevertheless justify the scheme. He therefore concludes that there are no material considerations in favour of the proposal of sufficient weight to justify determining the appeal other than in accordance with the development plan.

Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the for the construction of a 13.6 hectare solar park, to include the installation of solar panels to generate electricity, with substations, cabins, fencing and other associated works in accordance with application ref: 14/00817 dated 26 September 2014, at Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire, S014 0FP.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990. A copy of this letter has been sent to the New Forest National Park Authority. A notification letter/email has been sent to all other parties who asked to be informed of this decision.

Yours faithfully

Jean Nowak

JEAN NOWAK
Authorised by the Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Date: 30 November 2015

Town and Country Planning Act 1990

New Forest National Park Authority

Appeal by Locogen Ltd

Site Visit carried out on 12 August 2015

Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire SO41 0FP

File Ref: APP/B9506/W/15/3006387

File Ref: APP/B9506/W/15/3006387
Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire SO41 0FP

- 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 Locogen Ltd against the decision of New Forest National Park Authority.
- The application Ref 14/00817, dated 26 September 2014, was refused by notice dated 17 December 2014.
- The development proposed is described on the application and appeal forms as: 'Ground mounted solar array; capacity up to 5 megawatts; ancillary infrastructure including fencing, security cameras, inverter kiosks and substation building'.

Summary of Recommendation: That the appeal be allowed.

Procedural Matters

1. The appeal form is dated 9 March 2015 and the accompanied site visit was carried out on 12 August 2015. Necessary additional information about agricultural land quality was sought from the Appellant on 21 August 2015 and was submitted on 3 September 2015.

2. Although under the Town and Country Planning (Determination of Appeals by Appointed Persons)(Prescribed Classes) Regulations 1997, the appeal was to have been decided by an Inspector, the Secretary of State now considers that he should determine it himself. Accordingly, and in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 2 November 2015 the Secretary of State directed that he shall determine this appeal instead of an Inspector.

3. The reason for this direction is because the Secretary of State notes that the appeal site lies within the New Forest National Park. He would therefore wish to consider himself whether or not the proposal would have any impact on the National Park and the appeal is therefore being recovered because of the '*particular circumstances'*.

4. The Appeal Form at Qn.I (part two) states that this is not an agricultural holding. However the application form described the site as agricultural land. It is owned and obviously farmed as a beef unit holding by Mr R Bowring on whom notice was served of both the application and appeal. In the circumstances I have taken the response to Qn.I to be in error. However nobody would thereby be prejudiced. Notice was also served on a Mr S Brewis who has an interest in the adjacent woodland and in the land connecting the 2 fields on the appeal site and on Hampshire County Council in respect of the road access. The application site was described as Grade 3 agricultural land. At the appeal stage, the Inspectorate queried whether this was Grade 3a ('good' – 'best and most versatile') land or Grade 3b 'moderate'. The Appellant submitted a survey report which identifies that 67% is Grade 3b, and 29% is Grade 3a and that the remaining 4% is non-agricultural (mainly access). The Grade 3a land would amount to approximately 3.9ha out of 13.6ha.

Environmental Impact Screening

5. The Authority issued a screening opinion that, having regard to the scale and location of the development and environmental sensitivities, an Environmental Impact Assessment was not required. I concur.

The Site and Surroundings

6. The site lies in enclosed countryside in Sway Parish between the villages of Hordle and Sway. Whilst the site address is given as Vaggs Lane (where the Limolands farmstead is located), the construction and maintenance access would use an existing access point on Arnewood Bridge Road.

7. The appeal site is located in open countryside within the New Forest National Park which, alongside Areas of Outstanding Natural Beauty, has the highest status of protection in relation to landscape and scenic beauty.

8. The site comprises 2 large fields totalling 13.6 hectares which are linked by a narrow strip of land. The northern field is set away from the highway beyond intervening paddocks and a group of farm buildings at Swaylett Farm. It would be linked to Arnewood Bridge Road by an existing access route. Another new access route would link the northern field to southern field. The latter route passes between areas of woodland, one of which is both ancient woodland and a Site of Interest for Nature Conservation (SINC).

9. The 2 fields are enclosed in part by the woodland and otherwise by hedgerows that incorporate mature trees. In some places the hedges already provide a tall and continuous screen. Elsewhere the hedgerow trees have shaded out other vegetation but the trees still provide a screening or filtering function, particularly in longer views.

10. There is a railway line which lies to the north west and immediately to the south of this railway line is a public footpath. In general, the levels within the northern field are relatively flat although the land does drop away towards the north western boundary and to the south eastern corner of the field.

11. The southern field of the appeal site is bounded by similar agricultural pastoral countryside to the east and south, and by ancient woodland to the north. This field benefits from more limited views from the public realm when compared to the northern field. Notwithstanding this, there are sporadic views from the adjoining fields and the land drops away towards the southern and eastern boundaries.

Planning Policy

12. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the New Forest National Park Core Strategy and Development Managements Policies DPD (2010) (the CSDM).

13. Other important material considerations include: the National Planning Policy Framework (2012) (the Framework) which postdates the CSDM and replaces national previous policy to which the CSDM refers; and national Planning Practice Guidance (PPG) which expands on Government policy.

14. The appeal site lies within the New Forest National Park. Relevant material considerations therefore also include: the statutory purposes of the National Park Authority; the New Forest Management Plan 2010-2015; and the English National Parks and the Broads Circular 2010 (the National Parks Circular).

Renewable Energy

15. The most directly relevant development plan policy is CSDM Policy CP5 *Renewable Energy* which in summary will permit renewable energy schemes that assist towards national renewable energy targets where they: *(a) are small scale; (b) are located and designed to reduce visual impacts; and (c) do not have significant impacts on the special qualities of the National Park.*

16. CSDM Policy CP4 *Climate Change* supports proposals to mitigate climate change including through increasing small scale renewable and low carbon energy generation.

17. The encouragement of renewable energy is referred to in the Framework's core planning principles (paragraph 17). At paragraph 93 the Framework describes renewable energy as '*… central to the social, economic and environmental dimensions of sustainable development'*. Paragraph 97 seeks to increase the supply and use of renewable energy and also seeks recognition of the responsibility of all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 98 seeks that an application is approved if its impacts are (or can be made) acceptable.

18. The PPG is guidance rather than policy but it acknowledges that the need for renewable energy does not *'automatically override'* environmental protections. It follows that it is necessary to weigh any environmental harm with the benefits, including the wider environmental benefits. The PPG advises that *'large scale'* solar farms are to be '*focussed'* on previously developed and non agricultural land but does not preclude such development on agricultural land.

Rural Economy

19. CSDM Policy CP17 *The Land Based Economy* seeks to support land-based businesses that help to maintain the overall character and cultural identity of the National Park by measures that include: '*(a)(ii) maintaining the supply of land available for back up grazing on the enclosed lands; resisting the loss of back-up grazing through development or change of use'; '(b)(ii) farm diversification where this would help to sustain the existing farming business'* including *'non-agricultural diversification through the use of redundant farm buildings, where the new use would have a low environmental impact'* and '*(iii) helping to support markets for local produce and products'.*

20. CSDM Policy DP1 *General Development Principles* sets out principles for all types of development. It is not specific to renewable energy or farm diversification. It seeks amongst other things to respect the natural environment, landscape character and bio-diversity and to avoid adverse effects to amenity through visual intrusion. Paragraph 112 of the Framework provides that authorities should take into account the economic and other benefits of the *'best and most versatile'* agricultural land. Where significant development of agricultural land is necessary, authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

Landscape

21. In the New Forest Landscape Character Assessment 2015 (the LCA) the site is in character area LCA 18 '*Sway Pasture and Residential Settlements*.' Key characteristics that apply to the area around the appeal site include: '*farmed*

plateaus'; '*small scale landscape with a strong sense of enclosure'*; '*ancient field pattern of small pastures and hedgerows [is] an important area for grazing and recreational horse keeping'; 'ancient semi-natural woodlands and roadside oaks give a feeling of being 'in the forest''*.

22. The LCA recommended future landscape management guidelines include: '*to protect the mosaic of small scale fields*, *enclosed by well managed hedgerows'*; '*management to retain and enhance the strong hedgerow network'*; '*manage and enhance links between the hedgerow network and the area's woodlands to create a complete ecological network'*; '*protect the landscape's traditional pastoral character, particularly that associated with areas of historic and traditional field patterns; protect and manage the important stock of pasture for the grazing of commonable animals'*.

Visual Amenity

23. The PPG advises at ID 5-013-20150327 that: '*The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'*. It also refers to: '*the potential to mitigate landscape and visual impacts through, for example, screening with native hedges'*.

24. CSDM Policy CP5 provides amongst other things that renewable energy developments are to be *'located and designed to reduce visual impacts'.* The PPG advises at ID 5-013-20150327 that for ground mounted solar panels '*with effective screening and appropriate land topography the area of a zone of visual influence could be zero'*.

National Parks

25. Together with Areas of Outstanding Natural Beauty, National Parks have the highest status of protection in relation to landscape and scenic beauty. The Framework provides at paragraph 115 that *'Great weight should be given to conserving landscape and scenic beauty in National Parks …*' . Paragraph 116 states that planning permission should be refused for major developments in National Parks except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications shall include an assessment of any detrimental effect on the environment and landscape and the scope for developing elsewhere outside the designated area. There is no policy definition of major development.

26. The statutory purposes of the National Park Authority are: '*(a) to conserve and enhance the natural beauty, wildlife and cultural heritage of the New Forest;* and *(b) to promote opportunities for the understanding and enjoyment of the special qualities of the area for the public'*. Section 62(2) of the Environment Act 1995 states that in exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to such purposes. When National Parks carry out these purposes they also have a duty to: '*seek to foster the economic and social well-being of local communities within the National Parks'*.

27. Also of particular relevance to renewable energy development in National Parks is Paragraph 47 of the English National Parks Circular 2010 (the Circular) to which

there is a cross reference at paragraph 115 of the Framework and which provides amongst other things in relation to climate change that: *'Assumptions about the value of the traditional appearance of the countryside may have to be challenged as the needs which shape its future may be different from those which have shaped its past.'* … *'The Parks should be exemplars in renewable energy. Authorities need to work with local communities to reach a position where renewable energy is the norm in all Parks whilst not compromising their overriding duty under the 1949 Act'* … *'National Parks offer important opportunities for renewable energy generation which must not be overlooked, including … solar power installations appropriate to the national value of the landscape'.*

28. The New Forest National Park Management Plan identifies ten core topics for the National Park, including Objective 4 'planning for climate change'. This outlines the aim to plan for the likely impacts of climate change on the New Forest by *"supporting local or community-based initiatives for producing renewable energy"*.

29. The CSDM Policies CP4 and CP5 seek to give effect to these provisions by supporting renewable energy development, subject to criteria. In particular CSDM Policy CP5 will permit renewable energy developments that amongst other things, '*do not have significant impacts on the special qualities of the National Park'.* That does not preclude all adverse impacts.

30. Policy CP5 also provides that renewable energy development should be *'small scale'* but that term is not defined.

Planning History

31. A planning application for the construction of a 14 hectare solar farm, to include solar panels to generate electricity, associated plant buildings, perimeter fencing, CCTV cameras, landscaping and associated works was withdrawn on 15 August 2014. (Council Ref: 14/00470). The appeal proposal relates to a planning application which amended that earlier scheme.

32. The Appellant has drawn attention to 2 solar farm developments of similar scale that in 2011 were permitted elsewhere in the National Park by the National Park Authority at Cadland and Hamptworth. The relevant officer reports are at Documents LIM048 to LIM050 and include a report concerning a permitted extension to the Cadland solar farm in 2013 that postdates the introduction of the Framework.

The Proposal

33. There is a site location plan at Document Limo002. The proposal is to site solar panels in rows within each of the two fields. The existing hedgerows would be retained and reinforced with new planting. A 2m security fence would surround each group of panels leaving land outside the fence for bio-diversity enhancement such as meadow planting. Security cameras would be mounted along the fence at intervals on 2m poles. The open areas between the rows of panels and inside the security fence would be grass seeded for grazing by sheep. A layout plan that also shows the proposals for screening and biodiversity enhancement is at Document LIM005. There are photographs of the site and its surroundings at Document LIM015.

34. The Appellant did not agree the amended description used by the Council. Whilst that described the proposal as a *'14 hectare solar farm'*, the site area on the application form is given as only 13.6 hectares. Moreover the solar panels would cover only part of that area. That would allow grazing by sheep between the panels and would retain areas for bio-diverse planting outside the security fence. The appeal has been determined on the basis of the original description.

35. The Council's Decision Notice described the proposal as a *'resubmission of planning permission 14/00470'*. However the planning application under that reference was withdrawn in August 2014 and no planning permission was granted. In any event the appeal proposal has included amendments to that scheme to reduce its impact compared to that proposal.

S106 Planning Obligation

36. At the appeal stage the Appellant submitted a unilateral undertaking by the developer and the landowner to carry out additional planting of suitable native species in identified tree lines and hedgerows at Limolands Farm. These hedgerows are outside the appeal site but are on land in the same ownership as the appeal site (Mr Bowring). The locations are shown on the application drawing at Document Limo005.

THE CASE FOR NEW FOREST NATIONAL PARK AUTHORITY

Introduction

37. The appeal application was refused for the following reasons:

    1. The proposal would have a detrimental impact on the landscape character (in both short and long distance views) of the area by virtue of its existing intermittent boundary screening and the position of array and infrastructure on the slopes within the site. The proposal is considered not to be small scale and would have an adverse impact on the landscape character of the area and the special qualities of the National Park. Notwithstanding the above it is also considered that the proposal would have an unacceptable cumulative impact on the intrinsic landscape character of the National Park. It has not been demonstrated that the scheme could be considered as a form of agricultural diversification that would outweigh setting aside the adverse impact on the landscape of a scheme of this size and the scheme would therefore be contrary to Policies DP1, CP5 and CP17 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010), the National Planning Policy Framework and National Planning Practice Guidance.

    2. The proposed development, by virtue of its scale, would result in the loss of potential back-up grazing land which is essential to the future of commoning, and therefore would be contrary to policy CP17 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

Planning Policy

38. The appeal site is subject to primary legislation and stringent planning policies which seek to maintain the unique character of its countryside, and to avoid the cumulative effect of increasing the level of built development.

39. The Core Strategy was adopted in December 2010 and sets out the spatial vision for the National Park to ensure that at the end of the plan period (2026) the New Forest's outstanding natural beauty has been safeguarded and enhanced. The spatial vision includes ensuring that the Park remains an area with a unique and immediately recognisable sense of place, with a mosaic of landscapes, where traditional land management practices continue to thrive and inherent characteristics and local distinctiveness of villages have been retained and enhanced through the highest standards of design.

40. Land-based business, such as agriculture, commoning and forestry, play an important role in supporting the rural economy and maintaining the characteristic New Forest habitats and landscapes. Where agricultural diversification would be beneficial to the New Forest this should be supported. Furthermore, it is important to ensure that the supply of back-up grazing land is maintained by resisting the loss of back-up grazing through development or change of use. This is because commoning is a traditional practice of the New Forest forming part of the Forest's identity and is integral to the maintenance of the essential landscape character and cultural heritage of the area.

The Authority's Case for Dismissal

41. The Authority recognises its responsibility to contribute towards renewable energy production. Paragraph 5.40 of the Core Strategy confirms that the potential for renewable energy within the New Forest National Park will need to be balanced against the potential adverse visual and amenity impacts and that permission should only be granted where it can be demonstrated that the objectives of the National Park designation will not be compromised. Policy CP5 confirms that renewable energy schemes will be permitted where they are small-scale, are located to reduce visual impacts and do not have any significant impacts on the special qualities of the Park.

42. The emphasis within the policy framework is on supporting small-scale community based schemes. Given the size of the proposed scheme set within a 13.6 hectare site together with the proposed energy output it is not thought the proposal could be considered as being small-scale and this is not disputed by the appellant. While larger scale schemes are not explicitly precluded by national policy, the key policy requirement is the demonstration that the objectives of the National Park designation will not be compromised by the development. If there were significant adverse effects on the special qualities of the Park these would need be clearly outweighed by environmental, social and economic benefits. Given that the scheme is not small scale, consideration therefore needs to be given as to whether there are other policy reasons which would outweigh the presumption in policy CP5 against larger scale schemes.

43. It is considered that there are three main issues in respect of this appeal:

i) The impact of the proposals on the landscape character of the site, the surrounding locality and the intrinsic landscape value of the National Park generally.

ii) The wider socio-economic and environmental benefits.

iii) The loss of back-up grazing land.

(i) Landscape

44. The New Forest is renowned for its diversity of landscapes, natural beauty and amenity value and the combination of heathland, mire and pasture woodlands has a unique cultural identity which has been afforded the highest status of protection. The Authority's primary duty is to deliver the two statutory purposes to conserve and enhance natural beauty, wildlife and cultural heritage of the land within the National Park and promote opportunities for the understanding and enjoyment of its special qualities by the public. The planning system plays a key part in the delivery of these two purposes.

45. The nature of the landscape in the vicinity of the appeal site is one of very sporadic development consisting of dwellings contained in their own defined curtilages and for the most part is characterised by undeveloped fields. It is a landscape with historic origins and of New Forest character, defined by small rectilinear paddocks and fields, which are often used for grazing. It is these ancient field patterns, of small wavy and parliamentary fields surrounded by a network of hedgerows, such as those surrounding the appeal site, which form key positive landscape attributes of this area as is identified by the Landscape Character Assessment (appendix 1).

46. The proposal would result in approximately 20,000 solar panels mounted on rows of metal frames which would have a height of 2m covering a 13.6 hectare area. The development would also require associated infrastructure such as a temporary hardstanding, the upgrading and construction of a new access track measuring a total 900m in length, security fencing of approximately 2m in height together with CCTV mounted on poles of a similar height and plant buildings. The Authority considers the cumulative impact of the proposed development would result in a semi-industrial appearance which would be at odds with the rural character of the appeal site, which is undulating fields with hedgerows typical of the character of this part of the New Forest, harmful to the landscape character of the area and the special qualities of the National Park.

47. The public footpath located to the south of the railway line affords views across the appeal site, particularly towards the northern and north western boundaries of the 'northern field'. There are also sporadic views from the adjoining fields of the 'southern field'. It is acknowledged that the Appellant proposes additional planting to the existing hedgerows as shown on drawing number LIM005 V2 to help screen views of the solar panels and associated infrastructure from the public footpath and has submitted a S106 unilateral undertaking to this effect. However the proposed additional planting would only be effective during the summer months and it is considered views of the northern field would still be afforded from the public footpath due to the topography of the land in the north western corner resulting in an unacceptable harmful visual impact.

48. Even if no public views were afforded of the site this does not mean that landscape impact should be discounted. The Framework acknowledges planning should [recognise] the intrinsic character and beauty of the countryside (para 17). The importance of considering landscape character in decisions, in both designated areas which have the highest level of protection, such as the New Forest National Park, but also non-designated areas, was recently emphasised by the Government in a letter from Brandon Lewis dated March 2015. There are many parts of the New Forest that cannot be seen from public vantage points however this does not confer a propensity for development on those areas. Landscapes seen and unseen from public vantage points are of equal value and are equally protected; it is the mosaic of landscapes within the New Forest National Park which contribute to its unique character. The proposal by virtue of its large scale and unnatural, semi-industrial appearance would have a significant effect upon the fabric, character and quality of the landscape and would become a defining characteristic of the landscape to the detriment of the Park's special qualities and its statutory purposes. The result of the development would therefore be significantly at odds with the weight to be given to conserving the landscape and scenic beauty of the New Forest National Park contrary to local and national planning policy.

(ii) The Wider Socio-Economic and Environmental Benefits

49. Policy CP17 confirms that land based businesses that help maintain the overall character and cultural identity of the National Park will be supported by supporting farming that is beneficial to the Forest through farm diversification as is set out in paragraphs 11.19 and 11.20 of the Officer Report.

50. The information submitted with the application on this matter is not considered to be comprehensive despite this being raised as a concern on the previously withdrawn application. In cases where a genuine farm diversification scheme can be demonstrated the Authority would expect a detailed business plan, both short and long term, setting out the growth of the agricultural holding over the next 3-5 years and how the income achieved from the solar farm would be re-invested back into this agricultural activity to ensure that the agricultural enterprise remains core and the main activity within the site. The Appellant has not therefore validated his intentions and for these reasons the Authority would contend that the proposal would not form part of a well-conceived farm diversification scheme and would have limited wider socio-economic benefits which would not outweigh the harmful impact upon the landscape character of the National Park and its intrinsic landscape character.

(iii) The Loss of Back-Up Grazing Land

51. Commoning has played a vital role in creating the landscapes and habitats of the Forest over many hundreds of years. It is a traditional land management practice which is under threat from increasing competition from different land uses. There are several rights over the forest including: common of pasture, pasture of sheep, mast, fuel wood, marl and turbary. The most important of these rights today is that of pasture which allows animals (ponies, donkeys and cattle) to be turned out into the open forest. A report undertaken by the Authority in 2013 (appendix 3) found that 57% of these animals were ponies and 36% cattle.

52. Whilst commoners have rights to graze their animals in the open forest, they also require back up grazing areas in the enclosed agricultural lands as this is

essential in providing land for extra winter grazing as well as a supply of fodder for their livestock. The *State of the Park Report* in 2013 estimated that approximately 4,250ha of land was used for back up grazing land to support commoning in the Forest however commoners were still identifying the need for further access to back up land to help support their commoning activity. It is therefore important that agricultural land, especially land which is adjacent to, or has the right of pasture, is not developed or lost to other uses in accordance with policy CP17. Policy CP17 explicitly states the loss of back-up grazing through development or change of uses will be resisted.

53. A large part of the appeal site has been identified by the Verderers as having the right of pasture, shown as parcel numbers 797 and 728 on the map attached as appendix 4. This means that part of the northern field and the southern field have commoners rights to graze animals in the forest. Given therefore the commoning rights which are attached to the land, together with the hectarage of land which would be lost as a result of the proposal, it is important that the land remains in agricultural use to support current and future commoning activity around this area of the forest. The proposal would result in the direct loss of both parcels of land identified by the Verderers as having the right of pasture, together with adjacent parcels of agricultural land, which would support the historic system of commoning unique to the New Forest. The proposal is therefore contrary to policy CP17 and would harm the special qualities of the National Park in that it would fail to maintain not only the character of the National Park but also its cultural identity.

NPA Comments on the Appellant's Grounds of Appeal

Reason No:1

54. The Appellant states that the fact that the existing and proposed hedgerow planting and existing woodland will help to screen the development and therefore *'the intrinsic qualities that underpin the landscape and scenic beauty of the New Forest will be unaffected'*. It is important to refute the concept that just because a site is not completely visible from a public vantage point then a greater propensity for development is conferred on that site. There are many locations in the New Forest National Park that are not readily visible from public vantage points but that does not make them less sensitive to development. There is also the question of seasonal variations to the screening potential of hedgerows and woodland which is not addressed by the appellant. A hedgerow will have less ability to screen in the winter months than in the summer months.

55. The Appellant states that *'the location of the development avoids harm to the most sensitive and fragile landscapes - namely the extensive areas of unenclosed woodland, grassland and heath and the associated qualities they underpin.'* The New Forest National Park Authority does not zone the area within its boundaries into areas of greater or lesser sensitivity or fragility as the whole of the New Forest is afforded the highest level of landscape protection in both primary legislation and national planning policy. The area within the cattle grids, or the perambulation (where stock grazes freely), referred to by the appellant as unenclosed, is one of the iconic landscapes within the whole New Forest National Park, one that many tourists associate with the New Forest. It is, however, not the only landscape within the boundary of the New Forest National Park and the Authority does not have a lower threshold of sensitivity on the enclosed

landscape that surrounds the perambulation area. Indeed the long process of drawing up the boundary to the New Forest National Park was fully consulted upon at the time and forms part of the legislation that protects the landscape within the boundary, without differentiating between enclosed and unenclosed landscapes.

56. The enclosed landscape which makes up around 50% of the designated National Park has strong historic links to the unenclosed heathland and woodland and is inextricably linked to the function of grazing animals over the centuries that has created the New Forest mosaic of landscape types as we know it today. The enclosed landscape stretched much further north, west and eastwards in centuries past and the recognition of the importance of what remains of this historic landscape and its close relationship to the unenclosed landscape was one of the factors that led to it being included within the National Park boundary.

57. The Appellant states that the two fields are not sloping. The land does slope in a natural way towards the watercourses in the immediate vicinity, as would be expected. The northern end of the northern field lies on the 40 metre contour, the southern end on the 35 metre contour, a drop of 5 metres over an approximate distance of 339 metres. The southern field has a drop of 5 metres between the 35 metre contour and the 30 metre contour over an approximate distance of 138 metres. This would constitute a slope to both fields, one steeper than the other.

58. The two previously permitted schemes referred to by the Appellant are considered to be different to the appeal scheme in that there were considered to be wider socio-economic and environmental benefits unique to those schemes which on balance were considered to support the continuing stewardship of the New Forest. As with every application, these schemes were assessed on their own individual merits. The Authority has recently refused another large solar development within the National Park at Exbury. The Officer's report is attached to the Authority's appeal statement at appendix 5.

59. Furthermore, since the consideration of the two schemes referred to by the appellant the PPG has been updated to emphasise the need to focus large-scale renewable energy developments on previously developed or non-agricultural land. This guidance post dates the applications referred to by the appellant and highlights the change in Government policy and guidance on solar development in the last 2-3 years. The PPG (2014) section on renewable energy for example is clear that local planning authorities should encourage the effective use of land *"...by focusing large scale solar farms on previously developed and non-agricultural land,.."* .

60. The Authority considers that the Appellant mis-represents the Authority's socio-economic duty. This duty is not a third purpose and the wording of the Environment Act 1995 is clear that National Parks should seek to foster the economic and social well-being of local communities within the Park while pursuing the two statutory purposes. The duty is therefore only relevant when the Park purposes are met. The socio-economic benefits of a project cannot be a factor if the proposal does not conserve and enhance the National Park.

Reason No: 2

61. The Appellant has stated that the installation of solar panels would not result in the field not being able to be used as grazing as it would be appropriate for sheep to graze. 93% of the animals turned out into the forest are either cattle or ponies. The number of properties which have rights of common for sheep within the forest is very low and these commoners, as has been identified by the Appellant, do not live within the vicinity of the appeal site. The installation of solar panels on this land would, however, mean that it would not be suitable for the grazing of ponies and cattle which constitutes the main animal stock turned out into the forest. Furthermore, it should be noted that back-up grazing land is not only used for additional winter grazing but also for fodder for the livestock. It would not be possible to harvest hay from these fields if the solar development were to be granted.

Conclusion

62. For the above reasons the Authority contends that the proposed development does not accord with the development plan or the Framework. The Framework's presumption in favour of development acknowledges that National Parks are areas where development may be restricted. The PPG states that the responsibility of all communities to help increase the supply of green energy does not mean that the need for renewable energy automatically overrides environmental protections. The New Forest's landscape has an intrinsic and national value which was a major contribution to its designation as a national park.

63. The proposal fails to comply with CSDM policy CP5 in that it would not be small scale and would have a detrimental impact upon the immediate and intrinsic landscape character of the appeal site. It has not been demonstrated that benefits would outweigh a scheme of this size and it would result in the loss of land that could be used for back-up grazing. The proposal therefore fails to conserve and enhance the natural beauty, wildlife and cultural heritage of the New Forest and would not promote opportunities for the enjoyment or understanding of the Park's special qualities contrary to the two statutory purposes of a National Park. It is therefore requested that the appeal be dismissed.

THE CASE FOR LOCOGEN LTD

Introduction

Overview

64. The application for planning permission was accompanied by:

- A comprehensive drawings package including photographs from ten viewpoints (Documents Limo002 - Limo018 and Limo032 - Limo035); and
- A Supporting Environmental Document (including a Design & Access Statement) and various technical and environmental appendices (Documents Limo019 - Limo030).

Copies of all the aforementioned documents are included as part of this appeal.

The application was refused at the NPA's Development Control Committee on 16 December 2014 (Documents Limo043 and Limo044).

A copy of the decision notice is included at Document Limo047.

Suggested Legal Agreement

65. As first suggested in an email to the planning officer dated 29 October 2014 (Document Limo036), the Appellant considers that the most appropriate means of delivering the proposed off-site mitigation planting, and its ongoing maintenance throughout the life of the solar array, would be through a legal agreement.

66. To confirm, the areas to be planted lie within the wider landholding of Limolands Farm and therefore fall under the ownership of the Bowring Family, which also owns the appeal site.

67. Notwithstanding the comments of the planning officer in his Committee report (Document Limo043), the Appellant offered to enter into discussions with the NPA's legal officers with a view to agreeing heads of terms and/or progressing a draft agreement prior to the Committee date (Document Limo036). Despite repeated subsequent requests, this offer was not taken up.

Business Case

68. Document Limo031 is a Business Case for Limolands Farm. Given that this document contains sensitive financial information, the Appellant requests that it remain confidential.

Background

Need for Environmental Impact Assessment

69. A 'screening' opinion was sought under the EIA Regulations 2011. The NPA's response, dated 21st January 2014, states that *"...the proposal does not require EIA procedures, but the size and visual impact of the proposal, including access track and perimeter fencing, as well as the nature of the sensitive area (National Park) would be considered during the course of any planning application submitted"* (Document Limo000).

Previous Planning Application

70. An application for a 5MW solar array was submitted to the NPA in June 2014 (Ref. 14/00470). This application was withdrawn in August 2014 to allow the applicant to address the concerns of stakeholders.

71. The second application (which is the subject of this appeal) sought to address the concerns raised though revisions to the layout and design of the solar array, additional supporting information and, further policy justification. Full details are presented in Chapter 3: Work to Date of the Supporting Environmental Document (Document Limo019).

Consultation with Local Residents

72. As detailed in Section 3.3 of the Supporting Environmental Document (Document Limo019), the Appellant consulted with local residents prior to the submission of both applications. No comments were received on either occasion.

73. In response to comments received from representatives of both local Parish Councils following submission of the second application, the Appellant also:

    - Attended meetings of both Hordle and Sway Parish Councils to present the proposals and answer questions from the community; and
    - Held a 'walk in' public information event at a locally accessible venue. The event was advertised in the local press, invitations were posted to the nearest residential properties and posters were erected at various public venues in Sway and Hordle.

74. Further details are included in Locogen's update email to the planning officer dated 28 November 2014 (Document Limo037).

Planning Policy Context

Development Plan

75. The reasons for refusal refer to three policies. The Appellant is of the opinion that the proposals meet with the aims and objectives of said policies.

76. Policy CP5: Renewable Energy allows for renewable energy development within the National Park, subject to compliance with specified criteria.

77. It is acknowledged that the proposals cannot be described as small-scale in nature. Notwithstanding, in granting 5MW solar arrays elsewhere (Cadland (Ref. 11/96086/FULL) and Hamptworth (Ref. 11/96148/ FULL) Estates), the NPA has stated that larger-scale schemes are not explicitly excluded in policy terms and the key requirement is to demonstrate that the objectives of the National Park designation will not be compromised by the development.

78. This requirement is demonstrated throughout the Supporting Environmental Document (Document Limo019). For example, the LVIA (Chapter 6) concludes that the immediate locality is physically capable of accommodating the scale of development proposed without adversely affecting the characteristic features and qualities of the New Forest.

79. Turning to visual effects, the ZTVs (Drawings LIM009 assuming bare earth and LIM011 including existing woodland screening) demonstrate that the extent of theoretical and likely visibility is very limited. When the screening effect of the proposed mitigation planting (Drawing LIM005) is taken into account, the solar array will effectively be screened from view from the public realm.

80. Policy CP17: The Land-based Economy confirms that agricultural diversification of land-based businesses that helps to maintain the overall character and cultural identity of the National Park will be supported.

81. The land at Limolands Farm, which has been used for local food production for at least the last thirty years in the form of cattle farming, has not at any time been available as back-up land for commoning in the living memory of the current and previous owners (a period of some eighty years). However, this project now intends to make grazing land available to commoners and hence increase the available potential back-up grazing pool.

82. It is therefore considered that the project will help to ensure the future viability of commoning through the provision of previously unused grazing land into the

back-up grazing pool for commoners raising sheep (of which there are five in the New Forest).

83. As detailed in the Business Case (Confidential Document Limo031), the additional lease income generated by the development is the minimum required to secure the future viability of the existing beef business at Limolands. This will enable the Bowring Family to continue their stewardship of this part of the New Forest, thus contributing towards maintaining its key characteristics and producing local produce.

84. In this respect, the Committee report relating to an extension to an existing solar array at Cadland Estate states, *"...even if there was a technical argument that the scheme does not apply with Policy CP5 by virtue of not being small-scale it is arguable that there are good reasons that outweigh this consideration with specific regard to Policy CP17 and also the duty of the National Park, in pursuing its purposes to foster economic and social well being of communities".* (Document Limo049)

85. The solar array would result in only a marginal reduction (6%) in the net grazing area for a temporary period of thirty years. Almost a third of the site would be given over to ecological enhancement while the land between the panels will be used to graze sheep.

86. This is consistent with the approach taken by the NPA in granting planning permission for solar arrays on sites elsewhere in the New Forest which were agricultural land including grassland prior to their installation.

87. Where applicable, the submitted scheme has been prepared to comply with the requirements of Policy DP1 General Development Principles.

88. The Site Selection Methodology identifies no suitable or available alternative sites located on non-agricultural or 'brownfield' land in the region, including areas outwith the National Park. In then considering 'greenfield' sites, the search focused on lower quality agricultural land that is generally flat and well screened by established woodland/treebelts – the site meets all of these criteria.

89. The proposals have been carefully designed (including additional planting) to minimise visual intrusion and to respect the character of the surrounding landscape.

90. Subject to the recommended mitigation measures and compliance with best practice, there would be no adverse effects on the natural and built environment and there have been no objections from statutory consultees in this regard.

91. The construction of the solar array would be carefully managed to ensure no adverse impacts in terms of traffic generation, noise, dust etc. Once operational, there will be no visible security lighting thus preserving the rural character of the area.

Rebuttal of the Reasons for Refusal

92. The appellant has already justified the proposals in detail in the documents submitted in support of the application. In rebutting the two reasons for refusal, the appellant respectfully draws attention to the following:

a) Document Limo019 – Supporting Environmental Document (specifically Chapter 3: Work to Date)

b) Document Limo031 – CONFIDENTIAL Limolands Farm Business Case

c) Document Limo036 – Locogen email to NPA dated 29th October 2014

d) Document Limo037 – Locogen email to NPA dated 28th November 2014

e) Document Limo045 – Locogen email to Committee members dated 11th December 2014

Reason No 1

93. In the opinion of the Appellant's chartered landscape architect, the trees and woodland blocks that surround the site and the pattern of extensive areas of built development and woodlands throughout the wider landscape will, in practice, limit the opportunity for open views of the proposed development and associated changes to the National Park. The intrinsic qualities that underpin the landscape and scenic beauty of the New Forest will therefore be unaffected. The location of the development avoids harm to the most sensitive and fragile landscapes - namely the extensive areas of unenclosed woodland, grassland and heath and the associated qualities they underpin. The Landscape and Visual Impact Assessment (LVIA) (Document Limo019) concludes that the effects on LCA 18 would be moderate-minor to minor (adverse) and that adjoining landscape character areas would not be affected.

94. The solar array will be in situ for a maximum period of thirty years. At the end of its operational life, the array will be decommissioned and the site reinstated. The proposals will not therefore result in the permanent 'urbanisation' of this part of the National Park.

95. It is acknowledged that, without mitigation, glimpsed views of the panels within the northern part of the northern field may be possible from the public RoW that runs alongside the railway line. However, once the supplementary planting on the western boundary of the northern field and along two field boundaries within the intervening landscape have established and grown to approximately 2m in height (Document Limo005), the development would effectively be screened from view from the public realm. In this latter regard, the solar arrays at Cadland and Hamptworth were both deemed to be acceptable subject to inter alia the provision of additional planting to further filter views from local footpaths.

96. More generally, the proposed mitigation planting of native species trees and hedgerows at various locations around the boundary of the site would effectively screen the solar array and its associated infrastructure from nearby areas and help integrate the development into the surrounding landscape fabric. It is predicted that these measures would only result in occasional glimpses of the development through vegetation and would also serve to conserve and enhance the intrinsic character of the local landscape.

97. The PPG seeks to avoid the siting of solar arrays in 'undulating' rural landscapes. While it is accepted that there are a few metres difference in the levels across the site, neither field could reasonably be described as 'sloping'. In addition, great care has been taken in the layout of the scheme to focus the panels on the flatter central areas of the fields.

98. It is acknowledged that the proposals do not constitute small-scale renewable energy development (Policy CP5). Notwithstanding, the NPA has made clear in the past that larger-scale schemes are not explicitly excluded in policy terms (Cadland and Hamptworth are comparable to the appeal proposals in terms of overall electricity generation and the landtake needed to accommodate the array infrastructure). The key requirement is to demonstrate that the objectives of the National Park designation will not be compromised by the development. In this respect, the environmental and technical assessments demonstrate that there would be no demonstrable adverse effects on natural beauty, wildlife or cultural heritage. The proposals do not therefore contravene the overriding objective of National Park designation. In taking forward the purposes of National Park designation, it is relevant to note that there is also a duty to foster economic and social well-being.

99. Consistent with Policy CP17, the proposals comprise an appropriate form of agricultural diversification that will help support an established farming business and the landowner's ongoing rural stewardship of this part of the New Forest.

100. Ensuring the financial viability of his farming business in the long-term is the landowner's key consideration in seeking to diversify into solar electricity generation. To be clear, the additional lease income generated by the proposals is the minimum required to ensure the future viability of the existing cattle business.

101. Traditional farming in this part of the National Park has seen significant decline in recent years as a result of competition for land for non-farming uses (especially equestrian activities) and a reduction in financial viability. Policy CP17 acknowledges that farming contributes to the landscape character and cultural identity of the New Forest and is under threat. The landowner is committed to continuing his farming operations at Limolands and the submitted Business Case (Confidential Document Limo031) demonstrates that the proposed solar array is the only viable means of diversifying and supporting the existing business.

Reason No 2

102. The Appellant considers that this part of Policy CP17 has been misapplied in this instance as the wording of the policy relates specifically to (A) maintaining the supply of land available for back-up grazing on the enclosed lands and (B) resisting the loss of back-up grazing through development or change of use.

103. With respect to (A), the Appellant is actively attempting to make the circa 10 hectares of land around the proposed solar panels available to New Forest commoners as back-up grazing or as grazing for their flocks. This is a key point about the proposed solar farm in that the land can still be used as grazing. With the help of the New Forest Land Advice Service, five commoners have been identified who have the right to turn sheep out onto the Forest. At the current time, these commoners have not committed to using the appeal site either because they live too far away in the north of the Forest or have adequate existing land supply. However, they may be interested in future and the Appellant is also currently exploring options to support other small-scale local farmers with this grazing land. For this reason, it is considered that the proposals will not only maintain the supply of land available but, subject to interest from commoners, will also increase the supply of land available for back-up grazing by making this land available to commoners for the first time.

104. With respect to (B), the land at Limolands Farm, which has been used for food production for at least the last thirty years in the form of cattle farming, has not at any time been available as back-up land for commoning in the living memory of the current and previous owners (a period of some eighty years). In addition, the supporting narrative to Policy CP17 states that commoners "require back-up grazing areas in the enclosed agricultural lands (and) consequently it is important that agricultural land, which is used for these purposes, is not developed or lost to other uses". This implies that the land to be protected is that which is already used as back-up grazing for commoners. For this reason it is considered that the proposals will not in any way result in the loss of back-up grazing and in fact offers a net gain of back-up grazing to the New Forest commoners.

105. Lastly, by way of providing background information to the terms used when discussing commoning in the New Forest, it is useful to understand the following definitions:

a) Open Forest – The open heath and woodland of the New Forest where animals are seen to roam freely.

b) Rights of Common – The right to graze animals on the Open Forest. These rights are not held by individuals directly but are attached to land holdings. If an individual purchases a piece of land that has Rights of Common attached to it, that individual is then entitled to graze animals on the Open Forest.

c) Commoner – An individual who owns the title to land to which Rights of Common are attached.

d) Active Commoner – A Commoner who exercises their right to graze animals on the Open Forest.

106. Then in the context of the Limolands proposed solar array, part of the appeal site has Rights of Common attached to it, making the landowner, Mr Bowring, a Commoner. If he so wished he could turn his animals out on to The Forest to graze. However he does not currently turn his animals out on to The Forest so he is not considered to be an Active Commoner.

Appellant's Response to the National Park Authority Statement

Landscape and Visual Amenity

107. The NPA has again over-stated the scale of development proposed. While the overall site area does indeed measure 13.6 hectares, only a quarter would be occupied by the solar array infrastructure. Almost one third would be devoted to habitat enhancement with the remainder given over to livestock grazing.

108. With regard to the proposed access track, only the first section (as far as the sub-station location) within the northern field would be maintained during the life of the project. The remainder would be temporary in nature and returned to an un-surfaced access route once construction is complete.

109. The Appellant appointed a chartered landscape architect to undertake a Landscape & Visual Impact Assessment (LVIA) (Document Limo019). Contrary to the views of the NPA, this assessment finds that the physical features that underpin the intrinsic character of the Sway Pasture & Residential Settlements LCA would be protected, and with the mitigation planting proposed, enhanced.

110. From the RoW adjacent to the railway line (viewpoint VP2), the Appellant's LVIA acknowledges that, before mitigation, significant landscape and visual effects would be experienced. However, after the proposed tree and hedgerow planting (Document Limo005) has established, the solar array and associated infrastructure would be much less visible and limited to glimpses through intervening vegetation. Therefore, even during the winter months (to be clear, the study considers the 'worst case') when the existing and proposed planting will not be in leaf, the LVIA finds that the landscape and visual effects would not be significant.

111. It is acknowledged that some of the proposed mitigation planting falls outwith the 'red line' site boundary. In order to ensure that this planting is provided and maintained throughout the life of the solar array therefore, a S106 Unilateral Undertaking has been prepared and signed by the Appellant and the landowner.

112. Contrary to the views of the NPA, the proposals have been carefully sited and designed to avoid significant landscape and visual impacts. As detailed in the appellant's LVIA, the intrinsic qualities that underpin the landscape and scenic quality of the National Park would not be significantly affected. The scale of development proposed respects the field pattern and the landscape framework in this part of the New Forest. The landscape fabric of woodland, trees and hedgerows would remain intact and, with mitigation planting, strengthened.

113. The appellant is of the opinion that the proposals conserve and enhance the intrinsic character of the surrounding landscape and the National Park designation. Accordingly, the duty to *"...foster the economic and social well-being of local communities..."* comes into play.

Farm Diversification

114. Policy CP17 acknowledges that traditional farming contributes to the landscape character and cultural identity of the New Forest and is under threat. The landowner is committed to continuing his Limousin beef farming operations at Limolands and his associated stewardship of this part of the National Park. The support given to farm diversification through Policy CP17 is not limited to powerful estates with vast amounts of land. In this respect, the importance of the solar array at Limolands as a viable means of providing additional income to support the established farming enterprise should not be so easily dismissed by the NPA.

115. The NPA states that the landowner's reasons for seeking to diversify his farming business and the associated socio-economic benefits have not been fully articulated. The Appellant disagrees with this. As detailed in the Business Case (Confidential Document Limo031) and summarised in the Supporting Environmental Document (Document Limo005), the additional lease income generated by the development is the minimum required to secure the future viability of the existing beef business at Limolands Farm.

116. The solar array would provide regular additional income to allow the landowner to continue his farming operations. In turn, this would support his continued stewardship of this part of the New Forest, thus contributing towards maintaining its key characteristics. The NPA supports traditional farming practices as a means of conserving the character and identity of the New Forest. While the landholding at Limolands is not a vast acreage, the appellant considers that

support should be given to diversification schemes that help to stem the incremental loss of more modestly sized farms to other land uses. In this respect, Policy CP17 makes no distinction between large estates and smaller farming enterprises.

Commoning and Back-up Grazing

117. The Appellant's position in relation to commoning and loss of back-up grazing land is set out in the Appeal Statement. In response to the additional comments of the NPA, the appellant wishes to respond as follows:

118. The NPA states that: "...it is important that the land remains in agriculture use to support current and future commoning activity around this area of the forest". This appears to run contrary to the text that accompanies Policy CP17 which states that commoners "require back-up grazing areas in the enclosed agricultural lands (and) consequently it is important that agricultural land, which is used for these purposes (emphasis added), is not developed or lost to other uses". The latter implies that land to be protected is that which is already used as back-up grazing for commoners.

119. Notwithstanding the right of pasture tied to part of the appeal site, the land at Limolands has not at any time been used as back-up land in the living memory of the current and previous owners (a period of some eighty years). Additionally, neither the current nor the previous owner has any recollection of having been approached by a commoner(s) seeking to rent the land for grazing animals (be they ponies, cattle or sheep) or for producing fodder.

120. Furthermore, permission is sought for a period of thirty years and once the solar array is decommissioned, the site will be returned to its current use. In the meantime, the land between the panels would be available as back up grazing to commoners who have the right to turn sheep onto the New Forest.

Use of Agricultural Land

121. A Site Selection Methodology (Document Limo023) was submitted as part of the planning application. In summary, the Methodology demonstrates that there are no suitable and/or available 'brownfield' or non-agricultural sites capable of accommodating the proposals within the search area (that extends far beyond the administrative boundary of the National Park Authority, consistent with previous appeal decisions). As it is not referred to in the reasons for refusal, it is contended that the NPA is satisfied this document provides sufficient evidence of a sequential approach to site selection having been undertaken.

122. The NPA infers that consideration of the appeal proposals ought to be different to the NPA's determination of the solar arrays at Cadland and Hamptworth, given the publication of PPG in the intervening period. The Appellant does not agree with this as the statutory purposes of National Park designation are the main considerations in the determination of development proposals within the New Forest. In any case, as detailed above, a site selection process has been undertaken that complies with the PPG.

Appellant's Response to Consultee & Third Party Comments

123. The comments of statutory consultees are summarised in the Committee report (Document Limo043) and the Appellant's responses are set out in an email to the planning officer dated 28 November 2014 (Document Limo037).

124. The Highway Authority (Hampshire County Council) lodged a late objection to the proposals. In response, the Appellant commissioned transport consultants JMP to demonstrate that a suitable access arrangement was achievable. Having reviewed the drawings provided (Documents Limo038-Limo040) and discussed matters further with JMP, the Highways Authority withdrew their objection (Document Limo041) just prior to the Committee meeting. This was reported verbally to Committee so the third reason for refusal was dropped (Document Limo044).

125. For completeness, the NPA Tree Officer was advised of the required tree works at the site entrance following JMP's further assessment. She subsequently confirmed that she too had no objections (Document Limo042).

126. As detailed in the Committee report, the planning application generated just 4 letters of objection from interested persons and 1 letter of support.

127. The comments of interested parties (Hordle Parish Council, Sway Parish Council and the New Forest Association) largely reflect the concerns of other interested persons. Responses were prepared and form part of Document Limo037.

128. Most of the points raised by interested parties and persons at the appeal stage are addressed elsewhere. Those remaining (where they are 'material' considerations and relevant to the determination of the appeal) are responded to as follows.

a) The development will result in a modest increase in traffic during construction. Once operational, the solar array would require only limited maintenance. There are no objections from statutory consultees in relation to traffic matters.

b) One interested person has included a photograph taken from a field gate off Vaggs Lane and commented that *"the development would extend across the entire view"*. To be clear, the field in the foreground is not the appeal site. The photograph taken from the RoW along the railway line (viewpoint VP2) is considered to represent the 'worst case' and was assessed as part of the LVIA for this reason.

c) The LVIA concludes that the additional planting proposed would need to grow to a height of 2.5 metres to screen much of the development from view.

WRITTEN REPRESENTATIONS FROM INTERESTED PARTIES AND PERSONS

Application Stage

129. The original planning application letters are not on file but are summarised in the Officer Report. At the planning application stage Hordle Parish Council advised that it would be happy to accept the decision reached by the Planning Officers but to increase community engagement, the parish requested officers to thoroughly scrutinise the site's placement. In addition it asked for the company to have more rigid outlines for the proposed ecological aspect of the site.

130. Sway Parish Council recommended refusal on the basis that the location is inappropriate inside a National Park, adjacent to an Ancient Woodland, over a watercourse, and not far from a public right of way. The parish considered that the development is not small scale and it would have an adverse effect on the landscape character and local ecology. There had been insufficient local consultation within Sway and the development was not supported by the Sway Village Design Statement (not submitted in evidence). It would therefore contravene various development plan policies and paragraph 115 of the Framework.

131. There was one letter of support from an interested person on the basis in summary that: there is national public support for green energy; no views would be available from passing trains or from the houses of those who oppose the development; and the landowner should be commended for his support of an agricultural way of life for so long when other land was being converted to horse paddocks. The diversification would allow him to continue to farm.

132. There were 4 letters of objection from local residents. The grounds for objection included that this would be unnecessary and inappropriate development in a National Park or the countryside. Land should be used to grow crops, fruit and vegetables. The ugly rows of panels, plant and fencing would be a bad precedent.

133. There was also a letter of objection from the New Forest Association on the grounds that the proposal is not small scale, that some of the land enjoys the right of common pasture and that the intrinsic value of the site would be harmed.

Appeal Stage

134. The appeal stage representations are on file. There is one letter of support which also encloses that submitted at the time of the application. There are again 4 objections from local residents. One supports sustainable energy but not in this location. Two object to any industrialisation of the New Forest and any traffic increase and consider that the development would create a precedent. The fourth sets out a detailed response to the Appellant's appeal submission and concludes that the development is considered to be contrary to local and national policy and the wishes of local people. It would set a precedent that could destroy the landscape character of the area.

135. There is a further appeal stage representation from the New Forest Association (NFA). This explains that the NFA did not oppose the permitted Cadland solar farm because it was close to existing intrusive electricity paraphernalia and was made invisible by previous planting of field margins. The officer report for the first solar farm at that site reports that the Association commented then that *'well hidden sites will clearly not have a major impact'*. The NFA claims that it opposed the permitted Hamptworth solar farm and all other applications. However the officer report for the 2013 extension to the Cadland site records that there were no representations. The NFA disputes whether it would be feasible to use the appeal site for sheep grazing. There are comments about pressures for housing and recreation that are not directly relevant to the appeal proposal.

INSPECTOR'S APPRAISAL

The figures in square brackets [ ] *refer to paragraphs elsewhere in this report.*

136. The main issues are considered to be:

a) what effect the development would have on: landscape character, visual amenity, the special qualities of the New Forest National Park, agricultural land of good quality, and commoner grazing rights; and

b) whether any identified harm in these regards would be outweighed by any environmental or economic benefits of the proposed development.

Landscape Character

137. The manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the 2 fields [45]. However that would apply to almost any solar farm development in any rural area. The effect of the development on the overall character of the landscape character area would be limited because of the mitigating effects of existing and proposed screening that would contain most effects to within the 2 fields. The key characteristics of the local landscape would also be retained. These include the retention of the traditional field pattern and the retention and reinforcement of the characteristic hedgerows [45, 93].

138. The reference in the PPG to the effect of large scale solar farms in 'undulating' landscapes [23, 46, 57, 97] must relate to the possibility in such areas either that longer distance views may be available from higher ground towards lower ground, or that a solar farm may become more visible when it is located on sloping ground that is angled towards the viewer.

139. The appeal site is not described as 'undulating' in either the landscape character area assessment or in the officer report on the application. Instead the latter report described the northern field as *'level in the main'* but *'drops away towards boundaries'* whilst the southern *field 'drops away more significantly from west to east and to a lesser extent from north to south'*. There are height variations within each field of about 5m and the land may arguably be described as gently undulating. However the undulations are so slight that existing mature trees and hedgerows still limit long views and avoid the above effects of increased visibility, even when the vegetation is not in leaf [54]. The proposed new planting to reinforce this screening should also be effective.

140. Whilst the opportunities for grazing by larger animals would be reduced by the development, grazing by sheep would be accommodated and the development would enable the continuation of the remainder of the agricultural holding for the pastoral grazing of Limousin beef cattle. That would accord with another management aim of the Landscape Character Assessment [22, 56, 115].

141. The Authority suggests that no part of the National Park has greater or lesser landscape sensitivity [55-56]. However the sensitivity of the different landscape character areas within the Park will inevitably vary. An example would be the contrast between the open unenclosed parts of the Forest (where any development would be widely visible and would be bound to influence landscape character over a wide area) and these more enclosed areas where the landscape

has already absorbed significant buildings and other man-made development but the woodland and hedgerow screening avoids similarly widespread effects on the area's character. The landscape character area around the appeal site already contains many scattered buildings, glasshouses, caravans and overhead power lines but these are generally hidden from wider public view or only partially visible from limited locations.

142. The potential to mitigate landscape and visual impacts by screening with native hedges is recognised as a relevant factor in the PPG [23-24]. The effectiveness of tree and hedge screening was also recognised by the Authority when previously approving 3 planning applications for solar farms in enclosed or woodland locations within the Park [58]. Thus the Authority has already accepted that such locations can have potential for development without detriment to the Park's special landscape qualities and purposes. That some change to traditional landscapes can be acceptable and that solar power installations can be appropriate to the national value of the landscape is also recognised by the National Park's Circular [27].

143. I therefore concur with the conclusions of the Landscape and Visual Impact Assessment (LVIA) that there would be effects on LCA 18 particularly within the 2 fields but the overall landscape character effects would only be moderate-minor to minor (adverse). Adjoining landscape character areas would not be affected [93].

Visual Amenity

144. The Council's case does not distinguish between effects on landscape character and effects on visual amenity as is advised in the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment. However the matters were distinguished in the Landscape and Visual Impact Assessment submitted with the application. No harmful visual impacts on residential amenity were identified. The main considerations related to the possibility of views from public places such as roads and paths.

145. The appeal site is already hardly visible from any road or private dwelling. This is partly due to distance but also because woodland and hedgerows already provide significant screening. Whilst that screening is most effective when the deciduous vegetation is in leaf, views are also filtered at other times, as the leafless Viewpoint images in Limo015 demonstrate [33]. The woodland is thick enough to provide substantial screening even when the deciduous trees are not in leaf. The southern field is especially well screened. These factors already limit the site's current visual influence and its contribution to the area's visual amenity. They would similarly facilitate the screening of the proposed development and limit its effect on visual amenity.

146. There are currently filtered views of the northern field from a public footpath that follows a roughly north–south route one field distant to the west of the appeal site [47]. This is the view seen from Viewpoint 2 in Document Limo015 and is fairly described by the Appellant as the worst case. Recreational walkers moving slowly through the countryside and looking about them are considered to be sensitive to views of the landscape. In this case the LVIA concludes that such walkers would experience '*moderate-major'* visual effects before mitigation and '*moderate to moderate-minor'* effects after mitigation. That refers to the on-site mitigation planting along the site's western edge.

147. The LVIA does not distinguish between well-used and lightly-used footpaths. The subject public footpath is relatively short and it does not connect to other public footpaths at either end (see location plan at Limo002). Any recreational walkers using the route and seeking to continue their journey would consequently need to walk on the narrow and relatively busy roads to the north and south. That would be hazardous. As a consequence the footpath appears to be only lightly-used and thus few people are likely to experience any adverse visual effects. Only the northern field is partially visible at present, being partially seen from the path, and this would be much mitigated by the proposed reinforcement of existing field hedgerows and tree lines. Even if visible, any view of the solar panels would not be dissimilar in character to the view of the large nearby glasshouses to the west of the railway that is available form some locations.

148. Additional off-site mitigation planting and gap filling has been proposed since the LVIA was carried out and is the subject of a S106 Planning Obligation [36,111]. It should further mitigate those visual effects such that there would usually be either 2 or 3 reinforced hedgerows with trees between the viewer on the public footpath and the solar panels and other works within the northern field. There are public rights of way in similar or closer proximity to the solar farms that have previously been permitted by the National Park Authority and they are referred to in the relevant officer reports. In each case some similar mitigation planting was agreed to reinforce existing screening.

149. To the west of the footpath is the London-Weymouth main railway line. Any adverse effects in relation to views from the railway were addressed in the LVIA and the Council's appeal statement does not claim such harm. I saw that the railway is here mainly in a cutting which would limit views east from the railway towards the appeal site. However the land dips at one point and that could allow a glimpsed view in the direction of the appeal site although a railway user maintains that no views are available [153]. In any case no more than a brief view could be available only for those passengers facing north on the near side of what are likely to be fast moving trains. For passengers facing south any views would be highly oblique such that they would need to turn round in their seats. Rail passengers are not travelling primarily to view the landscape and may not even be looking out of the window at the time when any glimpsed view may be available. Thus they are assessed as of medium sensitivity. The LVIA concludes that rail users would experience minor visual effects before mitigation planting but none afterwards. That latter conclusion would be reinforced by the additional off-site planting which is now proposed and which would be secured by the planning obligation. That was not proposed at the time of the LVIA.

150. For the above reasons the existing hedgerows and trees would provide significant screening for the solar panels and other infrastructure. There is potential to further mitigate the visual impact of the proposed development in views from the footpath and railway by reinforcing the existing hedgerow planting as proposed. The officer report itself concluded that such planting '*might well close off views into the site.*' In respect of the on-site hedgerows that could be secured by a planning condition. The completed S106 unilateral undertaking also allows for the reinforcement of off-site hedgerows by native planting. It does not otherwise detail the form that this would take and I saw that it is unlikely that conventional hedgerow planting would succeed at the field edge under the canopy of mature trees where the ground would be dry and light

limited. However it should be possible to establish suitable planting outside the tree canopies. That would screen or filter any views under the tree canopies towards the appeal site. As land ownership and the unilateral undertaking provide sufficient control, the details of the planting can be made subject to approval by means of a planning condition.

151. The LVIA also identifies minor visual effects on road users of medium high sensitivity should they glimpse the development in one view north from a 50m stretch of Silver Street (Viewpoint 4 in Limo015). However that road is about 400m south of the southern field and the development would be largely shielded by woodland and other trees. The view would be at right angles to the direction of travel and typically only glimpsed by passengers of fast moving vehicles. On the same journey they would already be able to glimpse views of many other man made structures in the local area.

152. Overall it is concluded that the visual effects would be substantially mitigated by existing and proposed planting. The development would be located and designed to reduce visual impacts as required by CSDM Policies CP5(b) [15] and DP1 [20]. However there would be some very limited residual harm to weigh in the planning balance.

National Park

153. As a nationally designated landscape the National Park is highly sensitive to change. But the Government National Parks Circular nevertheless acknowledges both that the appearance of the countryside in National Parks may need to change and also that solar power installations may be appropriate to the national value of the landscape [27]. National policy does not preclude the development of solar farms in national parks. Neither does it accord higher status to the landscape of national parks than to areas of outstanding natural beauty where such development is also not precluded.

154. The main parties agree that the current proposal is not small scale [58, 119]. However the Appellant points out that the National Park Authority has previously permitted solar farm developments of similar scale to the appeal proposal within the National Park at Hamptworth Estate (near Normansland) (5MW) and at the Cadland Estate (near Langley) (5MW - 12ha) [32, 98]. A large 2.5MW extension to the latter development has also been permitted subsequently in 2013. The NPA concluded then that the scale was outweighed by socio-economic and environmental benefits [84]. That extended 7.5MW development is 50% larger than the appeal proposal.

155. The Report for the Hamptworth Solar Farm similarly concluded that there were good reasons to outweigh its scale conflict with Policy CP5 with specific regard to Policy CP17 to support farming that is beneficial to the forest through diversification and the duty of the National Park, in pursuing its purposes, to foster the economic and social well-being of local communities.

156. Apart from scale, other characteristics that the 3 permitted developments share with the appeal site are: all have claimed economic diversification benefits, all are close to the edge of the Park; the Cadland Estate site (like the appeal site) is apparently within an area of enclosed farmland; and all are likely to be screened from most public views, but may be more visible from a nearby public right of way unless mitigated by new or existing planting. The

Hamptworth Estate site is in a clearing in woodland whereas the other sites adjoin woodland. Nevertheless it closely adjoins a byway.

157. Apart from the Langley substation it is not obvious that there is any major electricity infrastructure close to the Cadland site, as claimed by the New Forest Association [135], and no other infrastructure is referred to in the officer reports for that scheme. The officer report for the first solar farm at that site reports that the New Forest Association commented then that *'well hidden sites will clearly not have a major impact'* [135].

158. The 3 solar farm locations are far removed from one another and it is very unlikely that more than 1 of the sites would even be glimpsed in the same journey unless the viewer was deliberately seeking the sites out. Thus there would be no material cumulative visual or landscape effects and no basis for concluding that the National Park had already reached its maximum capacity for such developments.

159. Neither the statutory duties in respect of the National Park [26], nor national policy in the Circular concerning renewable energy in national parks [27] nor national policy concerning major development in National Parks, has changed since the approval of the previous solar farm developments.

160. The Authority has drawn attention to its recent refusal of a scheme for a 9ha solar farm within the National Park on the Exbury Estate (Ref 14/01004/FULL) [58]. The officer report was appended to the Authority's appeal statement. However there are clear differences between that proposal and the appeal scheme. In particular, and notwithstanding a submitted agricultural land survey, the Authority noted that the Exbury site is within an area of Grade 2 best and most versatile land. The appeal site is a mix of part Grade 3a and mainly Grade 3b land. The NPA has not objected to this development on agricultural land quality grounds. Also there was an ecological objection by the Authority at the Exbury site but not at the appeal site. Both a bridleway and a public footpath on a popular circular route pass close to the Exbury site. That site would have been screened only by an ivy clad fence rather than by reinforced native hedgerows and treeline. That may explain why the Exbury application attracted much more public interest than the current appeal scheme with 55 letters of objection, 9 letters of support and 3 other comments.

161. In this case I agree with the LVIA that most of the intrinsic qualities that underpin the landscape and scenic beauty of the National Park would be unaffected and that it would avoid harm to the most sensitive and fragile landscapes [93]. The effect would thus be moderate-minor adverse and not *'significant*' in the terms of CSDM Policy CP5.

162. Paragraph 116 of the Framework seeks that 'major' development is only permitted in a national park in exceptional circumstances and where they are demonstrated to be in the public interest [25]. It does not define major development and the PPG confirms that is a matter for the decision-maker. Nevertheless such decisions need to be consistent when considering similar types of development. That other solar farms of similar scale have been permitted in the National Park indicates that development of this scale is capable of being acceptable.

163. Paragraph 116 of the Framework provides that consideration of applications for major development should include (in summary): the need for the development and the impact on the local economy; the cost of or scope for developing outside the designated area or meeting the need in another way; and any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which they can be moderated. Relevant matters are addressed under other headings.

Use of Agricultural Land and Availability of Suitable Alternative Sites

164. Paragraph 112 of the Framework provides that authorities should take into account the economic and other benefits of the *'best and most versatile'* agricultural land. Where significant development of agricultural land is necessary, authorities should seek to use areas of poorer quality land in preference to that of a higher quality [20]. In that regard the land has only been described in the application as Grade 3 agricultural land. The officer report to the National Park Authority did not question the classification and the Authority has not objected to the development on land quality grounds.

165. Following the appeal site visit the Appellant was asked to identify whether the site is classified as Grade 3a (best and most versatile land - as defined in the Framework) or Grade 3b. A survey report was submitted which identifies that 67% is Grade 3b, and 29% is Grade 3a and that the remaining 4% is non-agricultural (mainly access). The Grade 3a land would amount to approximately 3.9ha [4].

166. Should the development go ahead some of that Grade 3a land (and also the moderate quality 3b land) would be used for less intensive sheep grazing. It could be returned to other agricultural use in the future when the temporary development ceases. If the solar farm development did not go ahead, and if the beef unit continued to operate, it is likely that the land would remain in use for cattle grazing rather than for more intensive use such as arable crops. Should the beef unit cease operation then it is possible that another non-agricultural use such as horse grazing would be sought as this is common in the area.

167. The PPG is guidance rather than policy. It advises that *'large scale'* solar farms are to be '*focussed'* on previously developed and non agricultural land but does not preclude such development on agricultural land [18]. 'Large scale' is not defined in the PPG but the Council and the Appellant agree that this proposal is not 'small scale' in the terms of CSDM Policy CP5. Neither national policy nor the PPG set out a formal sequential test such as that required for town centre development or flood risk. However the Appellant has demonstrated through a site-selection process that previously-developed and non-agricultural land to accommodate a 'large scale' solar farm is very scarce in a broad search area covering southern Hampshire, the Isle of Wight and East Dorset [121]. This is an area with a substantial urban population including Southampton, Bournemouth, Poole and the extensive coastal development bordering the National Park. There are consequently high local energy demands. Much of the open land between the urban areas is variously within the National Park, the equally protected landscapes of Areas of Outstanding Natural Beauty, or the Green Belt. There are also extensive areas of national or international importance for nature conservation such as the heathland near Poole.

168. Even on land outside these designated areas, landscape effects can be an important material consideration, as the Minister highlights in a letter to the Planning Inspectorate on 27 March 2015 to which the Authority has referred [48]. The local opportunities for onshore development for renewable energy outside designated areas are thus also limited, whether for solar or wind energy. Development consent has also recently been refused for a major offshore wind energy scheme at Navitus Bay, further reducing the local opportunities to provide significant amounts of renewable energy.

169. The proposed development would generate up to 5MW within a 13.6ha site. No comparably large areas of rooftop were identified in the site selection process. Those non-agricultural sites that were identified are likely to be used for higher value purposes such as housing or minerals extraction. Other important considerations for siting solar energy developments are the availability of a grid connection and, not least, a willing landowner. The site selection process also sought to avoid higher quality agricultural land and sites in more widely visible locations. The conclusions of the site selection process have not been disputed by the National Park Authority.

170. The officer report on the Exbury solar farm application [58] suggested that the site of the former Fawley oil-fired power station should have been considered as an alternative location for that development. But that location outside the National Park has not been suggested by the Authority as an alternative in the present appeal. Moreover there is no evidence from the Authority to confirm if or when that site could be developed. Neither is there any evidence that it would be allocated by the New Forest District planning authority or otherwise protected for development as a solar farm, rather than be redeveloped for alternative higher value purposes.

171. That the Circular acknowledges the need for renewable energy including solar energy within national parks does not support a contention that solar farm developments should only be sited elsewhere as some interested persons suggest [130, 132-133, 135]. In any event the overall local or national need for renewable energy will not be met by this one development.

172. It is concluded that the site selection evidence has demonstrated that the use of agricultural land is necessary in this case. Having regard to the relatively small proportion of best and most versatile land on the site and to the likely future use of that land for grazing both during and after the development, it is not considered that its inclusion in the development would of itself warrant the dismissal of the appeal. However the partial and temporary loss of that part of the site to agricultural use would be a factor to weigh in the overall planning balance.

Grazing Rights

173. Part of the appeal site benefits from commoner grazing rights within the open unenclosed part of the New Forest that lies to the north of Sway village [51-53, 61, 102-106, 133, 135]. The Appellant reports that the landowner has not exercised these rights for his cattle in living memory and disputes that the land has ever constituted part of the ‘back-up grazing pool’. Neither has the grazing been rented to other commoners. Instead it will have been used either for grazing the landowner’s own animals or harvested for fodder such as hay.

174. The Authority has submitted *The State of the Park Report 2013* [52] which noted that there have been significant increases in recent years in the number of practising commoners and also in the numbers of ponies that are *'depastured'* in the open Forest. This may be linked to the conversion and subdivision of other farms for equestrian use. The neighbouring landowner points out that a nearby farm has only recently been split into multi-ownership horse paddocks.

175. In relation to solar farms the PPG at paragraph 5-013-20130327 supports continued agricultural use of solar farm sites and/or encourages biodiversity improvements around arrays. If the development goes ahead the Appellant intends that sheep grazing would be carried on between the rows of panels within the security fence. There are separate common rights for sheep from other grazing animals. Comparatively few sheep are grazed in the forest, particularly in the south. However it does not follow that such grazing would be of no benefit. The higher land within the proposed security fence could be grazed by sheep whether or not those sheep also use common land elsewhere. Such continued agricultural use would accord with an aim of the PPG.

176. Land outside the fence would be managed for bio-diversity, such as by planting as meadows and additional hedge planting. That would accord with relevant aims of Policy DP1 and the PPG and the statutory purpose of the National Park to conserve and enhance wildlife.

177. The proposed development would be for a temporary 30 year period and the land would be available for more intensive agricultural use again in the future, subject to the preferences of the landowner at that time.

Benefits

178. The development plan, the National Parks Circular and the Framework all provide in-principle support for renewable energy.

179. Although not definitively small scale in the terms of CSDM Policy CP5, the scale would be similar to the Hamptworth solar farm and smaller than the extended Cadland solar farm in the National Park [32]. That scale would *'assist towards national renewable energy targets*' in the terms of Policy CP5 [15]. If it were significantly smaller, more schemes would be needed to achieve equivalent energy output with potentially wider ranging impacts in more locations. Policy CP5 does not identify what scale of development would qualify as small scale. But if for example development in the National Park were limited to small domestic installations, the maximum generation from the appeal scheme would be equivalent to the output from 1,250 individual properties with 4kw panels (or a larger number with smaller output panels). In any event, to allow the appeal scheme to proceed would not prevent other smaller schemes from being installed where appropriate.

180. The Government is committed to national targets for renewable energy to 2020 and 2050 and these are also subject to international obligations. It has not been confirmed that sufficient renewable energy installations will be in place to meet the 2020 target and solar schemes of this type are likely to be needed as part of the energy mix. The renewable energy targets are intended to mitigate the environmental effects of climate change. The energy produced would also have other economic benefits including reducing energy imports and improving the security of supply. These benefits all merit substantial weight, particularly as

the encouragement of renewable energy is referred to in the Framework's core planning principles (paragraph 17) and is described in paragraph 93 as central to the economic, social and environmental dimensions of sustainable development [17].

181. Limolands Farm produces local New Forest Limousin beef as one of only a few surviving agricultural holdings in the local area [114]. It is apparent that many former farms in the vicinity of the appeal site are no longer in agricultural use and have instead been given over to horse grazing or other non-agricultural purposes. The surviving beef farm contributes to the area's cultural identity in accordance with Policy CP17.

182. The proprietor of Limolands Farm is a farmer in the later part of his career and approaching retirement, which I am aware is the case across much of the agricultural industry. The operation of the beef unit is consequently becoming more physically demanding for him. If the development goes ahead it would significantly boost the income of the holding and enable the farmer to afford to employ necessary additional labour in order to continue beef production [116]. That would be of economic benefit and would help to sustain the farming business in accordance with the above aims of CSDM Policy CP17 to support agriculture, local food production, and cultural identity and the cultural heritage of the National Park [19]. That is relevant to the economic and social well-being of the area which National Park Authorities have a duty to foster when carrying out their statutory purposes [26] and it merits significant weight.

183. The development would also provide an opportunity for bio-diversity enhancements through the additional planting in the hedgerows and diverse planting on the land outside the security fence. Those are further environmental benefits.

Conditions and Obligation

184. The Authority and the Appellant have both suggested conditions to be applied in the event that the appeal is allowed. The attached schedule of conditions amalgamates the conditions suggested by each party. Some have been reworded in the interests of clarity and to reflect the tests for conditions in the Framework. Reasons for each condition are included on the schedule. Not all of the drawings listed on the decision notice have been referred to as many of those do not show the proposed development but are rather supporting information.

185. It is considered that the submitted S106 unilateral undertaking referred to above [36, 111, 148] does accord with the tests for planning obligations in the Community Infrastructure Levy Regulations 2010 (as amended) and it has been taken into account in this report.

Planning Balance and Conclusions

186. Overall it is concluded that, after mitigation in the form of reinforced landscape screen planting both on and off-site, there would remain some limited harm to landscape character within a small area and mainly within the 2 fields of the appeal site which are generally hidden in wider views and make little contribution the area's landscape character. Whilst the associated harm to the landscape and natural beauty of the National Park within the appeal site merits great weight, it is limited and not considered to be 'significant' in the terms of CSDM Policy CP5.

In relation to the other special qualities of the National Park the bio-diversity enhancement would benefit and not harm wildlife. The support for a local beef producer would conserve part of the area's cultural heritage and economic and social well-being.

187. Existing glimpsed views from a railway are likely to be screened by the planting [171]. If the proposed screen planting is not entirely effective over its full length, more especially in winter, there could be some residual visual harm in filtered views, albeit from a lightly-used public footpath [146-148] and in glimpsed distant and filtered views from a road [151]. Nevertheless these glimpsed views would be representative of glimpsed views of other man-made structures in the same landscape character area and the well-screened development would not materially affect public enjoyment of the park's special qualities.

188. The National Parks Circular acknowledges that development for renewable energy is desirable in National Parks and that solar power installations can be appropriate to the national value of the landscape [27]. Whilst CSDM Policy CP5 seeks to promote only undefined 'small scale' renewable energy schemes, solar farm schemes of similar or greater scale as the appeal proposal have already been permitted by the National Park Authority elsewhere in the Park on sites which are similarly concealed from wider views [98]. In carrying out its duties the Authority is also enjoined to have regard to the social and economic well-being of local communities. The previously approved solar farms schemes were on large estates where the Authority took into account the economic diversification benefits of the development. There would similarly be economic diversification benefits from the appeal proposal for one of the area's few active farms [98-101]. Income from the renewable energy produced is likely to support the continuation of the beef unit on the rest of the farm with local social and economic benefits [101].

189. During the life of the development the partial occupation of some Grade 3a agricultural land and reduced grazing opportunities for larger commonable animals represents some potential for harm. However the Grade 3a land only accounts for a minority of the site which is mainly Grade 3b and it has not been used for more versatile purposes than grass or grazing in the past. Moreover the common grazing rights and back-up grazing have not been exercised on this land in living memory and are unlikely to be so used whilst the beef unit continues. Some grazing by sheep would continue on site during the life of the development [102-106]. As the development would be temporary, the land can be restored to grazing of larger animals in the future and its partial Grade 3a status would be unaffected in the longer term. Therefore there would not be material harm to development plan objectives in relation to currently available back-up grazing or to PPG objectives to prefer the use of poorer quality land.

190. Against the identified harm the renewable energy would contribute significantly to as yet unmet national and international targets for renewable energy to combat climate change [179]. That also merits great weight, particularly as the Appellant's site selection exercise illustrates the constraints to development of solar energy in the sub-region [88, 167-169]. Other forms of renewable energy are also likely to be constrained [168].

191. Whilst the matter is finely balanced it is concluded overall that the impacts have been satisfactorily addressed and that this is a well-designed and well-screened development. Whilst it is not a 'small scale' development and, like the other approved solar farms thus does not literally accord with that criterion of CSDM Policy CP5, it does generally accord with the overall objectives of the development plan and the National Parks Circular to support renewable energy whilst protecting the Park's special qualities in accordance with the statutory objectives. The diversification would help to sustain an existing farming business and local produce in accordance with CP17(b) and fostering the economic and social well-being of the local farming community in the National Park. Use for grazing would be sustained alongside the development. The development would also accord with the objectives of CSDM Policy DP1 to respect the natural environment, landscape character and bio-diversity and to avoid adverse effects to amenity through visual intrusion [20]. In these respects the circumstances are very similar to those that applied when 3 similar developments were permitted by the National Park Authority. This would be an environmentally and economically sustainable development in the terms of national policy in the Framework. The public benefits outweigh the identified harm and exceptionally support this major development within the National Park.

Recommendation

192. For the above reasons it is recommended that the appeal be allowed and planning permission granted subject to the conditions set out in the attached schedule.

R P E Mellor

INSPECTOR

APPEARANCES AT THE ACCOMPANIED SITE VISIT

FOR THE APPELLANT:

Mr J Orme	Head of Solar Team, Locogen Ltd
Ms J Plant	Planner, Locogen Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ms K McIntyre	Planning Officer, National Park Authority
Ms S Kelly	Landscape Officer, National Park Authority

SCHEDULE OF CONDITIONS

Time Period

1) The development hereby permitted shall begin not later than three years from the date of this decision.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Drawings

2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below:

   - LIM001 Site Location Plan
   - LIM002 v1 Planning Application Boundary
   - LIM003 v2 Site Layout Plan
   - LIM004A v2 Cross Section Location Plan
   - LIM004B v2 Typical Cross Sections
   - LIM005 v2 Landscaping and Biodiversity Plan
   - LIM006 v2 Frame and Inverter Design
   - LIM007 Substation Building
   - LIM008 v2 Security Components

   Reason: In the interests of certainty as to what is permitted.

3) The solar array hereby approved shall be removed from the land on which it is sited within six months of it no longer being required for generating electricity or 30 years from the date that the development is first connected to the grid, whichever is sooner, and the land shall be restored to a condition which has first been agreed in writing by the New Forest National Park Authority. The date of the first production of electricity shall be notified in writing to the Local Planning Authority within 28 days of the event occurring.

   Reason: Because permission has been sought for a temporary period and to protect the visual amenities of the area.

Tree Protection

4) No development hereby permitted shall commence (including site clearance and any other preparatory works) until a scheme for the protection of trees in accordance with the submitted Arbtech Consulting's Arboricultural Method Statement and Tree Protection Plan (Drawing TPP 01) dated 22nd July 2014 has been implemented. This shall include a requirement for a pre commencement site meeting with the New Forest National Park Authority to consider the details. The protection measures shall continue to be implemented throughout the construction period.

   Reason: To safeguard trees and natural features which are important to the visual amenities of the area.

Biodiversity

5) No development hereby permitted shall commence, including vegetation management, until a final scheme of biodiversity mitigation has been submitted to and approved in writing by the New Forest National Park Authority. Details shall include measures for nesting birds, hedgerow removal and confirmation of method statements for reptiles and amphibians based on measures outlined in ecology reports by BSG and CGO Ecology. Development shall be implemented in accordance with the agreed details unless otherwise agreed in writing.

   Reason: To enhance biodiversity.

6) No development hereby permitted shall commence until a final plan for biodiversity enhancement has been submitted to and approved in writing by the New Forest National Park Authority in the form of a Habitat Management Plan, this shall include amongst other details; plans of badger gates and proposals for long term habitat management & maintenance for the whole development area. The Habitat Management Plan shall include a specification and timetable of operations to meet agreed aims and objectives as well as measures for monitoring and reactive management. The plan shall be reviewed and programme of annual works for the following 12 months agreed with the Authority at an annual management meeting organised by the developer.

   Reason: To enhance biodiversity.

Drainage

7) No development hereby permitted shall commence until details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the New Forest National Park Authority. Development shall only take place in accordance with the approved details.

   Reason: In order to ensure that the drainage arrangements are appropriate.

Ancillary structures

8) Notwithstanding any details in the submitted drawings, no development shall take place until full details of the photovoltaic collectors, security cameras, ancillary infrastructure buildings, fencing and boundary treatments (including badger gates), and access arrangements (including water course crossings) have been submitted to, and approved by, the New Forest National Park Authority. Development shall be carried out in accordance with the approved details.

   Reason: To protect the character and appearance of the area.

Lighting

9) No external lighting shall be installed on the site until details of such proposals have first been submitted to and approved in writing by the New Forest National Park Authority.

   Reason: To protect the visual amenities of the area and wildlife.

Construction Traffic Management Plan

10) No development hereby permitted shall commence until a Construction Traffic Management Plan, to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles, lorry routeing and a programme of works has been submitted to and approved

in writing by the New Forest National Park Authority. The approved details shall be implemented before the development hereby permitted is commenced and retained through out the duration of construction.

Reason: In the interests of highway safety.

Landscaping

11) No development hereby permitted shall commence until a scheme of landscaping of the site and for the off-site planting identified in the accompanying Section 106 unilateral undertaking has been submitted for approval in writing by the New Forest National Park Authority. This scheme shall include:

a) the existing trees and shrubs which have been agreed to be retained;

b) a specification for new planting across the site and along those hedgerows on the appeal site and identified elsewhere in the accompanying unilateral undertaking to mitigate the visual and landscape effects of the development (species, size, spacing and location);

c) areas for hard surfacing and the materials to be used;

d) other means of enclosure;

e) location of trenches for cabling and depth/width of trenches; and

f) a method and programme for its implementation and the means to provide for its future maintenance including the heights at which the hedgerows are to be maintained.

Reason: To protect the character and appearance of the area.

12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the New Forest National Park Authority gives written consent to any variation.

Reason: To protect the character and appearance of the area.

Archaeology

13) No development shall commence until a programme of archaeological recording work including a Written Scheme of Investigation has been submitted to and approved by the New Forest National Park Authority in writing. Details shall include:

a) the programme and methodology of site investigation and recording;

b) the programme for post investigation assessment;

c) provision to be made for analysis of the site investigation and recording;

d) provision to be made for publication and dissemination of the analysis and records of the site investigation;

e) provision to be made for archive deposition of the analysis and records of the site investigation; and

f) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Reason: To protect and/or record any items of archaeological interest.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Department for Communities and Local Government

Our Ref: APP/M3645/W/16/3146389

Mr Gareth Roberts
Pegasus Planning Group Ltd
Equinox North
Great Park Road, Bradley Stoke
Bristol
BS32 4QL

5 December 2016

By email: [redacted]@pegasuspg.co.uk

Dear Mr Roberts

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY INRG SOLAR LTD
LAND AT REDEHAM HALL, SMALLFIELD, SURREY RH6 9SA
APPLICATION REF: TA/2015/1056

1. I am directed by the Secretary of State to say that consideration has been given to the report of Jonathan Hockley BA (Hons) DipTP MRTPI, who made a site visit on 6 June 2016 into your client's appeal against the decision of Tandridge District Council "the Council" to refuse planning permission for your client's application for planning permission for the installation of ground mounted photovoltaic solar arrays to provide circa 5.25MW generation capacity together with power inverter systems; transformer stations; internal access tracks; landscaping; security fencing; CCTV and associated access gate, in accordance with application ref: TA/2015/1056, dated 2 June 2015.

2. On 9 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission be refused.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Communities and Local Government
Richard Watson
Planning Casework
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2 Marsham Street
London SW1P 4DF

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Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

6. In this case the development plan consists of the Tandridge Core Strategy (adopted 2008) (the CS) and the Tandridge District Local Plan Part 2: Detailed Policies 2014-2029 (adopted 2014) (the LP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR9-10.

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance.

Main issues

8. The Secretary of State agrees with the Inspector that the main issues are those set out at IR37.

Green Belt

9. The Secretary of State notes that it is common ground between the parties that the proposal includes development that is inappropriate development (IR38). He also agrees with the Inspector that openness is an essential characteristic of Green Belts and that the proposal would reduce this openness, regardless of the amount of Council area that lies within the Green Belt (IR39) and that the proposal would conflict with one of the purposes of the Green Belt, safeguarding the countryside from encroachment (IR40).

10. The Secretary of State agrees with the Inspector's conclusion at IR41, that the proposal would be inappropriate development in the Green Belt and would reduce openness and conflict with the purposes of including land in the Green Belt. The Secretary of State agrees that this weighs heavily against the proposal and would conflict with the Framework, as well as with Policies DP10 and DP13 of the LP.

Character and appearance

11. The Secretary of State has given careful consideration to the Inspector's analysis and conclusions at IR42-49. The Secretary of State agrees that, in terms of landscape, the character of the site would alter through the introduction of panels and associated infrastructure. The character would also be altered through the proposed planting proposal, and the Secretary of State also agrees that these would primarily be beneficial (IR46). The Secretary of State also notes that the solar farm would be in place for 25 years and the impact would be temporary. Like the Inspector, the Secretary of State takes the view that 25 years is a significant amount of time (IR48). He concludes that the temporary nature of the proposal should only be given limited weight in the planning balance.

12. Like the Inspector, the Secretary of State concludes that the proposal would have an adverse effect on the intrinsic landscape character of the area and would be contrary to policies 18 and 21 of the Tandridge District CS and Policy DP7 of the LP. He also agrees with the Inspector that CS Policy 21 is broadly consistent with the core planning principle within the Framework (IR49).

Other considerations

13. For the reasons given at IR50 the Secretary of State agrees with the Inspector that the provision of renewable energy is a key factor in favour of the proposal and he places significant weight on this aspect.

14. The Secretary of State also agrees with Inspector at IR51, that the ecological and biodiversity benefits, together with some economic benefits and job creation largely during the time of the construction of the park should be given moderate weight in favour of the proposal.

Planning conditions

15. The Secretary of State has given consideration to the Inspector's analysis at IR52-55, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning balance and conclusion

16. The Secretary of State has given careful consideration to the Inspector's conclusions at IR56-60. He agrees with the Inspector that the proposal would be inappropriate development in the Green Belt, would result in a loss of openness and would have an adverse effect on the appearance of the surrounding area. In favour of the scheme is the provision of renewable energy and some biodiversity and economic benefits. However, the Secretary of State also agrees that substantial weight should be given to Green Belt harm and other harm. While there would be significant benefits, the Secretary of State agrees that these do not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, and the very special circumstances necessary to justify the development do not exist. The Secretary of State also concludes that the proposal would conflict with relevant development plan policies, and would not accord with the requirements for sustainable development set out in the Framework.

Formal decision

17. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the installation of ground mounted photovoltaic solar arrays to provide circa 5.25MW generation capacity together with power inverter systems; transformer stations; internal access tracks; landscaping; security fencing; CCTV and associated access gate, in accordance with application ref: TA/2015/1056, dated 2 June 2015.

Right to challenge the decision

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

19. A copy of this letter has been sent to Tandridge District Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Richard Watson

Richard Watson
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Date 8 September 2016

The Town and Country Planning Act 1990

Appeal by

INRG Solar Ltd

Against the decision of

Tandridge District Council

Site visit made on 6 June 2016

Land at Redeham Hall, Smallfield, Surrey RH6 9SA

File Ref: APP/M3645/W/16/3146389

File Ref: APP/M3645/W/16/3146389
Land at Redeham Hall, Smallfield, Surrey RH6 9SA

- 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 INRG Solar Ltd against the decision of Tandridge District Council.
- The application Ref TA/2015/1056, dated 2 June 2015, was refused by notice dated 15 January 2016.
- The development proposed is the installation of ground mounted photovoltaic solar arrays to provide circa 5.25MW generation capacity together with power inverter systems; transformer stations; internal access track; landscaping; security fencing; CCTV and associated access gate.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. An unaccompanied visit to the site and surrounding areas took place on 6 June 2016.

2. Subsequent to my site visit, in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, the Secretary of State directed on 9 August 2016, that he shall determine the appeal instead of an Inspector. The reason given for the direction was that the proposal involves significant development in the Green Belt.

The Proposal

3. The proposal seeks to construct a 5.25MW solar farm, involving the installation of arrays of photovoltaic panels running east to west across the site. Conduits running between the panels would be linked to small cabins housing required equipment, and there would be 1 substation and 4 inverter stations located on the site. The proposal would be surrounded by 2m high security fencing and CCTV equipment at the corners of the site. Internal access tracks would be constructed[1]. The development would be temporary with a lifespan of 25 years.

The Site and Surroundings

4. The appeal site of nearly 10 hectares lies within open countryside to the east of Gatwick Airport and to the south east of the settlement of Smallfield. The site consists of tree lined fields and falls roughly from east to west. The eastern boundary of the site adjoins Dowlands Lane, and a public footpath (no 460) crosses the site. Fields lie to the north, west, and south of the site[2]. The entire site falls within the Green Belt.

Planning Policy

5. One of the core planning principles of the National Planning Policy Framework (the Framework) is that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them and recognising the intrinsic character and beauty of the countryside.

[1] See Plan ref BRS.5822_15-C
[2] See Plan refs BRS.5822_05-A, PV-0199-02

6. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 91 of the Framework states that many elements of renewable energy projects will comprise inappropriate development.

7. The Framework also states that planning plays a key role in supporting the delivery of renewable energy and associated infrastructure, which is central to the economic, social and environmental dimensions of sustainable development. Paragraph 98 states that we should not require applicants for energy development to demonstrate the overall need for renewable energy. Applications should be approved if the proposed development's impacts are, or can be made, acceptable, unless material considerations indicate otherwise.

8. Planning Practice Guidance (PPG) states that planning has an important role in the delivery of renewable energy infrastructure in locations where the local environmental impact is acceptable. The guidance notes that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes; however, the visual impact of a well-planned and well-screened solar farm can be properly addressed if planned sensitively.

9. Policies DP10 and DP13 of the Tandridge District Local Plan Part 2: Detailed Policies 2014-2029, 2014 (the Local Plan)[3] together state that planning permission for any inappropriate development which is, by definition, harmful to the Green Belt will normally be refused. Subject to a number of exceptions, the Council will regard the construction of new buildings as inappropriate in the Green Belt. Proposals involving inappropriate development in the Green Belt will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.

10. Policy DP7 of the Local Plan states that development should integrate effectively within its surroundings, reinforcing local distinctiveness and landscape character. Policies CSP18 and 21 of the Tandridge District Core Strategy, 2008 (the CS) together state that new development in the countryside will be required to be of a high standard of design that contributes to local distinctiveness; and that the character and distinctiveness of the District's landscapes and countryside will be protected for their own sake.[4]

The Case for the Council

11. In a comprehensive report prepared for the Council's planning committee, Officers recommended that the application be refused[5]. Having considered the report, Council Members refused the application on 15 January 2016[6].

12. The decision contains two reasons for refusal. The first of these reads: '*The proposal would comprise inappropriate development within the Green Belt and*

[3] Relevant extracts are attached to the Questionnaire.
[4] Extracts are included in the Questionnaire.
[5] The report is attached to the Questionnaire.
[6] Refusal of Planning Permission TA/2015/1056, 15/01/16

would have a significant adverse impact upon its openness resulting in substantial encroachment in the countryside. Additional harm is identified in relation to the impact on the rural character of the area. Very special circumstances do exist in the form of the generation of renewable energies and relatively constrained site selection process. However these very special circumstances are not sufficient to clearly outweigh the substantial actual and defined harm to the openness of the Green Belt. The proposal is therefore contrary to Policies DP10 and DP13 of the Tandridge Local Plan: Part 2 Detailed Policies 2014'.

13. The second reason for refusal states: '*The Proposal would have an adverse impact on the rural character of the area as a result of the extent and scale of the proposal. The proposal would therefore fail to conserve or enhance the character of the area and would neither protect nor safeguard views from outside of the site. The proposal is therefore contrary to Policies CSP18 and CSP21 of the Tandridge District Core Strategy 2008 and Policy DP7 of the Tandridge Local Plan: Part 2- Detailed Policies 2014'*.

14. The reasons for refusal are expanded upon in the Council's statement of case[7]. I have used this document as the basis for this brief summary.

15. The Framework identifies that elements of many renewable energy projects will comprise inappropriate development in the Green Belt. It is considered that the proposal constitutes inappropriate development and that therefore very special circumstances would need to exist to clearly outweigh this harm, and any other harm.

16. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Currently the site is agricultural farmland and wholly undeveloped. The 10ha site and 2.6m maximum height of the proposed PV arrays would have a significant impact upon the openness of the Green Belt. Furthermore, ancillary development such as the access track, substation, inverter stations, fencing and CCTV facilities would result in more built form on the otherwise undeveloped site, further diminishing openness. This would also result in encroachment into the countryside, contrary to one of the purposes of the Green Belt. The Council recognise that the proposal would have a lifetime of 25 years; however, this remains a very long period of time. The scheme would result in a significant harm to the openness of the Green Belt.

17. It is recognised that, due to the topography of the site and of the wider area, the visibility of the development would be relatively limited and that its visual impact could be largely mitigated through planting. However, the proposal would be visible from various vantage points, in particular from the public right of way which passes through the site. Where visible, the development would appear at odds with its surroundings due to its scale and the form and appearance of the panels and ancillary equipment. Whilst the scheme would not be harmful to the landscape, it would harm the rural character of the area.

18. Very special circumstances are recognised in the form of 5.25Mw of renewable energy, and that site selection processes are constrained in the area, as well as

[7] This document can be found on the case file.

biodiversity enhancements. It is noted that a comparable scheme[8] in the District recognised that there is a relatively limited ability to connect into the National Grid and that the majority of the Council area is within the Green Belt. It is also noted that if such a development were to be sited in the District, then it would have to be in the Green Belt.

19. However, the current scheme is of a similar scale to the comparator, which was refused as the considerable identified benefits did not outweigh the substantial harm caused to the Green Belt. Given the scale and similar benefits, the same conclusions apply to this case. The proximity of Gatwick Airport has no effect on the scheme's impact on the Green Belt.

20. Significant weight is attached to the harm caused by the scheme to the Green Belt, and moderate weight to the effect on the character of the area. The combined benefits do not constitute very special circumstances sufficient to clearly outweigh the actual and defined harm.

The Case for the Appellant

21. In pursuance of the appeal, the appellant submitted a full Appeal Statement of Case, various subsidiary surveys and information, including a Landscape and Visual Statement[9] (LVS), and final comments[10]. I have used these documents to inform this brief summary.

22. The site is not subject to any landscape designations, and nor are there any Sites of Special Scientific Interest within or adjacent to the site. The closest Listed Building is some 800m away and the site is located within Flood Zone 1. The agricultural land that the site is located upon is classed as sub grade 3b, and does not therefore comprise best and most versatile land.

23. The solar panels would create a canopy above ground level of approximately 3.43 hectares, meaning that only 34% of the 10ha site would be taken up by the arrays. Land between and beneath the panels would be used for biodiversity enhancements, with additional benefits provided by ecological green corridors.

24. The fundamental aim of Green Belt policy is to prevent urban sprawl. The site is within open countryside and does not adjoin any settlement and will not therefore contribute to urban sprawl. Of the five purposes of Green Belts, only some encroachment into the countryside would take place. However, such harm would be limited and is necessary due to the lack of alternative sites. Around 94% of the Council area lies within the Green Belt and in statistical terms the temporary loss of openness caused by the site is insignificant.

25. The Framework confirms that solar parks can be acceptable in the Green Belt and the appellant is aware that a number of proposals have been approved in the Green Belt. It therefore follows that some harm to Green Belt openness must be capable of being acceptable.

26. The proposal would inevitably change the character of the site. However, such effects would be localised. The design and mitigation proposed would ensure that there was no loss of characteristic landscape features and the local and wider

[8] TA/2015/57, details attached as appendices to the Council's statement.
[9] Landscape and Visual Statement, Brian J Denney March 2016
[10] All of which can be found on the case file

landscape is capable of satisfactorily accommodating the scheme. Adverse visual impacts would be localised and would be mitigated by proposed planting and management. The effect of such landscaping on existing views from the public footpath would not be significant; the path would remain pleasant and the views are not remarkable in comparison with others in the local landscape. The countryside character of the site is already heavily compromised by the constant audible and visual presence of aircraft approaching or taking off from Gatwick Airport. On landscape and visual grounds there is no reason to refuse planning permission for the proposal.

27. It is accepted that the proposal includes development that is inappropriate in the Green Belt. However, very special circumstances exist which clearly outweigh this minimal harm.

28. The proposal would export up to 5244 MWh a year, equating to the annual energy consumption of approximately 1,575 households, and displacing 2,275 tonnes of CO^2 per annum. The site would therefore provide a valuable renewable energy contribution at the local level, add to the Council's progress in meeting its renewable energy obligations and would assist in meeting national targets. The Council are of the view that whilst they accept there are no non-Green Belt sites available for solar parks in the District, there is no need to accommodate such a site in the District at all. This is not the correct approach due to the positive approach promoted by the Framework, no sequential approaches are required to identify non Green Belt sites in other Council areas and the Framework places a responsibility on all communities to contribute to renewable energy generation.

29. It is envisaged that a planning condition would require the land to be restored to its current condition after 25 years of operation. This temporary nature is significant; a fact to which the Council gave very little weight. Green Belt policy is fundamentally concerned with the permanence of the Green Belt. The temporary nature of the development would ensure no precedent for permanent development was set.

30. The proposal would result in significant biodiversity enhancements, which should be afforded significant weight. Such enhancements include new hedgerow planting and enhanced wildlife corridors, delivered under an appropriate management regime.

31. Policy 21 of the CS is inconsistent with the Framework in some respects and should be accordingly afforded reduced weight. The Council accept that visibility of the site is limited and could be mitigated through planting, which is proposed. Any impact is localised and the development would assimilate into the landscape without causing unacceptable harm.

32. The renewable energy benefits of the scheme, together with the identified biodiversity benefits and the economic investment from the scheme, coupled with the unique situation where there are no sites available outside the Green Belt in the District, would outweigh the minimal harm to the Green Belt and localised and mitigated landscape impact. In applying the presumption in favour of sustainable development contained within the Framework, and the test in paragraph 14 with regards to decision taking, the proposal accords with the development plan.

33. PPG sets out a need to consider the availability of brownfield land before considering agricultural land. As the Council accept there are no brownfield sites in their area and that greenfield land in the area is predominantly Green Belt, this presents a unique circumstance for the need to consider a Green Belt location for a solar scheme.

Written Representations

34. There were a number of representations[11] from local residents to the originating planning application, including objections and letters of support. A single representation was received in relation to the appeal, from the Archaeological Officer at Surrey County Council; this is summarised below.

35. **Nigel Randell**, reiterated his colleague's comments on the planning application that, due to the presence of an anomaly of possible archaeological origin on the site identified on the appellant's submitted Desk Based Assessment[12], further archaeological work is required in the event of an approval. A condition is recommended to ensure that a written scheme of investigation is submitted and approved by the local planning authority prior to any development taking place.

Inspector's Conclusions

36. In this part of the report, I have used references thus **[--]** to cross-refer to previous paragraphs in the report.

Main Issues

37. Given the site circumstances in this case **[3, 4]** it seems to me that the main issues in this case are as follows:

- Whether the proposal would be inappropriate development in the Green Belt and the effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the surrounding area; and
- Whether any harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Whether inappropriate development and openness

38. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90 of the Framework. It is common ground between the parties that the proposal includes development that is inappropriate development **[15, 27]**.

39. Openness is an essential characteristic of the Green Belt. The erection of the panels and the required equipment and fencing described above would all reduce openness, causing harm. The appellant notes that around 94% of the Council area of some 24,819 hectares is designated as Green Belt and considers that the use of 10 hectares of this is insignificant and is not permanent **[24]**. Nevertheless, the Framework states that openness is an essential characteristic

[11] Attached to the questionnaire
[12] Included as part of the appellants information

of Green Belts and the proposal would reduce this openness, regardless of the amount of Council area that lies within the Green Belt.

40. Paragraph 80 of the Framework states that Green Belts serve five purposes. The proposal would conflict with the third of these, safeguarding the countryside from encroachment **[16, 24]**. Due to the temporary nature of the proposal, as well as the fact that the structures would not completely cover the site, I consider that the effect on openness and the purpose of including land in the Green Belt would cause moderate harm in totality.

41. I therefore consider that the proposal would be inappropriate development in the Green Belt. The proposal would also reduce openness and conflict with the purposes of including land in the Green Belt. Collectively these would weigh heavily against the proposal, and as such the scheme would conflict with the Framework, as well as with Policies DP10 and DP13 of the Local Plan.

Character and appearance

42. The site lies within the Low Weald National Character Area (NCA). This area is a low lying clay vale and is largely agricultural, with what is described as mainly pastoral farming due to heavy clay soils. At a local level the site also falls within the Low Weald regional character area which is described as a gently rolling landform with few trees or woodlands creating an open mixed farmed landscape. Key characteristics of small irregularly shaped fields and narrow winding lanes enclosed by low hedges are referenced in the LVS. This accords with my observations from my visit; the site consists of 2 fairly low lying fields, which rise slightly towards the east. Hedge boundaries to the fields are strong **[4, 26]**

43. The appellant refers to a 2015 landscape strategy for Surrey which sets out a strategy for the area to preserve its peaceful, unsettled character, whilst promoting traditional management of woodlands and hedgerows including restoration of hedgerow trees. Whilst the site itself is peaceful and rural, the landscape character of the site is also affected by the presence of the nearby Gatwick Airport; the site lies virtually under the flight path for the airport and at my visit planes regularly overflew the site from this busy airport **[26]**.

44. Fleeting views are possible of the site from the closest road to the west, the fairly busy Redehall Road, as well as from the quieter lanes of Cross Lane and Dowlands Lane to the north and east respectively. Such views are generally seen through gaps in hedgerows. Extensive views of the site are possible from the public footpath which passes through the heart of the site **[4]**.

45. The LVS proposes additional mitigation to that proposed as part of the application. This consists of the planting of around 1km of native hedgerow, 20 trees and the gapping up of existing hedgerow, as well as grass seeding and management to create diverse grassland areas around the panels. The appeal statement proposes some changes to the proposed planting mix to accord more readily with local circumstances and allow for a native evergreen and a higher proportion of plants such as hawthorn and blackthorn so that the hedges will be established more rapidly, along with a proportion of more mature stock of around 120-150cm. The LVS also proposes triple staggered planting rows to provide more robust hedgerows which would achieve higher levels of screening in the winter. Previous proposals of providing bunds adjacent to the through site

footpath have been altered to provide the triple staggered planting at ground level **[18, 30]**.

46. In terms of landscape, the character of the site would alter through the introduction of the panels and the associated infrastructure. The solar farm would be in place for 25 years and hence such effects would be temporary **[29]**, although 25 years is still a significant amount of time. The character would also be altered through the proposed planting proposals. However, these would primarily be beneficial, and although the proposed hedges along the footpath would alter views from this path, in landscape character terms this would not be out of place within the surroundings.

47. Generally the visual effect of the proposal would be limited due to the fairly flat nature of the surrounding landscape and the strong field boundaries and mature tree screening. Other than from the footpath 460, views of the site are not especially extensive at present from public or private points and hence the effect on these viewpoints would be limited. However, the proposal through its scale and form would clearly have an effect on the footpath which runs directly through the site. This would include the effects of the views of the panels themselves, as well as the effect of associated infrastructure, including the proposed security fencing. This would be some 2m tall and placed on either side of the footpath. Whilst the 6m gap remaining would ensure that the footpath would not be placed in a restricted 'tunnel', the fencing and panels beyond would still change dramatically the views from the footpath from the current open countryside to a more industrial nature.

48. Such views would be largely mitigated in time through the proposed planting, but this would not be a short term fix, despite the proposed larger proportion of older stock. The appellant considers that a reasonable degree of screening would be achieved after 5 years, with substantial screening achieved within 10-15 years. In the context of a 25 year scheme, this is still an appreciable amount of time that the proposal would have an adverse visual effect upon the footpath. The planting scheme would also change the views from the footpath, and whilst I note that such an effect may not be out of character with other local footpaths, the views from the path would still have been changed from the current open ones that are available **[17, 26]**

49. In summary, I therefore consider that the proposal would have an adverse effect on the intrinsic landscape character of the area, which is attractive for the reasons I have described, and that harm would be evident from the various points and receptors I have described. The proposal would be contrary to policies 18 and 21 of the Tandridge District Core Strategy 2008 and Policy DP7 of the Local Plan. The appellant is of the view that CS policy 21 does not fully accord with the Framework as all development in the countryside has some impact and the policy does not allow for balancing harm against other material considerations **[31]**. However, to my mind the policy is broadly consistent with the core planning principle within the Framework that planning should recognise the intrinsic character and beauty of the countryside.

Other considerations

50. The proposal would export up to 5244 MWh per annum of electricity, equating to the annual energy consumption of approximately 1,575 households and a displacement of 2,275 tonnes of carbon dioxide a year **[28]**. The Framework

states that planning plays a key role in helping secure radical reductions in greenhouse gas emissions, minimising vulnerability, and providing resilience to the impacts of climate change, supporting the delivery of renewable energy and associated infrastructure. I place significant weight on the provision of renewable energy, and note that the Framework states that renewable energy is central to the economic, social and environmental dimensions of sustainable development.

51. The proposed hedgerow planting and landscape mitigation, including habitat creation, would result in ecological and biodiversity benefits. The proposal would also result in some economic benefits with job creation largely during the time of the construction of the park. I place moderate weight on these benefits.

Conditions

52. Suggested conditions are included within the Council's statement. Standard conditions are necessary relating to implementation and compliance with plans, in the interests of proper planning and for the avoidance of doubt (1, 2). A condition is also required to ensure that the recommendations as detailed in the ecology survey submitted[13] are carried out as proposed, in the interests of biodiversity and to ensure that the identified benefits of the scheme are achieved (4). A condition to ensure that the drainage of the site is submitted and agreed is also necessary, in the interests of the environment (3).

53. A Heritage Desk-Based Assessment was submitted with the appeal. The Council's archaeological officer notes that the assessment identifies the presence of an anomaly of possible archaeological origin on the site but that the proposal would result in the destruction of this. In view of this they recommend that a programme of archaeological monitoring is carried out, with contingent excavation, recording and analysis of any archaeological heritage assets as necessary **[35]**. A condition to cover such matters is both necessary and reasonable (5).

54. Although not included within the District Council's suggested conditions, the County Council suggest various conditions within their consultation response to the planning application[14] to ensure highway safety is maintained during site construction. I consider such conditions would be necessary given the narrow nature of some of the surrounding lanes (6, 7, 8, 9). However, I have not included the condition pertaining to the bulk movement of materials as this is not precise and would be covered by other conditions.

55. Finally, no conditions were suggested by the Council to ensure that the life time of the consent only runs for the suggested 25 years that the appellant has stated. Such conditions, including ones to ensure that the remediation of the site is agreed at the end of this period, or earlier should the farm cease to function, are necessary to ensure that the land reverts to agricultural use after the 25 year lifetime of the scheme (10, 11, 12). The appellant has recognised in their statement that such conditions would be required **[29]**.

[13] Ecological Survey Redeham Hall Smallfield Surrey, Clarkson & Woods May 2015
[14] A copy of the County Highways application response is attached to the Questionnaire

Planning Balance and Conclusion

56. The proposal would be inappropriate development in the Green Belt, would result in a loss of openness and would have an adverse effect on the appearance of the surrounding area. On the other hand, the proposal would generate a large amount of renewable energy, providing benefits in securing the reduction of greenhouse gas emissions, contributing towards local renewable energy and carbon reduction targets, as well as providing biodiversity and economic benefits.

57. The Framework states that substantial weight should be given to any harm to the Green Belt. I also ascribe considerable harm to the character and appearance of the local landscape. This is weighed against the significant benefits of the renewable energy and the moderate benefits in terms of biodiversity and economic effects.

58. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Whilst I have found that the proposal would have significant benefits, I do not consider that these considerations *clearly* outweigh the substantial harm that the proposal would cause to the Green Belt and the considerable harm to the character and appearance of the local landscape

59. The appellant submits various appeal decisions of solar farms within the Green Belt where the respective decisions have found benefits of sufficiency to outweigh harm to the Green Belt **[25]**. However, each case must be dealt with on its own merits; moreover I note that the Cranham appeal[15] involved a site located between a motorway and a golf course, and thus the character of the area is significantly different to the case before me. In the Rowles Farm case[16] the Inspector and the Council found no harm to the character and appearance of the surrounding area and the scheme had increased benefits in terms of renewable energy production.

60. The appellant states that the Council have accepted that if a solar park were to be sited in the District, then it would need to be in the Green Belt **[28]**. However, this does not convince me that the site has to be sited in the Green Belt; other sites will exist in the south-east of the Country which do not lie within the Green Belt, even if such sites are outside the Council area. I acknowledge that the Framework states that very special circumstances to allow such a development may include the environmental benefits associated with renewable energy. However, for the reasons given above I do not consider that, in this case, the circumstances advanced clearly outweigh the harm caused and hence very special circumstances do not exist.

[15] APP/B5480/A/14/3337508
[16] APP/C3105/A/13/2207532

Recommendation

61. I recommend that the appeal be dismissed and planning permission be refused.

62. In the event that the Secretary of State disagrees with me and allows the appeal and grants planning permission, I recommend that the conditions contained in the Annex below be applied.

Jonathan Hockley

INSPECTOR

Annex – Recommended conditions if permission were granted

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: PV/0199-02 Rev 4, PV/0199-04 Rev 2, BRS.58225_15-C rev C, PV-0199-01 Rev 4, PV-0199-04 Rev 1, PV-0199-07 Rev 1, PV-0199-06 Rev 1.
3. Development shall not begin until a full drainage scheme, including details of the existing site drainage mechanism, including topography details and drainage routes have been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.
4. The development shall be carried out in accordance with the recommendations as detailed in the Clarkson and Woods ecology survey dated May 2015. Any further necessary protective or mitigation measures arising shall be submitted to and approved in writing by the local planning authority before any works are undertaken on site. Work shall only take place in accordance with the approved details.
5. No development shall start until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the District Planning Authority.
6. The development hereby approved shall not be commenced until the proposed modified vehicular access to Dowlands Lane (D369) has been temporarily widened to 8.2m for construction purposes and provided with the maximum visibility zones achievable in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority.
7. Following construction of the access the original 4.2m width of the access shall be reinstated and visibility zones of 2.4m ‘x’ distance by the maximum achievable shall be kept permanently clear of any obstruction measured over 0.6m above the road surface.
8. The development hereby approved shall not be commenced until space has been laid out within the site in accordance with the approved plans for

vehicles to be parking and for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. The parking/loading and unloading/turning area shall be retained and maintained thereafter.

9. Development shall be carried out strictly in accordance with the submitted Construction Traffic Management Plan (May 2015) produced by INRG Solar Ltd for Proposed Solar Farm at Redeham Hall, Smallfield.

10. This grant of planning permission shall expire no later than 25 years from the date when electricity is first exported from any of the solar panels to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be given to the local planning authority within 14 days of its occurrence.

11. Prior to the commencement of development a Decommissioning and Restoration Scheme shall be submitted to and approved in writing by the local planning authority. The statement shall include details of the timescale and management of the decommissioning works; the removal of all equipment including the solar panels, mounting frames, buildings, fencing, CCTV, and all other associated structures; and the reinstatement of the land to its former greenfield condition. The works shall be carried out in accordance with the approved details.

12. If at any time after the First Export Date the development hereby permitted ceases, for a period of no less than six months, to export electricity to the electricity grid then the solar panels, mounting frames, buildings, fencing, and all associated structures, shall be removed and the site restored in accordance with the Decommissioning and Restoration Scheme approved under condition no. 11 above.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.