



AtkinsRéalis



# Rosefield Solar Farm (EN010158)

**Rosefield Solar Farm – Buckinghamshire Council’s ISH1  
Post Hearing Note**

Buckinghamshire Council

May 2026

## **Buckinghamshire Council's ISH1 Post Hearing Note**

1. In line with the Examination Timetable, Buckinghamshire Council (**the Council**) provides the following information and submissions following Issue Specific Hearing 1 held on 20 and 21 May 2026.

### Item 1: Introductions, arrangements and purpose of the hearing

1. Mr Daniel Kozelko introduced himself as counsel to the Council. On Day 1 he was joined by Ms Alexandra Nahani (Associate Town Planner at AtkinsRéalis), and on Day 2 he was joined by Ms Zenab Hearn (Principal Planner at the Council). Mr Kozelko introduced experts that joined by video link through the course of the hearings.
2. Mr Kozelko highlighted that the Council's expert for the flood and hydrology section was not available on the afternoon of Day 1. The Examining Authority (**ExA**) moved flood and hydrology up the agenda before ecology as a result. The Council welcomed this change.

### Item 2: Need, site selection, and alternatives

#### *2(b) Grid connection*

3. Under this heading the Applicant and the Claydons Solar Action Group made submissions to the ExA about the varying prioritisation given by the National Energy Systems Operator (**NESO**) to the photovoltaic (**PV**) generation and battery energy storage system (**BESS**) aspects of the Scheme. Following those submissions Mr Kozelko raised two points.
4. First, Mr Kozelko highlighted the test that the Secretary of State (**SoS**) must apply when considering the availability of a network connection in NPS EN-1 para 4.11.12. The test in that paragraph requires that the SoS "should be satisfied that appropriate network connection arrangements are/will be in place for a given project". Mr Kozelko highlighted that, given it is now known that the PV generation aspect of the Scheme will have Gate 2 Phase 2 prioritisation with NESO, but that

the BESS will have Gate 1 prioritisation, the question arises whether the para 4.11.12 test is met. That is because Gate 1 gives an uncertain connection date.

5. Second, Mr Kozelko referred to the Applicant's reliance on NPS EN-1 (2025) para 3.2.6, and the submission (discussed in the context of BESS connection) that the Clean Power Action Plan 2030 and the NPS are not presenting targets which are about stopping projects, but rather about prioritising projects for 2030 while maintaining a robust pipeline beyond 2030.
6. Mr Kozelko expressed a note of caution about how reliance is placed on the NPSs in relation to BESS, as BESS is not itself the subject of the Planning Act 2008 regime (but rather potentially falls within the regime as associated development). Thus, the discussion of need in the NPS (and, particularly, the Critical National Priority Infrastructure presumption set out in the NPS) must be seen in that context.
7. Following the Applicant submitting that it had provided ample evidence of a network connection for the BESS, and that there is a "realistic prospect of good connection agreements coming forward", Mr Kozelko highlighted that it is ultimately a matter for the SoS to conclude whether the para 4.11.12 test is met. However, it is known what a Gate 1 offer is, and how NESO approaches such connections.
8. *Post-hearing submission: in respect of the approach to need in NPS EN-1 (both 2023, but also the paragraph relied upon by the Applicant from 2025), it is important to be careful to distinguish between the Critical National Priority Infrastructure which is directly the subject of the NSIP regime, and the infrastructure that is the subject of the regime as a result of being associated development. While both NPS EN-1 (2023) and (2025) recognise the role of electricity storage, there must be care in how the principles related to need (in para 3.2.6 (2023) and para 3.2.8 (2025)) and Critical National Priority Infrastructure (in section 4.2 (2023) and section 4.2 (2025)) are applied to such storage (which is only subject of the scheme as potentially associated development). While need submissions were raised by another party at ISH1, the Council wished to clarify*

*that care should be taken not to conflate the need and policy weight set for low carbon infrastructure in the NPSs, and the question of need and policy weight for associated development. While need for PV generation may be relevant to the need for BESS, they should not be treated as the same thing in policy terms.*

*2(c) Status and location of the proposed BESS*

9. The ExA explored the issue of the location of the BESS within the Scheme. Mr Kozelko noted the letter that the Applicant had provided to the Council on BESS siting, but maintained that the Council wished to see the underlying evidence which underpinned that letter. That was particularly so given adverse effects which arose out of the existing location of the BESS, and the need in NPS EN-1 para 4.2.14 to show proper compliance with the mitigation hierarchy (and, particularly, the requirements in respect of avoidance).
10. Mr Kozelko noted, reviewing the available plans, that there was development space available in E10 and E11, and that this should be considered in light of the reduced space required for the reduced capacity BESS. He also noted that the Applicant had raised concerns about noise in E10 and E11, but raised concerns that absence of noise was part of the current reasoning for its location in D8 and D9. He also noted the concerns about flood zone and easement, and invited that further information be provided. Mr Kozelko accepted that the Council would go away and reasonably consider that evidence.
11. In response, the Applicant noted that it would provide information related to location of the BESS at Deadline 3. However, the Applicant went on to suggest that after this it is for the Council as a third party to put forward evidence, including from an evidential perspective, supporting its location. The Applicant referred to paragraphs in NPS EN-1 (2025) concerning alternatives and evidence of suitability, and said that it is “not appropriate” for third parties to turn up and say a different location is suitable and not be required to evidence that position.
12. As to the reliance on the NPS paragraphs concerning alternatives, Mr Kozelko emphasised that the paragraphs referred to by the Applicant were about new alternatives plucked from the ether at a late stage. Rather, Mr Kozelko emphasised

that this was an alternative that the Applicant itself had considered. Thus, this was not a new alternative, but rather one which the Applicant required to set out and provide the evidence for its conclusions. Mr Kozelko again said that the Council would consider that evidence and consider what if any evidence was needed in reply.

13. *Post-hearing submission: the Council understands the Applicant, when it referred to the NPS EN-1 (2025) paragraph on alternatives, to be referring to para 4.3.29. The same paragraph exists in NPS EN-1 (2023). That paragraph provides that “where an alternative is first put forwards by a third party after an application has been made, the Secretary of State may place the onus on the person proposing the alternative to provide the evidence for its suitability as such and the Secretary of State should not necessarily expect the applicant to have assessed it”. Of course, here E10 and E11 are not a proposal first put forward by a third party. It was an alternative assessed by the Applicant. As such, the normal principles applying to an Environmental Statement (ES) apply, and it is incumbent on the Applicant properly to set out that alternative. The Council will consider what is provided by the Applicant at Deadline 4.*

#### Item 4: Water environment

14. At the request of the Council, due to its expert’s availability, water environment was placed before ecology and biodiversity in the agenda. The Council welcomed this change.

15. The Council commented on issue 4(d) related to flood risk and floodplain compensation. Mr Kozelko flagged that the Council wished to see how proposed flood compensation would interact with the proposed surface water drainage elements. This will be reviewed following the submissions at the relevant deadline.

#### Item 3: Ecology and biodiversity

*3(a): Compliance with the National Policy Statements*

16. The Council raised a policy concern at the end of Item 3. In response to the Applicant's suggestion that any harm to the Bechstein's Bats should only be given "significant weight" in the planning balance, Mr Kozelko identified a policy disagreement between the Applicant and the Council. While the Applicant appeared to rely on NPS EN-1 para 5.4.43 to argue that harm to biodiversity in the form of Bechstein's Bat should only attract significant weight against the Scheme in the planning balance, Mr Kozelko pointed to para 5.4.55 to emphasise that harm to Bechstein's Bat would be a reason to attribute substantial weight against the Scheme in the planning balance. Indeed, para 5.4.55 as a starting point indicated that such harm should lead to a withholding of development consent.
17. Mr Kozelko emphasised the need to apply a precautionary approach, which was particularly important in the EIA context. This was harm relating to a protected species and also their foraging habitat. It was a harm which the Council said should be avoided in line with para 4.2.15 of NPS EN-1 and the requirements for a proposed development to attract the CNP Infrastructure presumption.
18. *Post-hearing submission: the Council maintains that the appropriate provision of the NPS EN-1 in relation to harm to Bechstein's Bat is NPS EN-1 para 5.4.55. It provides that the SoS "should refuse consent where harm to a protected species and relevant habitat would result, unless there is an overriding public interest and the other relevant legal tests are met". It is noted that "harm" here is unqualified (indicating any harm is sufficient), but in any event the Council consider the Scheme to have a significant negative and harmful effect on the bats in EIA terms. Further, para 5.4.55 provides that such harm should be given "substantial weight" as harm to the "detriment of biodiversity features of national or regional importance or the climate resilience and the capacity habitats to store carbon, which they consider may result from a proposed development". There is no doubt as to the national importance of Bechstein's Bat generally, or this particular enclave of such bats. This policy test must be applied, and is relevant to Natural England, BBOWT, and the Council all requesting the removal of fields from the PV in the Scheme.*

3(b) Presentation of likely significant effects

19. Mr Kozelko introduced Ms Annie Ottaway who made the expert submissions on behalf of the Council on ecology. Ms Ottaway aligned the Council's position with Natural England, given the concerns about the home range of the bats and also the established importance of this area to those bats (including this existing grassland being their core sustenance zone). She highlighted the requirements of the mitigation hierarchy, and noted that this was why the Council sought the removal of a number of fields from the Scheme (so as to maintain connectivity). She highlighted the broader criticism that the Applicant's approach relied too heavily on later mitigation, monitoring and adaptive management rather than avoiding the sensitive locations in the first place.

### *3(c) Bechstein's Bat*

20. Ms Ottaway aligned the Council's position once again with Natural England, although she emphasised the larger number of fields which the Council seek to be removed from the Scheme to maintain connectivity.

21. It was emphasised that avoiding fields was key as a way of avoiding effects on the bats, rather than seeking merely to mitigate. This could be achieved by not putting solar PV in such fields. This extended to those fields between three ancient woodlands which are particularly well used by bats, and thus extends to excluding B10 and B11 so that connectivity was maintained and the risk of solar-panel avoidance impacts was reduced.

22. On buffers, Ms Ottaway identified that this overlapped with arboriculture issues. She noted that the Council's local planning policy expected buffers for hedgerows which were to be measured from the edge of the feature. It was considered that measuring from the centreline did not protect the feature itself, particularly noting that the hedgerows were old, wide, non-uniform and contained large trees.

23. The Council's position was that buffers measured from the centreline did not even protect the root protection areas of some large trees in many places. Ms Ottaway highlighted that, as a result, the Council did not consider the buffers sufficient for the bats, for the features themselves, or for wider ecological purposes. The

Council understands that this will be the subject of further discussion between the Council, Natural England, and the Applicant.

24. In respect of monitoring and also the OLEMP, the Council aligned its position with Natural England and welcomed the opportunity to review the further information which would be provided by the Applicant on these matters.

25. *Post-hearing submissions: at the end of this section Natural England gave a short comment on the importance of Bechstein's Bat generally, but also this unique population which is already under significant development pressure. The Council aligns itself with that position. The Council considers avoidance to be key and maintains the removal of various fields from PV is important.*

### 3(d) Arboriculture impacts

26. Mr Kozelko introduced Ms Ana Patriarca who made the expert submissions on behalf of the Council on arboriculture. Ms Patriarca noted that a number of concerns had been addressed by the Applicant's Deadline 2 updates, but that important issues remained.

27. Among these was a concern that areas had not been surveyed because of access and growth constraints, and the Council wished to have those difficult areas identified on a plan. This was because, without that clarity, baseline uncertainty resulted and flowed into uncertainty around management of other features.

28. Ms Patriarca re-emphasised the importance of buffers for maintenance, mitigation and the long-term operational lifecycle. The Council had concerns that, if the baseline was unclear, the Council could not have the confidence that buffers were appropriate or that trees would be retained throughout later stages.

29. While it was noted that the Applicant had provided updates at Deadline 2 in respect of inspection and mitigation, Ms Patriarca identified that the Council needed confidence now that trees would be retained and protected during all stages of the development. For that reason, the need for an arboriculture method statement was emphasised, along with the further need for information in the LEMP to resolve buffer issues and also the maintenance of trees and hedgerows.

30. Mr Kozelko emphasised that the Council was seeking both a method statement and also amendments to the LEMP, and that the Council would encourage a technical meeting to resolve wording and mitigation detail.

*3(e) Ground nesting birds*

31. In respect of ground nesting birds, the Council accepted generally that the Applicant's responses at Deadline 2 had resolved this issue. However, the Council reserved the right to look at the fields provided for mitigation of these birds as it became apparent from submissions from the Applicant and CSAG that one of the fields may not be suitable.

*3(f) Biodiversity net gain*

32. The Council asked that it see the Excel version of the Applicant's BNG metric. Mr Kozelko confirmed that he had seen the Excel uploaded online in other NSIP cases.

33. Ms Ottaway set out a number of concerns that the Council had about the BNG metric:

- a. The first concern was arable field margins. Ms Ottaway said arable field margins appeared to have been inputted in a way that avoided the trading rules requiring replacement of like with like habitat.
- b. The second concern was individual trees. Ms Ottaway said the statutory metric rules on reporting individual trees had not been followed, which would over-inflate the value of proposed trees as against trees to be lost.
- c. Third, Ms Ottaway noted that the Council's Local Nature Recovery Strategy had now been published and should be used for strategic significance.
- d. Fourth, Ms Ottaway noted that there had been assumptions about advance creation of woodland and hedgerows, but at the time there was no assurance that those habitats would in fact be created in advance.
- e. Fifth, Ms Ottaway queried whether "species rich" or other neutral grassland in good condition could realistically be achieved on arable land.

Ms Ottaway said good condition required sufficient species richness and low soil nutrients, and there was no clarification that soils were suitable or that nutrients could be reduced sufficiently.

- f. Sixth, Ms Ottaway identified that the report did not make clear which biodiversity units derived from habitat proposed as mitigation/compensation for other impacts and which units were genuine additional enhancement for BNG.

34. Notwithstanding the Applicant seeking to justify departures from the metric, Ms Ottaway highlighted that the Government's metric and methodology should be followed for NSIPs as in other developments. Calculations should not use a methodology more favourable to this particular Scheme than others.

35. Once the Excel is provided to the Council, the Council will review in full and provide further commentary. The Council also note the direction from the ExA that a discussion may be helpful to address matters pragmatically.

#### Item 5: Landscape and visual (including good design)

##### *5(a): Applicant's assessment of landscape and visual effects*

36. Mr Kozelko introduced Mr Neil Hutchings who made the expert submissions on behalf of the Council on landscape. Mr Hutchings identified that the Council had concerns about the Applicant's approach to classifying sensitivity, which had used a three-point scale rather than a five-point scale. Mr Hutchings considered that a three-point scale was too blunt and was one reason which led to an underscoring of likely effects on the landscape and visual receptors. In particular, some effects were classified as a moderate adverse but had not been identified as significant. Mr Hutchings explained that the Council would normally expect receptors receiving a moderate adverse classification to cross into significant effect territory. As a result, the Council considered that the classification should be revisited.

37. In response to the ExA noting that this issue was recorded as amber in the draft Statement of Common Ground, the Council noted and it was accepted that there

could be engagement to discuss the GLVIA 3 methodology. It was noted that there was a difference of opinion on some of the methodology and how it had been applied.

38. In respect of D28 and D29, Mr Kozelko highlighted that the Scheme sat in the Area of Attractive Landscape as identified in the local plan. The Council emphasised that the concern in respect of these parcels was not only landscape based, but extended to ecological impacts near the woods and cumulative effects. These matters in combination led to the clear outcome that these fields should be avoided for development. Mr Hutchings agreed and highlighted that topics should not be taken in isolation. To remove or relocate an element could mitigate effects in one discipline but create disadvantages for another. So it was necessary to consider matters in combination. Mr Kozelko emphasised this in combination point and the need for avoidance.

39. As to whether the Council accepted the Applicant's view that landscape effects were localised because of limited wider visibility, Mr Hutchings said there were medium or medium-to-long distance views when traversing the area by public rights of way. The development would be noticeable even with mitigation. The Council emphasised the need to avoid and mitigate these adverse landscape effects.

40. Mr Kozelko referred to the position in NPS EN-1, and recognised that the policy itself directed that local landscape designations on their own were not to be used to refuse consent. However, the Council's position was not solely based on local designation but extended to the holistic planning assessment. It is incorrect therefore to suggest that D28 and D29 should not be removed; rather it is the landscape impacts taken with the other impacts that the Council identified. A siloed approach, which the Applicant has a tendency to adopt, should be avoided. Thus, these parcels should be removed considering the overall balance.

41. *Post-hearing submission: the Council consider the OLEMP to set out potential mitigations, being mitigations which can all be required to be included in the*

*Detailed LEMP. However, the Council will discuss the use of the word “potential” with the Applicant further in light of the concern raised by the ExA.*

*42. Post-hearing submission: NPS EN-1 para 5.10.12 makes clear that local landscape designations “in themselves” should not be used to refuse consent. The Council recognises this, notwithstanding that it considers there are significant negative effects on the landscape including in the Area of Attractive Landscape. However, as was emphasised at the hearing, the Council’s position extends beyond landscape effects to ecological and cumulative effects which lead to its conclusion that fields D28 and D29 should be removed (and, indeed, that development consent should be withheld). This is a cumulation of a number of important and significant negative effects from the Scheme.*

*5(b) Suitability of proposed mitigation*

43. The ExA queried whether the Council was satisfied that the LEMP secured the intended landscape and visual mitigation. Mr Kozelko said that the Council did not have a concern that this was secured in the standard way in the DCO in that there would be a need for the final LEMP to be substantially in accordance with the outline LEMP. As to whether the word “potential” in the outline LEMP created ambiguity, this may simply require a change of word.

44. The Council confirmed that it was satisfied with the approach to establishment and ongoing maintenance of mitigation planting in the LEMP.

45. Mr Hutchings referred to the mitigation provided at the outline stage but queried whether the Applicant could provide further mitigation so as to mitigate the effects that were problematic. He had concerns, related to the articulation of adverse landscape effects by the Applicant generally, that it was difficult to have confidence that all steps to resolve these issues had been fully taken.

46. As an example on BESS mitigation, Mr Hutchings referred to potential use of close-boarded fencing, around 3.5m high, as acoustic mitigation. He said the BESS itself would be out of character in the landscape and enclosing it with close-boarded

fencing would exacerbate the adverse impact. This was a factor which might be registered to resolve such adverse landscape effects.

47. Mr Kozelko highlighted a point from the Council's LIR: generic mitigation is not necessarily effective mitigation and can itself cause harm. Screening may reduce views but have a different adverse effect, with the BESS fencing as one example.

#### Item 6: Cultural heritage

48. Cultural heritage was the first issue addressed on Day 2 of ISH1. Mr Kozelko introduced Mr Kenneth Sabel who made the expert submissions on behalf of the Council on heritage.

49. Mr Sabel confirmed his concerns about Annex D to the setting baseline assessment. In particular he raised concerns about connection to the setting, including in respect of the wider historical relationships and the architecture. He considered that significance of assets had not been adequately explained or assessed in a number of instances. He also considered these issues not to be adequately explained having regard to Historic England's GPA 3 which provides a helpful checklist. Mr Sabel considered that the Applicant having regard to that checklist would assist it in identifying elements that had been missed (for example, role of a heritage asset as a focal point).

50. The Council will provide an example in relation to Botolph House in its Deadline 3 submission. Mr Kozelko suggested that the Council might helpfully provide a more detailed survey of the more important heritage assets addressing this point at Deadline 4. Mr Griffiths raised in response that the Applicant and Council might helpfully meet following Deadline 3 to discuss. Mr Kozelko welcomed that on behalf of the Council, but identified that this may mean there needs to be optionality on anything submitted by the Council to Deadline 5 rather than Deadline 4.

51. Mr Sabel was also asked about visualisations from Claydon House and whether that changed his position on harm to Claydon House. He considered that it did not. He accepted that visibility was more limited from the Chinese Room, but the

views were still there. He considered the position must be taken considering Claydon House as a whole including the connection to the former estate, the parklands, the satellite farms, and the view from Knowl Hill. Approaching Claydon House along traditional routes, people would be aware of the solar infrastructure. The cumulation of elements is what leads us to the less than substantial harm at the middle of the scale. Taken with for example HS2, East West Rail, and other solar farms.

52. When asked whether the Council had identified more mitigation arising out of the visualisations, Mr Sabel confirmed that the Council had not. He raised the concern that more planting introduced more permanent severance, albeit such mitigation could be relevant to other disciplines as well. The difficulty with the severance was that it was noted that it can put one in a position of “damned if you do, damned if you don’t”. Mr Sabel confirmed this was a point that can be discussed further with the Applicant, including whether additional planting further up Knowl Hill might assist views from the top of the hill.

53. Moving to Ponds Farmhouse, Mr Sabel noted that this is a Grade II asset sitting in its unaltered and existing setting, and thus approaches past it and connecting to other assets are important. Removing that setting and surrounding it with development would typically be top end of less than substantial harm. Indeed, some might go to substantial harm. Mr Sabel noted the mitigation planting, but considered that that in itself may occasion harm. On the other hand, Mr Sabel considered that the more a setback was provided the more harm that could be avoided.

54. In response to Mr Griffiths emphasising that this is less than substantial harm at the middle of the scale, and that the methodology adopted had been approved by Historic England in respect of Claydon House, Mr Kozelko noted that this is still harm in respect of the asset (and, indeed, is significant in EIA terms). Thus the requirement to avoid was still present. Further, that Historic England had accepted the methodology for a different asset did not confirm how it had been applied to this asset.

55. Mr Sabel set out that the connection between Ponds Farmhouse, other farmhouses, and Claydon House is strong. Appendix D does not address that the architecture of these buildings responds to Claydon House; this explains the use of stone for these buildings rather than brick. While Ponds Farmhouse itself cannot be seen from Knowl Hill, these structures can all be understood together. The architecture was not mentioned by the Applicant and there is no understanding of this interaction of the nature of the architecture.

56. Mr Sabel went on to note that setting is more than just views to and from the house, and ultimately setting still goes directly to the significance of the asset. That there is no harm physically to the asset is no answer to the identification of harm to the significance of the asset.

57. *Post-hearing submission: Mr Sabel's comments on Botolph House are included in the Council's comments on the Applicant's answers to ExAQ1 and reply comments to the LIR.*

#### Item 7: Transport and access

##### *7(a) Applicant's assessment of transport and access matters; 7(b) Suitability of the OCTMP*

58. Mr Kozelko introduced Mr James Duncan who made the expert submissions on behalf of the Council on transport and access.

59. In respect of concerns about mode share, the Council identified that it would like to see the detail of the mode share in the OCTMP. While it was thought to be something which was secured in the DCO in the normal way, the Council confirmed after the break that it would explore the matter further with the Applicant following the hearing.

60. In respect of temporary traffic signals, Mr Duncan confirmed that he was satisfied with the intention to use temporary signals on shorter stretches of road than was set out in the DCO. However, he maintained a drafting concern. Mr Duncan noted that wording had been provided in respect of this, and that the matter would be explored further with the Applicant in discussions following the hearing.

61. In respect of abnormal indivisible loads and traffic management, the Council confirmed that it was satisfied with the approach currently provided for in the OCTMP. Mr Kozelko confirmed that it was satisfied that the OCTMP along with the parallel licensing position for AIL movements would be sufficient to address this issue.
62. In respect of junction drawings and swept path, Mr Duncan confirmed that the drawings and analysis provided was satisfactory and that he had nothing to add on the issue.
63. In respect of non-motorised users, Mr Duncan confirmed that the OCTMP contained measures in excess of those that had been secured to protect such users in other infrastructure projects. Mr Duncan also noted that the construction period was for a limited period and that there was the protections in place to give the relevant security.

*7(c) Public rights of way diversions and enhancements*

64. Mr Kozelko introduced Mr Jonathan Clark who made the expert submissions on behalf of the Council on public rights of way (**PRoW**).
65. In respect of minimum widths for newly created footpaths, and also for stiles and gates, the Council confirmed that it was satisfied by the position adopted by the Applicant subject to this being properly secured within the relevant DCO documents. In respect of widths, the Council sought a new column in the relevant table in the DCO to secure that width so that it could be transferred across to the definitive map and statement. In respect of stiles and gates, the Council asked that the appropriate standard be applied (being BS 5709:2018).
66. In respect of the PRoW diversion near Pond Farmhouse, Mr Clark confirmed that this was a matter which had now been resolved subject to the reassurance that the footpaths would not be fenced off for the 40-year life of the Scheme.

Item 8: Population

67. Mr Kozelko introduced Ms Anna Morris who made the expert submissions on behalf of the Council on population.

68. The ExA began by asking the Council to consider its position in respect of TCS Biosciences/Preston Farms and whether effects on those businesses could fall within the exception to critical national priority in section 4.2 of NPS EN-1. Mr Kozelko began by noting that he did not understand the Applicant to be saying that, in principle, the exception could not apply but rather that it does not consider the test to have been met. He identified that the Council considered that in principle the policy could apply. However, he noted that this is a moveable picture, and that the Council would encourage TCS Biosciences and Preston Farms to submit as much evidence as they could so that the Council could consider it.
69. As to assessments, the Council itself had not done a specific assessment of TCS Biosciences/Preston Farms and had not seen a specific one from the Applicant and the ES dealing with this issue in detail. So, in the absence of such an assessment it was difficult for the Council to come to conclusions. However, the Council considered it important that such effects are properly assessed. The Council noted that this should not be interpreted as reluctance to say the test is met or that it does not consider the test is met; but, rather it is a more neutral position concerned with whether the Applicant has conducted a proper assessment at all. Ultimately, it is incumbent on the Applicant properly to assess the likely effects of the Scheme, and it is noted that TCS Biosciences and Preston Farms bring forward evidence of the importance of their operation nationally.
70. Ms Morris expanded that this is one of a number of instances where the Council has reservations about the underlying sensitivity judgments which have been applied. The Council consider that the underlying sensitivity is incorrect, the potential impact magnitude is probably incorrect and that this potentially has led to an underassessment of significance and that there is an absence of mitigation.
71. Contrary to the suggestion of the Applicant, Mr Kozelko emphasised that the ES Chapter addressing this issue did not give the level of granularity required in respect of TCS Biosciences and Preston Farms. It was this that was being particularly identified by Ms Morris. It was that lack of transparency which, among other things, led to the Applicant approaching these issues in a cursory way. TCS

Biosciences and Preston Farms were the most acute example of the Applicant's failings.

72. As to discharge of requirements related to TCS Biosciences and Preston Farms, the Council noted that it had limited expertise in this area and identified this as one of the concerns that it had about the timelines in Schedule 16 to the draft DCO. Mr Kozelko indicated that this was a matter which the Council sought to discuss with the Applicant further after the hearing.

73. As to the discussion of the traffic route, Mr Kozelko noted that in general the Council had assessed the traffic route for the Scheme as acceptable. However, in doing so it had not assessed the particular sensitivities or special situation of TCS Biosciences and Preston Farms and should not be taken to have resolved that issue in respect of traffic.

74. At the end of the section on population, Mr Kozelko highlighted a general concern by the Council about the level of detail provided by the Applicant in this section of its ES and the lack of transparency that was apparent. Mr Kozelko highlighted that this is a matter the Council may consider in a further submission (among other things, in light of the further information that would be provided by TCS Biosciences / Preston Farms).

#### Item 10: Noise and vibration

75. Mr Kozelko introduced Mr Charlie Robinson who made the expert submissions on behalf of the Council on noise.

76. The ExA first noted the Council's request for further assurances through the Detailed OEMP in respect of noise, and asked whether that was intended to mean no further changes were needed to the OOEMP. Mr Kozelko noted the position in respect of background noise on the Scheme (particularly in a tranquil area such as the Scheme location), and Mr Robinson identified that there were some residual concerns regarding the difference between the absolute and relative noise increases caused by the Scheme. That was the case notwithstanding that a 35dB threshold was at a high level acceptable; the Scheme still led to increase in

noise of 10dB plus, which was particularly problematic given the rural and tranquil character of area compared to the character of the noises produced by the Scheme. Mr Kozelko identified that these concerns remained ones for not just detailed design but also for outline design in the OOEMP.

77. In response to the Applicant's submissions, Mr Kozelko noted that the relevant British Standard did not relegate absolute noise increases, and that such increases were still relevant (as here) where a 10 dB noise increase would be experienced. Mr Robinson also sought to emphasise the importance of the context of these increases.

78. In respect of PRowS, Mr Kozelko began by noting that it is difficult for a noise effect on a PRow to be "transient" when a user of a PRow might be in the noise effect area for an extended period (e.g. because it applies to a long stretch of the PRow). Mr Robinson accepted that there is no quantitative assessment for PRowS in the same way as residential receptors, albeit that 50dB might typically be used for amenity spaces on housing developments. However, he emphasised that the 50dB association with an existing quiet area may not be the right "translation".

79. Mr Kozelko highlighted that, when Mr Robinson referred to 50dB not being the right "translation", assistance might be taken from the WHO Guidance on this issue. The Applicant confirmed this was the guidance it was referring to when adopting its figure for PRowS, and Mr Kozelko highlighted that there is a different parameter for those situations for "outdoors in parkland and conservation areas" in the Guidance. For such areas the Guidance instead provides that "existing quiet outdoor areas should be preserved and the ratio of intruding noise to natural background sound should be kept low".

80. Mr Robinson accepted that there is no set standard for assessment in terms of PRow and that such qualitative assessment as an approach was acceptable (as opposed to a quantitative assessment). Thus, he considered that the approach "added value". However, he did also accept the benefit of a hybrid assessment using both a qualitative approach but also keeping in mind the quantitative figures for baseline and magnitude of change when forming a judgment.

81. *Post-hearing submission: much of the focus of noise assessment is related to the Noise Policy Statement for England and exceedance beyond LOAEL and SOAEL as defined in that guidance. Thus, a qualitative approach is one more typically taken for PRow because there is not the same guidance and the same methodology. However, as Mr Robinson explained, a hybrid approach using the figures available in a qualitative way is helpful. This mirrors the WHO Guidance referred to by Mr Kozelko that “existing quiet outdoor areas should be preserved and the ratio of intruding noise to natural background sound should be kept low”. Thus, even accepting a hybrid approach using the qualitative methodology adopted by the Applicant, it is still necessary to consider the amenity effect of such noise on PRow. The Council remains of the view that such amenity effects are an important negative effect of the Scheme.*

#### Item 11: Air Quality

82. The Council was asked whether the issue of the peak generation year for traffic had been resolved with the Applicant. Mr Kozelko asked the Council’s expert Ms Deborah Ferady to speak who confirmed that the matter was resolved in the most recent documents that the Applicant had submitted.