

APPENDIX 1
APPEALS RELEVANT TO SITE SELECTION

Appeal No	Date		Site details & Local Authority	Outcome
2204846	2 June 2014	Hearing	Valley Farm, Wherstead, Ipswich, Suffolk, IP9 2AX Babergh District Council	APPEAL DISMISSED
3007994	24 July 2015	Hearing	Land at Walnut Cottages, Oil Mill Lane, Clyst St Mary, Nr Exeter, EX5 1AH East Devon District Council	APPEAL DISMISSED
3005788	26 October 2015	Hearing	Barn Farm, Leake Lane, Stanford on Soar, Loughborough LE12 SQL Rushcliffe Borough Council	APPEAL DISMISSED
3017938	07 December 2015	Hearing	Land off Cold Harbour Lane, Bobbing, Sittingbourne, Kent Swale Borough Council	APPEAL ALLOWED
3011997	21 January 2016	SoS	Tawdside Far, 32 Deans Lane, Latham, Ormskirk, Lancashire West Lancashire Borough Council	APPEAL DISMISSED
3029788	20 April 2016	SoS	Land at Park Farm, Claverdon, Warwickshire Stratford on Avon District Council	APPEAL DISMISSED
3134301	23 May 2016	SoS	Havering Grove Farm, 552a Rayleigh Road, Hutton, Essex, CM13 1SH Brentwood Borough Council	APPEAL DISMISSED
3012014 & 3013863	15 June 2016	SoS	Two Appeals - Both at Land North of Dales Manor Business Park, West Way, Sawston, Cambridgeshire South Cambridgeshire District Council	APPEAL DISMISSED
3131943	31 October 2016	SoS (Call in)	Land South Of Three Houses Lane, Three Houses Lane, Codicote, Hertfordshire, SG4 8S North Hertfordshire District Council	APPLICATI ON REFUSED
3278065	7 June 2022	Hearing	Land north of The Street, Cawston, Norfolk NR11 7QR Broadland District Council	APPEAL DISMISSED

2204846

Valley Farm,
Wherstead,
Ipswich,
Suffolk,
IP9 2AX

Babergh District Council

2 June 2014



Appeal Decision

Inquiry held on 23 April to 25 April 2014 and 29 April to 1 May 2014

Site visits made on 23 and 24 April 2014 and 1 May 2014

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Government Decision date: 2 June 2014

Appeal Ref: APP/D3505/A/13/2204846

Valley Farm, Wherstead, Ipswich, Suffolk, IP9 2AX

- 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 Hive Energy Limited against the decision of Babergh District Council.
 - The application Ref B/12/01279/FUL/GC, dated 23 October 2012, was refused by notice dated 12 July 2013.
 - The development proposed is the construction of a 38.43 hectare solar park to include the installation of solar panels to generate electricity, with transformer housings, security fencing and cameras, landscaping and other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In view of the Council's screening opinion indicating that the proposal was not Environmental Impact Assessment (EIA) development for the purposes of the EIA Regulations, and the Stour and Orwell Society's challenge to this position, a screening direction was sought from the Secretary of State. As a result, the Secretary of State made a direction that the development is not EIA development, and this was communicated to the parties by letter dated 1 April 2014.
 3. At the Inquiry the Appellant requested that the plan showing fence and gate details (C.0430 rev A.1) be substituted by one showing deer fence details (H.0340_03-B). There was no objection to this and, as it was unlikely to raise any natural justice issues, this was accepted. The Appellant then requested during the conditions session that I determine the appeal on the basis of whichever version of fencing plan I thought most appropriate. Again there was no objection to this course of action.
 4. Three accompanied site visits were undertaken to the site and its surroundings. There was also a visit to two solar farms, one at Parham Airfield at Great Glemham and one at Stratton Hall on the A14 at Levington.
 5. All parties agreed at the Inquiry to submit closings in writing, which they did. The Appellant was given a right of reply and, thereafter, the Inquiry was closed in writing.
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Main Issues

6. At the outset of the Inquiry I identified five main matters for the parties to concentrate on in giving evidence. However, during the Inquiry it was agreed that noise (as it affects tranquillity) and heritage (as it affects landscape) should be considered as aspects of the character of the area rather than as discrete issues. Therefore, with respect to heritage, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged.
7. Following the Appellant's submission at the Inquiry of an archaeological evaluation, all the parties agreed that issues relating to archaeology could be dealt with by way of condition, albeit there was dispute as to the wording of such a condition. It was also confirmed that there was no dispute as to the extent of the electricity generating benefits of the scheme.
8. Consequently, in view of the positions reached by the parties and the evidence presented to the Inquiry, I have confined my main issues to the following:
 - i. The effect of the proposal on the landscape character and visual amenity of the area;
 - ii. Whether it has been demonstrated that development of agricultural land is necessary and, if so, whether it has been shown that land of poorer agricultural quality has been chosen in preference to higher quality land.

Reasons

The proposal

9. The proposal is for a solar farm with permission requested for the duration of 25 years. It would consist of 42,000 tilted, static solar PV panels, which would be mounted onto a metal framework secured by posts embedded into the ground. These panels would be positioned in rows about 4.0m apart, with the lower height of the panels being about 0.83m and the upper edge being about 2.14m above ground.
10. There would be around 10 inverter cabins, each measuring about 10.0m by 2.4m and about 2.5m high, which would sit on concrete bases, together with a control room likely to measure about 3.7m by 2.4m and about 2.6m high. A switch room would also be constructed, measuring about 4.5m by 5.0m.
11. Stretches of track would be constructed on the site and the vehicular access would be from Coxhall Road to the west. Cabling between the panels would be buried in trenches. A security fence would be erected around the perimeter of the panels together with about 50 CCTV cameras.
12. The solar array would be set back from the edge of the site by a buffer strip. The site would be sown with a grassland mix, which would be managed for the lifetime of the development for sheep grazing within the fence and for environmental purposes outside the fence.

Character and visual amenity

Site and surroundings

13. The appeal site is an agricultural field within open countryside situated on the Shotley Peninsula, which sits between the Orwell and Stour river estuaries.

The site is split into an eastern and western field and is divided by a relatively young tree belt planted in around 2000. It is bordered to the north by Shrub Wood and Holbrook Park, the latter of which runs into Great Birch Wood close to the north eastern corner of the site. Woodley Wood lies near by to the south east. To the south there are generally open fields, which slope gently down to Alton Water, which is a man-made reservoir.

14. The surrounding fields are generally in arable use and some are bordered by hedges. There is evidence of new hedge planting nearby. The site itself contains little hedging, and that which is present is generally gappy. There are occasional mature oaks but, overall, the site appears largely open against the backdrop of woodland when seen from the south, the west and areas to the south east.
15. Running along the south eastern boundary of the site is a Public Right of Way (PROW), which links Holbrook Park/ Great Birch Wood with Alton Water. There is a network of other PROWs in the vicinity. Coxhall Road, which is a single track country lane, runs along the site boundary to the south and west.
16. Two electricity lines pass over the site, one across the northern part of the site, and the other across its southern tip. Both lines meet at an electricity substation to the immediate south west of the site.
17. The landscape character is also influenced by occasional scattered dwellings and small clusters of properties in the nearby villages, some of which are listed buildings.
18. Holbrook Park is a Site of Special Scientific Interest and an Ancient Woodland, and Great Birch Wood and Alton Water are County Wildlife Sites. The appeal site and its surroundings are within the locally designated Dodnash Special Landscape Area (SLA) and within a Special Project Area which is managed as part of the nearby Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB). The site is also within a locally designated Area of High Archaeological Potential.

Policy

19. Policy CS13 of the Babergh Local Plan 2011-2031 Core Strategy & Policies (the Core Strategy), adopted in February 2014, is generally supportive of renewable and low carbon energy production although its "Note 1" requires landscape impacts to be considered. Policy CS15 requires all proposals where appropriate to their scale and nature to, amongst other things, respect the landscape, make a positive contribution to the local character, and ensure adequate protection, enhancement, compensation/mitigation to distinctive local features and local designations such as SLAs and County Wildlife Sites.
20. Saved Policy CR04 of the Babergh Local Plan Alteration No. 2, adopted in 2006, states, amongst other things, that proposals within SLAs will only be permitted where they maintain or enhance the special landscape qualities of the area, identified in the relevant landscape appraisal. The Appellant suggests that reduced weight should be given to this policy because the evidence base for designation is unclear and the Core Strategy indicates a review of SLAs in a forthcoming local plan. I do not accept this contention for the following reasons.

- 21.** Policy CR04 is an extant policy of the development plan and it is not inconsistent with current national policy. I am told that the Babergh District Council Landscape Assessment and Action Programme, revised in 2004, formed the basis of a review of SLA boundaries. Its draft form, which is before this Inquiry, gives an indication of the special landscape qualities of SLAs in the area. The evidence suggests that the 2006 Local Plan Examining Inspector considered SLAs and accepted the Dodnash SLA designation, finding the Plan to be sound. Furthermore, to give this policy reduced weight would be to pre-empt the outcome of any review. Therefore, the policy should be given full weight.
- 22.** Turning to Government policy, the National Planning Policy Framework (the Framework) at paragraph 17 recognises within its core planning principles the intrinsic character and beauty of the countryside, and paragraph 109 seeks to protect and enhance valued landscapes.
- 23.** In the House of Commons oral statement of 29 January 2014 the Planning Minister, Nick Boles, stated the *"The policies in the national planning policy framework are clear that there is no excuse for putting solar farms in the wrong places. The framework is clear that applications for renewable energy development, such as solar farms, should be approved only if the impact, including the impact on the landscape - the visual and the cumulative impact is or can be made acceptable. That is a very high test."*
- 24.** Also of relevance is the recent Planning Policy Guidance (PPG), paragraph ID 5007 of which indicates that local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on the landscape, and which recognises that impact can be as great in predominately flat landscapes as in hilly or mountainous areas. At paragraph ID 5-013 the PPG goes on to say that *"The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes."* There is no dispute that this solar array, with an installed generating capacity of 10 Mega Watts (MW) is large scale'.
- 25.** Additionally, the PPG at paragraph ID 5-010 says that *"Renewable energy developments should be acceptable for their proposed location"*, and indicates at paragraph ID 5-008 that distance away from a development is just one consideration, stating that *"Distance plays a part, but so does the local context including factors such as topography, the local environment and near-by land uses."*
- 26.** Furthermore, the UK Solar PV Strategy Part 1 of October 2013 sets out four guiding principles for solar PV, the third of which states, amongst other things, that solar PV should be appropriately sited with proper weight being given to environmental considerations such as landscape and visual impact. Following publication of this strategy, the Minister for Energy and Climate Change, Greg Barker, produced a letter dated 1 November 2013 indicating that *"...inappropriately sited solar PV is something that I take extremely seriously and am determined to crack down on."*

¹ UK Solar PV Strategy Part 1, p10, Box 3 indicates large scale as mainly being above 5MW; UK Solar PV Strategy Part 2, p30 indicates large scale as being above 1MWp (Mega Watt peak)

Character

- 27.** The Babergh District Council Draft Landscape Assessment and Action Programme, revised in 2004, indicates that the Dodnash SLA is scenic and, amongst other things, has special qualities which include woodlands and a high level of vegetation. The Ancient Woodlands of Holbrook Park and the County Wildlife Site of Great Birch Wood reflect these qualities and are in close proximity to the site.
- 28.** The Suffolk Landscape Character Assessment 2010 (SLCA) classifies the site as being within the Ancient Estate Farmlands character type whose key characteristics include large scale arable blocks divided into rectilinear fields and a substantial number of Ancient Woodlands with Holbrook Park being specifically mentioned. These distinctive characteristics are found within the vicinity of the site.
- 29.** The SLCA describes this landscape character type as a flat plateau, whose *"...landscape is unique in Suffolk with a mix of "modern" rectilinear field systems with Ancient Woodland and parklands."* The juxtaposition of the fields comprising the site and the woods of Holbrook Park, reflect this stated "uniqueness" and gives the landscape a degree of rarity.
- 30.** Built development does not feature greatly in the assessment of this character type, although its key characteristics refer to nucleated villages with some dispersed farmsteads and clusters of houses. This accords with my own observations of the area. Another key characteristic relates to a flat central spine of land with sloping sides dissected by river valleys. The gently sloping site with its more pronounced incised valley in the south east, reflects this characteristic.
- 31.** The nearby SLCA Rolling Estate Farmlands character type, with its gently sloping valley sides and ancient woodlands, is also influential of the surrounding character.
- 32.** The most recent and local character assessment for this area is the Shotley Peninsula Landscape Character Assessment of April 2013. This shows that the site lies on the margins of the Shotley Peninsular Plateau where it transcends into the Holbrook Valley and Alton Water character area. Woodland skylines, rectilinear fields, gently undulating land are mentioned as characteristics of the former, with Alton Water featuring in the latter. Included in the landscape strategy is the protection of the area's distinctive wooded skylines.
- 33.** There was some debate at the Inquiry over the site's sensitivity, which I was told is influenced by whether the site is fully on the plateau (less sensitive) or partly on the valley sides (more sensitive). However, whatever label or description it might be given, what is important is the actual lie of the land.
- 34.** From my site visits I observed that the western field is generally level but with a gentle slope towards the south west. The eastern field has more pronounced level changes and contains an incised valley in the south eastern corner. The immediate surrounding area to the south, west and south east is gently undulating, with land to the north and north east appearing more level. Given these level changes, the immediate area cannot, in general, be considered to be flat.

- 35.** Moreover, from both its descriptive characteristics and my site visits, it is clear that the area is deeply rural and tranquil in nature to the extent that the Development Management Guidelines for the Ancient Estate Farmlands character type advises that even cropping practices, such as the use of fleece and plastic has in places significantly affected the landscape.
- 36.** Therefore, taking account of the scenic and perceptual qualities of the site and its surroundings, and given the area's unspoilt, natural character and sense of remoteness, I find that the sensitivity of the site and its environs is more than medium and is approaching high.
- 37.** The development would result in the loss of arable land for 25 years, albeit this would be reversible. Nonetheless, for the lifetime of the development the regimented rows of hard surfaced solar panels would represent intrusive, utilitarian elements on an industrial scale in the open countryside. Together with its associated new buildings and structures, the proposal would have a considerable urbanising impact in this rural location, and would detract from the distinctive topography of the site and its surroundings. Given the scheme's proximity to Holbrook Park, it would also adversely impact on the setting of this Ancient Woodland.
- 38.** Although the site is reasonably contained by the surrounding topography and vegetation, thereby localising the most significant impacts on character, there would, nonetheless, be some reduced effect further afield. Given the proposal's incongruity in this rural landscape, the scheme would result in a high magnitude of change in the vicinity in the short term, which would reduce with distance and time.
- 39.** In order to mitigate the effect of the development, the Appellant proposes to introduce hedge planting, and in this regard makes reference to the SLCA guidelines in support. Whilst the SLCA guidelines encourage the enhancement and restoration of locally distinctive holly hedges, from the evidence given at the Inquiry it would appear that holly is relatively slow growing and mitigation planting might take longer to establish, should this species be used.
- 40.** The guidelines also refer to restoration of elm hedges with coppice management, although there is little hedging around the site to restore and I understand that new elm would not be planted. Whilst the guidelines also encourage the reinforcement of the historic pattern of regular boundaries, the pattern of the site boundaries is already clear, being bordered on three sides by highway and bridleway and on the fourth by woodland. Moreover, it is not clear whether historically these boundaries were hedged.
- 41.** Nonetheless, hedging is a feature of the area, and part of the landscape strategy for the Holbrook Valley and Alton Water character area is to manage the landscape's distinctive hedges along lanes and reinstate coppicing. Hedge planting around the solar array would mitigate its impact on landscape character. However, the proposed hedging would take time to mature and would not completely screen the development, particularly in the winter months. Even when the hedge was in full leaf, there would still be a perception of the development beyond. Also, from nearby higher level land, views into the site would remain.
- 42.** Furthermore, irrespective of the new hedge planting to the south of Coxhall Road, hedge screening along the site boundaries would reduce the site's

openness and create a sense of enclosure. As a consequence it would detract from the character of the immediate area by blocking views of the Ancient Woodland and wider landscape.

43. Overall, the magnitude of change in the locality with hedge screening in place is not likely to subside to much less than medium.
44. With respect to noise, the evidence suggests that the solar inverters would generate low levels of noise beyond the site boundary. Whilst this would not result in any significant adverse effect, it is likely to have a slightly eroding impact on the tranquillity of the immediate environs, particularly on the bridleway along the site's eastern boundary.
45. Therefore, overall, I find that the proposal would result in a localised adverse impact on landscape character of major significance in the short term, gradually reducing to one of moderate significance over time. It would also detract from the special landscape qualities of the Dodnash SLA.

Visual amenity

Public domain

46. Views of the site are spatially limited to near and middle distance vantage points by the topography and surrounding vegetation. However, it is clearly visible from Coxhall Road and a number of PROWs, some of which are footpaths, but others of which are also bridleways. Several of these PROWs terminate or meet at points adjacent to the site. I am told that this network of PROWs is well used, providing routes to circular walks around Alton Water and linkages with the AONB through Holbrook Park.
47. Furthermore, I understand that Coxhall Road is one of the main access routes to Alton Water, whose recreation facilities and visitor centre are well used by local residents and visitors. Coxhall Road also forms part of the South Suffolk Cycle Route, the Alton Water Cycle Route and the Sustrans Coastal Heritage Cycle Route.
48. Bridleway 18 runs along the eastern site boundary and into Holbrook Park/Birch Wood where it becomes Bridleway 9. The eastern site boundary is flanked by a bank, remnants of hedging and a few oak trees. Nonetheless, from the junction of Bridleway 18 and Coxhall Road the site is clearly visible. On the Appellant's own evidence viewpoints at this location are of high sensitivity with the magnitude of change being high in year one, dropping to medium in year five, thereby producing a scale of visual effect which is substantial reducing to major.
49. Proceeding along the bridleway in a north easterly direction towards the woods, the site drops out of view as the incised valley side rises more steeply than the bridleway, causing the site to be hidden behind the bank. However, as the bridleway rises in a north-easterly direction, the ground becomes more level with the site, which comes back into clear view again along its eastern boundary and right along to its north eastern corner. Furthermore, when proceeding in the opposite direction within the woods along Bridleway 9, the site comes into view along the far western stretch of this PROW.
50. On the Appellant's own evidence the sensitivity of these viewpoints is high with a high magnitude of change in year one, reducing to low in year five, thereby

producing a scale of visual effect that is substantial reducing to moderate by year five.

51. The site is also clearly visible from many vantage points along its boundary with Coxhall Road and others extending further along the road towards Woodley Wood. On the Appellant's own evidence viewpoints along this stretch of road have a high sensitivity with the magnitude of change being high in year one, reducing to medium in year five, thereby resulting in a scale of visual effect which is substantial reducing to major.
52. For all of these viewpoints I accept the Appellant's evidence for year one, and generally for year five, apart from the assessed "low" magnitudes of change, which will depend on the success of mitigation planting (discussed below).
53. Moving slightly further afield, the Appellant identified a number of public viewpoints, mainly on PROWs, where there would be a substantial or major impact in the short term reducing to moderate once hedge planting had established. On my site visit I observed reasonably clear views of the site from these vantage points.
54. From all of these viewpoints I accept the Appellant's evidence that there would be a substantial/major visual effect in year one, although I am less convinced about the effects by year five and thereafter, which would largely depend on the success of mitigation planting.
55. At the Inquiry I heard differing expert opinions on growth rates and expected density of cover. However, irrespective of these estimates, the rate and extent of growth is likely to depend on a number of variable factors including future climatic conditions, which cannot be determined with certainty at this stage.
56. For these reasons and those given above under "*character*", I am not persuaded that the scale of impact from these viewpoints would reduce to much less than moderate in the medium to long term. Moving further away from the site, the scale of visual impacts would generally be considerably less and would not be extensive.
57. In conclusion, I find that overall there would be a significant adverse impact on visual amenity in the vicinity of the site, particularly for users of Coxhall Road and the nearby network of PROWs.

Residential visual amenity

58. The Appellant's evidence indicates that the proposal would have a significant effect on certain views from several residential properties, namely, nos. 1 and 2 Coxhall Cottages, Oak Cottage, Elm Cottage, Clearways and Shearwater. On one of my site visits I noted views of the site from viewpoints very close to these properties. I also viewed the site from the inside of St. Mary's Tower and Road Farmhouse, both of which are residential properties.
59. From my observations I conclude that the proposal would be seen in the middle distance as a static, dark, low lying development along the ground. Given the intervening distances and topography between the properties and the solar array, the latter would not appear obtrusive or dominating and its impact would not be overbearing.

60. There is no right to a private view, and the public interest would only be engaged if the impact on outlook is likely to be so great as to render the properties significantly less attractive places to live in. This is not the case in this instance.

Conclusion

61. The proposal would result in a significant, localised, adverse impact on the landscape in the short term, and whilst this impact would gradually reduce over time, it would nonetheless remain a considerable detraction from the rural character of the area. Therefore, the development does not respect the landscape. It would also detract from the special landscape qualities of the Dodnash SLA. Furthermore, it would have a significant adverse impact on visual amenity in the vicinity of the site, particularly for users of Coxhall Road and the nearby network of PROWs.
62. Consequently, it would be contrary to Core Strategy Policy CS15 and Saved Policy CR04 of the Babergh Local Plan Alteration No. 2, and would not accord with paragraphs 17 or 109 of the Framework.

Agricultural land

The site and the proposal's impact on agriculture

63. It is common ground that the 38 hectares of appeal site comprise Best and Most Versatile (BMV) agricultural land with most of the site being Grade 3a and the balance being Grade 2 (ranging from 12% to 31% depending on which evidence is taken).
64. I understand that the site has a consistent history of arable crop production within a larger arable holding. The proposed development would result in a change from intense arable use to solar power generation together with sheep grazing underneath and around the solar panels.
65. Whilst the development would not have a permanent effect on the land, it would take the site out of arable use for the proposal's 25 year duration.

Policy

66. Paragraph 111 of the Framework encourages the effective use of land by reusing brownfield land provided that it is not of high environmental quality, and paragraph 112 indicates that significant development of agricultural land should be shown to be necessary and, where this is demonstrated, areas of poorer quality land should be used in preference to that of a higher quality. As there is no dispute that this solar array is large scale, it must be significant development, thereby engaging paragraph 112.
67. The recent PPG at paragraph ID 5-013 sets out particular planning considerations that relate to active solar technology. The first factor for consideration is "*...focussing large scale solar farms on previously developed and non agricultural land, provided it is not of high environmental value.*"
68. The first part of the second factor to consider is "*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.*"

- 69.** The PPG also makes reference to a speech by the Minister for Energy and Climate Change, Greg Barker, to the solar panel industry at the Large Scale Solar Conference on 25 April 2013. In this speech Greg Barker said *"....for larger deployments, brownfield land should always be preferred"* and went on to add *"We need to be careful that we do not over-incentivise large-scale ground-mounted projects in inappropriate places - I am thinking of greenfield agricultural land..."* and *"Where solar farms are not on brownfield land, you must be looking at low grade agricultural land..."*.
- 70.** Also, in the House of Commons oral statement of 29 January 2014 the Planning Minister, Nick Boles, stated that *"where significant development is necessary on agricultural land, the national planning policy framework is equally clear that local planning authorities should seek to use areas of poorer quality in preference to that of a higher quality. Where land is designated at a relatively high grade it should not be preferred for the siting of such developments."*
- 71.** Furthermore, the UK Solar PV Strategy: Part 2 of April 2014 sets out the Solar Trade Association's *"Solar Farms: 10 Commitments"*, the first of which is that focus will be on non-agricultural land or land which is of lower agricultural quality. The Strategy states that *"These best practice initiatives are important as they help address the perception that solar farms are diverting significant amounts of land from agricultural use and domestic food production."*
- 72.** In his letter of 22 April 2014 to Local Authorities, Greg Barker made it clear that *"...the main message from the Strategy is that we are keen to focus growth of solar PV in the UK on domestic and commercial roof space and on previously-used land."*
- 73.** From all of this it seems to me that the emphasis from Government is to avoid using BMV agricultural land for large scale solar arrays wherever reasonably possible. If BMV agricultural land is to be used, this should be the last resort, and it must be robustly demonstrated that it is justified.
- 74.** Moreover, Government policy is reflected in the Local Plan Core Strategy Policy CS15 (relating to all development) which states, amongst other things, that where appropriate to the scale and nature of the proposal, development should prioritise the use of brownfield land and make efficient use of greenfield land and scarce resources.
- 75.** Although the Appellant indicated that there is no sequential test expressly set out in the development plan, this is of little consequence in this instance. I am not aware of any provisions within the development plan that conflict with the Framework and, the Core Strategy has only recently gone through public examination and been found to be sound by the Examining Inspector.

Sequential test

- 76.** The first question to ask is whether the use of agricultural land is necessary. This exercise should demonstrate that no suitable brownfield land or non agricultural land is available within a reasonable search area. The Core Strategy does not identify any strategic areas for renewable energy development but uses a criteria-based approach for all forms of development in Policies CS15 and CS13.
- 77.** Whilst the plan area may in some circumstances be an appropriate search area, there is no policy guidance which advocates restricting searches to within a
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local authority's administrative area. The PPG at paragraph ID 5-003 confirms that *"Whilst local authorities should design their policies to maximise renewable and low carbon energy development, there is no quota which the Local Plan has to deliver."* Therefore, there is no need to site renewable energy development in a particular local authority in order to meet a local green energy quota.

- 78.** There is no Government guidance on what is a reasonable search area and each case should be considered on its own facts taking account of planning and operational constraints. Babergh district is largely rural although the site is within a reasonable distance of Ipswich where, I understand, there are substantial areas of industrial land and buildings on the periphery. There is no submitted evidence to demonstrate that the Appellant has searched the Ipswich area.
- 79.** The Appellant's area of search for non-agricultural land appears to have been confined to within Babergh district. Even then, no evidence has been presented to show that Babergh's industrial areas, including distribution and warehousing buildings, and former airfields have been considered. Only a cursory desk top exercise has been undertaken which includes land use statistics for previously developed land. However, it is difficult to draw any firm conclusions from this data on the potential availability/suitability of any of this land for solar development.
- 80.** This approach is far from robust and is completely inadequate. Consequently, for the reasons given, I find that the Appellant has not demonstrated that the use of agricultural land is necessary.
- 81.** Even if the use of agricultural land were considered to be necessary, the Appellant has not demonstrated that poorer agricultural land has been chosen in preference to higher quality land. According to the Agricultural Land Classification Plan for the Suffolk Area, there appear to be substantial stretches of Grade 4 land to the east of Ipswich in the Suffolk Coastal district, which are within a reasonable search area. Whilst the Appellant considered a small part of this land and discounted it, no attempt was made to search this area overall.
- 82.** Furthermore, although a desk top study of four areas of Grade 3 land in Babergh district was undertaken within reasonable distance of 33kV overhead lines, no auger testing was attempted to better understand its quality. On the evidence before me, it seems likely that at least some of this land might be Grade 3b. However, the point is that without proper investigation, the Appellant has failed to establish its quality relative to the appeal site.
- 83.** Additionally, in further consulting the Agricultural Land Classification Plan, it is apparent that there may be other areas of Grade 3 agricultural land in proximity to 33kV lines, which have not been considered. No satisfactory explanation has been put forward by the Appellant for omitting to investigate these areas.
- 84.** Although the Agricultural Land Classification may need to be treated with some caution, it is nonetheless a good starting point and a basis from which to carry out further investigation.
- 85.** The Appellant indicated that compliance with the sequential test would be impracticable because of the work and time period required to carry out

searches and auger surveys. Whilst the sequential test must be proportionate, no good reasons have been advanced to show why it could not involve a robust desk based assessment supported by surveys of selected sites within a realistic area of search. Simply surveying one site (the appeal site) is wholly inadequate.

- 86.** Consequently, for the reasons given, I find that the Appellant has failed to demonstrate that the appeal site represents poorer quality land which is available for solar farm development.
- 87.** Overall, the Appellant has failed to show that the sequential test has been met.

Other considerations

- 88.** There would be some grazing during the lifetime of the development and there would be no permanent loss of agricultural land due to its restoration to full agricultural use after the proposal's 25 year duration. However, these are simply additional factors to be considered as set out in paragraph ID 5-013 of the PPG. They do not detract from the fact that the use of agricultural land must still be shown to be necessary with poorer quality land being used in preference to higher quality land.
- 89.** The third PPG factor in paragraph ID 5-013 recognises "*that solar farms are normally temporary structures....*" and the paragraph refers to continued agricultural use during the lifetime of the development and removal and restoration thereafter. These PPG factors elaborate on Framework Policy and, therefore, I do not accept the Appellant's contention that the Framework is aimed at permanent loss of agricultural land. The appeal decisions to which the Appellant has drawn my attention were determined prior to the publication of the PPG and do not address the sequential test. Therefore, they are of limited weight in this regard.
- 90.** The Appellant refers to paragraph 7 of the Framework and its provision to use natural resources prudently, contending that the solar farm would be a prudent use when compared to an Anaerobic Digestion or Biomass Operation for example. However, regardless of whether this is so, it does not overcome the sequential test and, therefore, does not demonstrate overall that the proposal is a prudent use of land.
- 91.** Whilst Natural England was consulted on the proposal and raised no objections, its response does not appear to show how it considered paragraph 112 of the Framework, and no reference is made to the PPG. Accordingly, the weight attributed to this response is reduced.
- 92.** Although the Appellant has referred to there being no requirement within the planning system to put BMV agricultural land into production, this does not detract from the requirement to meet the sequential test and to show that the use of the site is necessary for the solar array.

Conclusion

- 93.** In conclusion, it has not been demonstrated that the development of the agricultural land comprising the site is necessary. Nor has it been demonstrated that no suitable brownfield sites or sites of lower agricultural quality are available. Consequently, the Appellant has not complied with the sequential test set out in the PPG and, therefore, the proposal is not in

accordance with Government guidance in this respect and is contrary to paragraph 112 of the Framework.

94. Whilst there was some debate at the Inquiry over whether BMV agricultural land is a scarce resource within the meaning of Core Strategy Policy CS15, this is of little consequence in this instance. Whether or not BMV is a scarce resource, the proposal has not sought to prioritise the use of brownfield land and has not demonstrated that it is an efficient use of greenfield land. Consequently, it is not in compliance with Policy CS15.

Benefits

95. The solar array would have a 10 MW installed capacity and its predicted electricity generation is over 11,000,000kWh per annum. This figure is created by multiplying the total installed capacity by the number of days in a year, by the number of hours in a day and the capacity factor of the site (10MW x 365.25 days x 24 hours x 12.6% capacity factor = 11,051,124kWh).
96. The energy produced is estimated to be able to power in the region of 3,500 homes throughout the year, and would save about 4,300 tonnes of carbon dioxide. This is a substantial contribution to achieving national green energy targets, tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security.
97. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development (paragraphs 17 and 93), and that local communities have a responsibility to contribute to the generation of such energy (paragraph 97), amongst other things. Taken in isolation, they positively contribute to the aims of a raft of strategies, programmes and policies. In fact, in his recent letter of 22 April 2014, Greg Barker confirmed that solar PV is "*one of the priority renewable energy technologies.*"
98. Furthermore, the proposal would deliver other benefits. Several interconnected "green corridors" would be created which would have ecological advantages, with the area between the fencing and the woodland/hedges being managed to enhance biodiversity. There would also be long term benefits arising from hedge and tree planting, although hedge screening would also impact on openness as discussed above.
99. Additionally, the proposal would provide some educational benefit, and have an economic benefit in terms of providing an element of local employment as well as stimulating indirect economic activity.

Other Matters

100. Whilst the Appellant relies upon the Planning Officer's reports of May and June 2013 containing the recommendation to grant planning permission, these reports were produced prior to the Government's renewable energy practice guidance of July 2013, which is now incorporated into the PPG, and also pre-date the Core Strategy. In any event, I have considered this proposal afresh and determined the appeal on its merits as I find them.

Overall conclusion and planning balance

101. A balance must be drawn between the competing considerations of this proposal. On the one hand the solar array would have the benefit of generating a significant amount of renewable energy, whilst on the other hand it would cause substantial harm to a valued landscape and to the visual amenities of the area, and would result in the loss of arable land for 25 years.
102. With respect to the development plan, whilst Core Strategy Policy CS15, amongst other things, supports the production of renewable and low carbon energy, it also seeks to protect the landscape and prioritise the use of brownfield land, which the development fails to do. Therefore, the proposal conflicts with Core Strategy Policy CS15, and so cannot draw support from Core Strategy Policy CS1 which, to be engaged, requires compliance with all other Core Strategy policies.
103. Whilst the Appellant seeks to derive support from Core Strategy CS13, this does not appear to be aimed at free standing renewable energy development, as is acknowledged by the Appellant. The Appellant also suggests that the proposal should be classed as farm diversification, which paragraph 28 of the Framework states should be promoted by local plans and which, indeed, is supported by Core Strategy Policy CS17, albeit subject to compliance with Policy CS15, with which the proposal is in conflict.
104. Turning to saved policy CR04 of the Babergh Local Plan (Alteration No. 2), the development fails to maintain or enhance the special landscape qualities of the area and, consequently, it is in conflict with this part of the development plan.
105. With respect to other material considerations, in landscape terms the proposal does not accord with paragraphs 17 and 109 of the Framework, nor does it accord with paragraph 112 with respect to the use of agricultural land.
106. PPG paragraph ID 5-007 is clear that the need for renewable or low carbon energy does not automatically override environmental protections and, whilst PPG paragraph ID 5-013 says that *"the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively"* I do not put the proposal in this category. Similarly, although the Solar PV Strategy states that there is still a place for larger scale field based solar in the UK's energy mix, this must nonetheless be robustly justified.
107. As stated in paragraph 98 of the Framework, and as confirmed in PPG paragraph ID 5-005, an application for renewable energy should only be approved if the impact is (or can be made) acceptable. The impacts in this instance are not and cannot be made acceptable.
108. Taking all matters into consideration, in my judgement, the harm that would result from the development would significantly and demonstrably outweigh the benefits. The location of the proposal on the appeal site has not been justified and, consequently, I conclude that the planning balance is firmly against allowing the development. The appeal is, therefore, dismissed.

Elizabeth C. Ord (Inspector)

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Michael Bedford of Counsel

He called

Simon Neesam

Richard Tattersall

Raymond Ricks

Associate Director of The Landscape Partnership
Chartered Surveyor and Land Management
Consultant

Director with Boyer Planning

FOR THE APPELLANT:

David Hardy Solicitor Advocate

He called

Andrew Cook

Tony Kernon

Paul Burrell

Environmental Director of Pegasus Planning

Director of Kernon Countryside Planning

Planning Director of Pegasus Planning

FOR THE RULE 6 PARTIES:

Thomas Hill of Queens Counsel
and James Potts of Counsel

They called

Alison Farmer

Geoffrey Gardner

Philip Hackett

Albert Collins

Principal of Alison Farmer Associates

Principal of Gardner Planning Ltd

Representing No Alton Water Solar

Acting Chairman of Tattingstone Parish Council

INTERESTED PERSONS:

Ms Allen

Ms Rodwell

Mr Holloway

Mr Smith

Mr Tyler

Ms Sexton

Mr Solley

Mr Kirk

Mr Herod

CIr Wood

CIr Ward (read by CIr Wood)

Ms Wheeler

Ms White

Mr Dutton

Local Resident Local

Resident Local

Resident Local

Resident Local

Resident Local

Resident Local

Resident Local

Resident Local

Resident County and

District Councillor

District Councillor

Local Resident Local

Resident Local

Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Letter - Minister Greg Barker
- 2 Opening - Appellant
- 3 Opening - Council
- 4 Opening - Rule 6 Parties
- 5 Archaeological Evaluation
- 6 Marketing Data
- 7 Statement - Allen
- 8 Statement - Rodwell
- 9 Statement - Holloway
- 10 Statement - Smith
- 11 Statement - Tyler
- 12 Statement - Sexton
- 13 Statement - Solley
- 14 Statement - Kirk
- 15 Statement - White
- 16 Acoustics Assessment
- 17 Statement - Wood
- 18 Statement - Wheeler
- 19 Maps
- 20 Web site extract - Hive Energy Ltd
- 21 Web site extract - Solar Century
- 22 Committee Report - Parham Airfield
- 23 Committee Report - Stratton Hall
- 24 Arboricultural Information
- 25 Historic map
- 26 Committee Minutes - Parham Airfield
- 27 Committee Minutes - Stratton Hall
- 28 Response to Archaeological Evaluation
- 29 Statement - Dutton
- 30 Conditions
- 31 Closing - Appellant
- 32 Closing - Council
- 33 Closing - Rule 6 Parties

3007994

Land at Walnut Cottages,
Oil Mill Lane,
Clyst St Mary,
Nr Exeter,
EX5 1AH

East Devon District Council

24 July 2015



Appeal Decision

Hearing held on 9 June 2015

Site visit made on 10 June 2015

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 24 July 2015

Appeal Ref: APP/U1105/W/15/3007994

Land at Walnut Cottages, Oil Mill Lane, Clyst St Mary, Nr Exeter, EX5 1AH

- 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 Solstice Renewables against the decision of East Devon District Council.
 - The application Ref 14/1379/MFUL, dated 05 June 2014, was refused by notice dated 19 September 2014.
 - The development proposed is installation of ground mounted solar arrays together with power inverter systems; transformer stations; internal access tracks; landscaping; CCTV; security fencing and associated access gate.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have determined that an Environmental Impact Assessment is not required. Local residents have argued that the Council's assessment is flawed as it dates from 2013 and fails to take account of the cumulative impact of the proposal and other recent developments in the locality, including the anaerobic digester at Enfield Farm. As the appeal is being dismissed I have not considered further the matter of the Environmental Impact Assessment, and am satisfied that I have sufficient and relevant evidence before me to reach my decision.
3. The Council's reason for refusal referred specifically to the loss of Grade 2 agricultural land. The submitted agricultural statement refers to the land in question as being Grade 2 and Grade 3a. Both classifications are considered to be Best and Most Versatile (BMV) Agricultural Land in the *National Planning Policy Framework* (The Framework), which directs Local Planning Authorities (LPAs) to take account of the economic and other benefits of such land. I have therefore considered the effects of the proposal on both Grade 2 and Grade 3a land.

Main Issue

4. Accordingly I consider the main issue for the appeal is whether the effect of the proposal on the best and most versatile agricultural land would be outweighed by the benefits of the scheme.

Policies

5. The development plan comprises saved policies from the *Adopted East Devon Local Plan* (LP). Policy C6 offers strong support for renewable energy projects subject to no significant adverse impacts on residential amenity, local landscape or natural or historic features. Policy E5 seeks to support rural diversification, provided, amongst other things, the proposal would not use the BMV agricultural land. Although these policies predate the Framework they broadly accord with the provisions of the Framework and other national guidance as considered below.
6. The Council have relied on Draft Policy EN13 of the emerging *East Devon Local Plan* (EDLP). This states that best and most versatile agricultural land will be protected from development not associated with agriculture. It goes on to say that planning permission will only be granted if there is an overriding need for the development, and where the benefits of the development justify the loss of high quality agricultural land. Where BMV land needs to be developed, and there is a choice between sites in different grades, land in the lowest grade available must be used, except where other considerations outweigh land quality issues. Draft Policy E4 closely reflects Adopted Policy E5 in relation to agricultural diversification, seeking to avoid the use of BMV agricultural land. Strategy 39 seeks in general to support the provision of renewable and low carbon energy projects.
7. The EDLP is at present under examination and although it is at an advanced stage I cannot be sure that the policies within it will be adopted in their current form. Nevertheless, in relation to both the impetus to support renewable energy and the protection of best and most versatile agricultural land the emerging plan policies are broadly in accordance with guidance contained within the Framework and other national guidance.
8. Amongst other things, the Framework seeks to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources. It seeks to increase the use and supply of renewable and low carbon energy, by encouraging LPAs to provide a positive strategy to promote energy from renewable and low carbon sources. It also states that when determining planning applications, applicants should not be required to demonstrate the need for renewable energy. In this regard the Framework reflects the *National Policy Statement for Renewable Energy Infrastructure* which sets out the Government's strategy for meeting the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020.
9. The Framework also requires that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to that of higher quality. This guidance is also reflected in *Planning Policy Guidance* (PPG). The guidance references a Ministerial speech of April 2013 which includes the statements "Solar is a genuinely exciting energy of the future, it is coming of age and we want to see a lot, lot more. But not at any cost... not in any place...." And "Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation...."
10. Most recently, a Ministerial Statement of the 25 March this year reinforces this approach. It states that "where a proposal involves agricultural land, (this will

involve) being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality.” He goes on to say “we want it to be clear 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”. This represents the most recent guidance in relation to proposals for solar farms on BMV agricultural land and it is a significant material consideration to which I must have regard.

11. Paragraph 131 of the Framework advises local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.

Reasons

The Benefits

12. The appeal site covers an overall area of 19.36 hectares, including 16.6 hectares of agricultural land that the solar park would be sited on. This would also include a private cable connection to Crealy Great Adventure Theme Park 200m north east of the site. The appellant predicts that the Solar Farm could have a generation capacity of 7.55MW per annum. In the wider environment, this would offset approximately 3,225 tonnes of CO₂ annually. The scheme is proposed to generate electricity direct to the grid and to provide an energy source for the nearby Crealy Adventure Park. I was advised at the hearing that the latter would account for around a seventh of its output.
13. The Framework advises that small scale projects provide a valuable contribution to cutting greenhouse gas emissions. The proposal would assist in tackling climate change¹ and help meet national and local targets and ambitions for reducing greenhouse gas emissions. It would also add to the security of supply. In this regard it would comply with policy C6 of the LP and Draft Strategy 39 of the emerging LP. I attribute considerable weight to these renewable energy benefits in the overall planning balance.
14. Shepherds Farm is farmed with the Crealy Farms practice which includes arable farming and outdoor pig- rearing. The proposal would provide a stable income for the agricultural business, reduce its carbon footprint and contribute towards its viability, facilitating future expansion and diversification. These are benefits to which I also attribute some weight. The proposal would also provide up to 50 temporary construction jobs, to which I also attribute some limited weight.

The Effect on Agricultural Land

15. The submitted Agricultural Statement categorises the land as being made up of 9.5ha of Grade 2 land and 6.9ha of Grade 3a land. The proposal would not lead to the loss of the land from agricultural use, as it is for a temporary period of 25 years. Some agricultural activity could also continue on the site in the form of grazing or secondary planting, although the appellant has no firm indication at present of the form this agricultural activity would take.
16. The guidance is clear that in cases of significant development of solar farms on BMV agricultural land, brownfield land and lesser quality agricultural land should first be considered. Ministerial statements refer to “large scale” solar developments. Although the size of the site falls below the threshold for statutory consultation under the GDPO in relation to agricultural land, having regard to the

¹ Including ‘in combination’ effects with other renewable and low carbon energy schemes.

extent of land involved I concur with local residents and the Council that the proposal would be both significant and large scale.

17. I will deal firstly with the argument that the scheme is site specific due to its link with Crealy. At the hearing I was advised of how Crealy Adventure Park intend to use energy from the scheme, via a direct connection, to become "carbon neutral". I am aware that this term relates to more than just the energy source from the enterprise, however, as a means of reducing the carbon footprint of the business, which is a high energy user in the summer months, I consider this to be a laudable aim.
18. However, although I note that the scheme would potentially reduce the running costs of the business by around £30K a year, I was provided with limited information of how this saving would translate into reinvestment in the business, or into local jobs. I can therefore attribute only limited weight to the benefits the scheme would have to wider tourism or the local economy. Furthermore, only a seventh of the power generated would be used by the theme park. The proposal is therefore predominantly a speculative scheme which could, subject to the limitations below, be located on another site.
19. Although the Framework and the PPG does not use the term "sequential test" in relation to development on BMV agricultural land, it is nonetheless evident that in order to assess whether land of lesser quality is available, some assessment of land availability and quality needs to be undertaken. The appellant has undertaken such a review. It takes as its area of search an area with a radius of around 30 miles from the appeal site. Although the Council consider that land outside the district should have been considered, it seems to me that the area of search nonetheless comprises a substantial geographical area, and is not an unreasonably constrained starting point. The Council have argued that there are no quotas at a district wide level, and therefore the development cannot be considered to be necessary. I do not agree, as that would equally apply to any speculative solar scheme, anywhere in the country.
20. The appellant has then excluded all land which fails to fit the constraints of the Western Power Distribution Network. This too seems to me to be reasonable, as without connectivity any scheme would be impractical. I note the Council's scepticism in relation to grid connectivity, but in the absence of convincing evidence to the contrary I see no reason to discount the appellant's claims in this regard.
21. The appellant has then considered a range of brownfield sites. I heard from a number of people about the difficulties of implementing solar on brownfield sites, including the practical difficulties in rooftop schemes, the difficulty in competing with hope values, and problems in achieving security of tenure with multiple land owners. I accept that these constraints would be likely to be prohibitive for a speculative scheme of this size, which by its nature would be most easily accommodated on a greenfield site. Although the Council accepts that limited brownfield land is available I nonetheless have no convincing evidence before me to indicate why the proposal needs to be the size proposed, and this reduces my confidence in excluding the potential of all brownfield land in the area. I also do not consider it reasonable to exclude further areas of greenfield land due to the existence of listed buildings without a more detailed assessment of their significance. Even if I set these concerns aside, there remains a substantial area

of land within the search area which would be unconstrained after sites within the AONB, those subject to flooding, and those on steeply sloping sites are excluded.

22. According to the Agricultural Land Classification maps, and the assessment carried out by the appellant's agricultural consultant, the remaining land within the unconstrained area is made up of predominantly Grade 3 land, with areas of Grade 2 land associated with sandstone outcrops. This land has not been subject to individual testing in the way the appeal site has. Nevertheless, based on the information that is available, although some land would be of equivalent quality, some would also be likely to be of lower quality than the predominantly Grade 2 land which makes up the appeal site.
23. The appellant has drawn my attention to the agricultural constraints of the site, including field boundaries, and the mixed quality of land within individual fields may to some extent impose practical limitations on how the land is farmed. I also note that if the proposal were not allowed it may not be used to its full potential in any case. However, I see no reason why these factors could not similarly be applied to other farmland in the area.
24. I note the appellant's view that there are no other available sites within the remaining area which could practically be implemented due to both a lack of willing land owners and available grid connections. However, I have been provided with no substantive evidence which enables me to discount all other potential sites on this basis.
25. I note that the proposal would be temporary, and I take account of the potential for tandem agricultural activity on site such as grazing or secondary crops. I also recognise that Devon has other Grade 1 and 2 agricultural land. Such land is a national asset of finite supply, the protection of which is not reduced by its availability locally. The cumulative impact of proposals such as this one, even for a temporary period of 25 years, would reduce its availability and have a consequent effect upon the agricultural industry.
26. This leads me to the view that taking account of the nature of the scheme, and the limitations of the alternative site assessment undertaken, it has not been established that in this case it is necessary to use higher quality agricultural land in preference to land of lesser quality. It follows that in the absence of compelling justification, to develop the appeal site for solar development would be contrary to national policy within the Framework, and with subsequent guidance contained within the PPG and the Written Ministerial Statement of the 25 March 2015. This is a clear and recent clarification of Government policy on precisely this issue, which directs land of lower quality to be used in preference. Furthermore, the proposal would conflict with Policy E5 of the LP and Draft Policy EN13 of the emerging LP. These are matters which must carry significant weight in the planning balance.

Other Matters

27. Residents have raised concerns in relation to the effect of the proposal on the setting of nearby listed buildings. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. A heritage desk based assessment has been submitted, relating to the impact of the proposal on all identified heritage assets within 5km of the appeal site. There are no listed

buildings or conservation areas within the proposal site itself. The assessment identifies 3 Grade II listed buildings which may have some degree of inter-visibility with the appeal site.

28. Old Kiddicott is a Grade II listed house located c.110m north-west of the site. It is an attractive example of 17th Century vernacular architecture and it sits within a cluster of buildings alongside Kiddicott Farm, Shepherd's Farm and Old Mill House. These provide an important part of its setting with the wider agricultural landscape around the building being of lesser and more limited importance. Very limited and glimpsed views may be available between the appeal site and Old Kiddicott in winter months. However, having regard to the lesser significance of the wider landscape to the buildings setting, and the limited extent to which the proposal would intrude upon it, I do not consider that the proposal would have a materially harmful impact on significance of this heritage asset.
29. Kenniford Farm is located around 350m to the south-west, on the other side of Oil Mill Lane. It is a farmhouse to a working farm, and another attractive example of C17th vernacular architecture. The building is closely associated with the existing farm and has no historical or functional relationship between the building and the appeal site. There is also very limited, if any intervisibility between the building and the appeal site due to topography and intervening vegetation and as a result the proposal would have no impact upon the buildings setting or its significance as a heritage asset.
30. Another Grade II listed building, Greendale, is a C19th private house around 250m east of the site. The property sits within attractive grounds, historically described as pleasure gardens, which are largely enclosed by established planting. This aspect of the buildings setting would be unaffected by the proposal. Greendale's wider setting is derived from the historic relationship it has with the surrounding agricultural land, which the appeal site lies within. Although some inter-visibility between the site and the planted boundary to the gardens of Greendale would be possible during winter months, the wider landscape is of lesser importance to the buildings setting, and the proposal would intrude upon it to only a very limited degree. Furthermore, although historical maps indicate that the land was historically associated with Greendale, this relationship is not evident in the physical relationship of the land to the site, which would not be altered by the proposal. I do not therefore consider that the proposal would have a materially harmful impact on the significance of this heritage asset.
31. I therefore conclude that the proposal would not give rise to harm to the significance of the heritage assets and find no conflict with guidance contained within the Framework in this respect.
32. I was advised at the hearing by Exeter Community Energy that the project could be subject to shared ownership by local people, bringing some financial benefits to the wider community, and that the scheme could make voluntary contributions to a Community Fund. However, as there is no legal mechanism with the application for achieving these benefits these are not matters to which I can attribute any weight. The development could be used for local education, and this matter also carries some limited weight.
33. Some interested parties have raised concerns relating to the impact of the proposal on local wildlife. The appellant's ecological survey found that no significant wildlife populations would be likely to be harmed by the proposal and the County Ecologist raised no objections to the proposal on that basis. I was also

advised at the hearing of the benefits of the scheme in relation to local ecology, through the creation of habitats within the scheme, and the impact a fallow period could potentially have on soil quality. I also heard about the benefits a less intensive use of the site may have on wider water quality and quantity in relation to reduced use of fertilisers. Although I am satisfied that such benefits would occur to some degree, the appellant was unable to quantify the extent to which these may apply to the site. Therefore, although I share the view that the effect on local wildlife is unlikely to be harmful, and may be beneficial, I can give the matter only limited weight.

34. A number of residents have raised concerns in relation to the visual impact of the proposal. The submitted layout shows extensive supplementary landscaping, including bunding, which I consider would effectively supplement existing field boundaries to mitigate the visual impact of the proposal. Whilst it is possible that the scheme would be visible in some long ranging views, and potentially in glimpses from adjoining land, I do not concur with residents that these visual impacts would be materially harmful. In this regard, I have no cogent evidence to support concerns that the development would harm tourism interests or give rise to instances of crime in the locality.
35. Some residents in relation to highway safety. The Council's highways officer is satisfied with the revised access arrangements, and I concur that satisfactory access and circulation could be achieved at the site, in particular during the construction phase. In relation to residential amenity, in particular noise from the site, I am satisfied that any noise from the site could be effectively mitigated by way of planning conditions, should the appeal be allowed.
36. Finally, I take into account the large number of other appeal cases which the parties drew my attention to. These all took into account the particular material factors in each case. Having regard to the various views of my fellow Inspectors, I do not consider that any prejudice a similar consideration of the individual merits of this proposal.

Conclusion

37. In coming to a decision I take into account the contribution the development would make to renewable energy provision, and that the Framework identifies the reduction in greenhouse emissions and the delivery of renewable energy infrastructure as being central to sustainable development (Paragraph 93). Together with the other identified benefits of the scheme I attribute significant weight to these considerations. However, I attribute greater weight to the harm that would arise in this case in relation to the loss of agricultural land. In this regard, I do not consider that the benefits that would be derived from the proposal would represent a sufficiently compelling case to justify a departure from local and national policy in this case.
38. Therefore, on balance, and having regard to all other matters raised, I dismiss the appeal.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Chris Cox	Pegasus Planning
Tony Kernon BSc(Hons) MRICS FBIAC	Kernon Countryside Consultants Ltd
Paul Silcock MA MRICS FAAV CEnv AIEEMA	Cumulus Consultants
Chris Down	Crealy Adventure Park
Giovanni Maruca	Solstice Renewables
Colin Virtue	Pegasus Planning
Harry Lopes	

FOR THE LOCAL AUTHORITY:

Paul Golding	East Devon District Council
Cllr Mike Howe	East Devon District Council

INTERESTED PARTIES

Chris Booker	Local Resident
Sophy Whittingstall	Solstice Renewables
Geoff Cox	Local Resident
Malcolm Slade	Local Resident
Gaeron Kayley	Local Resident
Elisabeth Olstrom	Local Resident
M Farmer	Local Resident
Mary Banks	Local Resident
Polly Moore	Local Resident
Sue Booker	Local Resident
Samantha Wilson	Local Resident
Simon Steele-Perkins	Local Resident and Oil Mill Lane Residents Association
John Barbara	Local Resident and Oil Mill Lane Residents Association
Grenville Moore	Local Resident
Shirley Moore	Local Resident
Gill Wyatt	Exeter Community Energy

Philip Grove Sid Energy
Harry Mottram Exeter Express and Echo
M Evans
Jack Corsellis

DOCUMENTS SUBMITTED AT THE HEARING:

A3 Photograph of the appeal site when viewed from the curtilage of Greendale

Appeal Decision ref APP/Z3825/A/14/2219843 at Priors Byne Farm, Bines Road, Partridge Green, West Sussex, RH13 8NX of the 18th March 2015

3005788

Barn Farm,
Leake Lane,
Stanford on Soar,
Loughborough LE12 SQL

Rushcliffe Borough Council

26 October 2015

Appeal Decision

Hearing held on 4 and 5 August 2015

Site visits made on 4 and 5 August 2015

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 26 October 2015

Appeal Ref: APP/P3040/W/15/3005788

Barn Farm, Leake Lane, Stanford on Soar, Loughborough LE12 5QL

- 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 Northfield UK Solar against the decision of Rushcliffe Borough Council.
 - The application Ref 14/01589/FUL, dated 15 July 2014, was refused by notice dated 10 October 2014.
 - The development proposed is the change of use from farming to mixed farming and solar generating renewable electricity and associated infrastructure.
-

Decision

1. The appeal is dismissed.

The appeal site and the proposed development

2. The appeal site, which occupies a total operational area of around 55ha, consists of seven agricultural fields which are part of a 1,200 ha farm holding. The site lies on west-facing slopes and the bottom of a small tributary valley, and is crossed by the Great Central Railway Nottingham Line, a heritage railway. Barn Farm lies on the eastern edge of the appeal site, and Normanton Lane runs alongside the southern boundary. The appeal site is not part of the Green Belt, or any other nationally or locally designated landscape area.
3. The proposed development would involve the installation of solar panels, each with a maximum height of 3m above ground level, set out in rows and supported on galvanized metal frames set into the ground by shallow piling. The panels and supports would be fixed in place and immobile, rather than rotating to follow the sun. The proposed supporting infrastructure would include inverter-transformer stations and a substation. The solar farm would be enclosed by 2m high wire-mesh deer fencing on timber posts, with infrared CCTV cameras installed around the boundaries.

The local and national planning policy context

4. When the Council determined the planning application, the Development Plan for the area consisted of the five saved policies of the Rushcliffe Borough Local Plan (1996), none of which are relevant to the current proposal. Since then, the Council has adopted the Rushcliffe Local Plan Part 1: Core Strategy (2014), and it was agreed at the Hearing that the Core Strategy policies of relevance to

- the current proposals are Policies 2, 10 and 11. The Council refers in its Refusal Notice to policies of the Rushcliffe Borough Non-Statutory Replacement Local Plan (2006), but it is important to be clear that those policies did not then, and will not now, proceed to adoption and so are not part of the Development Plan.
5. The Overarching National Policy Statement for Energy (EN-1) was published by the Government in 2011, and sets out national policy for energy infrastructure. Paragraph 3.4.1 makes reference to the UK commitment to sourcing 15% of energy from renewable sources by 2020. To reach this target, and to largely decarbonise the power sector by 2030, EN-1 states that "It is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable energy generation is therefore urgent".
 6. The National Planning Policy Framework (NPPF), published in March 2012, states that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It sets out the Government's view that the planning system plays a key role in supporting the delivery of renewable and low carbon energy, and that this is central to the economic, social and environmental dimensions of sustainable development. However, it is important to bear in mind that this does not mean that all renewable energy development is necessarily "sustainable". Other considerations need to be taken into account, such as the impact the development would have on the natural and historic environment.
 7. In March 2014 the Government published Planning Practice Guidance (PPG). The chapter on renewable and low carbon energy emphasises the point 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. It then goes on to identify the particular planning considerations relevant to large-scale, ground-mounted solar farms.
 8. In March 2015, the Government issued a Written Ministerial Statement which states that, in the light of continuing concerns about the unjustified use of high quality agricultural land, "... we want it to be clear 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."

Main issues

9. I consider the three main issues in this appeal to be
 - (a) the effect that the proposed development would have upon the character and appearance of the area;
 - (b) the proposed use of agricultural land; and
 - (c) the effect upon the Church of St James, a Grade 1 Listed Building.

Reasons

The effect on the character and appearance of the area

10. The Greater Nottinghamshire Landscape Character Assessment (2009) identifies 79 Draft Policy Zones (DPZ) within Greater Nottingham, and sets out the key characteristics for each. The proposed development would lie within the "East Leake Rolling Farmland" DPZ. The appeal site and its immediate surroundings exhibit many of the key characteristics associated with this DPZ.

There is a gently rolling landform of predominantly rural character, with woodland blocks on higher ground outside the site. The fields vary in size and shape and are enclosed by generally intact hedges, comprising mainly hawthorn, with willows along the watercourse at the western edge of the site but few hedgerow trees. There are views towards urban elements such as Ratcliffe on Soar power station to the north, and the industrial and other development of Loughborough to the south.

11. The proposed development would not disrupt the existing landscape pattern; the current field boundaries, and existing trees and hedgerows, would be retained. Nevertheless, the installation of the proposed solar panels and ancillary buildings would fundamentally alter the existing undeveloped, agricultural character of the appeal site by covering it with man-made infrastructure. The development would be more industrial than rural in character, extensive in land coverage, and unrelated to its countryside surroundings. While the 2m high deer fencing around the perimeter would be of a type not uncommon in rural settings, the inclusion of CCTV cameras would clearly identify it as security fencing, in contrast with the existing agricultural field boundaries.
12. The development proposals include a landscaping scheme incorporating measures such as the gapping-up of existing hedgerows, and the planting of additional riparian vegetation and hedgerow trees. The increased height of the hedgerows would provide screening, while remaining in keeping with one of the key characteristics of the DPZ identified as a mix of open and enclosed views. Clearly, these measures would not address the fundamental change in the use and appearance of the appeal site but given the limited vertical scale of the development, the strengthening of existing hedgerows and additional planting would have a mitigating and screening effect, over time. The proposed development would have an adverse impact on the landscape character of the appeal site and its immediate surroundings, but this adverse impact would in my judgment be localised and limited.
13. The visual impacts of the development would be most appreciable from the section of Normanton Lane which runs alongside the southern boundary of the site, and from public right of way (PROW) to the west of the site.
14. Normanton Lane is the local road which links Normanton on Soar and Stanford on Soar. Travelling east out of Normanton on Soar to the point where the road meets the site boundary, views of the proposed development would be limited by trees and hedges, with only glimpses likely. The road runs alongside the southern boundary of the appeal site for some 190m, where a discontinuous roadside hedge would provide some screening, but the solar farm would be visible through the gaps. Past the eastern boundary of the appeal site, the development would be likely to be visible for a further 200m of Normanton Lane as it rises up Fox Hill, before being obscured by the landform. Gaps in the roadside hedge would be planted with a new hedgerow which would, in time, help to filter and screen views. However, this screening hedgerow would itself have the adverse impact of truncating the existing views available across open fields, and filtered views of the proposed development would likely still be visible through the existing and new hedgerows in winter months. Overall, the magnitude of the visual impact would be high, but would occur along a limited section of the road between the two villages.

15. The PROW to the west of the appeal site is a bridleway, and also forms part of the 19.3km West Leake to Thrumpton section of The Rushcliffe 100, a circular 100km long-distance walk around the borough of Rushcliffe. The Landscape and Visual Impact Assessment (LVIA) acknowledges that views of the development from the section of this PROW immediately west of the appeal site would be relatively extensive, such that large scale effects would occur to users of the route between the corner of Stanford Road and Normanton Lane, up to where the route passes close to the north-western corner of the appeal site, comprising a length of approximately 700m. Views would be across an undeveloped field in the foreground to the solar farm on rising ground to the east. Outside this section of the route, vegetation and landform would largely screen the development such that only glimpses of it would be seen.
16. I appreciate that the 700m section of the PROW from which these adverse visual impacts would be experienced is only a small part of the 19.3km West Leake to Thrumpton walk, and an even smaller part of the Rushcliffe 100 walk, such that it would be unlikely to detract significantly from the overall recreational and scenic enjoyment of long-distance walkers, or to deter them from visiting the area. Nevertheless, it is important to bear in mind the evidence that many users, including local residents, use the PROW for shorter walks or as an opportunity to get out into the countryside surrounding the settlements, and in this context would be likely to experience a greater degree of adverse impact than long-distance walkers.
17. Another PROW runs north from Normanton Lane along the western side of the railway; after passing the bridge crossing to Barn Farm, it runs alongside the railway through the appeal site, then turns and runs alongside its northern boundary, before joining the Rushcliffe 100 route at the north-western corner of the site. South of the railway bridge crossing, hedge planting is proposed along the eastern boundary of the development to screen views from this PROW. Where the PROW passes alongside or through the appeal site, the creation of a "green lane" is proposed, formed by the vegetated margins of the railway to the east and the extension of the hedgerow to the west. While these measures would help to soften views in the long term, users of the PROW would still experience adverse visual impacts since existing open views over agricultural fields would be replaced by close views of hedging, with the development still partially visible.
18. To the east, a bridleway runs from Leake Lane, past Barn Farm and over the railway bridge, to join the PROW that runs along the eastern side of the appeal site. The topography of the land and the presence of intervening vegetation means that views of the proposed development would be unlikely along this route until it reaches Barn Farm, after which the short stretch to the railway bridge would run alongside the boundary of the site but would be screened by a new hedgerow. While there may be occasional views from other parts of the PROW network and from local roads such as Butts Lane to the west, the separation distances involved, the relatively low height of the proposed development, the landform and the presence of intervening vegetation means that such views would be limited to brief glimpses, and would not give rise to any significantly harmful visual impacts.
19. The proposed development would not be visible from any public viewpoints in Stanford Soar, or from the majority of Normanton on Soar. It would however be seen from the eastern edge of Normanton on Soar, some 1.2km from the

appeal site, where the Village Hall and recreational land are located. The proposed solar farm would be partially visible on higher land in the distance, above and between the intervening vegetation, but large areas of it would be screened by that vegetation. There would only be a small visual impact. I note the concerns expressed by local residents, but I see no reason to fear that this small visual impact would adversely affect the viability of the village shop, or the function of the village hall and its outdoor recreation space as a social hub. Concerns about potential loss of income derived from use of the field beyond the village hall as a campsite are more understandable, but not supported by evidence; studies of renewable energy development installed elsewhere in the country have not identified any consequential drop in visitor numbers at nearby facilities. For the same reason, I see no grounds to fear that views of the development available from some sections of the heritage rail line passing through the appeal site would deter passengers from travelling.

20. Some of the residential properties on the eastern side of Normanton on Soar would have limited views of parts of the development. I appreciate that the occupiers of these properties value their views over the surrounding countryside very highly, and many of them understandably object to the introduction of an uncharacteristic new element into those views. However, the planning system makes no provision for the protection of views from private properties. Importantly, none of the dwellings in the vicinity of the appeal site would suffer such adverse visual impacts as would significantly harm the living conditions of their occupiers.
21. Taking all of this into account, I conclude that while the proposed development would clearly result in harmful change to the character and appearance of the appeal site itself, this harm would be relatively localised and limited. So too would the significant adverse visual impacts. Nevertheless, despite these limitations to the identified harm, the proposed development could not in my judgment rightly be described as conserving the character of the landscape, assessed with reference to the Greater Nottingham Landscape Character Assessment.
22. I therefore find that the proposal would conflict with the objectives of Policy 10 of the Core Strategy, which (among other things) seeks to ensure that new development has regard to the local context, makes a positive contribution to the sense of place and, outside settlements, conserves or (where appropriate) enhances or restores landscape character.

The proposed use of agricultural land

23. The NPPF defines the "Best and Most Versatile" (BMV) agricultural land as land in Grades 1, 2 and 3a of the Agricultural Land Classification. The appellant commissioned a professional survey to assess the site-specific characteristics in order to confirm the Agricultural Land Classification Grade of the appeal site and, where applicable, distinguish between Grade 3a and Grade 3b. The conclusion of that survey was that the appeal site consists of 34% Grade 2 land and 66% Grade 3a land. The entirety of the appeal site, then, is BMV agricultural land. Oral evidence given at the hearing as to the practical value of the farmland, in terms of yield, differed but I heard no convincing reason to doubt the professional assessment commissioned by the appellant.
24. The PPG advises that among the particular planning considerations that relate to large scale ground-mounted solar farms are "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” and “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”.

25. The Council has not yet undertaken any Borough-wide Capacity Study to identify and analyse the full range of constraints and opportunities in order to inform choices about the siting of renewable energy projects. In the absence of this information, it is very difficult to assess the extent to which it may be “necessary”, in the terms of the PPG, to accommodate such development on agricultural land. In response to the Council’s request, and in accordance with parameters agreed with the Council, the appellant produced an “Agricultural Sequential Test” which assessed a range of possible alternative sites. While I note that the Council considered the results of this Sequential Test sufficient to demonstrate that the proposed use of agricultural land is necessary, local residents expressed considerable concern, at the hearing, that insufficient attempts had been made to assess the potential use of previously developed land at the former AstraZeneca site on the outskirts of Loughborough.
26. The suitability, and availability, of that site is far from clear. However, even if I were to accept that the use of agricultural land ought reasonably to be regarded as necessary in this case, the possibility of utilising poorer quality agricultural land remains an important consideration. I have serious reservations about the appellant’s decision, when assessing alternative sites of lower grade agricultural land, to limit consideration to sites within single ownership. I appreciate that doing so would “minimise project complexity” but I see no valid reason why a potentially suitable alternative site should be ruled out, simply on the basis that negotiations with two or more landowners may prove complicated.
27. The outcome of the appellant’s Agricultural Sequential Test was the identification of nine alternative sites, six of which were – like the currently proposed appeal site – rated “amber” when assessed against solar-specific sustainability criteria. The appellant explained that it has made contact with the landowners of these areas, but that for “commercial reasons, on the part of the landowner”, further discussions have not progressed and so it must be concluded that none of the alternative sites are available. That is not, to my mind, a safe conclusion to draw. There may be any number of reasons why a landowner might be unwilling to progress discussions with a potential developer, from lack of agreement as to a fair price for the land, to prior commitments with an alternative developer. Evidence that the landowners were unwilling to hold further discussions with this particular developer does not constitute evidence that their sites must be regarded as unavailable for solar farm development.
28. The appellant’s evidence, then, indicates that there are six (and would possibly be more, if sites in more than one ownership were not ruled out) alternative sites potentially as suitable for the development of a large-scale ground-mounted solar farm as the appeal site, each of which consists of Grade 3 agricultural land. I accept the appellant’s point that there is no reasonable or practical way of assessing whether that land is Grade 3a (and thus BMV

agricultural land), or Grade 3b (and thus not BMV agricultural land). But since the appeal site consists of 34% Grade 2 land and 66% Grade 3a land, it must follow that even if each of the alternative sites were 100% Grade 3a land, they would all consist of land of poorer agricultural quality than the current appeal site.

29. The appellant rightly points out that there is no policy bar on the use of BMV land and no policy requirement for agricultural land, BMV or otherwise, to be actively farmed. In this particular case, agricultural use of the appeal site would continue in the form of grazing around and beneath the solar panels and, as the Council accepts, the proposals include habitat creation and enhancement that would provide some biodiversity gain.
30. However, the advice in paragraph 112 of the NPPF is that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality: advice which is reiterated in the PPG, as one of the particular planning considerations that relate to large scale ground-mounted solar farms. Further, in the WMS of March 2015 the (then) Secretary of State for Communities and Local Government explained that while "encouraged" by the impact of the guidance set out in the PPG, the Government was aware of "continuing concerns... about the unjustified use of high quality agricultural land" and "want it to be clear that any proposal for a solar farm involving BMV agricultural land would need to be justified by the most compelling evidence".
31. I consider that the evidence in this case falls short of the very high bar of being "the most compelling evidence" necessary to justify the construction of a solar farm on a site which consists entirely of BMV agricultural land.

The effect upon the Church of St James

32. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF explains that consideration needs to be given to the impact that proposed development would have on the significance of any heritage assets affected, pointing out that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.
33. The Parish Church of St James, which lies between the river and Main Street toward the eastern edge of Normanton on Soar, is Listed Grade 1. It therefore constitutes a "designated heritage asset" in the terms used by the NPPF.
34. The majority of the significance of this heritage asset, and the main reason for its listing, derives from the architectural and artistic interest of its historic fabric; the church contains 13th, 14th and 15th Century fabric, as well as a north transept built in 1889-1990, with repairs and restoration having been carried out in the late 19th and early 20th Centuries. It also has archaeological interest deriving from the different phases of its construction and alteration, and historic interest as a focus for the parish and its connection with known local figures whose memorials are within the church, as well as those buried within the churchyard.

35. As to the contribution that the setting of the church makes to its significance, the church spire functions as a landmark across much of the wider landscape. While that landmark quality is slightly diminished by electricity pylons in a number of views, it contributes to the architectural and artistic interest of the church as its design in particular the broach spire, can be appreciated across a wide area. This landmark quality also contributes to its historic interest as a focus for Normanton parish, including illustrating some competition with the neighbouring parishes of Stanford and Hathern.
36. The areas from which the church is a landmark are a combination of historical views along the road network, and more fortuitous views resulting from the joining up of paths in the 20th Century to form the current PROW network. All of these views of the church contribute to its rural setting within a small village, surrounded by a modern farming landscape with modern expansion of the settlements. It is not an unchanged setting, but the generally rural character contributes to the historic and artistic interest of the church.
37. Glimpsed views of the church are currently available, intermittently, along an approximately 800m length of the PROW that runs through the appeal site on the western side of the railway. The proposed development would result, immediately upon installation, in the partial obstruction of these views due to the presence of the intervening solar panels, albeit some glimpsed views of the church would remain through the spaces between the panels. By year 15 of the development, at which time the proposed hedgerow screening would be fully mature, there would be continuous screening of the church from this PROW within the appeal site. No other views of the church would be affected by the proposed development.
38. It is important to note that the historic fabric of the church itself would not be affected by the proposed development: it is only the portion of its significance which derives from its setting that has the potential to be harmed. While there are many views of the church which contribute to its heritage significance, no specific view is more important than any other and it is the general experience of the church as a landmark which contributes to its significance.
39. A small selection of the views of the church currently available, from a limited geographical area, would be lost as a consequence of the proposed development. The evidence given by Ms Richards on behalf of the appellant, which drew on information contained in the Archaeological and Heritage Assessment submitted with the planning application and provided a detailed and careful analysis of the probable heritage impacts of the proposal, was that the degree of harm caused to the significance of the church would be considerably less than substantial. I share that view. However, as was agreed at the hearing, following the clarification provided by the Court of Appeal¹ a conclusion that a development proposal would fail to preserve the setting of a Listed building is a consideration that must carry considerable weight and importance in the overall planning balance.
40. In terms of the Development Plan, I find that the proposal would conflict with the provisions of Core Strategy Policy 11, which states that proposals and initiatives will be supported where heritage assets and their settings are conserved and/or enhanced in line with their interest and significance.

¹ Barnwell Manor Wind Energy Ltd v E Northants DC & Ors [2014] EWCA Civ 137

Other matters

41. Evidence submitted by the appellant, and not disputed by the Council, is that the proposed solar array would generate up to 30MW, enough to meet the annual electricity demand of approximately 9,100 typical households, and would save some 12,800 tonnes of CO₂ per year.
42. The proposed development would include the provision of new permissive bridleways, which in some part would involve upgrading existing footpaths, on land within the same ownership as the appeal site. This would have benefits in terms of improving the connectivity of the existing PROW network, and providing a safer and more attractive off-road alternative to walking along Normanton Lane. However, sections of these proposed new routes would themselves be affected by the visual impact of the proposed solar farm; in this respect, they could not be said to alleviate or mitigate, through the delivery of an alternative "unaffected" route, the visual impacts on existing public rights of way.

Conclusions

43. The proposed solar array would make a significant contribution toward meeting national targets and policy objectives concerning the derivation of energy from renewable sources, reducing carbon emissions and mitigating climate change. It would also help to increase the security and diversity of the national electricity supply. These are benefits which carry a great deal of weight in favour of the proposed development. I also attach some weight to the benefits of the ecological improvements to the appeal site and ensuing biodiversity gain that the proposed development would secure, and a small amount of weight to the benefits associated with the provision of permissive bridleways.
44. On the other side of the planning balance, the proposed development would harm the character and appearance of the area and would have significant adverse visual impacts, albeit the extent of the harm caused would be localised and limited. In addition, the proposed development would fail to preserve the setting of the Grade 1 Listed Church of St James, and that is a consideration which must carry considerable weight and importance in the overall planning balance. In these respects the proposal would fail to accord with the objectives of Policy 2 of the Core Strategy, which states that renewable and low-carbon energy schemes appropriate for Rushcliffe will be promoted and encouraged, but only where these are compatible with environmental, heritage, landscape and other planning considerations.
45. Further, the development would be wholly sited on BMV agricultural land, and the appellant has not provided "the most compelling evidence" (in the terms of the WMS) necessary to justify the use of BMV land.
46. Weighing all of the relevant material considerations in the balance, I find that the benefits of development here proposed would not be sufficient to overcome the conflict with the Development Plan policies and the harm that I have identified. I therefore conclude that the appeal should be dismissed.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Shaw BSc(Hons) BLD CMLI	LDA Design
Mr T Kernon BSc(Hons) MRAC MRICS FBIAC	Kernon Countryside Consultants Ltd
Mr C Goodrum	LDA Design
Ms J Richards BA(Hons) PgDip AIfA	Headland Archaeology
Mr E Packe-Drury-Lowe	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Mitson BA(Hons) DipTP Cert Conservation	Planning Consultant
Cllr R Hetherington Dip EE MIET	Ward Member

INTERESTED PERSONS:

Mr C Waumsley MRTPI	Representing Normanton on Soar and Stanford on Soar Parish Councils and the Stanford Solar Farm Action Group
Mr M Purdom CMLI	Appearing for Normanton on Soar and Stanford on Soar Parish Councils and the Stanford Solar Farm Action Group
Mr J Stanger	Tenant Farmer
Mr C Stanger	Tenant Farmer
Cllr A Brown	Nottinghamshire County Council
Mr J Hellier	Chairman, Normanton on Soar Parish Council
Ms J Faulks	Clerk, Normanton on Soar Parish Council
Ms P Adkin	Stanford-on-Soar Parish Councillor
Mr D Adkin	Local resident
Mr B Archbold	Local resident
Mr M George	Local resident
Mr T Irwin	Local resident
Mr R Carter	Local resident
Ms D Carter	Local resident
Ms C McDermott	Local resident
Ms K Broad	Local resident
Mr C Blackshaw	Local resident
Mr T Maley	Local resident
Mr G Dring	Local resident
Ms F McKim	Local resident
Mr J Thurman	Local resident
Mr S Barrington	Local resident
Ms K Wright	Local resident
Ms H Lister	Local resident
Mr D Al-Hariri	Local resident
Mr P Tyers	Local resident
Dr T Tyers	Local resident
Mr K Bonser	Local resident

Ms H Herrington	Local resident
Mr J Herrington	Local resident
Mr D Parrott	Local resident
Ms M Parrott	Local resident
Ms D Hulbert	Local resident
Mr A Haddon	Local resident
Mr D O'Connell	Local resident
Mr S Dermott	Local resident
Mr M Cottman	Local resident
Mr B Hilsdon	Local resident
Ms G Hilsdon	Local resident
Mr D Alltree	Local resident
Mr M George	Local resident
Ms J Sankey	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Copy of Mr Maley's representations to the hearing
- 2 Copy of Mr Tyers' representations to the hearing
- 3 Copy of Mr Al-Hariri's representations to the hearing
- 4 Copy of appeal decision ref APP/X2410/A/14/2227418
- 5 Plan showing proposed route of grid connection
- 6 Petition listing names of those opposed to the proposal who were unable to attend the hearing
- 7 Plan showing suggested viewpoints, agreed between the main parties and other attendees at the hearing, to inform the Inspector's site visits
- 8 Copy of the closing submissions made on behalf of the Parish Councils and Action Group.

3017938

Land off Cold Harbour Lane,
Bobbing,
Sittingbourne,
Kent

Swale Borough Council

07 December 2015

Appeal Decision

Hearing held on 15 September 2015

Site visit made on 15 September 2015

by Andrew Hammond MSc MA CEng MIET MRTPI

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

Decision date: 07 December 2015

Appeal Ref: APP/V2255/W/15/3017938

Land off Cold Harbour Lane, Bobbing, Sittingbourne, Kent.

- 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 Solar Securities (Group) Ltd against the decision of Swale Borough Council.
 - The application Ref SW/14/0525, dated 22 April 2014, was refused by notice dated 20 October 2014.
 - The development proposed is construction of a solar farm, to include the installation of solar panels to generate electricity with transformer housings, DNO substation, security fencing and cameras, temporary access track, landscaping and other associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of a solar farm, to include the installation of solar panels to generate electricity with transformer housings, DNO substation, security fencing and cameras, temporary access track, landscaping and other associated works at Land off Cold Harbour Lane, Bobbing, Sittingbourne, Kent in accordance with the terms of the application, Ref SW/14/0525, dated 22 April 2014, subject to the conditions attached as Annex A.

Main Issue

2. The main issue in this appeal is whether the proposed development comprises inappropriate use of best and most versatile agricultural land (BMV).

Reasons

3. The appeal site comprises some 24.46 hectares of arable land crossed by 3 public footpaths. It is substantially enclosed by mature hedgerow and is set away from surrounding roads, being only accessible via the footpaths. A railway line runs along the southern boundary with the majority below the site within a cutting.
4. The surrounding land is undulating in nature with small areas of woodland and tree belts characterising the landscape. As a result of the topography and woodland, the appeal site is not generally overlooked from public vantage points except from the footpaths crossing it.

5. It is common ground that the site in its entirety is BMV agricultural land with the majority being Grade 2 with a small area of around 0.4 hectares being grade 3a.
6. The proposed development comprises the construction of a photovoltaic solar farm capable of generating up to 11.33 MW of electricity, associated landscaping, transformer housing, security measures and associated works for a limited period not exceeding 25 years.
7. The National Planning Policy Framework (the Framework) states at paragraph 112 that "Local planning 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 demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."
8. Furthermore, in a Written Ministerial Statement (WMS) made on 25 March 2015, The Secretary of State for Communities and Local Government, The Rt Hon Eric Pickles MP, stated 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." However the WMS continues with "Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations."
9. It is clear, therefore, that it is Government policy, reflected in Swale Borough Local Plan Policy U3, that the use of previously developed and poorer quality land should be preferred and that the use of BMV agricultural land weighs heavily against the proposed development. In order to justify the scheme other matters, including a lack of suitable sites comprising poorer quality land, would need to outweigh the harm arising from the loss of BMV agricultural land.
10. Although the appellant's own assessment of the land confirms that it is predominantly grade 2, first hand evidence on the operation of the holding given at the Hearing was that, in practice, the appeal site is less versatile than the remaining holding due to a variety of factors, including drainage and substantial flint content of the soil. These factors were effectively demonstrated at the site visit. It is reasonable to conclude that, whilst still officially BMV agricultural land, the appeal site is of at least slightly poorer quality than the majority of the surrounding agricultural land.
11. Prior to submitting the application, the appellant conducted a substantial search for suitable sites within the district. 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.
12. The appellant's study focussed on land outside any area designated for reasons of natural or built heritage. The remaining land was then assessed against a number of technical criteria, the primary one being the availability of feasible connection to the electricity supply system.

13. Forty sites were identified using the above approach and these were further assessed against availability constraints; setting constraints, e.g. the proximity of the site to sensitive land use etc.; and on-site constraints derived from shading and local features reducing the ability of the site to host solar development. Finally the sites were assessed on the appellant's behalf with regard to landscape and visual effects.
14. The outcome of the appellant's study was that there was no alternative site which was preferable on the grounds of feasibility and viability.
15. The Council consider that the study was flawed in that sites were dismissed without proper testing and that testing of sites on the grounds of acceptability was more properly a matter for the Council. It is not realistic, however, for an applicant to have fully worked up proposals on all potential sites such that a full and comparative assessment can be made. It is reasonable for a developer to take a staged approach, such as that used here, to narrow down potential alternatives and make appropriate judgements on the basis of available information.
16. In conclusion on this matter, 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 where a solar farm might be located on land that is not designated BMV agricultural land.

Benefits of the Scheme

17. The proposed development would sit in an area naturally screened by landform and abundant trees and hedgerows and any impact on landscape or visual amenity would be largely contained to the immediate setting, especially with proposed additional planting.
18. The National Planning Policy Framework (the Framework) is supportive of renewable energy and, at paragraph 93, states that "Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development." Furthermore, the Framework recognises that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions.
19. The proposed development would generate some 11MW of electricity which would make a significant contribution to the imperative of cutting greenhouse gas emissions and would also contribute to farm diversification and diversification of the rural economy.
20. The scheme proposes that during the operational stage the land would be used for the grazing of sheep. This practice has been well established on existing solar farms and can result in a long term improvement in soil fertility. The scheme also provides for features aimed at improving biodiversity.

Other Matters

21. Local residents raised a number of other issues in relation to the proposed development.

22. Concern was expressed regarding the impact of noise from the inverters on nearby properties. The Council considered the appellant's noise survey which predicted that the noise level, resulting from the operation of the 8 inverters and the substation, at the nearest property as being some 18 dB(A), far below the WHO guideline noise value for "sleep disturbance, window open". The Council found no reason to question this conclusion and no evidence has been provided to indicate that there would be any harm to residential amenity in this respect.
23. It was suggested that solar panels should be placed on commercial buildings or brownfield land, in line with Government policy. The appellant's analysis considered the availability of such sites within the study area and concluded that there was no suitable location for a development of commercial scale, such installations generally being provided primarily to serve the premises concerned and not for export to the electricity supply system. No pv installations of the commercial scale proposed have been put forward by any party.
24. A number of highway concerns were put forward by Bobbington and Newington Parish Council. The Highway Authority and emergency services were consulted by the Council and expressed no concerns with regard to access, highway disruption and emergency access. No reasons to disagree with the response of these parties have been put forward by any party. Concern was also expressed regarding glint and glare. Solar panels are designed to absorb rather than reflect light and there would only be negligible effects in this respect.

Overall Conclusion

25. The Framework states that local authorities should approve applications if their impacts are (or can be made) acceptable. That is not to say that the benefits of a scheme override environmental harm, as confirmed in the WMS. Nevertheless in this instance the harm attributable to the loss of BMV agricultural land is constrained by the lesser quality of the appeal site when compared to the rest of the agricultural holding.
26. Government policy is that local planning authorities should seek to avoid the use of BMV agricultural land for solar generation and that the use of the best land needs to be justified by the most compelling evidence.
27. However, the appellant has demonstrated that the appeal site, whilst classified as BMV agricultural land is not the most versatile and productive land within the agricultural holding and has provided compelling evidence that no viable and available alternative site comprising poorer quality land has been identified.
28. Before and during the Hearing my attention was drawn to a number of appeals which were dismissed on the basis of the use of BMV agricultural land. Conversely, after the hearing the appellant drew my attention to two appeals which had recently been allowed, the Council having subsequently commented on these decisions. Each appeal must be considered on its individual merits and the full circumstances of these other appeals is not known. However it is clear that there is neither an absolute prohibition on the use of BMV agricultural land for solar generation nor that the benefits of generation of electricity from renewable sources always outweigh other considerations.

29. It is concluded that, in this case, the limited harm is outweighed by the significant benefits in terms of assisting the imperative of reducing greenhouse gas emissions, the lack of alternative sites and other benefits accruing.
30. For the reasons given above, and taking account of all material planning issues raised, the appeal is allowed.

Conditions

31. A condition requiring the development to be constructed in accordance with approved drawings is necessary in the interest of proper planning as is a condition requiring approval of final details of the inverters and substation.
32. Conditions limiting the life of the proposed development; requiring the approval of a Decommissioning Management Plan; and requiring the approval of a repair or removal scheme in the event that the development ceases to produce, for a continuous period of 12 months, electricity for supply to the local network, are necessary in the interests of long term visual amenity and proper programming of works.
33. A condition requiring the approval of an Environmental Enhancement and Management Plan is necessary in the interests of visual amenity, landscape character and ecology and bio-diversity. Conditions requiring the approval of an updated badger survey; a Great Crested Newts Method Working Statement; and a Breeding Birds Survey are also necessary in the interest of ecology and bio-diversity.
34. Conditions requiring the approval of an archaeological scheme of works and the details of the placement and design of a World War 1 information board are necessary to ensure that features of archaeological interest are properly examined and recorded given the historic use of the land for trench warfare training.
35. A condition limiting hours of construction working is necessary in the interest of residential amenity.
36. A condition requiring the approval of a Traffic Management Plan is necessary in the interests of highway safety and residential amenity.
37. A condition requiring approval of details of methods of surface water drainage is necessary to prevent pollution of water supplies and local flooding.

Andrew Hammond

Inspector

ANNEX A SCHEDULE OF CONDITIONS

- 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:
 - i) Figure 1.1 Site location plan (1:2500) dated 14/04/2014
 - ii) Figure 1.2 Indicative layout and planting proposal dated 09/09/2014
 - iii) Figure 1.3 DNO substation details dated 17/04/2014
 - iv) Figure 1.4 Inverter cabinet details dated 17/04/2014
 - v) Figure 1.5 Deer fence details dated 17/04/2014
 - vi) Solar panel details dated 17/04/2014
 - vii) Viasys 3.5m day/night camera and thermal camera mount with integrated video analytics.
- 3) The development hereby approved shall be removed on or before 25 years from the date which the development is first used for electricity generation purposes or it ceases to be used for electricity generation purposes, whichever is the sooner. The date of first use for electricity generation purposes shall be notified to the Local Planning Authority within 28 days of the event.
- 4) No later than 12 months before the expiry of the 25 years referred to in Condition 3, a Decommissioning Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of the timing and management of the decommissioning works, the removal of the development and the re-instatement of the land to its former condition. The works shall be carried out in accordance with the approved details within 12 months.
- 5) If the development hereby approved ceases for a continuous period of 12 months to be operational then details of a scheme to repair or remove the solar panels and all ancillary equipment shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the end of that 12 month period. If repairs to the solar panels are proposed the details shall include a period of remedial works. If removal of the solar panels is proposed the works shall be completed within 12 months of the details being approved and the details shall include a method statement and timetable for the dismantling and removal of the solar panels and all ancillary development; a traffic management plan and a method statement and timetable for any necessary site restoration works. The scheme shall be implemented in accordance with the approved details.
- 6) No development shall take place until details of an Environmental Enhancement & Management Plan, including a timetable for its implementation and provisions for future maintenance, has been submitted to and approved in writing by the Local Planning Authority. The details shall be consistent with the mitigation, enhancement and management proposals recorded within the:
 - i) The Land at Bobbing – Landscape and Visual Assessment dated April 2014, Chapter 9: Mitigation and Management Opportunities.

ii) The Land at Bobbing – Environmental Enhancement Plan dated May 2014.

iii) Bobbing Kent – Preliminary Ecological Appraisal dated April 2014: Chapter 4: Discussion and Recommendations.

Upon completion of the approved works any trees or shrubs that are removed, die, are severely damaged or diseased within five years of planting shall be replaced with trees or shrubs of such size and species as shall be agreed in writing by the Local Planning Authority within the first available planting season.

The Plan shall be implemented in accordance with the approved details.

- 7) Notwithstanding Condition 6, prior to commencement of construction works on site an updated badger survey shall be submitted to and approved in writing by the Local Planning Authority. Any further mitigation recommended shall be implemented in accordance with the approved details.
- 8) Prior to commencement of construction works on site a Great Crested Newts Method Working Statement shall be submitted to and approved in writing by the Local Planning Authority. Construction works shall be implemented in accordance with the approved details.
- 9) Prior to commencement of construction works on site details of a Breeding Birds Check Survey shall be submitted to and approved in writing by the Local Planning Authority. The survey works shall be completed by a suitably qualified ecologist and any further mitigation recommended shall be implemented in accordance with the approved details.
- 10) Prior to commencement of construction works on site details of an archaeological scheme of works, including a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for a geophysical survey of the site from which appropriate mitigation shall be derived and implemented in accordance with the agreed timetable.
- 11) Prior to commencement of construction works on site details of the placement and design of a World War 1 Information Board shall be submitted to and approved in writing by the Local Planning Authority. The Information Board shall be installed in accordance with the approved details before the development first exports electricity to the supply network.
- 12) Working hours for all construction activity on the site shall be limited to 07:00 to 18:00 Monday to Saturday and not at all on Sundays or Bank Holidays unless in emergency or as otherwise agreed in writing by the Local Planning Authority.
- 13) Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include details of;
 - i) The timetable for works on site;
 - ii) The routing of vehicles to and from the site;
 - iii) Temporary warning signage;

- iv) Expected levels and timings of construction traffic;
- v) Measures to control traffic in and around the site;
- vi) All unloading and loading areas which will be used for the delivery or despatch of materials associated with the development;
- vii) Measures to ensure that delivery vehicles and construction traffic will not park on the public highway for the purposes of loading or unloading or awaiting entry to the site; and
- viii) Adequate provision to prevent the deposit of mud or similar substances on the public highway.

The development shall be carried out in accordance with the CTMP unless otherwise agreed in writing by the Local Planning Authority.

- 14) Prior to the erection of the substation and the inverters final details of their size and surface finish shall be submitted to and approved in writing by the Local Planning Authority. The erection of the substation and the inverters shall be implemented in accordance with the approved details.
- 15) Prior to the commencement of the development hereby approved full details of the method of disposal of surface water, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the first use of the development for the export of electricity.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Nigel Moore

TNEI Services Ltd

Alan Buckwell
Stuart Mair
Rupert Warwick
Nick Richardson
Clive Richardson

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Buckwell
Richard Lloyd-Hughes

DHA Planning
Rural Planning Ltd

3011997

Tawdside Far,
32 Deans Lane,
Latham,
Ormskirk,
Lancashire

West Lancashire Borough Council

21 January 2016



Department for
Communities and
Local Government

Mrs Gillian Slater
Wardell Armstrong International
Baldhu House
Wheal Jane Earth Science Park
Baldhu
TRURO
Cornwall
TR3 6EH

Our Ref: APP/P2365/W/15/3011997

21 January 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY GREEN SWITCH DEVELOPMENTS:
TAWDSIDE FARM, 32 DEANS LANE, LATHOM, ORMSKIRK, LANCASHIRE, L40 4BL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Richard McCoy BSc MSc DipTP MRTPI IHBC who held a site visit on 9 September 2015 in relation to your clients' appeal against the refusal of West Lancashire Borough Council to grant planning permission for the construction of a 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: 2014/0791/FUL dated 22 July 2014, at Tawdside Farm, Lathom, Ormskirk, Lancashire, L40 4BL.
2. The appeal was recovered for the Secretary of State's determination on 5 August 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the proposal is 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.

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 comprises the West Lancashire

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Local Plan: 2012-2027 (LP), adopted in October 2013. The Secretary of State considers that relevant development plan policies include those set out in IR8.

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 Practice Guidance ('the Guidance'); the Written Ministerial Statement "Planning Update March 2015" which, amongst other matters, concerns solar energy and the protection of the local and global environment and the Habitats Regulations 2010, requiring the applicant to consider the need to prepare a Habitats Regulation Assessment.

Main issues

6. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR196.

Green Belt policy

7. The Secretary of State agrees with the Inspector that due weight should be given to the LP Policy GN1 which is essentially consistent with the Framework. He notes that there is no dispute between the parties that the proposal represents inappropriate development in the Green Belt and that this would be, by definition, harmful to the Green Belt (IR197). Overall, for the reasons in IR198, the Secretary of State agrees with the Inspector that the proposal is in conflict with national policy as it relates to the Green Belt, and would therefore cause definitional harm, additional harm to openness and harm to one of the purposes of designation (safeguarding the countryside from encroachment) (IR198). He agrees with the Inspector that this weighs heavily against the proposal (IR199). He has therefore gone on to consider whether there are any material considerations which would justify a decision other than in accordance with the development plan and the Framework.

Effect on the landscape and visual amenity of the area

8. For the reasons set out in IR200-207 the Secretary of State agrees with the Inspector that the proposal would represent a major incursion of built form into the countryside (IR204) and have a harmful effect on the local landscape character (IR205). Accordingly, he agrees that the proposal would result in significant visual harm when viewed from local vantage points (IR208).

Impact on Best and Most Versatile Agricultural land (BMV)

9. The planning application was refused permission partly on the grounds that the applicant had failed to justify the loss of 39 hectares of BMV agricultural land, but it is now accepted that 67% of the site is of Grade 3b agricultural land, which is below BMV quality (IR209).
10. However, the Written Ministerial Statement of 25 March on solar and agricultural land said 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, and Secretary of State notes that the Inspector did not have sufficient information to assess if alternative, non-agricultural sites in the wider Lancashire / North West England region would be suitable for a development of the size proposed (IR212 and

236). Whilst the Secretary of State acknowledges that the proposal would minimise the use of BMV land on the appeal site, it would still necessitate the use of about 13 hectares of Grade 1 agricultural land. He considers that the loss of so substantial an area of Grade 1 BMV, other than for sheep grazing, weighs against the proposal. In reaching this conclusion, the Secretary of State takes the view that 25 years is a considerable period of time and the reversibility of the proposal is not a matter he has taken into account in his consideration of whether the scheme should go ahead.

Impact on protected species and habitats

11. The proposal site is in close proximity to sites of international and national designation (including Natura 2000 sites such as Ramsar, Special Protection Area, Special Area of Conservation, Sites of Scientific Special Interest), and according to the Merseyside Environmental Advisory Service the appeal site may be used for feeding by Pink-footed geese and Whooper swans (IR219). The Framework and LP Policy EN2 seek to protect biodiversity by resisting development which would destroy or adversely affect wildlife habitats. The Inspector notes concerns raised by Natural England regarding the adequacy and shortcomings of the appellant's Wintering Bird Survey (WBS) and Habitats Regulation Assessment (IR220). The Inspector considers that these shortcomings have not been fully addressed and that the WBS does not provide sufficient information to enable a competent authority to undertake an assessment of the likely significant effects under the Habitats Regulations. Accordingly, the Inspector is unable to conclude that the proposal would be unlikely to have a significant effect (IR226).
12. Overall, for the reasons in IR 223-227 the Secretary of State as competent authority in this case agrees with the Inspector that the proposal is not compliant with the Habitats Regulations and conflicts with LP Policy EN2 (IR227).

Benefit arising from the provision of renewable energy

13. The proposal would have an installed capacity of 15.9MW, which is estimated to produce sufficient electricity to power 4,800 homes for 25 years, equating to a reduction of approximately 8,000 tonnes of CO₂ emissions per year. Related to this, the proposal would assist with meeting the UK Government's target for 2020 of at least 15% of electricity to be generated by renewable sources. The Secretary of State agrees with the Inspector that the provision of renewable energy attracts significant weight in favour of the proposal (IR231).

Other matters

14. The Secretary of State agrees with the Inspector's assessment on the matters raised at IR228-229. For the reasons in IR 233-239, the Secretary of State agrees with the Inspector that: the temporary nature of the proposal for 25 years carries limited weight in favour of the proposal (IR 233); farm diversification adds moderate weight in favour (IR234); the intention that sheep would graze between and beneath the solar arrays carries limited weight (IR235); deliverability benefits with the scheme being capable of being installed in 12-16 weeks carry limited weight (IR237); biodiversity benefits carry limited weight (IR 238) and the interest of United Utilities Water in utilising the generated electricity (IR239) carries moderate weight.

Conditions

15. The Secretary of State has considered the proposed conditions, as set out in Annex to the IR, and the Inspector's comments on them at IR242-245. He is satisfied that, subject to the changes proposed in IR 245, these conditions are reasonable and necessary and would meet the tests in paragraph 206 of the Framework and the Guidance. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing the appeal.

Planning balance and overall conclusion

16. Although time limited to a period of 25 years, the proposal is nevertheless inappropriate development in the Green Belt. In addition, the reduction in openness arising from the proposal, along with the failure to safeguard the countryside from encroachment, would also be harmful to the Green Belt. The Secretary of State places substantial weight on the harm to the Green Belt.

17. The proposal would result in moderate harm to landscape character and significant harm in terms of its visual impact. Although this harm would be temporary and reversible, it would pertain for 25 years. The Secretary of State regards this as a considerable time period and he places significant weight on the harm. He also places moderate weight on the loss of 13 ha of BMV.

18. The proposal would potentially have an adverse impact on protected species and habitats and would fail to comply with LP Policy EN2 and the requirements of the Habitats Regulations. The Secretary of State places substantial weight on this non-compliance.

19. In favour of the proposal, the Secretary of State places significant weight on the renewable energy benefits of the proposal. The various benefits outlined at paragraph 14 above also lend weight in favour.

20. 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 factors in favour of the proposal do not clearly outweigh the harm to the Green Belt and other harm identified. Accordingly, he concludes that very special circumstances necessary to justify the development do not exist.

Formal decision

21. 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 park, to include the installation of solar panels to generate electricity, with substations, cabins, fencing and other associated works in accordance with application ref: 2014/0791/FUL dated 22 July 2014, at Tawdside Farm, Lathom, Ormskirk, Lancashire, L40 4BL.

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 the Council.

Yours faithfully

Julian Pitt

JULIAN PITT

Authorised by Secretary of State to sign in that behalf

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: 19 November 2015

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

GREEN SWITCH DEVELOPMENTS LIMITED

against a decision of

WEST LANCASHIRE BOROUGH COUNCIL

Site visit made on 9 September 2015

Land adjacent Tawdside Farm, 32 Deans Lane, Lathom, Ormskirk, Lancashire L40 4BL

File Ref(s): APP/P2365/W/15/3011997

File Ref: APP/P2365/W/15/3011997

Land adjacent Tawdside Farm, 32 Deans Lane, Lathom, Ormskirk, Lancashire L40 4BL

- 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 Green Switch Developments Ltd against the decision of West Lancashire Borough Council.
- The application Ref 2014/0791/FUL, dated 22 July 2014, was refused by notice dated 17 November 2014.
- The development proposed is the installation of a solar park with an output of approximately 16MW.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. The appeal was recovered for decision by the Secretary of State on 5 August 2015. 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 constitutes inappropriate development within the Green Belt which would be harmful to the Green Belt by definition, contrary to Policy GN1 in the West Lancashire Local Plan and the National Planning Policy Framework. In addition the proposed development has a significant adverse impact upon the openness of the Green Belt and represents encroachment into the countryside thereby conflicting with one of the purposes of including land in the Green Belt. The very special circumstances in favour of the proposed development are insufficient to outweigh this harm.*
 - 2) *The applicant has failed to demonstrate that the development of agricultural land is necessary nor has it been demonstrated that sites of lower agricultural quality are not available. Consequently the development does not comply with the sequential test set out in the National Planning Practice Guidance and therefore the proposal is not in accordance with Government guidance in this respect and is contrary to paragraph 118 of the National Planning Policy Framework.*
 - 3) *The proposed development conflicts with the National Planning Policy Framework, Policy EN2 in the West Lancashire Local Plan 2012-2027 DPD and the Conservation of Habitat and Species Regulations 2010 (as amended) in that insufficient information has been provided to demonstrate that the proposed development would not adversely affect Protected Species and Habitat.*
 - 4) *The proposed development is contrary to the National Planning Policy Framework, Policy EN2 in the West Lancashire Local Plan 2012-2027 DPD and the Conservation of Habitat and Species Regulations 2010 (as amended) in that the applicant has not provided sufficient information to demonstrate compliance with the statutory duty to assess the likely significant effects on nearby designated sites and supporting habitat.*
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 is located in the Green Belt and extends to around 38.75 hectares. It comprises several agricultural fields that are currently in arable use. It is located to the east of Wanes Blades Road and to the north of Deans Lane. The River Douglas is adjacent to the northern site boundary with the River Tawd marking the western boundary. A United Utilities sewerage plant is located to the south-east of the site while dwellings are located sporadically along Wanes Blades Road and Deans Lane. A line of electricity pylons and connecting power lines cross the appeal site.

Planning Policy

5. The National Planning Policy Framework (NPPF) states a presumption in favour of sustainable development at paragraph 14. Paragraph 93 of the NPPF 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.
6. 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.
7. 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.
8. Policy GN1 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document (LP) states that development proposals within the Green Belt will be assessed against national policy and any relevant LP policies. LP Policy EN1 indicates that proposals for renewable schemes should take into consideration the character and value of the landscape, areas of natural and built heritage and the impact on local residents, land resources and ecological impacts. LP Policy EN2 seeks to preserve and enhance the Borough's natural environment.

The Proposal

9. Proposed is the erection of a solar photovoltaic (PV) array with a total installed capacity of 15.9MW which would be decommissioned after 25 years. The site would consist of banks of solar panels arranged in a linear form, laid out in an east to west alignment, facing southwards. The array would comprise around 60,000 panels. These would be mounted on frames set around 0.8m from the ground rising to around 2.5m high, with a tilt angle of about 25 degrees. The panels would be fixed in place (with a separation distance of around 4m between each row) within frames which would be secured on piles driven into the ground to a depth of about 1.5m. At their closest point, the panels would be set back about 120m from Waness Blade Road and about 20m from Deans Lane, including an 8m set back from all site boundaries. Access would be via an existing field access off Deans Lane which would be upgraded and widened. A temporary surface within the site would be used for construction traffic after which no formal tracks are required.
10. The officer report¹ notes that the proposal also includes:
- 1 District Network Operator (DNO) substation measuring 8m by 4m by 3.3m. This building would be located towards the central north of the site. The substation would contain the switchgear that connects and disconnects the system along with metering equipment. The building would be operated by the DNO.
 - 1 solar farm substation measuring 3m by 3m by 2.5m. This building would be located next to the DNO substation and would be retained in the ownership of the appellant. It would incorporate the switchgear, which ensures the safety and security of the energy supplied.
 - 16 x inverter/transformer cabins each measuring 9.7m by 3m by 3.6m. These buildings will contain the equipment to convert the DC (direct current) to AC (alternating current). In addition, they will house the transformers, which raise the voltage to that necessary for connection to the electricity grid.
 - 2.4m high wire-mesh fencing around the perimeter of the site.
 - 6 CCTV cameras. These would be located around the site and would measure a maximum of 3m in height.

The Case for Green Switch Developments Ltd

11. The appeal site lies within the Green Belt. The NPPF emphasises that 'the Government attaches great importance to Green Belts' (para 79) and advises that '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' (para 91).

¹ Grounds of Appeal, Appendix A1.3 paras 6.2 – 6.6

12. A number of solar farms where very special circumstances were demonstrated to exist have previously been granted within Green Belt locations throughout the UK². The very special circumstances which are considered to apply in respect of this proposal are;
- a) The need for the UK to increase its installed renewable energy generating capacity is documented within the original Planning Statement and is highly supported within the NPPF. The NPPF clearly states that local planning authorities, when determining planning applications, should 'not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy' (para 98). Very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources' (para 91). The proposed 15.9MWp would generate sufficient electricity for 4,800 homes for 25 years, equating to a reduction of approximately 8,000 tonnes of CO2 emissions per year when compared to electricity generation using fossil fuels.
 - b) It is also worthwhile highlighting the need for renewable energy capacity within the West Lancashire area. The document 'Sub-national consumption statistics' (DECC Sept 2014) indicates that the annual domestic electricity consumption in West Lancashire was 205.5GWh/yr (industrial & commercial consumption was an additional 309.4GWh/yr, giving a total electricity consumption for West Lancashire of 514.9GWh/yr). The annual domestic electricity consumption for the North West of England was 12,176.5GWh/yr (industrial & commercial consumption was an additional 20,499.6GWh/yr, giving a total electricity consumption for the North West of England of 32,676.1GWh/yr). The UK Government target for 2020 is at least 15% of electricity to be generated by renewable sources. The need for further installed electrical renewable energy capacity within West Lancashire and the North West of England is therefore both significant and urgent.

SUSTAINABLE ENERGY STRATEGY 2012-2020

The 'Sustainable Energy Strategy 2012-2020' (undated) was published by West Lancashire Borough Council. The Executive Summary states; 'West Lancashire Borough Council recognises that, while climate change is an internationally important problem, we can play a significant part in tackling the issue locally. It is also recognised that, through working together to reduce carbon emissions, we can also reap many other benefits along the way', with Objective 3 seeking 'to increase renewable energy generation across the Borough'. The Strategy recognises that 'the use of low carbon technologies depends very much on the surrounding landscapes of an area and what they lend themselves to. The very nature of the landscape in West Lancashire, which is predominantly flat and open, lends itself to some technologies more than others' (para 3.2.2).

NORTHWEST RENEWABLE AND LOW CARBON ENERGY CAPACITY AND DEPLOYMENT

The Northwest Renewable and Low Carbon Energy Capacity and Deployment Project Report (August 2010) was prepared by LUC and SQW on behalf of the

² Appellant's Statement of Case, para 2.4

Northwest Regional Development Agency. Within the report solar PV was considered as a 'micro-generation' technology with Lancashire having an estimated solar PV generating capacity of 238MW (Table 1) and a renewable energy generating capacity of 4,970MW, equating to 20% of the capacity for the north-west region (Table 3). The report considered that 'the successful deployment of commercial scale onshore wind and microgeneration technologies are critical to the overall growth in renewable capacity, together accounting for approximately 75% of the capacity at 2020 under the deployment scenarios presented' (para 9).

LANCASHIRE SUSTAINABLE ENERGY STUDY

The Lancashire Sustainable Energy Study (April 2011) was prepared as a technical report for Lancashire County Council by SQW Ltd with support by Maslen Environmental and CO2Sense. The study unfortunately largely ignored solar PV as a potential renewable energy technology (estimating the potential accessible resource within West Lancashire to be 50MW – Table 5.1) but it did acknowledge that 'the distribution networks often have limited spare capacity and may require upgrading or modifying to allow a connection' (para 3.28). The Study also recognised that some areas of Lancashire were 'constrained' by grid connection in terms of the potential for renewable energy deployment and that 'the distance between the substation and the connection point is of critical commercial relevance' (para 3.31).

LANCASHIRE SUSTAINABLE ENERGY STUDY – WEST LANCASHIRE RENEWABLE ENERGY POTENTIAL

The Lancashire Sustainable Energy Study - West Lancashire Renewable Energy Potential (April 2011) was prepared for Lancashire County Council by SQW Ltd with support by Maslen Environmental and CO2Sense. The Study is one of fourteen local authority specific reports undertaken for each authority in Lancashire. The Study considers solar PV under the heading of 'micro-generation' (Table 2.1) and acknowledges that such 'micro-generation' represents 33% of the potential renewable energy resource in West Lancashire (Figure 3.1) which has a total potential renewable energy capacity of 1,630MW (para 3.5). The study therefore acknowledges that micro-generation represents a potential renewable energy resource in West Lancashire of 277MW, although it does anticipate that 'the potential solar PV of West Lancashire in 2020 is 50MW consisting of 25MW from solar photovoltaics and 25MW from solar water heating' (pg 24). The appellant considers that this is a considerable underestimate because the renewable energy generating potential for solar PV farms (which are not regarded as 'micro-generation' – a term which normally applies to schemes generating less than 50kW) could actually increase the resource potential for solar PV technology significantly within West Lancashire.

One of the core planning principles of the NPPF is to encourage the generation of renewable energy. The NPPF advises 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' (para 97). The appeal proposal would make a sizeable contribution to the renewable energy and low carbon aims and ambitions of West Lancashire. This merits appropriate weight

being given as the NPPF describes the delivery of renewable and low carbon energy as central to the economic, social and environmental dimensions of sustainable development (para 93). The renewable energy contribution, in itself, would assist in alleviating climate change and, with regard to Section 38(6) of the Planning And Compulsory Purchase Act 2004, is a material consideration that must be weighed against the harm that would be caused and the conflict with the development plan. The appellant therefore considers that there is significant demonstrable need for the appeal proposal and this constitutes a very special circumstance and should be attributed appropriate weight within the planning balance.

- c) The appeal proposal would generally be low in height, with solar panels being a maximum of 2.5m above ground level and, given the flat nature of the site and the surrounding landscape, it would have little visual impact. The submitted Landscape and Visual Impact Assessment³ (LVIA) concluded that 'in summary, the proposed development would result in some localised landscape effects only and so would not predominantly affect the whole of the landscape character of the landscape types the site and its settings are within' (LVIA para 5.2.14). In respect of Green Belt the LVIA concluded that 'the sensitivity of the Green Belt is considered high, the magnitude of the effects would be low to negligible due to the existing vegetation, sewage works, farm buildings and electricity pylons which all screen views more than the proposed development would do; therefore the overall effects of the development on the landscape character of the Green Belt would be slight adverse to imperceptible' (LVIA para 6.1.18). The LPA's officer report acknowledges that 'the site is considered to be generally well screened by existing boundary treatments which will be further enhanced/supported by the boundary treatments proposed by the development'⁴. The report continues that 'I am satisfied that given the mitigating factors outlined above, the fact that the solar panels would be dark in colour and low lying, and that the associated buildings and panels would be well screened, the findings of the submitted LVIA are acceptable and I concur that the solar farm could be accommodated within the landscape without causing harm to its overall landscape character'.
- d) The proposal is temporary, it would be installed in a period of 3-4 months and, following the expiry of the 25 year operational life, the development would be decommissioned, dismantled and removed in a 1-2 month time period. There would be very little disturbance to the soil profile during construction and decommissioning. The LPA's officer report also acknowledges that 'the proposal has been made for a temporary period (25 years) and therefore the identified harm to the Green Belt would be temporary and reversible'⁵. The temporary nature of solar farm developments has been confirmed in a number of solar farm planning appeal decisions including: APP/D0840/A/14/2212340; APP/D0840/A/14/2213745; APP/Z6950/A/14/2213400; APP/000Y1138/A/13/2203766; and APP/D3315/A/13/2203242. The temporary nature of the proposal could easily be controlled by planning condition as

³ Bound Folder entitled Original Appeal Documents

⁴ Grounds of Appeal Appendix A1.3 para 6.37

⁵ Grounds of Appeal Appendix A1.3 para 6.27

advised in the PPG and the planning guidance published by the Building Research Establishment⁶.

- e) The proposal would result in no permanent loss of agricultural land, agricultural activities would continue throughout the site during the life of the proposal (the requirement to prepare, submit and implement a Land Management Plan could be imposed by planning condition), the land would be given a period of rest from intensive agricultural activities and the proposed solar farm would contribute to agricultural diversification and ongoing investment. The diversification benefits of such development were recognised in a recent planning appeal decision (Treswarrow Farm, Trelights, Port Isaac, Cornwall PL29 3TN (APP/D0840/A/14/2213107)) in which the Inspector acknowledged that the proposed development 'has to be seen in the context of farm diversification that will support the overall farm business'⁷. The development of a solar farm would provide far greater economic security than many other forms of agricultural diversification. The financial subsidy available is provided for 20 years and is guaranteed as an index-linked stream of income for this entire period, or as long as the solar farm is operating – while also allowing continued agricultural use of the land and biodiversity improvements. The NPPF seeks to 'promote the development and diversification of agricultural and other land-based rural businesses' (para 28).
- f) The proposal has been designed in a manner which would enable the land beneath the solar panels to be grazed by sheep in accordance with guidance published by the Building Research Establishment which states that 'in order to facilitate grazing within the solar farm it is advised that solar panels are positioned at least 700mm above ground level and all cabling etc is suitably protected'⁸. The management of the grass sward using sheep grazing would also comply with guidance contained within the recent BRE document 'agricultural good practice guidance for solar farms'⁹.
- g) A site search has been undertaken which considers the availability and suitability of alternative sites within West Lancashire Borough. The conclusion of this site search can be ascertained from Figure 2.1¹⁰. Within this Figure the boundary of the appeal site is highlighted in red and the electricity grid corridor is shown using pink and hatched blue lines. The Figure illustrates the limited number of potential sites within West Lancashire for a ground mounted solar farm and the lack of potential roof space. It is also noted that almost 100% of rural West Lancashire is designated as Green Belt, with the north-west of the Borough also being designated as a Flood Warning Area. The West Lancashire Local Plan confirms that 'all land outside settlements in West Lancashire is either Green Belt, or is designated as Protected Land' (para 5.10). Any alternative site for a ground mounted solar farm within West Lancashire would therefore also be very likely to be located within the Green Belt. While it may be possible to install large scale roof mounted solar PV installations within the urban area a recent appeal inspector acknowledged

⁶ Grounds of Appeal, Appendix 2.1 pg 18 para s

⁷ Grounds of Appeal, Appendix A2.13 para 16

⁸ Grounds of Appeal, Appendix A2.1 para d

⁹ Grounds of Appeal, Appendix A2.2 p2

¹⁰ Appellant's Statement of Case p10

that 'although smaller scale proposals for solar panels on roofs can be found in both urban and rural areas the much larger scale of a commercial solar farm with its higher output levels makes it less likely that it can be accommodated in an urban area'¹¹ and any alternative renewable energy proposals are likely to be required as well as, and not instead of, this proposal.

- h) The electrical 'grid' network is also shown on Figure 2.1. There is a connection to the national electricity transmission network (the 'grid') available adjacent to the appeal site. The availability of an affordable grid connection represents a significant contributory factor when identifying a suitable site for such a proposal. Any renewable energy facility seeking to utilise this available grid connection is likely to be located within the Green Belt as grid connection costs increase significantly with distance, as confirmed within the Lancashire Sustainable Energy Study (para 3.31).
- i) A wildflower meadow would be created throughout the site in accordance with guidance published by the Building Research Establishment (BRE), 'Biodiversity Guidance for Solar Developments'¹² (April 2014), which clearly states that 'solar farms present an excellent opportunity for biodiversity'. This is echoed by the guidance published by the Bumblebee Conservation Trust¹³, 'recommendations for creating habitat sensitive to bumblebees on a solar farm' (undated) which advises that 'there are potentially many opportunities for managing land on solar parks to benefit bumblebee species and other wildlife'. The Natural England Technical Information Note¹⁴ (TIN101) 'solar parks: maximising environmental benefits' (Sept 2011), acknowledges that, in terms of flower-rich grassland, 'grazing is best and sheep or goose grazing is likely to be more suitable than cattle grazing, which is unlikely to be practical'. The document 'solar parks – opportunities for biodiversity' published by the German Renewable Energies Agency¹⁵ (Dec 2010) also advises, in terms of sheep grazing beneath solar panels, that 'this gentle, extensive form of site maintenance can create valuable, species-rich habitats of the kind currently in danger of disappearing either through the increasing use of mono-cropping or because of a lack of maintenance'.
13. In addition to the above factors the appeal site is bordered to the south-east by the Wigan Wastewater Treatment Works (WwTW), operated by United Utilities. United Utilities have indicated that they would be interested in an electrical connection with the proposal, utilising generated electricity to power the WwTW with surplus electricity being exported to the 'grid'. Discussions are ongoing between the appellants and United Utilities regarding this particular matter.
14. It is considered that the very special circumstances identified above outweigh the inappropriate nature of the proposal and that, on this basis, the development is compliant with LP Policy GN1 and the NPPF.
15. The planning application sought consent for a temporary period of 25 years. The application was accompanied by an Agricultural Land Classification (ALC) Report

¹¹ Grounds of Appeal, Appendix A2.14, para 13

¹² Grounds of Appeal, Appendix 2.3 p1

¹³ Grounds of Appeal, Appendix 2.4

¹⁴ Grounds of Appeal, Appendix 2.5

¹⁵ Grounds of Appeal, Appendix 2.6 para 1.1

prepared in accordance with the Ministry of Agriculture, Fisheries and Food (MAFF) guidelines. The ALC Report, which was accepted by Natural England, confirmed that the appeal site consists of 67% grade 3b (moderate) agricultural land, 22% grade 3a (good) agricultural land and 11% grade 2 (very good) agricultural land. The LPA's report also acknowledges that 'the Council accepts the conclusions reached by the applicant in this respect'. The NPPF defines land in grades 1, 2 and 3a as being the best and most versatile (BMV) agricultural land (p50).

16. The Overarching National Policy Statement for Energy EN-1 confirms that 'applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations' (paragraph 5.10.8). This matter is also raised within the NPPF and the 'planning guidance for the development of large scale ground mounted solar PV systems' published by the BRE National Solar Centre¹⁶ (November 2013).
17. The Agricultural Land Classification plan for West Lancashire¹⁷ clearly shows that the majority of the agricultural land within the Borough represents Grade 1 (excellent) or Grade 2 (very good) agricultural land. While this plan shows the appeal site as Grade 1 agricultural land the ALC assessment for the appeal site, which was undertaken in accordance with MAFF guidelines and accepted by Natural England and the LPA, confirmed that 67% of the appeal site did not in fact constitute BMV agricultural land. The ALC plan for the West Lancashire area demonstrates that the appeal site consists of the lowest grade agricultural land available within the West Lancashire area, ie all other agricultural land within the West Lancashire area is of an equal, or (more likely) better, ALC quality. The appeal site, which consists of 67% grade 3b agricultural land, has sought to minimise the impact of the proposal on high grade agricultural land and is therefore consistent with the NPPF and the PPG.
18. While the LPA's reason for refusal makes explicit reference to the need for a 'sequential test' the NPPF does not require the undertaking of such a test. This has been confirmed within a number of recent solar farm planning appeal decisions¹⁸. Natural England were consulted in respect of the original planning application and commented on agricultural land quality, advising that 'a detailed survey has been carried out by the applicants. This has been briefly reviewed and we have no reason to doubt the findings based on the information presented'.
19. There are considered to be a significant number of agricultural benefits associated with the proposal. While these benefits have been discussed above they may be summarised as;
 - a) Planning permission has been sought for a temporary period of 25 years. The development would be easy to install and remove. There would be very little disturbance to the soil profile during construction and decommissioning. There would be no permanent loss of agricultural land, agricultural activities would

¹⁶ Grounds of Appeal, Appendix A2.1, page 7, section c

¹⁷ Grounds of Appeal, Appendix A2.15

¹⁸ Appellant's Statement of Case, paragraph 2.12

- continue throughout the site during the life of the proposed solar farm, the land would be given a period of rest from intensive agricultural activities.
- b) The proposal would contribute to agricultural diversification and ongoing investment.
- c) The proposal has been designed in a manner which would enable the land beneath the solar panels to be grazed by sheep, retaining the land in agricultural use throughout the life of the proposal. The land would therefore be used for multiple functions; agriculture, energy and biodiversity. The NPPF advises that planning should 'encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as wildlife, recreation, flood risk mitigation, carbon storage, or food production)' (para 17).
20. The NPPF advises that LPAs 'should take into account the economic and other benefits of the best and most versatile agricultural land' (para 112). The proposal is compliant with this. The NPPF also states that 'where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality' (para 112). The proposal, by minimising the use of best and most versatile agricultural land and using land of the poorest agricultural quality available within this area, would be compliant with this element of the NPPF.
21. The PPG advises that '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' (para 013). The PPG also refers to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013. In this speech the Minister clearly states that 'when solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation...'. The proposal uses the lowest grade agricultural land available within West Lancashire, within connectivity distance to the 'grid', and is therefore considered to be compliant with these considerations.
22. In a recent appeal decision in respect of the development of a 12.5MW solar farm on agricultural land at Westerfield Farm, Carterton, Oxfordshire, OX18 3PA¹⁹ (APP/D3125/A/14/2214281) (allowed on 1 December 2014) the Inspector commented in respect of the PPG that 'it does not preclude development on greenfield land but it suggests that the use of agricultural land should be shown to be necessary, that poorer quality land is used in preference to higher quality land and that it allows for continued agricultural use and improved biodiversity. In those regards the site has been assessed as of Grade 3b (moderate) agricultural quality and thus is of poorer quality than 'best and most versatile' Grade 1, 2 or 3a land which the NPPF at paragraph 112 requires to be taken into account for its economic and other benefits'. In respect of the alternative development of solar PV on factories or car parks the appeal decision states that 'they are likely to be of a smaller scale and they would in any event remain available for other proposals. It can be expected that the Council would know

¹⁹ Grounds of Appeal, Appendix 2.17 para 39

what brownfield land is availablebut there is no evidence before me that non-agricultural brownfield land of comparable scale and suitable for solar energy is available or that there is any local policy to identify such land for renewable energy or to direct development towards it'.

23. The proposal has also been designed in a manner which would facilitate its easy installation and subsequent decommissioning and removal from the site following the expiration of the temporary time period. There would therefore be no permanent and irreversible loss of any agricultural land. The LPA's report states that 'it is accepted that the site would remain available for limited agricultural use and potential biodiversity improvements could be made' (para 6.54) and that 'there are grazing opportunities during the lifetime of the development and there would be no permanent loss of agricultural land due to its restoration after the proposal's 25 year duration' (para 6.55). The reversibility of such development has also been accepted within a number of recent solar farm planning appeal decisions²⁰.
24. This matter is also accepted within the LPA's delegated decision report which states that 'it is acknowledged that there are grazing opportunities during the lifetime of the development and there would be no permanent loss of agricultural land due to its restoration after the proposal's 25 year duration'. The LPA is therefore not objecting to the proposal on the basis of the loss of agricultural land, as it accepts that such loss would not arise. Indeed the second reason for refusal makes no reference to the loss of agricultural land and instead simply refers to its use.

Refusal reasons 3 & 4

25. Correspondence was held with Natural England in 2014 regarding the location of the appeal site in relation to internationally designated sites. Such correspondence resulted in the need to undertake detailed wintering bird surveys and a Habitats Regulations Assessment (HRA) in order to determine the likely significant effect of the proposal on qualifying features of the designated sites. Methods employed to undertake further assessments are summarised below and presented in detail within the wintering bird survey report²¹ and Habitats Regulations Assessment²² for the appeal site.

WINTERING BIRD SURVEYS

26. Wintering bird survey methods were based upon, and adapted from, generic wintering bird monitoring methods given in Gilbert et al. (1998). This involved a monthly visit to the appeal site between October 2014 and March 2015 thereby encompassing the peak winter period. The survey visits consisted of:
- pre-dawn and post-dusk vantage point surveys to record movements of Whooper swan *Cygnus cygnus*, Bewick's swan *C. columbianus* and Pink-footed goose *Anser brachyrhynchus* on or immediately adjacent to site;
 - systematic walkovers of the site recording all bird species observed or heard and approximate numbers recorded, and;

²⁰ Appellant's Statement of Case, paragraph 2.18

²¹ Grounds of Appeal, Appendix A2.18

²² Grounds of Appeal, Appendix A2.19

- a wider area search of up to a 5km radius of the appeal site to locate flocks of swans and geese.

HABITATS REGULATIONS ASSESSMENT

27. Habitats Regulations Assessments (HRA's) of projects can be broken down into three discrete stages, each of which effectively culminates in a test. The stages are sequential, and it is only necessary to progress to the following stage if a test is failed. The stages are:

Stage 1 – Likely Significant Effect Test

This is essentially a risk assessment, typically utilising existing data, records and specialist knowledge. The purpose of the test is to decide whether 'full' Appropriate Assessment is required. The essential question is: "Is the project, either alone or in combination with other relevant projects and plans, likely to result in a significant [adverse] effect upon European sites?" If it can be demonstrated that significant effects are unlikely, no further assessment is required.

Stage 2 – Appropriate Assessment

If it cannot be satisfactorily demonstrated that significant effects are unlikely, a full "Appropriate Assessment" will be required. In many ways this is analogous to an Ecological Impact Assessment, but is focussed entirely upon the designated interest features of the European sites in question. Bespoke survey work and original modelling and data collation are usually required. The essential question here is: "Will the project, either alone or in combination with other relevant projects and plans, actually result in an adverse effect upon the integrity of any European sites, without mitigation?" If it is concluded that adverse effects will occur, measures will be required to either avoid the impact in the first place, or to mitigate the ecological effect to such an extent that it is no longer significant. Note that, unlike a standard Ecological Impact Assessment, compensation for adverse effects (i.e. creation of alternative habitat) is not permitted at the Appropriate Assessment stage.

Stage 3 – Imperative Reasons of Overriding Public Interest (IROPI) Test

If a project will have a significant adverse effect upon a European site, and this effect cannot be either avoided or mitigated, the project cannot proceed unless it passes the IROPI test. In order to pass the IROPI test it must be objectively concluded that no alternative solutions exist. The project must be referred to the Secretary of State on the grounds that there are Imperative Reasons of Overriding Public Interest as to why the plan should nonetheless proceed.

For the purposes of this proposal, stage 1 has been completed. The results of the wintering bird surveys have been used to assess the likely significant effect of the proposal both in isolation and in combination with other relevant projects and plans in West Lancashire.

HABITATS REGULATIONS ASSESSMENT

28. In carrying out a HRA it is important to determine the various ways in which the project in question can impact on European sites by following the pathways along which development can be connected with those sites, in some cases many

kilometres distant. Briefly defined, pathways are routes by which a change in activity associated with a development can lead to an effect upon a European site. Due to the nature of the appeal site and the lack of previous study/surveys undertaken on solar farm sites it is important to highlight the possible implications that the proposed works may have on such pathways.

29. Details of the pathways used to undertake this HRA are provided in Appendix A2.19 of the Grounds of Appeal. These were:

- effects of solar farms on wintering birds;
- effects of disturbance on wintering/migrating birds;
- direct landtake; and
- disturbance – mechanical/abrasive damage.

30. Based on the above pathways an assessment of likely significant effects was undertaken for the Appeal Proposal in isolation and in combination with plans and projects within West Lancashire.

LIKELY EFFECTS OF PROPOSED DEVELOPMENT CONSIDERATIONS IN ISOLATION FROM OTHER PLANS AND PROJECTS

31. Table 2.1²³ provides a detailed assessment of the likely significant effects of the proposal when each of the above pathways is considered in isolation from other plans and projects in West Lancashire.

'IN COMBINATION' CONSIDERATION OF OTHER PLANS AND PROJECTS

32. The possible impacts associated with the proposal will be small and localised, therefore only those plans or project types which are considered likely to have similar impacts upon qualifying features of designated sites are considered within the HRA:

- West Lancashire Local Plan - Policy EN1: Low Carbon Development and Energy infrastructure;
- Sustainable developments in West Lancashire.

The following sections discuss these in further detail.

West Lancashire Local Plan

33. The West Lancashire Local Plan 2012-2027 does not appear to consider proposals for solar energy. Policy EN1: Low Carbon Development and Energy infrastructure aims to achieve 15% of energy consumption from renewable sources by 2020. This policy indicates that such energy sources will primarily come from wind farms. However, the Local Plan provides no indication of key areas to be allocated for such development. The effects of future wind farm development in relation to this policy when considered in combination with the proposal have therefore been omitted from this HRA.

²³ Appellant's Statement of Case, paragraph 2.30

Sustainable development in West Lancashire

34. The document 'wind turbines, sensitive Bird Populations and Peat Soils: a spatial planning guide for onshore wind farm developments in Lancashire, Cheshire and Greater Manchester and Merseyside' (RSPB 2008) specifically highlights wind farms but also notes solar farms and biomass energy crops as developments that may have a negative effect upon qualifying features of the designated sites. Therefore, a search of the West Lancashire planning portal has been completed which has highlighted the presence of a number of solar farm projects which are at various stages of the planning application process. These projects have been considered in combination with the potential effects of the proposal and are displayed in Table 2.2²⁴. At the time of writing this HRA the West Lancashire Planning Portal did not highlight the presence of any wind farms or biomass facilities. These have therefore been omitted from the in combination assessment.
35. Of the 6 proposed solar farms located within West Lancashire, 4 of these proposed are located beyond the boundaries of the sensitivity areas for all 3 qualifying features of the designated sites. In addition, 2 proposed solar farm sites are located within sensitivity areas for Whooper swan and Pink-footed goose, however these are located over 10km from the appeal site. The West Lancashire planning portal did not provide any wintering bird information for these sites. It is therefore not possible to compare the value of such areas for wintering birds in comparison to the proposal. However, given the location of these proposed solar farm sites (either beyond the boundaries of bird sensitivity areas or located over 10km from the appeal site it is considered highly unlikely that the effect of proposed solar farms in West Lancashire in combination with the proposal would have a negative effect upon the qualifying features of the designated sites.
36. In addition to the above, online review of existing wind farm developments indicates that there are no existing wind farm developments within sensitivity areas for Whooper swans, Pink-footed geese and Bewick's swans. Therefore, such developments are unlikely to act in combination with the proposal. In combination effects can therefore be screened out as being (the appellant stated "likely" in the Statement of Case but I take them to have meant "unlikely") to have a significant effect on the integrity of the designated sites.

ECOLOGY CONCLUSION

37. The proposal has been assessed as being highly unlikely to have a significant negative effect upon the above designated sites either in isolation or combination with relevant plans and projects within West Lancashire. It is therefore considered that the proposal can proceed without the requirement for further assessment or mitigation measures which relate to qualifying features of the designated sites.

BENEFITS OF THE PROPOSAL

38. There are considered to be a significant number of planning benefits associated with the proposal. These benefits are highlighted below;

²⁴ Appellant's Statement of Case p27

- a) Renewable energy benefits – i) generate sufficient electricity from a renewable resource to meet the needs of 4,800 homes for 25 years and reducing CO2 emissions by approximately 8,000 tonnes per annum. ii) Contributing towards West Lancashire and UK renewable energy and CO2 emission reduction targets.
 - b) Agricultural benefits – i) There would be no permanent loss of agricultural land. ii) Agricultural activities would continue throughout the site during the life of the proposed solar farm. iii) The land would be given a period of rest from intensive agricultural activities. iv) The proposed solar farm would contribute to agricultural diversification and ongoing investment.
 - c) Biodiversity benefits – i) Establishment of a wildflower meadow. ii) Reptile refuge and insect habitats. iii) Additional hedgerow planting is proposed.
 - d) Deliverability benefits – i) There is a willing landowner. ii) The site is available and deliverable. iii) There is an available 'grid' connection. iv) The development would be installed within a 12-16 week period.
39. It is considered that these benefits are considerable and should be attributed appropriate weight in the planning balance for the proposal.

THIRD PARTY REPRESENTATIONS AND CONSULTEE RESPONSES

40. It is considered that the above evidence addresses the concerns and comments raised by third parties and consultees.

CONCLUSION

41. An extensive site search has been undertaken by the appellant in order to identify a suitable site for a large scale solar PV installation within the West Lancashire area. This site search exercise has evaluated a number of constraints, including Green Belt, grid connection, agricultural land classification, flood risk areas, ecological designations, heritage assets, previously developed land and roof space. The appeal site has been identified following this site search.
42. It has been demonstrated that very special circumstances exist to warrant the proposal within this Green Belt location. The proposal would make a sizeable contribution to West Lancashire and national renewable energy and CO2 reduction targets. The proposal is clearly temporary and would result in the loss of no agricultural land. The development at the Tawdside site has been designed in a manner which would facilitate ongoing agricultural activity throughout the temporary life of the proposal. The proposal would represent a form of agricultural diversification, providing ongoing and guaranteed farm income while generating renewable energy and providing valuable biodiversity benefits. The site search indicates that available alternative sites are severely limited and any alternative site would also be located within the Green Belt. It would also be likely to occupy a site of higher grade agricultural land than the appeal site. The appeal site has a grid connection available nearby and the site is available and deliverable. The identification of the appeal site, the design of the proposed solar farm and the preparation and submission of the planning application accords with the '10 Commitments' for solar farms prepared by the Solar Trade Association²⁵.

²⁵ Grounds of Appeal, Appendix A3.1

It is therefore considered that the LPA's first reason for refusal has been satisfactorily addressed.

43. It has been demonstrated that the proposal is a temporary development. There would be no permanent loss of any agricultural land, agricultural activities would be ongoing throughout the life of the proposed solar farm and the proposal represents a form of agricultural diversification. The majority of the appeal site (67%) does not constitute BMV agricultural land and it is unlikely that land of a lower agricultural land classification, with an available grid connection, would be available for such development. It is therefore considered that the LPA's second reason for refusal has been satisfactorily addressed.
44. The appellant has demonstrated that the proposal would not adversely affect Protected Species and Habitat and that it would be highly unlikely to have a significant negative effect upon designated sites either in isolation or combination with relevant plans and projects within West Lancashire. It is therefore considered that the LPA's third and fourth reasons for refusal have been satisfactorily addressed.
45. It has been demonstrated that the proposal is in accordance with the NPPF and the PPG. The benefits and need for the proposal have been clearly established, the site selection process has been outlined and no realistic, or more favourable, alternative site(s) for the temporary development have been proposed - by any party. It is considered that the demonstrable benefits of the proposal weigh considerably in its favour and outweigh any temporary and reversible constraints. Planning policy sets a clear message; a presumption in favour of sustainable development.

The Case for Lancashire Borough Council

46. As the site is within the Green Belt the Council considers the main appeal issues to be:
 - whether the installation of a solar park represents inappropriate development in the Green Belt;
 - the impact of the proposed development on openness and the purposes of including land in the Green Belt;
 - if the development is inappropriate whether the harm caused by reason of inappropriateness and any other harm to the Green Belt is clearly outweighed by other considerations so as to amount to very special circumstances;
 - the impact of the development on agricultural land;
 - the impact of the development on protected species and habitat; and
 - the impact of the development on nearby designated sites and supporting habitat.

Inappropriate development

47. Under LP Policy GN1, as a development within the Green Belt, the provisions of the NPPF need to be followed to assess the proposed installation of a solar park. The NPPF states that the Government attaches great importance to Green Belts (paragraph 79). 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 and the Green Belt serves five purposes (paragraph 80 of the NPPF). In this case, the purpose relating to the safeguarding of the countryside from encroachment is a valid consideration. Paragraph 89 of the NPPF advises that the construction of new buildings is inappropriate development unless the new buildings are considered to fall within a list of exceptions. Solar farms and their associated infrastructure are not amongst the types of development identified as appropriate in the Green Belt. Therefore, the proposal is inappropriate development, which by definition is harmful to the openness of the Green Belt and contrary to the NPPF. In paragraph 87 the NPPF re-iterates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 advises that when considering any planning application, substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations.

48. The appellant appears to agree that the proposed solar park is inappropriate development by quoting NPPF paragraph 91 and then putting forward what are considered to be very special circumstances in respect of the appeal proposal.
49. An essential characteristic of Green Belts is their openness (paragraph 79 of the NPPF) and this concept has been helpfully clarified in a number of appeal decisions²⁶. Openness is the concept of freedom from development and is an absolute test. The development (operational or use) is there or it is not.
50. The proposed scheme will introduce an expansive array of structures across land, which is currently open and free from development except for the 2 towers and connecting power lines running over the western fields. As described by the Planning Inspector for a 25ha 36,000 solar panels solar farm appeal in Wiltshire in May 2015²⁷ (paragraph 10): *The proposed scheme would therefore introduce a development of industrial appearance into an otherwise agricultural landscape for what would be at least a generation.* This comment reflects similar observations made by the Planning Inspector for an up to 8MW solar farm (18.4 ha site) appeal in the Green Belt in Chorley²⁸ in November 2014 (paragraph 6): *Solar panels are engineered products that have an industrial appearance. They are not, inherently, products that fit into a countryside environment.* In addition at paragraph 9 he adds: *Their industrial appearance would be alien in this countryside location...* His judgement can be similarly applied in that on the scale proposed the solar panels, if installed on the site, together with the equipment and infrastructure, including the number of buildings required, access tracks and the 2.4m high wire mesh fencing that would surround them, would result in significant encroachment into the countryside. This would have a negative effect on, and reduction of, the openness. Taking account of the rural character of the surroundings, this material impact on the openness would also be contrary to one of the five purposes of the Green Belt, that being to safeguard the countryside from encroachment.

²⁶ Statement of Case, Appendix IX

²⁷ APP/Y3940/A/14/2228679

²⁸ APP/D2320/A/14/2222025

51. Further to the above, the appellant's visual amenity considerations do not deal with openness. The Council did not refuse the scheme due to the visual impact on the landscape character of the area. As referred to above, openness is not a visual matter. The proposal would result in encroachment into the countryside and this intrusion would not be negated once the scheme becomes operational as it would remain. In addition, any buffers surrounding the site cannot negate the encroachment which will be caused by virtue of the physical and continued presence of the development. It may be temporary in the long-term, but it will be present for a generation. It is pertinent to cite the Planning Inspector's observations on this matter in the abovementioned Chorley decision (paragraph 25), given they are equally applicable for the current appeal (see paragraph 2.6(d) of the grounds of appeal): *The solar farm would be removed, in accordance with a condition if planning permission was to be granted, 25 years after it is brought into use. The land would also be restored to its original appearance and would not become classified as being previously developed land. 25 years, however, is about a third of a person's lifetime and is the span of a generation. Furthermore, there is no guarantee that planning permission would not be granted, after 25 years, for the replacement of the solar panels for a further 25 year period. Very little weight is therefore given to the reversibility of the scheme.* Also, a solar farm would take the site out of arable use for the proposal's 25 year duration.

52. Given the above, the proposed development would be inappropriate development in the Green Belt and so conflicts with the NPPF and LP Policy GN1. NPPF paragraph 87 states: *inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.* Paragraph 88 states that substantial weight 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.

Very special circumstances

53. As the proposal is found to be inappropriate development, it must be assessed in terms of the very special circumstances put forward by the appellant to justify the scheme. There is no accepted definition of very special circumstances and whether they exist in a particular case will be a matter of judgement for the decision-maker based upon the facts that have been presented by the appellant. The appellant's case for very special circumstances centres on renewable, agricultural, biodiversity and deliverability benefits.

Renewable energy policy background

54. In addition to LP Policy EN1, the Ministerial Statement of March 2015 to the House of Commons, giving a planning up-date, is worth noting up front in relation to solar energy, as it reinforces existing guidance. That is, the focus for growth in the solar photovoltaic strategy is on domestic and commercial roof space and previously developed land. The reforms to the permitted development rights to encourage the take up of much larger scale solar power generation (solar photovoltaic) on non-domestic buildings came into force on the 15th April 2015. It is worth quoting the statement with its concentration on protecting high quality agricultural land: *The NPPF includes strong protections for the natural and historic environment and is quite clear that local councils when considering*

development proposals should take into account the economic and other benefits of the best and most versatile agricultural land... Yet, some local communities have genuine concerns that when it comes to solar farms insufficient weight has been given to these protections and the benefits of high quality agricultural land. As the solar strategy noted, public acceptability for solar energy is being eroded by the public response to large-scale solar farms which have sometimes been sited insensitively..... Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land. Protecting the global environment is not an excuse to trash the local environment. When we published our new planning guidance in support of the framework, we set out the particular factors relating to large scale ground mounted solar photovoltaic farms that a local council will need to consider. These include making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality..... We are encouraged by the impact the guidance is having but do appreciate the continuing concerns, not least those raised in this House, about the unjustified use of high quality agricultural land. In light of these concerns we want it to be clear 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. Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.

55. In November 2008, the Climate Change Act was published. This created a new legal framework for the UK to achieve a mandatory 80% cut in the UK's CO2 emissions and other greenhouse gases by 2050. The UK Renewable Energy Strategy (2009) set a Government target of 15% of the country's energy to come from renewable sources by 2020. It is interesting to note the actual solar capacity figure for April 2015 was 6.562 GW, already 55% of the 2020 target, not the 3.61 estimate shown by Wiki. The growth of large scale solar farms in the UK has been rapid, exceeding all expectations. Figures from DECC for Solar Photovoltaics Deployment, updated on the 28th May 2015, show Total Solar Capacity (TSC) for the UK is already much greater than earlier estimates. From the fourth quarter of 2014 to the end of the 1st quarter 2015 the TSC jumped by 26 per cent to 6.521GW and 460 sites, as developers strove to commission sites before the Renewables Obligation certificates (ROC) scheme ended on the 31st March 2015. The monthly growth in April 2015 was a more modest 0.6 per cent.
56. National planning and energy policy is supportive of renewable and low carbon energy infrastructure. Paragraph 6 of the NPPF makes it clear all the policies (paragraphs 18 to 219) constitute the government's view on the meaning of sustainable development giving effect to the 12 core principles, none of which have any priority over the others. A balance has to be struck noting schemes must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, at the heart of the NPPF is the presumption in favour of sustainable development. The 3 dimensions to sustainable development: are economic, social and environmental. In terms of the environmental role, the planning system is required to contribute *to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently,*

minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

57. Section 10, paragraphs 93 to 108, of the NPPF contains the policy to meet the challenge of climate change, flooding and coastal change. Paragraph 93 states: *Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. One of the core planning principles stated in paragraph 17 of the NPPF is to support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example by the development of renewable energy).*
58. Paragraph 97 of the NPPF lists a number of ways in which to help increase the use and supply of renewable and low carbon energy and confirms that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable and low carbon sources. Paragraph 98 of the NPPF advises that when determining planning applications, local planning authorities should: *Not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse emissions; and Approve applications, unless material considerations indicate otherwise, if its impact are (or can be made) acceptable.*
59. The Renewable and Low Carbon Energy Chapter of the PPG sets out a number of factors that need to be considered by local planning authorities in determining applications for large-scale solar farms. At ID: 5-013-20140306 the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms are set out. It states 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.*
60. Paragraph ID 5-007 of the PPG states *the need for renewable or low carbon energy does not automatically override environmental protections.* Also, local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on the landscape and recognises that *the impact can be as great in predominately flat landscapes as in hilly or mountainous areas.* Furthermore, *cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases.*
61. Paragraph ID: 5-008 of the PPG advises: *distance of itself does not necessarily determine whether the impact of a proposal is unacceptable. Distance plays a part, but so does the local context including factors such as topography, the local environment and near-by land uses.* The PPG at paragraph ID 5-010 says that *Renewable energy developments should be acceptable for their proposed location.*

62. The National Planning Statement for Energy 2011 – Overarching National Policy Statement for Energy (EN-1) sets out the national policy for energy infrastructure. At paragraph 2.2.6 it states that *the UK needs to wean itself off a high carbon energy mix: to reduce greenhouse gas emissions and to improve the security, availability and affordability of energy through diversification.* Paragraph 1.4.1 states: *EN-1 is part of a suite of NPSs issued by the Secretary of State for Energy and Climate Change. It sets out the Government's policy for delivery of major energy infrastructure. A further five technology-specific NPSs for the energy sector cover: fossil fuel electricity generation (EN-2); renewable electricity generation (both onshore and offshore) (EN-3); gas supply infrastructure and gas and oil pipelines (EN-4); the electricity transmission and distribution network (EN-5); and nuclear electricity generation (EN-6). These should be read in conjunction with this NPS where they are relevant to an application.* Therefore, also note the Planning Inspector's comment in the land at Little's Farm, Kent 13th June 2014 appeal²⁹ (paragraph 6): *Given that it is not specific to solar farms and is primarily of relevance to decisions on schemes of national significance I have not given significant weight to the section of National Policy Statement EN-3 quoted by the appellant. To my mind the more up to date Planning Practice Guidance, specifically concerning solar farm schemes being determined by local authorities, is of much greater pertinence.*
63. The UK Solar PV Strategy (2014) sets out 4 guiding principles for solar PV, the 3rd of which states, amongst other things, that solar PV should be appropriately sited with proper weight being given to environmental considerations such as landscape and visual impact.

Assessment of very special circumstances

Need

64. The need to increase renewable energy sources is paramount and is the key to a low carbon future. Appropriate sites in local areas have a role to play in meeting national targets for the generation of energy from renewables, as set out in the EU Renewable Energy Directive. Therefore, a proposal to generate 15.8MW would make a measurable contribution to the region's renewable energy targets. The NPPF makes it clear that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. However, national guidance (UK Solar PV Strategy and ministerial statements) advises that solar development needs to be appropriately sited and applications for such developments should only be approved if material considerations do not dictate otherwise and if impacts are, or could be made, acceptable (NPPF paragraph 98). By virtue of paragraph 91 of the NPPF, it is clear that renewable energy projects are not prohibited in the Green Belt, but rather it is a matter of balancing the benefits they would bring against any harm they could cause. Whilst it is accepted that the proposed development has the potential to make a material contribution towards securing the wider environmental, social and economic benefits advocated by the Government's sustainable development strategy and this benefit should be attributed significant weight in the consideration of very special circumstances, this must be set against the harm by reason of inappropriateness, loss of openness and conflict with one of the Green Belt

²⁹ APP/V2255/A/14/2212592

purposes (encroachment in the countryside). This harm is considered to be significant and in accordance with the NPPF needs to be given substantial weight.

Need and potential/other sites

65. Although quoting the NPPF's paragraph 98, which states local planning authorities should not require applicants to demonstrate overall need for renewable or low carbon energy, the appellant argues that there is a demonstrable need for the appeal proposal which should be given appropriate weight as very special circumstances in the planning balance. He also considers solar farms could increase the resource potential significantly in West Lancashire, but does not appear to consider the constraints introduced by the fact the Borough is washed over by Green Belt except for some settlements and protected land. In acknowledging the latter fact, the appellant attempts to justify the proposal by stating the limited number of potential sites within the Borough means any alternative site would probably be located in the Green Belt. Nevertheless, it should be noted the need for renewable energy developments is not Borough specific and the Green Belt designation indicates other non-Green Belt locations should be the first consideration.

Other sites

66. The appellant is correct in that a large part of the Borough is designated as Green Belt and it is accepted that land within the Green Belt is, due to its very nature of being largely open and free from development, attractive to the solar industry. However, the assertion that "no other sites within the Borough can be considered more appropriate" is not evidenced by the appellant in the sense that no information has been submitted to prove this. For example, while the appellant has discounted urban areas for a development of this size, no consideration of brownfield land or industrial sites has been presented. The PPG at paragraph ID 5-013 advises *focussing large scale solar farms on previously development and non-agricultural land, provided it is not of a high environmental value*. The PPG also makes reference to a speech by the Minister for Energy and Climate Change, Greg Barker, to the solar panel industry at the Large Scale Solar Conference on the 25th April 2013. In this speech, Greg Barker said *for larger deployments, brownfield land should always be preferred*. This was reinforced by the 25th March 2015 ministerial up-date quoted in paragraph 4.16 above. There is no Government guidance on what is a reasonable search area and therefore the Council cannot attach significant weight to this element of the appellant's case for very special circumstances as no evidence has been submitted to confirm that brownfield sites or industrial sites have been considered, both within and outside of the Borough. As a matter of interest, there is a current application³⁰ on a Green Belt site adjacent to the Burscough Industrial Estate (the site of a former World War Two naval airfield) near where the appellant's company is located.

Visual impact v openness

67. In terms of the impact on the Green Belt character, the visibility or otherwise of the development within its surroundings does not negate harm caused to the openness of the Green Belt as the concept of openness is not dependant on

³⁰ Appendix X111A Council's Statement of Case (the schedule of which up-dates the information in Table 2.2 on page 27 of the Appellant's Statement of Case)

public views. As already stated, the solar farm will have a considerable impact on the openness of the Green Belt with the solar arrays, size and number of associated buildings and security fencing. The size of the site is extensive and much of it would be covered by built form. Not only would the solar arrays have a strong physical presence on the site, but the associated infrastructure is substantial. The supporting infrastructure may be required, but does add to the adverse impact and reduction of openness. The associated buildings have substantial dimensions with the 16 inverter cabins each being almost 10m in length. Therefore, the impact on openness would be substantial, particularly given the rural characteristics of the appeal site. Although not a visual assessment this can be illustrated from surrounding higher land, such as Parbold Hill³¹, from where the extent of the impact of the development on the openness of the Green Belt would be evident as would the encroachment into this area of open countryside. The residents' group also submitted views from higher land at the application stage on the 3rd November 2014³². It is acknowledged this was in relation to harm to the landscape and loss of visual amenity, rather than impact on openness.

Diversification

68. As regards rural diversification this is advocated by the NPPF at paragraph 28. The NPPF advises that rural diversification should be used to support economic growth in rural areas by creating jobs and prosperity. Whilst the Council is not convinced the proposed development represents 'diversification' in the spirit of the policy, it is appropriate to consider the economic impacts of the development. There is no evidence the solar farm will lead to any significant or long term benefits to the local rural economy and employment opportunities would be short-lived during the construction period. Following this it would be limited to a maintenance company (as evidenced by the submitted transport statement) and would probably be undertaken by persons already employed. Furthermore, the borough is not characterised by livestock farming and it raises questions whether the introduction of sheep would itself be true diversification. Sheep grazing seems to be the default 'agricultural' use proposed in combination with solar arrays for most such applications. There is no evidence it would produce additional income (presumably the farmer would need to provide accommodation for the sheep or lease the grazing to another farmer to avoid this requirement). Also, there is no evidence the income generated from the use of the land as a solar farm would benefit the local area. The appellant advises that United Utilities is interested in an electrical connection. Firstly, the generated electricity is fed into the national grid so the benefit to the sewerage works raises questions how it could be sourced directly. Secondly, United Utilities has submitted a screening opinion to provide a 3MW solar farm for their own use. Therefore, little weight can be given to any diversification, given the lack of evidence it would contribute to the promotion of a strong rural economy in the locality.

Temporary

69. The solar farm may be temporary in the long-term, but it will be present for a generation. It is pertinent to cite the Planning Inspector's observations on this

³¹ Appendices IB and XIV Council's Statement of Case

³² Appendices IB and XV Council's Statement of Case

matter in the abovementioned Chorley decision: *The solar farm would be removed, in accordance with a condition if planning permission was to be granted, 25 years after it is brought into use. The land would also be restored to its original appearance and would not become classified as being previously developed land. 25 years, however, is about a third of a person's lifetime and is the span of a generation. Furthermore, there is no guarantee that planning permission would not be granted, after 25 years, for the replacement of the solar panels for a further 25 year period. Very little weight is therefore given to the reversibility of the scheme.* This is equally applicable in relation to the current appeal and calls into question if the temporary nature of the development can be considered as a very special circumstance, given it is cited for most wind turbine and solar farm applications.

Enhancements and deliverability

70. As regards the biodiversity and landscape enhancements, these do not require planning permission for inappropriate development to be implemented, although they are encouraged by the PPG. Therefore, they cannot be considered as very special circumstances. The same conclusion is made in relation to deliverability; a nearby grid connection and the 3 to 4 month installation period, given these aspects are probably common to all such proposals.
71. On balance and in respect of this particular proposal, the Council is of the opinion that the identified harm to the Green Belt by reason of inappropriateness, the loss of openness and conflict with the purpose of safeguarding the countryside from encroachment is significant and such that cannot be outweighed by the matters advanced by the appellant to comprise very special circumstances. Therefore and in accordance with paragraph 88 of the NPPF, very special circumstances are not found to outweigh the identified harm to the Green Belt. Therefore, the proposal would be contrary to LP Policies GN1(b) and GN3(1)(iv) and paragraph 17 and sections 7 and 9 of the NPPF.

Loss of agricultural land

72. Paragraph 111 of the NPPF encourages the effective use of land by reusing brownfield land provided that it is not of high environmental quality. Also, paragraph 112 indicates that significant development of agricultural land should be shown to be necessary and, where this is demonstrated, areas of poorer quality land should be used in preference to that of a higher quality.
73. Paragraph 13 of the PPG sets out particular planning considerations that relate to solar development. The first 2 factors are: *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.*
74. The PPG also makes reference to a speech by the Minister for Energy and Climate Change, Greg Barker, to the solar panel industry at the Large Scale Solar Conference on the 25th April 2013. In this speech Greg Barker said *for larger deployments, brownfield land should always be preferred* and went on to add *we*

need to be careful that we do not over-incentivise large-scale ground-mounted projects in inappropriate places – I am thinking of greenfield agricultural land and where solar farms are not on brownfield land, you must be looking at low grade agricultural land. In addition, Nick Boles in his oral statement in the House of Commons on the 29th January 2014 stated that *where significant development is necessary on agricultural land, the NPPF is equally clear that local planning authorities should seek to use areas of poorer quality in preference to that of higher quality. Where land is designated at a relatively high grade it should not be preferred for the siting of such developments.* This was reinforced by the 25th March 2015 ministerial up-date.

75. Furthermore, the UK Solar PV Strategy: Part 2 of April 2014 sets out the Solar Trade Association's (STA) Solar Farms: 10 Commitments, the 1st of which is that focus will be on non-agricultural land or land which is of lower agricultural quality. The explanation advising: *Land use - ideal siting of a solar farm should consider: 'Ground-mounted solar should ideally utilise previously developed land, brownfield, contaminated land, industrial land and preferably agricultural land of classification 3a, 3b, 4, and 5 (in most instances avoiding use of the "Best and Most Versatile" cropland where possible). Land selected should aim to avoid affecting the visual amenity of landscapes, maintaining their natural beauty, and should be predominantly flat, well screened by hedges, tree lines, etc., and not unduly impact upon nearby domestic properties or roads.'*.....*The 'Best and Most Versatile' (BMV) land is presently defined as Grades 1, 2 and 3a (which can best deliver future crops for food and 'non-food' uses such as biomass, fibres, pharmaceuticals etc). However, such land is not always farmed, and may be used simply for pasture or set aside. Land may benefit from being 'rested' or from active plant or wildlife habitat development. Under guidance of an agronomist, it is easy to revert back to agricultural use from energy generation, without altering the BMV status of the land, unlike housing or commercial development. Examples of possible exceptions to such land use rules (developers should note the policies set out in the NPPF and supplementary guidance):*

- Large farms with a high volume of electricity self-consumption e.g. cold storage plant.*
- Where the farmer can demonstrate that land quality is lower than the ALC, or is no longer usable for agricultural crops, or was never cropped.*
- In areas where all the land is of higher quality and it would be considered unreasonable to exclude development on these grounds alone (for example, in Lincolnshire and Cambridgeshire it is hard to avoid land which has a designated high grade, whereas Cornwall has lots of low grade land compared with the rest of the country).*
- For enhanced environmental benefits, e.g. protection of peat land or soil resting.*
- Where sites have a combination of grades, part of which are higher than grade 3a and 3b.*
- For reasons of national interest (e.g. MOD land).*

The SLA does not explain why grade 3a is considered to be acceptable for such development when it is acknowledged as falling within the BMV category, so there is a contradiction in this advice. Also, there is no explanation why sites with a combination of grades could be an exception to its land use rules. The other examples are self-explanatory. It should be noted the Solar Trade Association's 10 commitments have been updated (February 2015) from that submitted by the appellant, i.e. the 8th commitment now reads: *We will offer investment opportunities to communities in their local solar farms where there is local appetite and where it is commercially viable.*

76. It is therefore clear that the emphasis from Government is to steer large scale solar arrays towards previously development or non-agricultural land. Where the use of agricultural land is necessary, best and most versatile land (BMV) should be avoided and if BMV land is to be used, this should be the last resort and it must be robustly demonstrated that it is justified.
77. The Agricultural Land Classification of England and Wales provides a framework for classifying land according to the extent to which its physical or chemical characteristics impose long-term limitations on agricultural use. The principal physical factors influencing agricultural production are climate, site and soil. These factors together with interactions between them form the basis for classifying land into one of five grades, Grade 1 land being of excellent quality through to Grade 5 land of very poor quality. Grades 1, 2 and 3a are considered to be the BMV.
78. In terms of Defra's Agricultural Land Classification (ALC) map of England and Wales, the appeal site is classified as Grade 1. However, these maps were created over 30 years ago and have never been up-dated. Natural England is, by virtue of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015, a statutory consultee in respect of the use of BMV land. This organisation acknowledges that current available data on land grading is, in some cases out-dated, and land under consideration for development may require a site specific, up-dated survey to establish its grade (Natural England Technical Information Note TIN049). Consequently, the appellant undertook an ALC survey which grades none of the site as Grade 1, but rather concludes that the north and east part of the site is grade 3b (67%), with the west and south side as grade 2 (10.5%) and 3a (22.2%). Based on these findings just nearly 33% of the land has been identified as BMV agricultural land.
79. Natural England has confirmed that the information held by the Local Planning Authority is quite broad brush in nature and not suitable for site specific decision-making, as it has a minimum map unit size of about 80ha. It also pre-dates the subdivision of grade 3 land. In addition, Natural England has confirmed that they have no reason to doubt the findings submitted by the appellant. Due to the level of information held by the Local Planning Authority and the advice received from Natural England, together with the specialist expertise held by the author of the submitted ALC statement, the Local Planning Authority has no option but to accept the conclusions reached by the appellant in this respect. The appellant did not agree to funding an independent consultant to verify the findings, as had been the case for the Butcher's Lane solar farm application/appeal (2014/0601/FUL, W/15/3002667), which was recovered by the Secretary of State on the 8th June 2015.

80. In accordance with the NPPF and PPG, the 1st question to ask is whether or not the use of agricultural land is necessary. This exercise should demonstrate that no suitable brownfield land or non-agricultural land is available within a reasonable search area. There is no national or local guidance when defining a study area and each case should be considered on its own merits taking into account both planning and operational constraints. The PPG at paragraph ID 5-003 confirms that *whilst local authorities should design their policies to maximise renewable and low carbon energy, there is no quota which the Local Plan has to deliver*. Therefore, there is no need to site renewable energy development in a particular local authority in order to meet a local green energy quota. Subsequently, there is no reason why a search area cannot extend beyond the borough boundaries.
81. In any event, the appellant has not provided details of a search for alternative sites. Whilst the company would appear to have dismissed the Borough's urban areas, there is no consideration of brownfield sites within the Green Belt or industrial areas both within the Borough and a reasonable distance outside of it. Consequently, the appellant has not demonstrated the use of agricultural land is necessary.
82. About 33% of the appeal site has been identified as BMV land. The PPG requires poorer quality land to be used in preference to higher quality land. The appellant has failed to demonstrate that sites with a lower agricultural land classification have been considered. Appendix XVIII³³ contains 12 appeals (considered between February 2014 and March 2015) where the loss of agricultural land had been identified as an issue (there may be others). None relate to sites in the Green Belt and all are for sites located in the south of the United Kingdom.
83. The PPG also requires proposals for solar development to allow for the continued agricultural use where applicable and/or encourages biodiversity improvements around the arrays. The appellant has stated that *permission is sought for a temporary period of 25 years..., during which time the site will continue to be used for agricultural purposes including if desired by the landowner the grazing of sheep*. The problems relating to temporary use are set out above. Enhanced boundary treatments are offered, including replacement hedgerows where necessary, which may contribute to biodiversity in the local area. However, evidence of compliance with this part of the PPG is limited and not very convincing. Furthermore, as stated above, the borough is not characterised by livestock farming and it raises questions whether the introduction of sheep would itself be true diversification. Sheep grazing seems to be the default 'agricultural' use proposed in combination with solar arrays for most such applications. There is no evidence it would produce additional income or that the income generated from the use of the land as a solar farm would benefit the local area. As regards the biodiversity improvements, these do not require inappropriate development to be implemented, although they are encouraged by the PPG (paragraph 4.34 above).
84. To summarise, given the findings of the appellant in respect of ALC, the Local Planning Authority has no option but to accept that 67% of the site has a land classification of grade 3b. However, the proposed development does not comply

³³ Council's Statement of Case

with the NPPF or the PPG in that the appellant has failed to demonstrate the use of agricultural land is necessary or that the use of a lower grade of land was explored in relation to the 3rd of the site which is recognised as BMV land. There are grazing opportunities, but as regards permanent loss this is not really ensured. After a generation has passed an application could be submitted to extend the development period even if the development is conditioned to be in place for only 25 years. The latter is a long time and circumstances and technology could be very different, so there is no guarantee the land would be restored to a wholly agricultural use. However, these are additional factors to be considered as set out in paragraph ID 5-013 of the PPG and do not detract from the fact the use of agricultural land must still be shown to be necessary with poor quality land being used in preference to higher quality land.

Biodiversity/ecology

85. The NPPF seeks to protect biodiversity by resisting development which would destroy or adversely affect important wildlife habitats. In particular paragraph 118 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a set of principles which includes the following:

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;.....;*
- *the following wildlife sites should be given the same protection as European sites:*
 - *potential Special Protection Areas and possible Special Areas of Conservation*
 - *listed or proposed Ramsar sites, and*
 - *sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation and listed or proposed Ramsar sites.*

Paragraph 119 states: *The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.*

86. LP Policy EN2 confirms that the Local Planning Authority is committed to ensuring the protection and enhancement of the Borough's biodiversity and will have regard to international, national and local conservation sites when making planning decisions.

Internationally and nationally designated sites

87. The appeal site is located in an area which is known to have the potential to support sensitive birds, such as Pink Footed Geese. On this basis it is identified as being either within, or in close proximity to, a European designated site (also commonly referred to as a Natura 2000 site). Therefore, the proposed development has the potential to affect its special features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010 (as amended) (the 'Habitat Regulations'). The appeal site is also in close proximity to the Martin Mere Special Protection Area (SPA), a European site, which is also listed as Martin Mere Ramsar Site and notified at a national level as Martin Mere, Burscough Site of Special Interest (SSSI). It is also in close proximity to the Sefton Coast Special Area of Conservation (SAC), Ribble and Alt Estuaries SPA and Ramsar, which are European designated sites³⁴. These are notified at national level as Sefton Coast SSSI and Ribble Estuary SSSI. These are primarily concerned with their value as habitat for overwintering birds.
88. At the time of determining the application, the Council was a competent authority for the purposes of the Habitat Regulations. In considering the European site interest, regard must be had for any impacts the proposed development may have. Regulations 61 and 62 of the Habitat Regulations set out a series of steps and tests, which should be followed in assessing whether a development could potentially affect a European Site. These steps are commonly referred to as the 'Habitats Regulations Assessment' process. A Preliminary Ecological Appraisal was submitted at the application stage. This covered a 2km search radius, but did not include any statutory designated sites and discounted any potential impact on 3 identified non-statutory designated sites within that area. It was contended that the site was not a European designated one, because it falls outside of an RSPB alert area for Pink Footed Geese (a qualifying feature of a European site) and its location outside of this alert area indicates the site has been assessed by RSPB to be a sufficient distance from designated sites to ensure that works within it are unlikely to have any negative effects. Therefore, the appellant concluded that a Habitats Regulations Assessment was not required. However, the site's proximity to European designated sites has been outlined above.
89. In addition, the appellant showed, through the submission of the Lancashire Environment Record Network, that the site lies immediately adjacent to an area, which is known to provide feeding areas for Pink Footed Geese and Whooper Swans. The RSPB has confirmed this and that the site does lie outside of their alert area for these birds. However, these alert areas (which were identified prior to 2008) are those which are considered to have a high risk of impact on internationally important bird species, rather than demonstrating where sensitive birds are or are not using certain fields or showing which fields are sufficiently distanced from known roosts and feeding areas.
90. Therefore, for the consideration of the application, the appellant failed to sufficiently demonstrate the requirements of the Habitat Regulations, in respect to designated sites, had been met as a Habitat Regulations Assessment had not been submitted. The Council was unable to carry out its duty as a competent

³⁴ Appendix XIX Council's Statement of Case

authority, as it was unable to determine the potential impact on designated sites; a qualifying feature of which is its use either directly or in a supporting capacity by over-wintering birds.

91. The officer's report for the application also included an assessment³⁵ for other birds, bats and water borne species. The conclusion was that the proposed development had failed to comply with the requirements of the NPPF to conserve and enhance biodiversity and to demonstrate the potential impact on designated sites and protected species. This is also contrary to LP Policy EN2. In addition, the appellant had failed to demonstrate adherence to the requirements of the Habitat Regulations and by doing so, had not enabled the Council to carry out its duty as a competent authority for the purposes of these Regulations.
92. For the appeal, the appellant's ecological consultant submitted a non-breeding bird survey, together with a 'shadow' habitats regulations assessment (HRA). Consequently, the Council contacted the Merseyside Environmental Advisory Service to review these documents³⁶. The conclusions on both the 3rd and 4th reasons for refusal are in section 4 of the report: *My evidence has considered the third and fourth reasons for refusal on the grounds of insufficient information on protected species and insufficient information to demonstrate compliance with the Habitats Regulations. I have also considered the planning policy context and legislation with regard to biodiversity and ecology as they pertain to this appeal. I have clearly shown that the no ecological information has been submitted with the application or the appeal with regard to protected species, including European protected species. Consequently, the Local Planning Authority does not have sufficient information, by survey, which clarifies which species may use the appeal site or how it may be used. Further the Local Planning Authority is unable to comply with the requirements of the Habitats Directive as set out in regulation 9 of the Habitats Regulations. Therefore, it is not in a position to agree appropriate mitigation measures to ensure that the proposed development does not result in deterioration or destruction of local populations of European protected species. The onus to provide sufficient information on protected species is the appellant's. Without that ecological information, the Local Planning Authority is not in a position to consider the nature of the potential impacts, appropriate mitigation and/or compensation as advised by ODPM Circular 06/2005 or meet the requirements of LP Policy EN2. I have also considered whether or not the appellant has demonstrated "exceptional circumstances" for this matter to be dealt with by means of planning condition. As set out in my paragraph 3.1 above, the officer's report gives the appellant's view that there is no need to provide protected species survey, as the appellant intends to provide buffer zones, without being able to guarantee that works would not take place within those buffer zones, is an appropriate way forward. This approach is clearly at odds with Government guidance as set out in paragraph 3.16 above. Further, I have considered the additional information submitted by the appellant "Wintering Bird Survey and Habitats Regulations Assessment". In my opinion, neither the Wintering Bird Survey nor the shadow Habitats Regulations Assessment provide sufficient and adequate information to enable a competent authority to form a view on whether or not there would be likely significant*

³⁵ Grounds of Appeal, Appendix A1.3 paras 6.70 – 6.74

³⁶ Detailed report is contained in Appendix XX Council's Statement of Case

effects on European designated sites as required under Regulation 61 (Habitats Regulations).

93. Note the similar concerns raised by Natural England³⁷ and the WWT Martin Mere letter sent to the Council on the 15th June 2015³⁸. The latter also added: *To add some of our own experience in this field, we have found that site use by pink-footed geese cannot be effectively assessed by one visit a month, as has been the case in the ornithological survey provided by the developers. Surveys of just this one day a month would have been unlikely to record pink-footed goose use of the site. Twice weekly during peak times for the geese and once a week in mid-winter would be more appropriate for a species that changes its local feeding distribution on a daily/weekly basis. We also note that the first survey wasn't made until the 30th October and this is after the peak visitation of pink-footed geese to the area. As a result, making one survey on the 30th October to present a picture for the whole of October is, quite frankly, worthless, in terms of assessing the ornithological importance of the land in that time period.*
94. Given the above, the proposed development conflicts with the NPPF, LP Policy EN2 and the Conservation of Habitat and Species Regulations 2010 (as amended).

Planning balance and overall conclusions

95. The proposed development is inappropriate development in the Green Belt and accepted as such by the appellant. A balanced assessment has been carried out of the harm caused by the proposed development in terms of inappropriateness, loss of openness and conflict with one of the purposes of including land within the Green Belt, against the case for very special circumstances made by the appellant. As regards the 3 dimensions of sustainable development, the appeal scheme does include the environmental benefit of producing renewable energy. This has Government support, as it would contribute to its climate change objectives and would generate sufficient energy for 4,800 dwellings and result in the consequent savings of carbon emissions. However, the biodiversity benefit has not been demonstrated and any enhancement does not require inappropriate development to be implemented. Furthermore, the economic benefits are limited and unproven so can be given little weight in the final balance. Finally, in the social role of sustainable development major concern has been shown by the local community, who will be presenting their own objections (individually and together) to the proposed solar farm. Also, there is no direct benefit to the local area in that the generated energy goes into the national grid, so it is questioned how the sewerage farm can tap into it directly.
96. It has been concluded that in respect of this particular site, the benefits do not outweigh the identified harm to the Green Belt. Furthermore, it has been found that the appellant has failed to demonstrate the use of agricultural land is necessary and land of a lesser grade (in respect of that part of the site which has been identified as BMV) has been considered. In terms of ecology, the appellant has failed to provide sufficient and adequate information, despite the Wintering Bird Survey and the shadow Habitats Regulations Assessment submission for the appeal, to enable a competent authority to form a view on whether or not there

³⁷ Appendix XXI Council's Statement of Case

³⁸ Appendix XXII Council's Statement of Case

would be likely significant effects on European designated sites as required under Regulation 61 (Habitats Regulations). As stated in paragraph 98 of the NPPF, and confirmed in the PPG (paragraph ID 5-005), an application for renewable energy should only be approved if the impact is (or can be made) acceptable. The impacts of the development have not been fully identified in terms of ecological interests and, therefore, the appellant has failed to demonstrate those impacts can be made acceptable. In terms of those impacts to the Green Belt that have been identified, it is concluded the substantial harm is not outweighed by very special circumstances. With respect to the loss of agricultural land it has not been demonstrated its use is necessary or that sites with lower grades are not available. For these reasons the proposed development is contrary to the NPPF, the PPG and LP Policies GN1 and EN2.

Other matters

97. On balance at the application stage the Council considered the proposal would not have an unacceptable impact upon the landscape character of the area sufficient to warrant a reason for refusal, the amenity of local residents, the conservation of heritage assets or their setting and would be acceptable in terms of highway safety and flood risk/drainage subject to the imposition of conditions. The full considerations of these matters are set out in the officer's report³⁹.
98. As indicated above, a request for a screening opinion (2015/0608/SCR) in respect of the proposed installation of photovoltaic arrays has been received for the adjacent Wigan Wastewater Treatment Works on Deans Lane. This is intended to provide renewable electricity to the existing, operational wastewater treatment works on behalf of United Utilities. Two areas (total area of 7.8ha) have been identified by United Utilities as having good potential (3MW) for the development of a ground mounted solar array, due to their ability to accommodate this type of low scale development. The location is described in the covering letter⁴⁰ as an existing, industrial context with an absence of significant landscape or nature conservation designations and being at a relative distance from residential properties with boundary screening.
99. In October 2014 the Government (Environment, Food and Rural Affairs Secretary Elizabeth Truss) announced changes to the regulations for farming subsidies, which meant farmers and landowners will lose their right to claim subsidies for fields filled with solar PV arrays. The change, which came into effect from January 2015, means that farmers who choose to use fields for solar panels will not be eligible for any farm subsidy payments available through the Common Agricultural Policy for that land. Effectively, only solar farms of 5MW and below will be guaranteed the subsidy and the larger schemes will have to apply to a fund, so such monies will no longer be automatic. The Secretary of State advised this was to ensure that more agricultural land is dedicated to growing crops and food and it would also help rural communities who do not want their countryside blighted by solar farms. She said: *English farmland is some of the best in the world and I want to see it dedicated to growing quality food and crops. I do not want to see its productive potential wasted and its appearance blighted by solar farms. Farming is what our farms are for and it is what keeps our landscape*

³⁹ Appellant's Grounds of Appeal, Appendix A1.3 Paras 6.34 – 6.91

⁴⁰ Appendix VIII Council's Statement of Case

beautiful. Solar panels are best placed on the 250,000 hectares of south facing commercial rooftops where they will not compromise the success of our agricultural industry. The Secretary of State added: The Department for Energy and Climate Change recently announced that renewable energy subsidies for new large-scale solar farms will end next April. This year, the Department for Communities and Local Government amended planning rules to ensure that whenever possible solar installations are not put in fields that could be used for farming. At that time there were 250 installed solar farms, with the biggest covering as much as 100 hectares.

100. As consequence of this, given the change was consulted on earlier in 2014, the number of solar farm projects given planning permission increased by 65% in 2014, as developers rushed to secure government subsidies. This was revealed by research and reported at the beginning of April 2015 by Greg Pitcher, a Morgan Stanley financial adviser⁴¹. Analysis of government data by law firm Pinsent Masons showed 220 schemes of 5MW or greater were approved in 2014. This was up from 133 in the previous year, while just 59 were given the green light between 2010 and 2012. Pinsent Masons believes developers were keen to get schemes through the planning process to qualify for Renewables Obligation (RO) certificates before changes came into effect on the 1st April 2015. Pinsent Masons energy and planning partner Jennifer Ballantyne said: *There has been a noticeable change of pace in the solar industry as developers rush to get over the line ahead of the 1 April cut off point. Subsidy through RO is a well-trodden path compared to the Contracts for Difference regime, which creates uncertainty around project returns.*

101. National Grid has placed a holding objection as the proposal will cross a High Pressure Gas Pipeline. Certain restrictions in terms of work within an easement strip of the pipeline have been outlined⁴².

Conclusion

102. For the reasons outlined above, the Council considers it was justified in refusing planning permission for the proposed development. On balance it is considered that the identified harm to the Green Belt by reason of inappropriateness, the loss of openness and conflict with the purpose of safeguarding the countryside from encroachment is significant and such that cannot be outweighed by the considerations put forward by the appellant. Added to this are the objections relating to the ecology of the site and its environs and the loss of agricultural land. Therefore, and in accordance with paragraph 88 of the NPPF, very special circumstances are not found to outweigh the totality of the harm to the Green Belt.

Written Representations

103. The material points of the cases made by those who submitted written representations (around 130 at the application stage with additional submissions made at the appeal stage) and who are opposed to the development are, in summary: the effect on the Green Belt, biodiversity and wildlife, landscape character, heritage assets, highway safety, noise, living conditions of local

⁴¹ Appendix XXIII Council's Statement of Case

⁴² Appendix XXIV Council's Statement of Case

residents and flood risk. A letter was also received from the local MP objecting to the proposal.

104. A smaller number (5 at the application stage) wrote in support, the material points in summary being: the proposal would generate renewable energy reducing greenhouse gases, it would have a low visual impact, there would be no impact on heritage assets and it would be a reversible development.

The Case for Stop Hoscarr Solar Farm Residents' Group

105. An objection to the proposal was also received from Stop Hoscarr Solar Farm Residents' Group (SHSFRG) claiming that despite strong opposition from the local community (130+ letters of objection and 170+ signatures by petition) objections from the neighbouring 6 Parish Councils, objection from the Member of Parliament and multiple concerns and objections raised by Lancashire Wildlife Trust, CPRE, RSPB, Wildlife and Wetlands Trust, Lancashire Civic Society and a unanimous refusal of permission by the Members of the Council's Planning Committee, the developer and the landowner have chosen to disregard such strong opposition and go to appeal.
106. It was further contended that most of the objections submitted by the public, by the Parish Councils and other organisations included concerns on the effect that this development will have on the landscape, particularly from the surrounding hills. The SHSFRG continued by stating that the loss of visual amenity is by no means limited to a small group of residents but to the thousands who drive, walk, run, cycle and visit this area every day of the year. This part of West Lancashire attracts tourists, national and world class sporting events and contributes large amounts of money to the local economy: all as a result of its landscape, views and amenity. Though rural and peaceful, this area is close enough to towns and cities and is visited frequently by urban dwellers who boat on the nearby canal and walk and cycle along the surrounding lanes and footpaths. No amount of 'sensitive planning and screening' can screen the impact of this solar farm on the low-lying land and certainly not from the hills.
107. It was pointed out that in the House of Commons oral statement of 29 January 2014 the Planning Minister, Nick Boles, stated the "The policies in the NPPF are clear that there is no excuse for putting solar farms in the wrong places. Applications for renewable energy development, such as solar farms, should be approved only if the impact, including on the landscape – the visual and the cumulative impact – is or can be made acceptable. That is a very high test."
108. SHSFRG compiled 2 reports outlining their findings and concerns⁴³ which include a photomontage of the proposal showing its impact and argued that in addition to the 4 principle reasons given for refusal by the Council, the harm to the landscape and the effects on visual amenity, should also be considered at this appeal. The SHSFRG go on to raise the following concerns in respect of the proposal.

Statement of Community Involvement

109. The appellant states that a consultation event was hosted in April 2014 to 'raise awareness'. The awareness took the form of an advert in a free newspaper

⁴³ SHSFRG Statement of Case, Appendix 1.1 A and Appendix 1.1 B

which, by nature of the rural landscape of the area, is not widely delivered to rural properties. This was followed 6 days later by a Consultation Event. According to the developer, 30 people attended and 10 questionnaires were completed and these formed the basis for the developer's Statement of Community Involvement report. Feedback taken from these 10 questionnaires, and accordingly reported in the SCI, is that attendees 'generally demonstrated a positive response'. No further consultation with the local community has ever taken place.

110. Given the level of interest that this development has generated since July 2014 when the local community first started to become aware of the proposal, SHSFRG query the validity of the Statement of Community Involvement. The majority of residents in the local community were not even aware of the proposal in April and only heard about it after an application was made to the Council. Many more than 10 people have issued statements about this development and their comments are completely at odds with the appellant's conclusion, that there was 'a positive response'.

Council's Reason for Refusal 1

111. The appellant provides examples of 4 proposals for solar farms which were approved by their respective LPA's and located in Green Belt. In 3 of the 4 cases, the solar farms are much smaller than Tawdside Farm. In some cases, permission was only granted after the solar farms were considerably amended (Capel Grange-reduced by 9ha: Burton reduction in CCTV from 17-9 and further measures after consultation with public). The 5th example that was considered at Appeal Ref: APP/C3105/A/13/2207532 is again a much smaller site. The examples do not compare similar sites or circumstances with the site being considered at this appeal.
112. Conversely, a number of appeals have been dismissed and refer to the effect of large solar scale developments on the openness and purposes of the Green Belt. Appeal Ref: APP/J1535/A/13/2208676⁴⁴ states: 'One of the purposes of designating a Green Belt is to assist in safeguarding the countryside from encroachment. By introducing a hi-tech form of development into this generally rural area, the proposal would conflict with that purpose. Overall, the scheme would be inappropriate development in the Green Belt, would be in conflict with one of the purposes of designating the area, and would reduce its openness'.
113. Though a smaller project than this proposal, there are a number of farm buildings, both agricultural and business, which draw some similarities to the 2 sites. The Inspector refers to this in para 14; 'It would be a relatively large scale and quasi-industrial development which would be at odds with the essentially rural character of the landscape. The appellant suggests that the area has a more commercial character due to the presence of the buildings and uses beyond the hedge. However these are generally not apparent as one approaches the farm along the footpath, and the proposed array would be out of keeping and harmful'. The Inspector did not find the presence of existing development or the renewable energy benefits a reason to allow the appeal and cited the harm to the Green Belt, character and appearance of the area as his reason.

⁴⁴ SHSFRG Statement of Case, Appendix A paras 10 and 11

114. A further appeal proposal had previously been refused by the neighbouring Chorley Borough Council. The Inspector in Appeal Ref: APP/D2320/A/14/2222025⁴⁵ refers to the loss of openness in the Green Belt; 'Paragraph 80 of the NPPF states that the Green Belt serves five purposes; one of which is to assist in safeguarding the countryside from encroachment. 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, if installed on the site and together with the industrial type fence that would surround them, would result in significant encroachment into the countryside. Paragraph 79 of the NPPF 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 permanence".
115. Appeal Refs; APP/Y3615/A/14/2212923⁴⁶ and APP/D0121/W/13/2209567⁴⁷ are further examples of proposals dismissed at appeal where the developments were considered inappropriate development in the Green Belt and where there would be a loss of openness and sizeable encroachment of 'built' development into the countryside. Once again, all of these appeal examples are smaller in size than this proposal, so illustrating the enormity of this development and the significance and harm that such an industrial plant would have on the openness and character of the Green Belt. The appellant does not address the issues of the openness of the Green Belt nor the safeguarding of the countryside which are key to the NPPF and the protection of the Green Belt. The appellant lists 9 reasons claimed to constitute very special circumstances, sufficient to outweigh any harm to the Green Belt.

a) Renewable Energy

116. SHSFRG agree that the need for renewable energy is an important consideration for Government, LPAs, local communities and individuals. Over the last 3 -5 years there has been a huge increase in applications to LPAs seeking to install renewable energy projects and developers have favoured expanses of low lying countryside, agricultural or Green Belt land, for solar plants, for ease of development and commercial returns.
- Electricity capacity from renewable sources has more than doubled since 2010. Renewable generation now provides almost a fifth of the UK electricity needs, powering the equivalent of 14.5 million homes annually.
 - £11.4 billion has been invested in the UK's solar PV sector alone between 2010 and 2014, highlighting the progress made in the solar market over a short stretch of time.
 - By the end of 2014 there was an increase of 79% in electricity generated from solar PV. This is a 28% increase in installations over the same period.

⁴⁵ SHSFRG Statement of Case, Appendix C para 6

⁴⁶ SHSFRG Statement of Case, Appendix J

⁴⁷ SHSFRG Statement of Case, Appendix K

Whilst these figures do not detract from the need for the UK to increase its installed generating capacity, they do illustrate how robust the solar PV industry has been in the last year and how targets have been met and superseded.

117. 'Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land. Protecting the global environment is not an excuse to trash the local environment'. (Planning Update: Written statement-HCWS488)⁴⁸. The UK has the second largest number of solar farms in the world and has more than France and Spain combined, despite both European countries having more hours of sun than the UK (Solar photovoltaics deployment -April 2015- DECC)⁴⁹.
118. Table 2⁵⁰ shows that from the 4th quarter 2014, to the end of the 1st quarter 2015, the Total Solar Capacity (TSC) jumped by 26 per cent to 6.521GW and 460 sites, as developers strove to commission sites before the ROC scheme ended on March 31st 2015. The monthly growth in April 2015 was a more modest 0.6 per cent. SHSFRG estimate capacity for 2015 at 6.892 GW, a year on year growth of 33%. (Method: the actual April figure from DECC for Solar Photovoltaics Deployment, plus 8 months at the April growth of 0.6 per cent), There is rapid growth in the 1st quarter followed by subsequent slowing as the new, less generous subsidy regime commences. 33% growth is a reasonable estimate for 2015 and is considerably less than previous years. By 2020, even assuming modest growth of 15%, the TSC is 13.862 GW, at the upper-end of the government's 12 to 14 GW target. By 2020, assuming growth of 33%, the TSC is 28 GW, more than double the government target. These figures make it patently clear why the government is significantly reducing the subsidy regime. In April 2015, the actual TSC commissioned in the UK was already 55% of the 2020 Target. It is only 3 years ago that solar capacity was barely 1GW (8%)⁵¹.
119. These startling 2015 solar capacity figures will now allow LPAs to take a more balanced and careful view of both the number and location of the new solar farms. Ministers have issued guidance and directives that large-scale solar farms should be deployed on roofs or previously-used land. Government's support for solar continues but with the knowledge that developing on Green Belt and agricultural land is not necessary, as solar targets can now be comfortably met. The appellant has not demonstrated that providing 15.9MW from Green Belt land is vital or necessary to meet Government targets nor does the appellant provide evidence that it is necessary to override any guidance in the NPPF and that this proposal is necessary for "increased production of energy from renewable source" (para 91). The appellant has made no reference to the current UK situation in terms of Solar PV and the energy already being produced or forecast. Reference is only made to historic information.

b.) Sustainable energy in the UK and West Lancashire

120. The proposal quotes a number of sources in order to establish a case that sustainable energy, renewable energy potential and the 'core planning principles of the NPPF' are intended to encourage individual councils to contribute towards

⁴⁸ SHSFRG Statement of Case, Appendix 2B

⁴⁹ SHSFRG Statement of Case, Appendix 2A

⁵⁰ SHSFRG Statement of Case

⁵¹ SHSFRG Statement of Case, Appendix 2A

renewable energy. The PPG says that there is no quota which the Local Plan has to consider. As has been outlined above and covered in detail in the Government publication; *Delivering UK Energy Investment: Low Carbon Energy-March 2015*⁵² the UK is achieving above target results from its renewable energy installations, with solar achieving a greater share of the market much faster than anticipated.

- DECC estimates that between 2010-2013, £45bn was invested in electricity generation and networks. In the solar sector this equates to around 650,000 PV installations since 2010.
- Up to the 3rd quarter 2014, solar PV provided around 1.7% of the UK's total electricity generation. By 2020 it could account for around 3-5% of our electricity generation, powering the equivalent of around 2.5 million to 3.3 million homes. Since 2010, some 99% of the UK's current total solar PV has been installed so illustrating the enormous changes to renewable energy in just 5 years.
- The Government's Electricity Market Reform (EMR) Delivery Plan anticipated 10-12 GW of solar capacity throughout the UK by 2020: a figure quoted by the appellant. This has since been revised upwards, reflecting higher than expected deployment of large scale solar under the Renewables Obligation (RO), reaching 12-14GW of solar by 2020. This contributed to the government's decision to end most subsidies for large-scale solar in March 2015 with further reductions due from July 2015.

121. Whilst West Lancashire may have an obligation to contribute towards renewable energy targets, it does not have to do so at the expense of its Green Belt. An Inspector in appeal ref: APP/J1535/A/13/2208676⁵³ remained unconvinced by the appellant's reasons and stated: 'However the need for renewable energy does not automatically override environmental protection..... Overall the other considerations, particularly in relation to the renewable energy benefits of the proposal, do not clearly outweigh the harm to the Green Belt and the harm to the character and appearance of the area'.

122. With the UK on course to achieve renewable energy projects in line with government targets, developers need to pay greater attention to updated recommendations, guidance and statements by Ministers. The Energy Secretary, Ed Davy, in March 2015 stated⁵⁴, 'We support the deployment of solar PV at all scales and see the future of the solar PV industry in the UK centred around 3 markets:

- small-scale building-mounted PV panels, typically on housing, small commercial premises and community buildings
- PV panels mounted on commercial and industrial buildings, larger public and community buildings
- large scale industrial ground-mounted solar farms, as long as they are well sited and sensitively developed, preferably on previously-used land'.

⁵² SHSFRG Statement of Case, Appendix 2C

⁵³ SHSFRG Statement of Case, Appendix A paras 25 and 27

⁵⁴ SHSFRG Statement of Case, Appendix 2C

123. SHSFRG recognises that the NPPF seeks to encourage the delivery of renewable and low carbon energy but not at the expense of Green Belt land and not in opposition to Government directives unless very special circumstances apply. The appellant has not proved this to be the case. Whatever the MWp output of this large scale solar plant, this justification does not constitute a very special circumstance. As outlined by DECC in March 2015, roofs, industrial units, community buildings and previously used land should be used when deploying solar PV, and in particular when it is large scale.

c) Solar farm - size and scale

124. The appellant refers to the physical nature of the proposal and its setting in the landscape. The majority of those who objected at planning stage disagree with the developer that this development will have 'little visual impact' believing that it will cause serious harm to the landscape and affect the amenity of residents and visitors alike. Appeal Ref: APP/Q3305/A/14/2214650⁵⁵ (paras 30 and 31) show that the Inspector in that appeal regarded the size, appearance, location and structure were of major significance in his considerations. SHSFRG agree with that Inspector's assessment and believe that this proposal will be viewed in exactly this way. From many of the surrounding lanes-Hall Lane, Waness Blades Road, Deans Lane, Chorley Road, Mains Lane-alongside the low lying fields and from the surrounding hills-Hunters, Parbold, Bannister, Harrock, - the assessment is exactly the same.
125. It is precisely because of the flat nature of the site that this huge solar complex will be seen from many viewpoints in the immediate vicinity and from the surrounding hills and villages. A planning appeal APP/D0840/A/14/2213107⁵⁶ confirms 'large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas'. SHSFRG refutes the appellant's claim that the overall effects of the development on the landscape character of the Green Belt would be 'slight adverse to imperceptible'. The character and openness of 90 acres of Green Belt will be severely affected by almost 60,000 solar panels arranged in arrays of up to 2.5m high, a tall mesh perimeter fence, CCTV cameras measuring 3m at intervals around the perimeter, security lights, metal gates and assorted buildings, a disused shipping container as a substation, 16 fibre glass inverter cabinets and access roads within the site itself.
126. SHSFRG do not see how this predominately industrial development can appear as anything but a large, alien structure in a landscape of agricultural fields, mixed with pastures that create extensive views from the surrounding hills across the West Lancashire Plain to the sea. It certainly will not enhance the beneficial use of the Green Belt or enhance the landscape or visual amenity.
127. Appeal Ref: APP/Q3305/A/13/2195742 is not dissimilar to the one at Hoscarr: 'At present the scene is one of uninterrupted rolling pastureland and offers a clear appreciation of the quintessentially rural character of the landscape. ... The introduction of solar panels with the attendant equipment, fencing and supplementary boundary planning would significantly change the experience of walkers' SHSFRG would add in Hoscarr's case...and cyclists, residents and lovers

⁵⁵ SHSFRG Statement of Case, Appendix D

⁵⁶ SHSFRG Statement of Case, Appendix L

of nature. 'It would also cause material harm to landscape character and it would be prominent and conspicuous from the extensive footpath networks surrounding the site.'⁵⁷

128. Appeal Ref: APP/D0121/A/13/2208198⁵⁸ is comparable and states: 'Purn Hill ... is an important and valued local resource and the fact that there are areas where the appeal site is obscured by vegetation is of limited importance. Much of the pleasure of using the path is to enjoy the outward vistas. Those using Purn Hill will almost certainly only be there for the purposes of recreation Those people (or receptors) can be rightly classified as having the highest level of sensitivity to any change. Visual appreciation of the landscape.....would be seriously compromised. The eye would be drawn to the ranks of the PV array in the foreground, and the essence of the view across relatively unspoilt rural land would be harmed. I recognise that there are already some visual detractors in this view, but nothing of a scale such as that proposed.....'. 'Because of the elevated nature.....I am satisfied that the proposal would introduce an unacceptably harmful intrusion into, and dilution of, the character of the landscape.....In my judgement the impact could not be satisfactorily mitigated by additional planting and it would therefore remain for the life of the development'.
129. The Council acknowledges that the 'proposed development will introduce a new feature within the landscape and will result in a degree of industrialisation'. The appellant has not proved that their assertion of 'little visual impact' is correct nor that any impact, small or large, constitutes 'a very special circumstance' that can justify a development on Green Belt land.
- d) Temporary Development*
130. The proposal seeks to prove that this large installation would only be a temporary development on the Green Belt. The 25 year period of operation, together with a further 6 months or more at installation and decommission is, in human terms at the very least, not temporary. It is the span of a generation and many residents, particularly those who are middle aged or elderly, are horrified that if this development is built, they will not see a return to an agricultural landscape in their lifetime.
131. The Inspector in appeal Ref: APP/X2220/A/13/2203582⁵⁹ states: 'Unlike some other developments that occupy large areas of land and are progressively restored over their lifetimes, such as landfill sites and mineral extraction sites, the full extent of the proposed development would be in place for the entire operational life of the solar photovoltaic development..... to many of those who live nearby or walk in the area the development would occupy a significant proportion of a lifetime. In this context, the development may seem to many as being far from temporary'.
132. Whilst planning conditions can be imposed to stipulate that the site is returned to agricultural use at the end of the operation, many residents are sceptical that this will be properly enforced or practical. Large scale solar farms are in their infancy and as such, no guarantees can be given that the land will be suitable for

⁵⁷ SHSFRG Statement of Case, Appendices M & 1.1B

⁵⁸ SHSFRG Statement of Case, Appendix E paras 12-16

⁵⁹ SHSFRG Statement of Case, Appendix F paras 25-27

a return to productive agricultural land. So far, only desk based studies have been undertaken with small scale tests on test patches. It is not known what harm a development of this magnitude may have on the Green Belt as there are no precedents. No amount of planning conditions can predict the future nor guarantee that the benefits achieved by solar PV will outweigh the damage to this land which has been protected and farmed for centuries and which the NPPF and Government also seek to preserve.

133. The appellant seeks to prove that the temporary nature of solar farms has been confirmed at planning appeals and lists examples. It is worth noting that none of these examples include solar farms sited in Green Belt land. All of the examples are much smaller than this proposal (10MW, 12.8 MW, 4.2MW, 5MW) and in one (APP/D0840/A/14/2213745) a car park for the local school is included within the proposal whilst in another the heights of the panels were reduced. In the last example given by the Appellant, the appeal was dismissed.

e) Agriculture and Diversification

134. The appellant argues that there will be no permanent loss of agricultural land and that there will be benefits in terms of diversification and investment. The proposal seeks to prove that such diversification of agricultural practices overcomes any objection to development of the Green Belt. Reference is made to a recent planning appeal decision, in which the Inspector refers to farm diversification supporting the overall farm business, as an example of the benefits of such a development. However, once again this site is not in Green Belt and is significantly smaller than this proposal. In addition, the land had only been used previously for grazing and hay production, so no loss of arable crops would result from such a site.
135. The appellant claims, as additional justifications to overcome the LPA's planning refusal on grounds of inappropriate development in the Green Belt that: 'The development of a solar farm would provide far greater economic security than many other forms of agricultural diversification. The financial subsidy available is provided for 20 years and is guaranteed as an index-linked stream of income for this entire period, or as long as the solar farm is operating'.
136. The installation of 60,000 solar panels on further productive agricultural land will take a considerable amount of land out of food production. Hoscarr is, and always has been, an area of productive farming. Crops grown here include barley, wheat, potatoes, carrots, leeks, lettuce, calabrese, spinach and cabbage. There is crop rotation on these fields in line with best farming practice and though the appellant suggests that having a 'period of rest' —of 25 years—would be beneficial and give the fields a break from 'intensive agricultural activities', the reality is that crop rotation ensures this land remains much sought after for providing high yields of quality crops. It cannot be good agricultural practice to take this land out of crop production for 25 years.

f) Sheep grazing

137. Designing the proposed solar farm so that sheep will be able graze under the panels, is a further very special circumstance put forward by the appellant. Though this was not mentioned during the planning application stage, the proposal is now acknowledging advice from the PPG and BRE advisory guidelines that such activity will constitute a continuation of agriculture on this land.

138. The low lying land at Hoscar is not traditionally known for grazing sheep. To diversify into this activity is underusing 90 acres of land which could be used more productively for the production of crops. Furthermore, the appellant states that the design would enable the grazing of sheep. This is not the same as obtaining a definite commitment from the landowner that for the next 25 years, sheep will be grazed on these 90 acres. The Wildlife Trust provide detailed guidance on conservation grazing which is more detailed than the advice referred to by the appellant in the BRE report. Whilst grazing the right animals, on the right land and during the right season is generally seen as good conservation practice for flora and fauna, there are restrictions and best practice guidelines to be followed. Under or over grazing can be damaging in equal measure to the land and habitats that it seeks to conserve.
139. The matter of sheep grazing was considered by the Inspector in appeal ref: APP/J3720/A/14/2217844⁶⁰ who opined that there was no evidence to suggest how sheep grazing would benefit the local area and that it may not occur in any event. It was, as a result, given very little weight in that case. In appeal ref: APP/D0840/A/13/2202450⁶¹, the comment is made: 'Some weight attaches to the likelihood that the site would continue to be used for grazing while panels are in place. However there would be a great deal less grass under the panels than there is currently. The 25 year temporary nature of the proposal is a consideration, but that is a long time in which an attractive area of productive land would be used essentially for a non-agricultural purpose'.
140. Grazing sheep on these fields is a departure from normal farming practice in this area and is not the best use of this fertile land which produces high yields of crops. Neither is there a guarantee that sheep will be grazed for the duration of the solar farm nor on all 90 of its acres. If the fields 'farm solar panels' it is a waste of productive agricultural land. SHSFRG cannot accept that such vague guidance can carry sufficient weight to allow this inappropriate development in the Green Belt.

g) Site selection

141. The PPG directs developers to look at previously developed and non-agricultural land over greenfield land, when bringing forward large scale solar schemes. PPG Paragraph 13 includes detailed guidance for the installation of solar farms, including: *Particular factors a local planning authority will need to consider include: 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.*
142. Inspectors in 2 recent appeals refs: APP/V2255/A/ 14/2212592 and APP/D3505/A/13/2204846⁶² have concluded that the word 'necessary' requires a developer to provide a sequential test to support their application, which demonstrates that there are no more suitable alternative sites within the vicinity.

⁶⁰ SHSFRG Statement of Case, Appendix B

⁶¹ SHSFRG Statement of Case, Appendix H Para 31

⁶² SHSFRG Statement of Case, Appendices G & I

The Inspectors also concluded that the search area should not be confined by district boundaries. There are many references to the lack of alternative site surveys and the lack of evidence that a sequential test has been carried out. The following are just 3 appeals where the lack of site selection on Green Belt or on greenfield land was highlighted by the Inspectors: APP/Q3305/A/14/2214650; APP/D3505/A/13/2204846 and APP/X2220/A/13/2203582⁶³ para 18; 'The problem for the decision maker is that no attempt has been made to demonstrate that there are no other suitable sites. This may mean that land within the countryside is being unnecessarily developed when a site within a built-up area is available or that a Greenfield site is being developed when previously developed land is available. The absence of a site search or other information to show that a trawl of sites has been undertaken is contrary to what is required by recent Government policy as set out in the Planning Guidance...'

143. Green Switch Solutions did not provide any evidence of a site survey at the planning stage, stating that the whole of West Lancashire was Green Belt. They now state; 'Any alternative site for a ground mounted solar farm within West Lancashire would therefore also be very likely to be located within the Green Belt'. The word 'likely' is not a very definitive argument based on a detailed search. The PPG can be seen as a strengthening in government policy direction and now places an onus on the developer to justify the need for a scheme on agricultural land or Green Belt. The appellant refers to 'an extensive site search' but has not submitted a detailed site survey despite claiming that it has been proved that Tawdside Farm is the only site that meets the criteria for a solar farm in West Lancashire.
144. However, 3 full planning applications are pending consideration by the Council and a further 5 screening opinions have been submitted. An appeal is also under way for a further large scale solar farm elsewhere in the Borough. These developers have found what they consider to be suitable sites for solar farms in West Lancashire. West Lancashire is a rural area but there are also significant industrial areas in the area which contain a great many warehouses, factories and industrial units. Skelmersdale, Simonswood, Burscough Industrial Estate, dis-used airfields, quarries of which there are several are examples of sites that fit the criteria outlined by the Minister and subsequent Government Ministers⁶⁴.
145. Other developers have submitted sequential tests and site surveys, to the Council, in the planning applications referred to above but this proposal does not contain this information. Of note, is that one planning application, pending consideration, is based on a former airfield in Burscough. This is close to the appellant's offices which are based on the very industrial estate mentioned above. It is a site that has been dismissed by the applicant who has stated that no other sites are available in West Lancashire, other than 90 acres of Green Belt agricultural land at Tawdside Farm, Hoscar.
146. SHSFRG suggest that the proposal does not provide any evidence of a thorough survey of alternative sites and that this cannot be considered a 'very special circumstance'.

h) Grid Connection

⁶³ SHSFRG Statement of Case, Appendices D, I & F

⁶⁴ SHSFRG Statement of Case, Appendix 2G

147. The appellant states that an accessible grid connection is vital to the selection of a large scale solar farm and that, as there is an 'affordable' connection this constitutes a very special circumstance for consideration to develop in the Green Belt. SHSFRG argue that a grid connection and its affordability for the developer is a commercial consideration for the appellant and the landowner. This 'affordability' or proximity or ease of connectivity is not a planning reason which can be considered a 'very special circumstance' or justification for overcoming the NPPF's concerns regarding inappropriate development in the Green Belt.

i) Biodiversity and wildflowers

148. If the landowner or the developer is keen to create wildflower meadows and enhance further the rich habitat that already exists for wildlife, flora and fauna, a large scale solar park is not necessary to enable its creation. The landowner could dedicate land or hedgerows to such biodiversity whilst continuing to farm the fields for crop production. In the view of SHSFRG and the local community, this carries no validity to create a solar park in an area where biodiversity along the hedgerows, fields and river banks already exists and in no way justifies building on Green Belt land.

Summary

149. The appellant does not seek to address the concern and the main reason for refusal by the Council that this development has 'a significant adverse impact upon the openness of the Green Belt'. This is given major weight in the NPPF and in appeals refs: APP/J1535/A/13/2208676, APP/D2320/A/14/2222025, APP/Y3615/A/14/2212923 and APP/DO121/W/13/2209567⁶⁵ but is largely ignored in this proposal. We do not believe that the appellant has demonstrated that there is no alternative to this location for this development and we do not believe that 'very special circumstances' have been demonstrated that can overcome an inappropriate development of the Green Belt.

2nd Reason for Refusal

150. SHSFRG is of the opinion that arable agricultural land in West Lancashire, an area well known for its fertile soil is inappropriate for this proposal. In accordance with the NPPF and the PPG, "Whilst local authorities should design their policies to maximise renewable and low carbon energy, there is no quota which the Local Plan has to deliver". Defra's ALC for Lancashire shows that 45.4% of its agricultural land is Grades 4 and 5. As Green Switch Solutions did not provide a Sequential Test Document, unlike many other companies who make similar applications, we do not know how diligently they explored for more suitable sites within and outside of West Lancashire.

151. In addition to the fact that West Lancashire's fields are crucial to supplying food to the North West of England, we also consider that it is inappropriate to locate solar PV projects in West Lancashire because irradiation here is substantially less than most areas to the south. With reference to the UK Solar Irradiation Map, Figure 1 in BRE's document 'Planning guidance for the development of large scale ground mounted solar PV systems'⁶⁶, it is clear that

⁶⁵ SHSFRG Statement of Case, Appendices A, C, J & K

⁶⁶ SHSFRG Statement of Case, Appendix 3.2 figure 1

solar PV projects are more suited to the South of England and even the middle of England, and should not be placed on agricultural land in the North unless it has been shown that sites further south are not available.

152. The appellant points out that "The Agricultural Land Classification plan for West Lancashire clearly shows that the majority of the agricultural land within the Borough represents Grade 1 (excellent) or Grade 2 (very good) agricultural land. While this plan shows the appeal site as Grade 1 agricultural land, the ALC assessment for the appeal site, which was undertaken in accordance with MAFF guidelines and accepted by Natural England and the LPA, confirmed that 67% of the appeal site did not in fact constitute BMV agricultural land." 67% of this site is classed as moderately good, rather than very good or excellent, but certainly not poor or very poor. SHSFRG together with many local residents, farmers and others who wrote to object, noted the excellent and varied crops that are successfully grown on this land and were surprised at the land classification.
153. It is generally recognised that these maps were created over 30 years ago and have never been updated. Natural England has confirmed that the information provided on this map and held by the Council is quite broad brush in nature. Therefore, if the appeal site was classified incorrectly, it would be wrong to assume that all other land in West Lancashire has been classified correctly. Without extensive research, we could assume that a good proportion of land classified as Grade 1 or Grade 2 could be of a lower grade and vice versa. The appellant has justified the choice of land by referring to the document 'Agricultural Land Classification plan for West Lancashire' and then shown this document to be out of date and inaccurate.
154. Recent appeal decisions consider the loss of agricultural land and search for alternative sites. Though each appeal is an individual case, the following comments resonate very strongly with the residents who oppose this proposal. Appeal ref: APP/X2220/A/13/2203582⁶⁷ 'In respect of the necessity for locating the development in the countryside, no information has been submitted with the planning application or the appeal which demonstrates that there is no alternative, firstly, to locating the development in the countryside and secondly to using a greenfield site. The appellant makes the point that it would be unlikely for a site to be identified within the built-up area that would be of sufficient size on which to develop a solar photovoltaic farm of the size being proposed. This may be so, but no evidence in the form of a site search has been submitted which supports the appellant's view. In addition, no evidence has been submitted which indicates that within the countryside there are no alternative sites to the use of greenfield land. Many areas of countryside contain tracts of previously developed land such as landfill sites, quarries and disused wartime establishments such as airfields.no attempt has been made to demonstrate that there are no other suitable sites. This may mean that land within the countryside is being unnecessarily developed when a site within a built-up area is available or that a Greenfield site is being developed when previously developed land is available. The absence of a site search or other information to show that a trawl of sites has been undertaken is contrary to what is required by recent Government policy as set out in the PPG.

⁶⁷ SHSFRG Statement of Case, Appendix F para 16 and 17

155. With regard to the 33% of land that is Grade 2 or 3a, SHSFRG asserts that this should not even be under consideration. The NPPF paragraph 112 expresses a preference for development to be directed to land outside of this classification. The NPPF does normally support development on the best agricultural land stating that "The best quality land should be used for agriculture purposes." In appeal ref APP/Z3825/A/14/2219843⁶⁸ the Inspector says: "My attention has also been drawn by a third party to Appeal ref APP/J3530/A/13/2193911. In that case the Secretary of State for Communities and Local Government dismissed an appeal(where) no sequential test in relation to the availability of brownfield land was then applied by either the Inspector or Secretary of State. The appeal also concerned a proposal on agricultural greenfield land. That is relevant because the appeal was dismissed in part because the proposal would have involved the loss of 'best and most versatile' Grade 3a agricultural land which formed a significant part of the site area." The lack of an alternative site survey and the use of 30 acres of BMV land in this proposal is a similar situation.
156. A similar conclusion was made by Inspectors in appeal refs: APP/Q3305/A/14/2214650 and APP/X2220/A/13/2203582⁶⁹ 'the development of a ground based solar photovoltaic farm would significantly reduce the options available for farming the land over the not inconsiderable lifetime of the development. The development would not permit ploughing, seeding and harvesting of crops in the narrow spaces between the arrays. Using the land for grazing is the only feasible option, but using the land for grazing over a period of twenty five years would not be making the best use of a site which contains much land which comes within the category of being the best and most versatile..... Accordingly, I conclude on this issue that the proposal would result in the unacceptable loss over the lifetime of the development of a site which contains some of the best and most versatile land. During the life of the development, the agricultural potential of the site would not be realised. As such, the proposed development would be contrary to the recently issued PPG which seeks to safeguard the best and most versatile land."
157. It is relevant to note the comments of the Inspector in appeal ref: APP/V2255/A/14/2212592⁷⁰ "BMV agricultural land is a national asset of limited supply and there is nothing in national or local policy to suggest that protection of it should be reduced in areas where there is a relatively large amount of it. Equally, that the scheme involves the use of a very small amount of BMV land (when considered at the holding, district, county or national level) is also not a factor in its favour. This is an argument that could be used again and again in planning applications cumulatively resulting in a significant loss of BMV land."
158. The Inspector for appeal ref: APP/V2255/A/14/2212592⁷¹ makes a pertinent point with regard to benefitting the land by taking it out of crop production; 'I have seen no evidence to indicate that the value of this (period of rest) to agriculture, potentially 25 years from now, would outweigh the loss during the lifetime of the development of its ability to be used for crops requiring BMV land.' Moreover, an appeal into a local solar farm acknowledges a concern that many

⁶⁸ SHSFRG Statement of Case, Appendix N paragraph 34

⁶⁹ SHSFRG Statement of Case, Appendices O & F

⁷⁰ SHSFRG Statement of Case, Appendix G para 12

⁷¹ SHSFRG Statement of Case, Appendix G Para 12

local residents have: that 25 years might indeed turn into 50 years. Appeal ref: APP/D2320/A/14/2222025⁷². The Inspector writes "25 years, however, is about a third of a person's lifetime and is the span of a generation. Furthermore, there is no guarantee that planning permission would not be granted, after 25 years, for the replacement of the solar panels for a further 25 year period. Very little weight is therefore given to the reversibility of the scheme."

159. In BRE's Planning guidance for the development of large scale ground mounted solar PV systems, section 2, Planning Application Consideration point (d) Ground Maintenance⁷³, it refers to the presence of sheep on a solar farm merely as an occasional means of keeping down the weeds. "Vegetation will grow under the solar panels and this will require management, particularly to avoid the site becoming overgrown with noxious weeds..... During those times of the year when growth requires managing, grazing is to be encouraged wherever practicable." APP/D0840/A/14/2213745⁷⁴ the Inspector recognised that "sheep grazing might be seen as the minimum level of agricultural activity that could be undertaken." Appeal ref: APP/J3720/A/14/2217844⁷⁵ ".the land would be taken out of agricultural production for the duration of the development since there is no clear evidence that sheep grazing would take place."
160. SHSFRG agree with both Inspectors' comments as there is no clear evidence that sheep grazing would take place on the appeal site, no commitment has been given and it would be an underuse of good productive agricultural land. The appeal site already performs multiple functions; it is used to grow food, house electricity pylons, supports a variety of wildlife including invertebrates, birds, mammals and reptiles, and it offers a pleasant view for the many people who walk, cycle, drive and take their leisure in this area. The fields already give homes to many insects, and reptiles and a section of additional hedgerow has recently been planted.
161. To conclude, SHSFRG can see no evidence that Green Switch Solutions have demonstrated that they have properly researched suitable locations for the siting of their solar PV project. They have produced no evidence of locating sites outside of West Lancashire which would be more appropriate for solar panels in terms of irradiation and ALC. Nor have they demonstrated that the development of agricultural land is necessary as they have not produced a sequential report or site survey, documenting reasons why available brownfield land is unsuitable and sites such as old quarries and old airfields were not considered.
162. The presence of non-arable land was not explored because the appellant looked no further than the Agricultural Land Classification plan for West Lancashire, which it then sought to prove inaccurate in the case of the appeal site. The inclusion of the considerable amount of land that is shown to be BMV, has not been justified by the appellant, even though, BRE's Planning guidance for the development of large scale ground mounted solar PV systems, states that "The best quality land should be used for agriculture purposes"⁷⁶.

⁷² SHSFRG Statement of Case, Appendix C Para 25

⁷³ SHSFRG Statement of Case, Appendix 3.2

⁷⁴ SHSFRG Statement of Case, Appendix P para 13

⁷⁵ SHSFRG Statement of Case, Appendix B Paragraph 26

⁷⁶ SHSFRG Statement of Case, Appendix 3.2

163. The appellant justifies the installation on the grounds that it is 'temporary' though 25 years does not feel very temporary to the community. To counter claims of the loss of full crop growing status, the appellant states that "agricultural activities would be ongoing throughout the life of the proposed solar farm." However, other than reference to the possible use of sheep, no detail is given, so no weight can be given to such claims. The "period of rest from intensive agricultural activities" is unnecessary due to existing good farming practices and it would not make up for the loss of production in the intervening 25 years.
164. Tawdside Farm has already diversified and does not fit the criteria of a farming concern that is struggling and needing alternative sources of income or occupation. No details of the landowner or his existing business have been submitted to clarify the appellant's justification that it is a benefit to diversify and take this land out of crop production in exchange for rental income.

3rd and 4th Reasons for Refusal

Ecology

165. The proposed development is contrary to the NPPF, LP Policy EN2 and the Conservation of Habitat and Species Regulations 2010 (as amended) in that insufficient information has been provided to demonstrate compliance with the statutory duty to assess the likely significant effects on nearby designated sites and supporting habitat.
166. The appellant's Wintering Bird Survey Report was started in October 2014. This consisted of a visit once a month between October 2014 and March 2015 and each visit consisted of; pre-dawn and post-dusk vantage point surveys to record movements of Whooper Swan *Cygnus cygnus*, Bewick's Swan *C. columbianus* and Pink-footed Goose *Anser brachyrhynchus* on or immediately adjacent to the site; systematic walkovers of the site recording all bird species observed or heard and approximate numbers recorded, and a wider area search of up to a 5km radius of the site to locate flocks of swans and geese.
167. We are advised by a senior official of the RSPB that the 'vantage point surveys' should be considered simply as "roost surveys" – i.e. a survey to ascertain if swans or geese have been roosting in these locations. Pink-footed geese do not generally roost on farm land but choose lakes, reservoirs, estuaries and remote moorland lochs. Most geese in this area roost either at the Wetlands and Wildfowl Trust reserve at Martin Mere Special Protection Area and Ramsar site, where they have the advantage of receiving supplementary feeding, or on sandbanks on the Ribble and Alt Estuary SSSI (Ribble and Alt Estuaries SPA and Ramsar site). WWT use this fact as an additional visitor attraction by opening early on occasions during the winter to enable the public to witness the geese taking off in their tens of thousands to forage on local farmland. This year saw 45,800 pink-footed geese present at Martin Mere WWT reserve -the highest number ever recorded.
168. Local residents have the pleasure of witnessing these enormous numbers of geese flying over these fields throughout the October-March period. It is not just the sight but also the sound as these geese fly overhead and this is amplified a hundred fold when they circle and land on the fields, particularly those adjacent to Mains Lane when numbers are in the thousands. In which case, it is surprising

that Wardell Armstrong found relatively few geese, suggesting their methodology, infrequency of visits and use of vantage point surveys demonstrates a lack of understanding of the behaviour of pink-footed geese.

169. We support completely the comments of Natural England regarding their concerns relating to the survey. This document makes the following points which need to be satisfactorily addressed by the applicant:
- a. How the single survey on 30th October is representative of the month.
 - b. Justification is required why only a single survey per month was considered appropriate to assess the usage of the site by SPA birds.
 - c. Why spring passage surveys have not been undertaken.
 - d. Why breeding SPA birds have not been mentioned within the survey or the HRA given that breeding birds are an interest feature of Martin Mere.
 - e. Justification why representative times of the day and where possible observations during conditions of low cloud or mist was not considered necessary.
 - f. Justification why it was not considered necessary to undertake surveys across the tidal cycle. Obtaining data on nights when flights to or from roosts may coincide with high tides close to dawn or dusk may be particularly useful as these are key times when many species are most active.
 - g. Justification why 24 hours of vantage point survey effort was deemed appropriate rather than the recommended 72 hours by Gilbert (36 hours for wintering and 36 hours for breeding).
170. The RSPB advise that geese are opportunistic feeders and move around according to the availability of food. They first feed in stubble feeds, then move on to root crops and finally onto grass and cereal crops. This means that for example a stubble field will be exhausted of spilt grain in December and, therefore, no geese would be present. Similarly, you would not expect geese to be present on grass land in October when arable feeding is available. The surveyors do not appear to have looked for evidence (for example – droppings) of geese usage of fields.
171. The numbers of Pink-footed geese recorded in the Habitats Regulations Assessment are not recognised by SHSFRG. Maps provided by Lancashire Environment Record Network (LeRN) show an area of farm land to the north-west of Waness Blades Road and Mains Lane as being a Sensitive Bird Area for Pink-footed Geese – regularly used. At its closest point this SBA is less than 50m from the proposed solar farm development and less than 500m from the centre of the site. The appellant recorded a total of 700 Pink-footed geese landing on a field adjacent to Mains Lane in the SBA on one occasion only.
172. Local observers report that flocks of geese, often considerably in excess of 1000 birds, are frequently present on these fields from late autumn through to February. The appellant also recorded no geese present on the site during any of their visits. It is a fact that a small number of Pink-footed geese (about 50) were seen landing on the fields behind the farm buildings at Tawdside farm on occasions in December 2014. The figures given in Table 3 of the Habitat

Regulations Assessment document are incomplete – the figure for 2013/14 was available in July 2014 but is not included in the table. The figure in the WeBS annual survey is 29400 – an increase of 146% over 2012/13.

173. The Waterbirds in the UK 2013/14 Report states that the Pink-footed Goose population reached its highest-ever point, continuing the long term trend, after a poor year in 2012/2013. The 2014/15 figure is not available from WeBS until July but using WWT's figure, given in their press release in October 2014, of 45800 this is a further increase of 56% over the previous year or 291% since 2012/13. Increases in population of this magnitude greatly increase the pressure on farmland which is suitable for feeding pink footed geese.
174. The NPPF seeks to protect biodiversity by resisting development which would destroy or adversely affect important wildlife habitats. In particular paragraph 118 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a set of principles which include the following: *If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.* The appellant has simply stated that there were no sites which were less harmful within the Borough. However, another developer based in London has now applied for planning permission for a solar farm on previously used land (part of a former airfield) at Burscough. Paragraph 118 goes on to say that proposed development on land within or outside a SSSI likely to have an adverse effect on a SSSI (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSI.
175. Under the Habitats Regulations in-combination assessment, the developer has only considered wind and solar developments. However, any development which has the potential to affect functionally linked land should be taken into consideration. This would include any plans or projects at any stage of the planning process together with any draft plans being prepared by public bodies. Thus, any proposed works at United Utilities Wigan Waste Water Treatment Works which lies immediately alongside the proposed site should be considered. The applicant has not demonstrated that they have undertaken any such investigations. The application site is located in an area known to have the potential to support sensitive birds such as Pink-footed Geese and Whooper Swans. On this basis it is identified as being either within or in close proximity to a European designated site and, therefore, the proposed development has the potential to affect its special features. European sites are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). The application site is also close (approx 5.2km) to the Martin Mere Special Protection Area which is a European site and listed as Martin Mere Ramsar Site and as Martin Mere SSSI. It is also close to the Sefton Coast Special Area of Conservation (SAC), the Ribble and Alt Estuaries SPA and Ramsar which are European designated areas and also notified as SSSIs. The developer has submitted that the application site is not a European designated site as it falls outside an RSPB alert area for Pink-footed geese and Whooper Swans. As stated

above, the distance from the application site to the alert area is very small. The alert area was identified, prior to 2008, when the number of overwintering birds was considerably lower than the current figures. The alert area should be a guide and not used simply as a method of determining where sensitive birds are or are not using certain fields, or for showing which fields are sufficiently far from known roosts and feeding areas. SHSFRG consider that the appellant has still not demonstrated that the requirements of the Habitat Regulations in respect of Pink-footed Geese and Whooper Swans have been satisfied.

176. The appellant's Report refers to "minimal flyover events" in the area of the proposed development and concludes that the area is of no significance to the movement of Pink-footed geese as they are concentrated to the north-west of the site. They state that the solar farm does not lie under the route between sites of international importance and is therefore unimportant as a wildlife corridor. It may be true if lines were to be drawn on a map connecting the Scottish sites, Martin Mere and the over-wintering sites in East Anglia but direct visual observations show that this is completely erroneous. There is, at present, no information published about local movements of geese and swans. However, research shows that there is good anecdotal evidence that these birds follow physical features on the ground, for example, rivers, canals and even main roads. Local experienced observers see very large numbers of geese using the Tawd – Douglas valley for migration as well as for local movements to and from feeding grounds. Every year, starting in late August and continuing well into the autumn, large numbers of geese can be seen flying in a southerly direction along the Tawd – Douglas valley to the general area of Newburgh/ Parbold where they change direction and fly to the west towards Martin Mere. When they resume their journey to East Anglia, they fly east along the line of the Leeds-Liverpool canal to the Tawd – Douglas valley and then turn south towards their winter locations. There is a smaller population of Pink-footed geese which 'stop-over' at the RSPB reserve at Leighton Moss in north Lancashire and for this group the Tawd – Douglas valley is on the direct route to Norfolk. Natural England National Character Area 32 -Lancashire and Amounderness Plain stresses the importance of this wildlife corridor. It is also listed as a "Major Wildlife Corridor" in the Council's notes on the reasons for refusal of planning consent.

SUMMER VISITORS/BREEDING BIRDS

177. Lancashire Environment Record Network (LeRN) has provided a set of bird records centred on Tawdside Farm. This shows that a considerable number of bird species of conservation concern have been recorded on the site of the proposed solar farm. It must be pointed out that many of these records are not recent – dating from 1998 or 1999. However, the appellant's Wintering Bird Survey between October 2014 and March 2015 revealed that 10 red listed and 18 amber listed Birds of Conservation Concern (BoCC) were present on the site. BoCC relate to the decline in breeding populations of these species in the UK. Of these, 6 species are listed as Schedule 1 species which receive special protection – these are merlin *Falco columbarius*, peregrine *F. peregrinus*, barn owl *Tyto alba*, kingfisher *Alcedo atthis*, fieldfare *Turdus pilaris* and redwing *T. iliacus*. When checked, Drawing LE12333-004 of the Wintering Bird Survey Report, which

maps the findings of the survey, was found to contain errors and omissions which are shown in the SHSFRG table⁷⁷.

178. Clearly, the appellant could not record any summer visitors or breeding birds due to the timing of the surveys. SHSFRG could not carry out a detailed survey on site, but experienced observers have identified another 28 species which are present at locations very close to Tawdside Farm. Of these, 3 are red listed and 7 are amber listed as BoCC. Not only is this location a valuable site for wintering birds, it is also clear that it is a most important habitat for farmland birds many of which are in serious decline. Lapwing *Vanellus vanellus*, skylark *Alauda arvensis*, oystercatcher *Haematopus ostralegus*, common sandpiper *Actitis hypoleucos*, all of which are ground nesters, are very likely to be breeding on the site usually along the edge of crops. Other species will breed along hedgerow field boundaries and along the banks of the rivers Tawd and Douglas. Green It is proposed to leave an 8m buffer along the river banks but considerable disturbance is inevitable during the construction phase of the development. This is too important a site for many species in serious decline to allow it to be damaged in this way.
179. Barn owl *Tyto alba* and kingfisher *Alcedo atthis*, both recorded by the appellant as being present on site, have protection under Schedule I: Part 1 of the Wildlife and Countryside Act 1981 (as amended). The Council has stated that the appellant did not demonstrate that the barn owls which are known to roost in the farm buildings immediately adjacent to the site would not be adversely affected by the construction or operation of the solar farm. In the appellant's Statement of Case there is no indication that any further assessment of the possible effect on barn owls has been carried out. A similar argument applies to the kingfishers which are present on both the River Tawd and the River Douglas. The Barn Owl Trust does accept that it is possible to manage solar farms for the benefit of barn owls but only if the vegetation is allowed to develop into rough tussocky grass. This is not the appellant's intention which is to either have clear land under the PV panels or plant wild-flower meadows between the arrays of panels. The Barn Owl Trust recommends that a full environmental assessment be carried out and an assessment of the likely impact of the proposal on both barn owl roosts/nest sites and foraging habitats in order to carry out mitigation, compensation and enhancement measures.
180. Summer visitors to the area include swallow *Hirundo rustica*, house martin *Delichon urbica* and swift *Apus apus* which feed in flight over open farmland. In order to avoid impacts on nesting birds and to ensure compliance with the provisions of the Wildlife and Countryside Act 1981 (as amended) it is recommended that any initial ground works and associated vegetation removal take place outside of the bird breeding season (March to August inclusive). If vegetation works are necessary during the breeding season, breeding birds and their nests should be protected by a watching brief. Potential nesting habitats should be hand searched by a suitably experienced ecologist and only when they are satisfied that clearance works will not result in an offence being committed will work be allowed to proceed. Inevitably PV panels do present some risk of collision mortality to birds. Security fencing around PV arrays and any overhead

⁷⁷ SHSFRG Statement of Case, Ecology para 3.1

power lines, wires and supports could represent a collision risk for some bird species.

MAMMALS

181. Bats are often to be seen on summer evenings hunting over the fields and waterways in the area of the proposed solar farm. The rivers Tawd and Douglas provide an abundance of insect food on which the bats feed. Roosts occur in mature trees – to be found along the river banks, in buildings especially of traditional construction, and in the old stone bridges often found in this area over rivers and canals. The appellant's site survey confirmed that suitable foraging sites for bats exist along the boundaries.
182. No attempt appears to have been made to ascertain which species of bat are present and in what numbers. Any works to be carried out on the trees along the boundaries has the potential to impact on bat roosts. The developer has undertaken to provide an 8m buffer zone along the boundaries but if work is to be carried out on any trees within the buffer zone or overhang the site, for example to reduce shading of PV panels, then a full assessment should be made by a competent and independent authority such as the Bat Conservation Trust to comply with the Habitat regulations and with the NPPF and Policy EN2 in the Local Plan. Thus far, the applicant has failed to demonstrate that the proposed development would not have a detrimental impact on a European protected species.

WATER VOLE and OTTER

183. The water vole *Arvicola terrestris* is the fastest declining mammal, having lost 90% of its population across the country. However, the numbers to be found in this part of Lancashire are encouraging. The Northwest Lowlands Water Vole Project reports that the numbers of water voles in West Lancashire is above average (53.4%) and this is due to the extensive network of agricultural drainage ditches throughout the area. The Canal and Rivers Trust reports a stronghold for water voles on the Rufford branch of the Leeds – Liverpool Canal where they are carrying out extensive work to improve the environment to increase breeding success. The North West Lowlands Water Vole Project reports that good populations of water voles exist in the north-west of the Borough. The Merseyside Biodiversity Project reports that there are good populations of water voles in the Leeds & Liverpool Canal from Litherland (North Liverpool) to Parbold. At its closest point the canal is less than 300m from the site." These areas are connected by the Tawd – Douglas rivers and their associated watercourses. It would be logical to expect that water voles will be present in these rivers adjacent to the proposed solar farm and in the drainage ditches which cross the site. The developer has not undertaken a full assessment of this species but has relied on the establishment of the 8m buffer zone. Any work which encroaches towards the water courses will inevitably cause disturbance to this increasingly rare and shy creature. The situation regarding the otter *Lutra lutra* is not at all clear. It has, over the last number of years, spread south from its stronghold in north Lancashire. It is present in the Ribble valley, north of the proposed solar farm, and there have been reports of otters being seen around the Leeds – Liverpool canal less than 300m from the site. An investigation should be carried out to ascertain the status of the otter in the Tawd – Douglas rivers before any possible disturbance to this rare animal can occur.

OTHER SMALL MAMMALS

184. A number of small mammals are found in the local area and it would be most likely that these are also present in the arable crops and field boundaries at Tawdside Farm. We would expect common shrew *Sorex araneus*, pygmy shrew *S. pygmaeus*, bank vole *Cethrionomys glareolus*, field vole *Microtus agrestis* and wood mouse *Apodemus sylvaticus* to be abundant on the site. These provide a most valuable food source for raptors. No attempt has been made by the appellant to survey these creatures.
185. The appellant did not submit any information about the possible presence of Great Crested Newt *Triturus cristatus* in the watercourses surrounding the site or in the drainage ditches within the site. Lancashire has a large population of this species which is protected under European legislation. The applicant has not undertaken a full assessment of this species but has relied on the establishment of an 8m buffer zone along ditches and both rivers. The appellant has also indicated that works may be required within the buffer zones. If these works were to impact Great Crested Newts these could result in a breach of the Habitat Regulations. The appellant has therefore failed to demonstrate compliance with the NPPF and LP Policy EN2 in respect of a European protected species.

INVERTEBRATES

186. Dragonflies and Damselflies are common near to water courses where they breed. There are 19 breeding species of these insects to be found in Lancashire and of these, 17 can be found at the Mere Sands Wood reserve belonging to the Lancashire Wildlife Trust. Mere Sands Wood is only a short distance from the proposed solar farm and it is likely that there will be breeding populations of some of these beautiful insects along the Tawd and Douglas rivers. It is important that survey work should be carried out by a competent and independent authority on Dragonflies to establish which species are present before any work on the site adversely affects a rare dragonfly.

ECOLOGY CONCLUSION

187. SHSFRG believes that the Wintering Bird Survey Report and the Habitats Regulations Assessment are inadequate for the following reasons:
- a. The survey was not independent as it was carried out by employees of Wardell Armstrong (who produced the Wintering Bird Survey Report on behalf of the appellant).
 - b. The survey was shallow and of very limited scope in terms of the apparent late commencement of the Wintering Bird Survey; the severely restricted hours of actual vantage point survey work (only one third of the recommended number) and the extremely restricted number of days on which the survey was carried out.
 - c. The number of wintering pink-footed geese and whooper swans was very much lower than local experienced observers would have expected. In the wider area search, the recorders seem to have ignored much of the area surrounding the site to the North, East and South and have concentrated on the area surrounding the WWT reserve at Martin Mere (North West of the site).

- d. We believe that the report lacks integrity – a detailed investigation into drawing LE12333-004 revealed several errors.
- e. This report will become invalid in October 2015, thus requiring a new wintering birds survey.
- f. Much of the findings are at variance with those of the local residents.
188. The proposed development conflicts with the NPPF, LP Policy EN2 and the Conservation of Habitat and Species Regulations 2010 (as amended). The site has Barn owl and Kingfisher present (both observed by Wardell Armstrong's staff); bats are also common and there is every possibility that Water Vole and Great Crested Newt are present in the Rivers Tawd and Douglas. The appellant has failed to produce sufficient information to demonstrate that the proposal would not adversely affect Protected Species and Habitats.
189. It is not clear when the appellant will be able to carry out this development. It is stated that the work would be undertaken between March and September so as to mitigate any possible disturbance to Pink-footed Geese and Whooper Swans. However, important breeding populations of increasingly uncommon ground nesting birds such as Skylark, Lapwing, Oystercatcher and Common Sandpiper will be present during April to August. These species are already in serious decline and it would be folly to allow even more nest sites for these birds to be destroyed. This conflict of interest means that there is no period in which construction work could be carried out without serious consequences for the bird population. Tawdside Farm is potentially too important an ornithological site to be covered by nearly 60000 PV panels. The appellant has already indicated that additional hedges will be planted for screening purposes but apparently not to benefit the wild-life. When will these be planted so as to cause the least disruption?
190. The appellant has indicated a willingness to plant wild flower meadows between the arrays of PV panels. This is in line with guidance from Natural England, BRE and RSPB stating that wildflower meadows should be incorporated into the proposals for a solar plant. This is excellent when the land is a previously used (brownfield) site when it will create an increase in biodiversity.
191. The landowner is committed to an onerous regime for 25 years of using the correct grasses and flowers together with on-going maintenance and ensuring that the PV panels do not cast shade to negate the advantages of sowing a wildflower meadow. However, in this case, the land has been used for many years for growing cereal or vegetable crops and, therefore, will be far too rich to grow wildflowers successfully as stronger grasses and herbs will crowd out the desired species.
192. PV panels are raised from the ground and it is estimated that 95% of a field utilised for solar farm development will remain accessible for plant growth and, potentially, wildlife enhancements. Apart from a commitment to wildflower meadows discussed above, the appellant has not undertaken to provide any other wildlife enhancements such as:
- a. Allowing rough tussocky un-cropped grass to develop – this would provide nest sites for ground nesting birds.

- b. Planting wild bird seed or nectar rich mixes to provide winter feeding and food for pollinating insects in summer.
 - c. Enhancing features such as hedgerows, ditches, field margins and scrub to provide nesting and foraging areas and allowing wildlife to move between habitats.
 - d. A variety of artificial structures could be built to provide suitable habitats for nesting, roosting and hibernating animals. These might include nest boxes for birds and bats, log piles for invertebrates and suitable locations to encourage insects to hibernate. Built structures could be designed, for example, to allow access to loft spaces.
193. The long-term effect of large solar farms is unknown. None has yet reached anywhere near its design life of 20 or 25 years. The only scientific research on the effects of arrays of PV panels which appears to be taking place is very small scale and in its very early stages.

Conclusion

194. SHSFRG contends that large scale solar farms should not be developed on Green Belt and agricultural land. We agree with Government Ministers who have given clear guidance that previously used land and roof tops should be the first choice for these developments. We support the Council's reasons for refusal and we support and agree with hundreds of residents in the local community who object to this proposal. SHSFRG represents and comprises residents from the local and wider community and as such, our local knowledge and passion for the area in which we live should, we feel, carry weight in the course of assessing this proposal.

Inspector's Appraisal

(Numbers in square brackets denote source paragraphs)

Main considerations

195. The Council's reasons for refusal [2] relate to the Green Belt, agricultural land, and protected species and habitat. In addition, local residents and the SHSFRG [103, 106, 108] raised concerns regarding the effect of the proposal in respect of landscape character and visual impact.
196. In which case, I consider the main issues to be:
- 1) 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,
 - 2) the effect of the proposal on landscape character and its visual impact,
 - 3) the effect of the proposal on protected species and habitat,
 - 4) whether it has been demonstrated that the development of agricultural land is necessary, and
 - 5) 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

197. The NPPF states in paragraph 91, that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. The main parties agree [11, 47, 112] that the proposal 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.
198. 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. In my judgement, 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.
199. LP Policy GN1 advises that development proposals within the Green Belt will be assessed against national policy and relevant LP policies. The NPPF states that substantial weight should be given to any harm to the Green Belt.

Landscape character and Visual impact

200. The Natural England National Character Assessment (NCA) places the appeal site within NCA 32 *Lancashire and Amounderness Plain*. This is characterised by a rich patchwork of pasture and arable fields, within a flat to gently undulating landscape. There are extensive views across the plain, punctuated by blocks of mixed woodland. The appellant also locates the appeal site within Local Landscape Character Area (LCA) 1d *The Douglas Valley Mosses* described as a low lying and flat landscape, with gently undulating fringes.
201. I observed that the land form in the vicinity of the appeal site is flat and low lying with the land rising some way to the south and southeast towards Parbold Hill. The surrounding area is rural in character with some scattered built development. The appeal site is crossed by electricity pylons and is adjacent to a large waste water treatment plant. Close by are the rivers Douglas and Tawd, and the Leeds to Liverpool Canal.
202. In addition to the solar panels, proposed associated structures would include 16 no. inverter cabins, a substation, a switchroom, a communications building, security fencing (around 2.4m in height) and CCTV posts (around 3m tall). No building should exceed around 3.6m in height. It is proposed that the existing hedging at the appeal site would be enhanced by additional planting.
203. The appellant submitted a Landscape and Visual Impact Assessment (LVIA) which includes 10 viewpoints claimed to be representative of a range of views of the proposal [12c]. The LVIA study area extended to a radius of 5km, including a Zone of Theoretical Visibility (ZTV). The nearest settlements to the proposal are Newburgh around 1km to the south, Grimshaw Green around 1.1km to the east and Parbold around 1.2km to the southeast. There are several scattered

dwelling nearby the closest being 38 Deans Lane around 25m to the south, 31 – 37 Deans Lane around 50 - 70m to the south and Snipe Hall Farm and Cottage around 50m to the west. There are a number of local roads which pass close to the site, notably Waness Blades Road, Deans Lane and Mains Lane. In addition, Regional Cycle Route 91 passes around 2.9km from the south of the site; a cycle route and footpath along the Leeds and Liverpool Canal pass around 380m from the south of the site; the Lancashire Trail footpath passes around 3.3km to the south of the site in an elevated position, and local footpath 32 passes around 1km to the east of the site on elevated ground.

204. The LVIA noted the perceptibility of the appeal site to be limited due to the flat landscape and existing vegetation, buildings and raised embankments on waterways, and assessed the effect of the proposal on landscape character as slight adverse. In my judgement, while the proposal would not become a characterising feature of NCA 32 and LCA1d were planning permission to be granted, the introduction of an expansive array of structures (some rising to around 3.6m in height) across land, which is currently open and free from development (except for the 2 pylons and connecting power lines crossing its western extremity) would nevertheless be a major incursion of built form into this area.
205. The proposed scheme would be extant for what would be a considerable time period in the lives of local residents. Solar panels are engineered products that have an industrial appearance. They are not, inherently, products that fit into a countryside environment. I consider the appeal site and its immediate environs to be very characteristic of the overall landscape character areas within which it sits. The adjacent water treatment plant, rather than being a justification for further development in the area, would give the proposal a cumulative impact such that its effect on local landscape character would be moderately harmful.
206. In terms of visual impact, the LVIA concludes that with the exception of the receptors at 38 Deans Lane, who would experience a substantial adverse visual effect, the majority of receptors at dwellings, settlements, and using local roads and recreational routes within the study area, would experience slight to moderate adverse visual impact, depending on the time of year.
207. From what I observed, notwithstanding the proposed set back of the development from the site boundaries, when seen from certain local vantage points such as along Waness Blades Road (LVIA Fig. 8 VP2), Deans Lane (LVIA Fig. 7 VP1) and Mains Lane (LVIA Fig. 9 VP3), along the footpath and cycle path on the Leeds to Liverpool Canal (LVIA Fig. 11 VP 5), along local footpath 32 (LVIA Fig. 12 VP 6), along the footpath along the River Douglas (LVIA Fig. 15 VP 9) and along the Lancashire Trail footpath, the proposal would be a striking, stand out feature. While views are screened to some degree by existing vegetation buildings (which would be enhanced by the proposed planting), the proposal would remain a stark addition to the local landscape when the solar arrays and associated infrastructure are seen from the local road network. This would be particularly the case when the proposal would be seen from the rising land to the south and southeast as shown in the submitted SHSFRG photographs of the appeal site [67].
208. Accordingly, I consider that the proposal would result in significant visual impact harm when seen from local vantage points.

Agricultural land

209. While the Agricultural Land Classification Plan for West Lancashire classifies the majority of the area as Grade 1, the submitted Agricultural Land Classification assessment for the appeal site (which I note was undertaken in accordance with MAFF guidelines and is accepted by both Natural England and the Council) confirms that around 67% of the site is Grade 3b agricultural land [79]. From the submitted evidence, notwithstanding the views expressed by SHSFRG [152, 153], I have no reason to disagree. Furthermore, as a temporary development, albeit one that would endure for around 25 years, the land would not be permanently taken out of agricultural use.
210. With regard to the Council's concern that no sequential test was undertaken in respect of agricultural land, there is no explicit requirement for such a test set out in the NPPF nor was such a requirement drawn to my attention in relation to the development plan. Nevertheless, the PPG makes it clear that particular factors a decision maker will need to consider include: 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; and 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 [21, 73].
211. The Council also referred to Ministerial Statements and speeches in this regard [74] which make clear that *meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land, and for larger deployments, brownfield land should always be preferred*. The SHSFRG alludes to alternative non-agricultural land sites in the Borough [161] which it is claimed were not considered by the appellant.
212. However, I do not have full details of these alternative sites and cannot assess if they would be suitable for a development of the size proposed under this appeal. In addition, most of the land available in the Borough is BMV. Although the smaller portion of the appeal site would constitute BMV, I consider that the proposal conforms to NPPF Paragraph 112 by minimising the use of BMV agricultural land as it would use land of poorer agricultural quality available within the area. It would also follow the advice in the PPG insofar as poorer quality land would be used in preference to higher quality land and the proposed sheep grazing would allow continued agricultural use.
213. Accordingly, in this regard, I consider that the proposal would not conflict with the policies of the NPPF and the advice in the PPG.

Protected species and habitat

214. During the application and appeal stages of the proposal, the appellant's ecologist, Wardell Armstrong, submitted a Preliminary Ecological Appraisal (PEA), a Wintering Bird Survey (WBS) and a Habitats Regulations Assessment (HRA) [25]. The Council consulted the Merseyside Environmental Advisory Service (MEAS) [92] and Natural England [93] on these documents, both of whom raised

concerns. In response, the appellant submitted a rebuttal which was also prepared by Wardell Armstrong.

215. The PEA notes that habitats within the site and to the west are considered to be suitable for foraging and roosting bats including individual trees, ruderal arable fields and hedgerows. It also notes that it was not possible to verify colonisation of the River Douglas by otters nor was any evidence of a holt or resting site observed during the site surveys. With regard to owls, the PEA was unable to identify the species of owl as no birds were present in the owl box during the survey. The appellant further notes that the arable fields of the appeal site and immediate environs currently form poor quality foraging habitat for Barn owl. The PEA considered other species including water vole, kingfisher, reed bunting and breeding birds.
216. The PEA makes the point that no further survey work is required dependent upon the implementation of a minimum operational 5m buffer zone adjacent to trees and hedgerows within the site. The PEA states that no works would be undertaken within the buffer zone once operational but goes on to state that; *if works are required on the trees within the buffer zone or that overhang into the site outside the buffer zone then further survey work will be required to determine their value in terms of roost sites for bats (detailed emergence/re-entry surveys)*. With regard to owls, reference is again made to the buffer zone and no works being undertaken within the buffer once operational. In respect of the ditch, and the Rivers Tawd and Douglas and the associated species, the PEA comments that if works are required within the buffer zone or within the river ditches, then further survey work will be required to determine the value of the buffer zone, ditch and rivers (in terms of associated species). In respect of breeding birds and works within the buffer zone, the point is again made that further survey work should be carried out to determine the status of nesting birds, prior to any works being undertaken.
217. MEAS was concerned that it would not be possible from the submitted evidence, to assess the impact of the proposed development on protected species, including European protected species. The provision of a buffer zone without the survey information to demonstrate that this approach would be effective does not show that impacts on protected species have been addressed. Reasonable avoidance measures as advocated by Natural England's Standing Advice for Protected Species are evidence based and must be reasonable to avoid harm.
218. However, in the rebuttal, the appellant confirms that "further works" refers to unscheduled works that may be required over the lifetime of the development, such as tree management works. No such unscheduled works are envisaged at this time and should they become necessary in the future, advice would be sought from an Ecologist prior to works being undertaken. In my judgement, this matter could be satisfactorily dealt with by attaching suitably worded conditions to any grant of planning permission to require the establishment of a buffer zone and to require said advice to be obtained in the event of works becoming necessary.
219. The proposal is in close proximity to sites of international and national designation (including Natura 2000 sites such as Ramsar, Special Protection Area (SPA), Special Area of Conservation (SAC) and Sites of Special Scientific Interest)

which are referred to by the parties [25, 87]. In its Statement of Case on Ecology, MEAS [92] advised that the arable fields of the appeal site are used for feeding by Pink-footed geese and Whooper swans, a qualifying feature of the European designated sites across the Borough. Whereas, the WBS concluded that the appeal site was not considered to be supporting notable assemblages of roosting, foraging or resting Whooper swan, Bewick swan or Pink footed goose. Two Schedule 1 listed species were identified and the area of highest ornithological interest was in the northern half of the site and close to the banks of the Rivers Tawd and Douglas. It was also concluded that a mitigation strategy would be needed to limit the impacts on wintering birds.

220. However, I note the concerns raised by Natural England [93] regarding the WBS and HRA including: how the single survey on 30 October is representative of the month, justification as to why the use of a single survey per month is appropriate to assess usage by Special Protection Area birds, the lack of spring surveys and why 24 hours of vantage point survey effort was deemed appropriate rather than 72 hours. Natural England also recommended that wintering bird data should be obtained from Martin Mere Wildfowl and Wetlands Trust and local birds groups to cover the site and adjacent fields, and (with regard to the HRA) queried why in assessing the effect of the proposal in combination with other plans and projects, only other wind and solar developments were considered.
221. The appellant's rebuttal points out that annual peak count Wetland Bird Survey data, which it was considered was relevant to the location of the appeal site and Martin Mere, was sought from the British Trust for Ornithology. With regard to the single October survey it is claimed that the survey allows results to be obtained for all winter months, covering the peak periods for Whooper swan and Pink-footed goose. The appellant also argued that 1 survey per month was appropriate because the survey followed the methodology for sites where displacement of over-wintering birds is the impact to be assessed.
222. As for the lack of a spring survey, the appellant pointed out that there was no justification for continuing surveys into April and May as Pink-footed geese leave the area in March and the appeal site lacks the arable farm habitat to support most bird species. Breeding SPA birds were not assessed as the appellant claimed that Bewick's swan, Whooper swan and Pink-footed geese do not breed in the UK and SPA birds which do breed in the UK would not find suitable habitat at the appeal site. In addition, the appellant's rebuttal includes a list of other plans and projects that covers all forms of development, in response to Natural England's concern regarding the HRA.
223. While I note the appellant's rebuttal response, it is not clear if local bird groups were approached for data and several of the responses appear to be based on likelihood, such as the farmland of the appeal site being unlikely to be a significant migrant stop over site for significant numbers of waders or wildfowl. This claim does not appear to have been substantiated by survey data. Similarly, there does not appear to be survey data to substantiate the claim that habitats within the appeal site do not form a suitable breeding resource for the identified SPA breeding birds.
224. Moreover, it is not clear if Natural England was consulted in respect of the revised "plans and projects" list. Furthermore, a housing development at New

Cut Lane and the proposed Ormskirk bypass are identified as having an impact on the qualifying features of designated sites. In the case of the former, it is stated that it may result in the loss of foraging and roosting habitat for Whooper swan and Pink-footed geese and it is then claimed that when considered alongside this proposal, the effect of such loss would be negligible. The rebuttal also points out that the LP makes clear that the Ormskirk bypass will conform to LP Policy EN2, with regard to ecology, and it is assumed that appropriate mitigation measures will be designed for the project. The effect of this proposal in combination with the Ormskirk bypass is not directly addressed.

225. On this basis, the appellant's HRA breaks down the assessment of the proposal into 3 distinct stages which are sequential. These are; Likely Significant Effects Test, Appropriate Assessment and Imperative Reasons of Overriding Public Interest. The HRA concluded under the 1st test that the proposal was unlikely to have a significant negative effect upon the designated sites either in isolation or combination with relevant plans and projects in the Borough. As a result, the HRA did not consider the other 2 tests as set out above.

226. In my judgement, the shortcomings identified by Natural England, have not been fully addressed given the unsubstantiated claims contained in the appellant's rebuttal. Furthermore, the appellant's revised list of plans and projects has not been fully assessed regarding the effects in combination with this proposal on functionally linked habitats used by qualifying features of the designated sites. This calls into question the robustness of the survey data and taking a precautionary approach, I consider that the WBS does not provide sufficient information to enable a competent authority to undertake an assessment of the likely significant effects under the Habitats Regulations. Accordingly, I am unable to conclude that the proposal would be unlikely to have a significant effect as such a risk cannot be excluded on the basis of objective information.

227. In addition, having regard to the Habitats Directive and the Licencing Regime, from the evidence, I am unable to conclude that there are imperative reasons of overriding public interest on health or public safety grounds, or benefits of primary importance to the environment to justify granting planning permission, were the proposal acceptable in all other respects. Against this background, I consider that the proposal is not compliant with the Habitats Regulations and conflicts with LP Policy EN2.

Other matters

228. Interested parties raised concerns in respect of harm to the living conditions of local residents from loss of outlook, noise, and glint and glare, along with alleged harm to highway safety, heritage assets and flood risk [103]. These matters were considered by the Council taking advice from bodies such as the County Highways Surveyor, Environment Agency and the Council's Environmental Health Team. I note from the officer report [97] 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.

229. I further note the officer's conclusion that the proposal would not harm the setting of any of the identified heritage assets (as set out in the appellant's Archaeology and Cultural Heritage Assessment) 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.

230. The appellant referred to several previous appeal decisions [12, 12d, 12e, 12g, 18, 22, 23] 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

231. The appellant has put forward several matters [12] claimed as other considerations in favour of the proposal. Firstly, it is claimed that with a power rating of around 15.9MWp, the proposal would generate sufficient electricity for 4,800 homes for 25 years, equating to a reduction of approximately 8,000 tonnes of CO2 emissions per year. Related to this, the proposal would assist with meeting the UK Government's target for 2020 of at least 15% of electricity to be generated by renewable sources while serving to meet an identified need for renewable energy within Lancashire. The appellant also refers to several documents which set out a need for renewable energy in Lancashire [12b]. While that may be the case there is no requirement that all or part of that need should be met within this Borough. Nevertheless, this is a benefit which weighs significantly in favour of the proposal.

232. It is claimed by the appellant that the proposal would have little visual impact [12c]. However, I have found that the proposal would cause harm to landscape character and would have a harmful visual impact. Against this background, this consideration does not weigh in favour of the proposal.

233. The appellant points out that the temporary nature of the proposal would mean that any harm would be temporary and reversible, and refers to several previous appeal decisions in this regard [12d]. However, the identified harm would pertain for 25 years which is a considerable time period and I give this consideration limited weight in favour of the proposal.

234. The appellant put forward agricultural benefits [12e] pointing out that there would be no permanent loss of agricultural land, the land would be given a rest from agricultural activities and the proposal would result in farm diversification that would support the overall farm business, with an income stream provided for a 20 year period. I give this consideration moderate weight in favour as the proposal would take that part of the site which is BMV land out of arable use for a considerable time period.

235. The likelihood of sheep grazing at the appeal site as part of the proposal is also put forward as a consideration in favour [12f]. However, as a benefit this is tempered by part of the site falling within BMV classification. In my judgement, sheep grazing is not the most productive use of this land in agricultural terms. In which case, I give this consideration limited weight in favour of the proposal.

236. Similarly, while the lack of alternative sites is put forward as a consideration in favour [12g], I consider that it has not fully demonstrated that alternative sites are not available in the wider Lancashire/North West England region, given the

appellant identified the need for renewable energy schemes to lie within the wider area [12b]. Accordingly, this limits the weight I attach to this consideration.

237. Deliverability benefits were also claimed by the appellant with the availability of a willing landowner, an available/deliverable site, an available connection to the National Grid and the development being installed within a 12 – 16 week period being highlighted [38]. While a consideration in favour of this proposal, the weight I attach to it is limited as it has not been demonstrated that these deliverability benefits are features that are unique to this location.

238. The appellant claims biodiversity benefits citing the creation of a wildflower meadow, reptile refuge and insect habitats and additional hedgerow planting [38]. While that may be the case, it has not been demonstrated that the proposed use of the site would be an enhancement in biodiversity terms over the existing use or that the creation of a solar park is the only means by which such an enhancement might be achieved. In which case, I give this consideration limited weight.

239. The appellant also pointed out that the neighbouring United Utilities Water treatment works would be interested in utilising the generated electricity with any surplus being exported to the grid. This benefit is of moderate weight in favour of the proposal as it does not demonstrate that the proposal has to be located immediately adjacent to the treatment plant in order to supply it with power. Furthermore, the Council's uncontested evidence shows that United Utilities is considering developing a solar farm for its own use.

Planning balance

240. Although time limited to a period of 25 years, the proposal would nevertheless represent inappropriate development in the Green Belt. 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 harm to landscape character, significant harm in terms of its visual impact and would conflict with LP Policy EN2 in respect of protected species and habitats.

241. While I have found that 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, visual amenity and the conflict with policy that seeks to safeguard protected species and habitats. Therefore, very special circumstances necessary to justify the proposal do not exist.

Conditions

242. The Council provided a list of conditions that it considers would be necessary if planning permission were to be granted (appended to this report). I have examined them in terms of the tests set out in the NPPF and the PPG. Standard conditions are imposed relating to commencement time and to ensure that the development is carried out in accordance with the submitted plans, along with a condition restricting the permission to 25 years, for the avoidance of doubt. Further conditions are necessary to require the submission of a Decommissioning Method Statement, a Scheme of Restoration, a Construction Environmental Management Plan, a Construction Management Plan a Method Statement to control the identified invasive species, a detailed Habitat Management Plan, a detailed protected species protection; mitigation and enhancement scheme and timetable, and a Landscape and Ecology Management Plan, in the interests of safeguarding the character and appearance of the area, highway safety and safeguarding protected species. Details of the provision of site access and visibility splays are also required in the interests of highway safety.
243. In addition, conditions requiring details of drainage and the implementation of a Flood Risk Assessment are also necessary in the interests of decreasing flood risk along with a condition to ensure works are carried out in daylight and away from watercourses to protect wildlife. Also in the interests of safeguarding wildlife, conditions are required to avoid site clearance during the bird nesting season and to ensure the implementation of the mitigation and enhancement set out in the Ecological Appraisal, June 2014. A landscaping condition is also required along with conditions relating to tree protection, bat surveys and prevention of open burning of waste on site, in the interests safeguarding the character and appearance of the area, protecting wildlife and residential amenity.
244. A condition is also necessary to restrict permitted development on the site in respect of machinery, buildings, structures and means of enclosure, in the interests of safeguarding the character and appearance of the area, along with conditions relating to noise, lighting, CCTV, colour finishes and materials for the protection of the amenity of the nearest residents and to safeguard the character and appearance of the area.
245. However, I shall amend Conditions 26 and 27 (as suggested by the appellant) to begin; "No security lighting shall be installed", rather than; "No development shall commence" as this is a more reasonable requirement. Similarly, I shall amend Condition 29 to begin; "No inverters or transformers shall be installed", rather than; "No development shall commence", as this again is a more reasonable requirement. I shall not though amend Condition 14 to allow works during daylight hours or between the hours of 08:00 - 18:00 whichever is the longer, as this condition is required in the form suggested by the Council, to safeguard protected species.

Recommendation

246. Having taken account of all of the matters raised in the representations, 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

Conditions

1. The development must be begun not later than the expiration of 3 years beginning with the date of this permission.
2. The planning permission hereby granted is for the development to be retained for a period not more than 25 years from the date when electricity is first exported to the electricity grid (first export date). Written confirmation of the first export date shall be submitted to the Local Planning Authority within 1 month of the first export date.
3. Not less than 12 months before the expiry of this permission, a Decommissioning Method Statement (DMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The DMS shall include details of the removal of the panels, supports, inverters, cables, buildings and all associated equipment/structures/infrastructure and fencing from the site. The DMS shall also include details of the proposed restoration and a timetable. The site shall be decommissioned and restored in accordance with the approved DMS and timetable within 6 months of the expiry of the 25 year period of planning permission.
4. If any of the solar panels hereby permitted ceases to export electricity to the grid for a continuous period of 6 months then a scheme of restoration shall be submitted to the Local Planning Authority for its written approval for the removal of the solar panel(s) and associated equipment, fencing and other infrastructure and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall be fully implemented within 6 months of the date of its written approval by the Local Planning Authority.
5. The development hereby permitted shall be carried in accordance with the following plans: Location plan SF0673-02 received by the Local Planning Authority on the 24th July 2014; PV layout SF0673-01 rev F received by the Local Planning Authority on the 29th October 2014; CCTV 3m pole standard detail GSS100A 001 received by the Local Planning Authority on the 24th July 2014; Inverter building GSS100A 002 received by the Local Planning Authority on the 24th July 2014; Fence detail GSS100A 003

received by the Local Planning Authority on the 24th July 2014; Gate detail GSS100A received by the Local Planning Authority on the 24th July 2014004; Typical 33kv switch room and meter room dated 16/7/2014 received by the Local Planning Authority on the 24th July 2014; Solar panel arrangement dated 25/6/2014 received by the Local Planning Authority on the 24th July 2014 and Typical trench detail dated 25/6/2014 received by the Local Planning Authority on the 24th July 2014.

6. No construction work shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall include methods and details of construction, including vehicle routing to the site, construction traffic parking, deliveries and the proposed traffic management measures. The development shall be carried out in accordance with the approved details of the Construction Management Plan.
7. No construction work shall take place until a scheme for the construction of the site access has 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 retained as such for the duration of the development hereby approved.
8. No construction shall take place until visibility splays measuring 2.4 metres by 53 metres in both directions, measured along the centre line of the proposed access road from the continuation of the nearer edge of the existing carriageway of Deans Lane have been provided. The land within these splays shall be maintained thereafter, free from obstructions in excess of one metre in height.
9. No construction works shall take place until details of a surface water drainage scheme have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological context of the development. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The development shall be carried out in accordance with the approved details and retained as such for the duration of the development hereby approved.
10. The development shall be carried out in accordance with the Flood Risk Assessment (FRA) dated October 2014.
11. No construction works shall take place 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 ground anchoring, ground re-profiling works, temporary storage/construction compound areas and construction hours. The development shall be carried out in accordance with the approved details and retained as such for the duration of the development hereby approved.
12. No development shall take place until a Landscape and Ecology Management Plan (LEMP) has 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 retained as such for the duration of the development hereby approved.

13. No construction works shall take place until a method statement to control the identified invasive species has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved control measures scheme.
14. All works shall be carried out during daylight hours and best practice with regard to mammals shall be followed for the duration of works with any trenches covered at night and known foraging routes left unobstructed.
15. No construction shall take place until a detailed habitat management plan and timetable to cover the period of use of the site as a solar farm have been submitted to, and approved in writing by, the Local Planning Authority. The agreed scheme shall be implemented in full as per the approved timetable and retained as such for the duration of the development hereby approved.
16. No construction shall take place until a detailed protected species protection; mitigation and enhancement scheme and timetable have been submitted to, and approved in writing by, the Local Planning Authority. The agreed scheme shall be implemented in full as per the approved timetable and retained as such for the duration of the development hereby approved.
17. No works shall be carried out, structures erected, or materials stored, within 8m of the watercourses (Rivers Douglas and Tawd) to the west, north and east of the site boundary and the ditch within the site.
18. All site clearance and preparation works including the removal of vegetation shall be timed so as to avoid the bird nesting and breeding season and the active reptile and great crested newt season from 1 February to 1 October inclusive.
19. The proposed mitigation and enhancement as referred to in paragraphs 4.2 to 4.8 of the preliminary ecological appraisal dated June 2014 shall be implemented in full throughout the duration of the development hereby approved.
20. No construction works shall take place until a landscaping scheme, including details of the hedgerow planting and timetable for implementation has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include locally appropriate native species and show their location and branch spread with: a) details of the proposed tree and shrub planting including details of their species, number, sizes and positions, together with any grass seeded and/or turfed areas; b) details of existing trees and hedgerows to be retained, and measures for their protection in the course of the works, as well as those to be removed, including existing and proposed soil levels at the base of each tree or hedgerow and the minimum distance between their bases and the nearest excavation; and c) a detailed timetable. Trees and shrubs planted shall comply with BS. 3936 (Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape

Operations). The development shall be carried out in accordance with the approved details of the landscaping scheme. All planting shall be maintained and dead or dying material shall be replaced for a period of 7 years from the agreed date of planting.

21. No construction work shall take place until a method statement detailing measures to be taken during construction to protect the health of the existing trees, shrubs and hedgerows to be retained has been submitted to, and approved in writing by, the Local Planning Authority. The measures contained in the approved method statement shall be fully implemented during construction.
22. No mature trees shall be removed without first having been surveyed by a suitably qualified person to determine whether bats are utilising it. Survey results, together with any necessary method statements and proposals for mitigation 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.
23. There shall be no open burning of materials or waste on the site.
24. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any Order amending, replacing or re-enacting that Order) no fixed plant or machinery, buildings, structures and erections, means of enclosure or private ways shall be erected, extended, constructed, installed, rearranged, replaced, repaired or altered at the site without prior planning permission from the Local Planning Authority, except for those works permitted by this permission.
25. Construction work, which is audible from the boundary of any noise sensitive receptor, shall only take place between the hours of 08:00 - 18:00 on Monday to Friday inclusive, 08:00 - 13:00 hours on Saturdays with no such working on a Sunday or local or national public or bank holiday. The receipt of any materials or equipment for the construction of the site is not allowed outside the said hours, unless otherwise approved in writing by the local planning authority having been given a minimum of two working days' notice of the occurrence of the proposed event.
26. No security lighting shall be installed until a scheme showing details of any security lighting has 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 retained as such for the duration of the development hereby approved.
27. No security lighting shall be installed until details relating to infra-red/thermal imaging CCTV equipment, including details of their design, appearance, height, colour and specification, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details for the duration of the development hereby approved.
28. The CCTV cameras shall be permanently fixed to be focussed only into the site for the duration of the development hereby approved.

29. No inverters or transformers shall be installed until details of the colour of the inverters and transformers have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained as such for the duration of the development hereby approved.
30. The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved details associated with the application.



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.

3029788

Land at Park Farm,
Claverdon,
Warwickshire

Stratford on Avon District Council

20 April 2016



Department for
Communities and
Local Government

Mr Nicholas Leaney
Aardvark EM Limited
Higher Ford
Ford, Wivelscombe
Taunton
Somerset
TA4 2RL

Our Ref: APP/J3720/W/15/3029788

20 April 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY BERTY 003 LIMITED:
LAND AT PARK FARM, CLAVERDON, WARWICKSHIRE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Vicki Hurst BA (Hons) PG Dip TP MA MRTPI, in relation to your appeal against the decision of Stratford on Avon District Council to refuse planning permission for the installation of standalone solar PV modules, grid connection, access track and associated infrastructure, in accordance with application ref 14/02034/FUL, dated 30 July 2014. An accompanied site visit was made on 10 December 2015.
2. The appeal was recovered for the Secretary of State's determination on 11 December 2015 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal is 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 conclusions and 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 the saved policies of the Stratford on Avon Local Plan Review (2006-2011) ('the Local Plan'). The Secretary of State considers that relevant development plan policies include those set out in IR13-15.
5. The Council is currently preparing its Core Strategy for the period 2011-2031, which has completed its Examination in Public. The Secretary of State considers that the

relevant policies include CS.3. For the reasons set out in IR16, he has given emerging policy moderate weight. He has also taken into account the documents set out at IR17.

6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and the associated planning practice guidance ('the Guidance'), the UK Solar PV Strategy (parts 1 and 2) and the Written Ministerial Statement of 25 March 2015.

Procedural matters

7. The Inspector's Report at IR11 refers to the lifespan of the development as being 20 years, but elsewhere refers to a lifespan of 25 years. The Inspector's consideration and conclusions correctly refer to a lifespan of 25 years (IR91, IR133), and the Secretary of State has considered the appeal on this basis.

Main issues

8. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR86.

Compliance with the development plan

9. For the reasons below the Secretary of State agrees with the Inspector that the proposal conflicts with Local Plan Policies PR.1, PR.2, PR.6, CTY.4 and also conflicts with policy CS.3 of the emerging Core Strategy. It would also be in conflict with the objectives of the Framework and the Guidance (IR139).

Green Belt

10. For the reasons given in IR87-88, the Secretary of State considers that the proposal would constitute inappropriate development in the Green Belt. This harm carries substantial weight. For the reasons given in IR89-91, the Secretary of State agrees with the Inspector that there would be a significant adverse effect on the openness of the Green Belt and that the proposals would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment. This would be an additional significant harm to the Green Belt (IR91).

Character and appearance

11. For the reasons given at IR92-98, the Secretary of State agrees with the Inspector that the landscape is capable of absorbing this particular development without harming its essential characteristics (IR97) and that the improvements to access would not cause significant harm to the character and appearance of the area (IR98).

Visual amenity

12. For the reasons given in IR99-104, the Secretary of State agrees with the Inspector that there would be a significant adverse effect on the visual amenities of the public right of way SD162a, and this would not be in accord with the Local Plan. There would be a minimal impact in respect of other viewpoints. Overall he considers that the impact on visual amenity carries moderate weight against the proposal.

Agricultural land

13. The guidance encourages the use of previously developed and non-agricultural land, and where greenfield land is to be used consideration is required to be given as to whether 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. For the

reasons given at IR105-110, the Secretary of State agrees with the Inspector that there is inconclusive evidence to conclude that the proposal would be using poorer quality land. There is a further lack of conclusive evidence that there are no available brownfield sites that could be utilised. He considers that in the absence of convincing evidence the proposal does not accord with national policy guidance, and that these matters weigh significantly against the proposal (IR110, IR138).

Renewable energy

14. For the reasons given at IR124-127, the Secretary of State considers that the development would make a significant contribution to providing energy from a renewable source. He has taken into account that the scheme has been designed to maximise the amount of electrical hours of production per hectare (IR125), and considers that this benefit weighs in favour of the proposal. Overall he agrees with the Inspector that the contribution that the proposal makes to energy security and national renewable energy targets weighs significantly in its favour (IR127).

Other matters

15. For the reasons given at IR111-123, the Secretary of State agrees with the Inspector that: the proposal would not cause any harm to historic assets (IR118); subject to conditions there would be no significant flooding concerns (IR120); subject to conditions highways impacts are neutral in the planning balance (IR122); and there is little evidence that the proposals would give rise to any significant increase in noise levels (IR123).

16. The Secretary of State agrees with the Inspector that the proposal has potential to enhance the biodiversity of the site through the reduction in the use of pesticides and fertilisers, and this carries limited weight in its favour (IR121). He agrees with the Inspector that there would be a contribution to the farm business and its future security, as well as some benefits to the local community through job creation, and considers that these carry moderate weight in favour of the proposal (IR131-132). He gives little weight to the amendments which have been made to the scheme (IR134).

17. The Secretary of State agrees with the Inspector that no weight attaches to the offer of a community fund to the local shop and post office (IR132).

Conditions

18. The Secretary of State agrees with the Inspector's comments at IR141-144 on planning conditions and is satisfied that the conditions recommended in the 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.

Overall planning balance and conclusions

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

20. The Secretary of State has taken into account the benefits in terms of renewable energy, and other benefits of the proposals. He agrees with the Inspector that the other considerations in this case do not clearly outweigh the harm to the Green Belt and the other harm that has been identified. He further agrees with the Inspector that there is no evidence that the impacts of the proposals could be made acceptable and

that the very special circumstances necessary to justify the development do not exist (IR138, IR149).

21. The proposal would not be in accordance with the development plan or with the objectives of national policy. 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

22. 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 installation of standalone solar PV modules, grid connection, access track and associated infrastructure, in accordance with application ref 14/02034/FUL, dated 30 July 2014.

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 Stratford on Avon District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Maria Stasiak

MARIA STASIAK

Authorised by Secretary of State to sign in that behalf

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: 18 February 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY BERTY 003 LIMITED

STRATFORD ON AVON DISTRICT COUNCIL

Site visit made on 10 December 2015

Land at Park Farm, Claverdon, Warwickshire

File Ref: APP/J3720/W/15/3029788

File Ref: APP/J3720/W/15/3029788

Land at Park Farm, Claverdon, Warwickshire

- 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 BERTY 003 Limited against the decision of Stratford on Avon District Council.
- The application Ref 14/02034/FUL, dated 30 July 2014, was refused by notice dated 12 March 2015.
- The development proposed is the installation of standalone solar PV modules, grid connection, access track and associated infrastructure.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. The appeal was recovered for determination by the Secretary of State on 11 December 2015. The reason for recovery is that the proposal is for significant development in the Green Belt.
2. The application was accompanied by an Environmental Statement (ES). The ES was the subject of a Planning Inspectorate Adequacy Check dated 11 November 2015¹. This concluded that the ES was satisfactory in meeting the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011 No. 1824). I have taken it into account in my making my recommendation.
3. The application was amended during its processing to reduce the number of panels and their arrangement, to update technical documents to reflect the changes and to provide additional information at the request of the Council and statutory consultees. A representation has been made that there are some discrepancies between the plans including the extent of the application site boundary and that the Council's site notice did not accurately portray the full application site boundary².
4. Whilst the technical reports include some maps that do not include the full boundary they also include extracts from the submitted plans with the full site indicated. The Council advertised the development with reference to all available documents and plans being available on line or in the office and it determined the application on the basis of these plans. I am satisfied that no injustice has arisen from the discrepancies within some of the documents and that none would arise from taking the revised plans and information into account. I have done so in making my recommendation.
5. I undertook an accompanied site visit to the site and the surrounding area on 10 December 2015. I clarified with the main parties at the site visit which plans had formed the basis of the Council's determination and a list of the agreed plans is included at Annex A.

¹ Doc 1

² Doc 2

The Site and Surroundings

6. The appeal site lies in the countryside and comprises approximately 16 hectares of agricultural land divided into three adjoining fields and situated to the east of the railway line and to the south of Claverdon Station. An electricity sub-station is located to the north of the site and access is taken from the A4189 Station Road to the north. A sewage treatment works was under construction at the time of my site visit to the north east of the site and Public Right of Way (PROW) number SD162a traverses through the centre of the site and crosses fields to the east and west. The village of Claverdon, two parts of which are designated as conservation areas, is situated on higher ground some 0.85km to the north west and several residential properties are located to the north along Station Road³.
7. The site is situated on low lying ground, adjacent to a designated flood zone⁴. Hedgerows follow the wider field boundaries and the Railway Meadows Site of Special Scientific Interest (SSSI) lies to the south⁵. The site falls within the landscape National Character Area 97 (NCA), Arden and the Stratford-on-Avon Design Guide 2001 Arden area, sub area Ancient Arden⁶. This comprises a pastoral landscape of a mixture of arable farming and grazing land. The whole site lies within the West Midlands Metropolitan Green Belt.

The Proposal

8. The proposal would provide arrays of solar photovoltaic (PV) modules with associated infrastructure comprising 6 transformer houses, one private high voltage switchgear building, one District Network Operator (DNO) substation building, and one storage container. The transformer houses would be distributed throughout the site, the switchgear building and storage containers would be located in the north west corner of the northern field and the DNO substation would be situated to the west of the electricity sub-station near the entrance to the site. A construction compound would be located to the south of the switchgear building. The existing field gate providing access to the A4189 would be altered to provide a bell mouth junction and the access would follow the boundary of a field to the north of the solar farm with the arrays starting in the second field from the A4189.
9. The solar panels would be mounted on a metal framework structure and would be orientated in rows on an east-west axis. They would be approximately 2 metres high at their highest point with 4 metre gaps between rows. A new hedge would be provided along the northern boundary of the field in which the arrays would be situated and the whole site would be fenced with 2 metre high perimeter deer fencing with CCTV cameras provided around the site. Drainage swales would be provided across the site and a wildflower meadow would be planted to the south west of the public right of way that crosses the site.

³ Site location is shown on plan number 1258/2861

⁴ Doc 3

⁵ Doc 4

⁶ Docs 5 & 6

10. The scheme would generate 6,810MWh per annum which the appellant states is the equivalent to the consumption of 1,294 residential properties and an associated CO2 emissions saving of 2,124t per annum⁷.
11. The appellant states that an annual fund payable to the local community of £10,000 per annum for the lifetime of the scheme (20 years) has been offered for the possible funding of a part time member of the community shop to help run a post office. This would also be subject to a business rates levy which based on other solar schemes would equate to approximately £30,000 rates per annum payable into the District Council⁸.
12. The application was refused following a committee site visit and resolution on 12 March 2015 and the Council's reasons for refusal are set out in its decision notice dated 12 March 2015⁹.

Planning Policy

The Development Plan

13. The Development Plan comprises the saved policies of the Stratford-on-Avon Local Plan Review 2006-2011 (the Local Plan). The Development Plan policies of particular relevance to this appeal are saved policies PR.1, PR.2, PR.6 and CTY.4. Policy PR.1 requires all development proposals to respect, and where possible, enhance the quality and character of the area. Proposals that would damage or destroy features which contribute to the local distinctiveness of the local area will not be permitted unless significant public benefit would arise from the scheme.
14. Policy PR.2 provides for a general presumption against inappropriate development in the Green Belt unless for certain specified circumstances. Policy PR.6 encourages the provision of renewable energy schemes, including from solar, providing that the proposed development would not have a detrimental effect on the environment or character of the local area, including visual impact or an unreasonable adverse effect on existing dwellings.
15. Policy CTY.4 generally supports proposals which seek to diversify farm based operations subject to certain criteria including whether the scale and nature of the proposed activity can be satisfactorily integrated into the landscape without being detrimental to its character and with regard to the effect on existing properties and settlements.
16. The Council is in the process of preparing its Core Strategy for the district for the period 2011 to 2031 and which has been through its Examination in Public. Although the Strategy has yet to be adopted a number of policies have been cited that it considers should be given weight as they are free from unresolved objection and are broadly consistent with national policy. Of particular relevance is policy CS.3 which provides support for solar energy subject to a number of criteria including its impact on agricultural land, its impact on openness and the character of the landscape and visual amenity. The Council states that no objections have been received relating to the solar farm element of the policy

⁷ Doc 7

⁸ Doc 8

⁹ Doc 9

and given its conformity with national policy and that the Council has adopted it on an interim basis I have afforded it some weight in my assessment.

17. The Council has produced Supplementary Planning Guidance entitled "Stratford-on-Avon District Design Guide, 2001" which defines landscape character areas based on the Warwickshire Landscapes Guidelines produced by Warwickshire County Council. The Renewable Energy Landscape Sensitivity Study (the Sensitivity Study) prepared by consultants in 2014 assessed the sensitivity and capacity of the district landscape character types to accommodate commercial wind and solar energy development. This document has not been adopted but is referenced in policy CS.3 referred to above.

National Planning Policy

18. 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).
19. In line with the European Parliament Directive 2009/28/EC which obliges members states to commit to renewable energy targets, 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 acceptable¹⁰.
20. This approach reflects the UK Government's strategy for solar PV set out in the Department of Energy and Climate Change's publication UK Solar PV Strategy Parts 1 and 2.
21. The Framework identifies that Green Belts serve five purposes including assisting in safeguarding the countryside from encroachment. Their essential 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 are clearly outweighed by other considerations.
22. 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

¹⁰ Paragraphs 97 & 98, National Planning Policy Framework, March 2012

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.

23. 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.

The Case for BERTY 003 Limited

24. The appellant's case is set out in the statement of case dated July 2015¹¹ and the final comments dated 13 October 2015¹². The material points are as follows.
25. The site comprises an area of agricultural land currently under cultivation. The site was selected following an assessment of several criteria and environmental studies. It was chosen due to it not being high grade agricultural land being classified as Grade 4 to 5 under the Agricultural Land Classification, its lack of statutory planning, historic, archaeological and environmental designations, its distance from residential properties, its good solar resource, available connection capacity to the electrical grid, and good transport infrastructure.
26. The design of the scheme has responded to the pre-application consultation with the local community with the design being changed to lower the maximum height of the panels and remove all panels from the road adjacent to Station Road, planting a hedge across the site from the sewage treatment works to the railway boundary and retaining a broad buffer where the footpath crosses the site and providing deer fencing rather than security fencing. The proposal was also reduced between the Environmental Impact Assessment (EIA) screening and the determination of the application. The scheme has been designed to make efficient use of the land whilst maximising production through the arrangement of the panels and would provide new renewable and low carbon electricity generation capacity which represents a small but direct and valuable contribution to the regional and UK targets for installed renewable energy and carbon emission reduction.
27. There is a clear priority in both the national and development plan frameworks for achieving sustainable development. The development is reversible, sustainable and consistent with policy objectives and meets the Framework's commitment to sustainable development. The context and justification for development in accordance with these policies is weighing benefits against the acceptability of impacts and for the purposes of the Framework requiring adverse effects to be such that they would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole.

¹¹ Doc 7

¹² Doc 10

The need for the proposed development

28. Given the national policy context there remains a strong policy drive to continue to develop renewable energy and a need for developments that are acceptable to be granted planning permission to meet a greater impetus for renewable energy and a shortfall on meeting targets. The Framework does not require applicants to demonstrate the overall need for renewable or low carbon energy and recognises the contribution even small scale projects can make.

Renewable energy policy

29. In balancing the benefits of the scheme and the potential impacts in terms of assessing acceptability the conclusion reached is that the proposed development is acceptable in terms of its location, siting and potential environmental effects and the principle of the development should therefore be accepted.

Green Belt policy

30. The Council's policy PR.2 considers Green Belt in terms of a presumption against inappropriate development. It identifies development necessary to the continuing operation of agricultural holdings to be something that might secure consent as an exception. The policy also recognises that certain developments within the Green Belt may be acceptable because of the significant public benefits that they bring.
31. The Framework advises that substantial weight is given to any harm to the Green Belt. Balanced against this are the benefits from the scheme which amount to the very special circumstances needed to outweigh any demonstrable harm and thus enable the proposal to be supported. The Framework confirms that the wider environmental benefits associated with increased production of energy from renewable sources may amount to the very special circumstances if the renewable project is in the Green Belt.
32. The Framework makes it clear that there are several steps to take when looking at the Green Belt issue. First is to establish whether the proposal is inappropriate development. The second is to establish the degree of Green Belt harm, the third to assess any other harm and the fourth to identify material planning considerations of such weight to represent very special circumstances.
33. The development does comprise inappropriate development as it will impact on the openness of the Green Belt because its installation amounts to construction of new renewable energy plant in an open field. Additionally it would not assist in maintaining one of the purposes of including land within the Green Belt, that of safeguarding the countryside.
34. The scheme has been altered following the community consultation and whilst it is accepted there still would be some limited harm it is considered that these changes are material and sufficient to lower the degree of Green Belt harm and which would be low/moderate rather than significant.
35. There were no objections concerning ecology, highways, heritage or flood risk that may contribute to such harm.
36. The onus is on the appellant to identify the very special circumstances necessary to outweigh the Green Belt harm.

37. The proposed solar installation will serve to diversify the farm's business activities and assist in securing the future viability of the farm through providing an income for re-investing into the small mixed family farm for today and for future generations.
38. The scheme would provide wider environmental benefits associated with renewable energy production to approximately 1,294 homes, the reduction in CO2 emissions, the proximity to the electricity grid negating the need for overhead or underground cables, the lack of available brownfield land of an adequate size, and the poor quality of the agricultural land which requires significant soil improvement to provide a sustainable crop yield and which has an adverse effect on biodiversity.
39. The site makes a limited contribution to the purposes and openness of the Green Belt due to its containment by physical barriers and existing screening and there is a limited impact on the character and appearance of the surrounding landscape due to existing vegetation and the topography changes with limited views from only a small number of public vantage points. The proposal would contribute to farm diversification and the rural economy whilst enabling the continued use of the site for sheep grazing beneath the panels.
40. The local community would benefit through the creation of construction, ongoing maintenance and decommissioning jobs and through funding and support to the local shop and Post Office during the operational period.
41. The proposal would provide biodiversity enhancements including grassland beneath the panels, additional screening planting, and the planting of a wildflower meadow along the route of the footpath and protection of the nearby SSSI which would have the potential to increase both biodiversity and botanical diversity for over 20 years. As such the very special circumstances needed to outweigh any demonstrable harm and thus enable the application to be supported have been demonstrated.

Landscape policy

42. The solar park would not be sited in a very prominent location and benefits from significant vegetation and topographical shielding which protects the amenity of the area. The Zone of Theoretical Visibility (ZTV) in the Landscape and Visual Impact Assessment¹³ demonstrates that the visibility of the site is extremely localised by being sited at a low point in the landscape with visibility restricted by the undulating topography. The constrained visibility of the solar scheme must be one of its major strengths as this restricts the potential for significant negative impacts on the wider landscape character. The impacts have been overstated by the Council resulting in a refusal.
43. Policy PR.1 requires all development to respect the character of the area and where landscape features which contribute to the identity and distinctiveness of an area might be damaged, development will not be permitted unless there is significant public benefit. The public benefit of renewable energy supply is significant. Furthermore, any damage will be visual in nature and will mainly be limited to views from the PROW that crosses the site. The visual change at site

¹³ Doc 5

level would be immediate and obvious but visual impacts will be filtered through the existing peripheral hedges and mature trees with distant views being unavailable from all directions due to vegetation and topography. The technical reports that accompanied the application conclude that there will be no unacceptable negative impacts that are not outweighed by the environmental benefits of producing renewable energy at this site.

The planning balance and conclusions

44. The key matters in policy terms relate to the potential landscape and visual effects of the proposed development, particularly in relation to impacts on the local landscape and effects on the Green Belt. Very special circumstances against which the acceptability of the development in the Green Belt should be assessed have been demonstrated and the conclusion reached is that the proposal is in accordance with the development plan.
45. Insufficient weight has been given to the Framework in assessing the balancing provision of any adverse effects against the benefits of the scheme with the requirement for adverse effects to be such that they would significantly and demonstrably outweigh the benefits. The proposed development would make a direct and valuable contribution to reducing CO2 emissions and achieving renewable energy targets and there is a substantial evidential basis for support for new renewable energy development in Warwickshire. The development accords with the statutory development plan as a whole.
46. Other material considerations have been identified including the very special circumstances, the public benefit of renewable energy generation, the time limited and reversible nature of the development, and national planning policy. The scheme derives very considerable support from these material considerations and which are entitled to significant weight in the decision-making process.
47. Whilst the proposal would have a possible negative impact on the Green Belt by reason of inappropriateness, because of a reduction in openness and through a limited amount of harm to the landscape, all over a time limited period, this level of harm is limited and outweighed by the benefits and very special circumstances demonstrated. Any harm identified to landscape character is unavoidable but the public interest test relating to residential amenity is not breached and any harm on local landscape types and visual effects on the landscape setting would not substantially harm their significance. There would be some limited change to the local area and character but this would not be unacceptable to the public interest. There are no financial or system impediments to bring forward the proposed development and the development would not result in any noticeable ecological or highway impacts and would make a direct and positive contribution to the long term operation and viability of Park Farm whilst making a contribution to renewable energy targets.
48. The development accords with the statutory development plan and material considerations do not indicate that consent should be refused.

The Case for Stratford-on Avon District Council

49. The Council's case is set out in the statement of case and appendices dated 25 September 2015¹⁴. The material points are as follows.

Sequential testing

50. In line with government announcements that brownfield land is the focus for solar growth an assessment of available brownfield land was provided. This indicates that there are limited or insufficient sites available of a suitable size. Brownfield sites within Stratford and Warwick Districts are allocated for alternative forms of development. A large area of land is required to maximise the amount of electrical hours of production and the scheme can provide some 50% more PV per hectare than typical designs and would be more efficient. There is a requirement for capacity within the electrical grid and the area is heavily constrained restricting the availability of sites. This site is within close proximity to the local sub-station with connection available and the landowner is willing to lease the land for over 20 years. The site is low grade agricultural land and sheep grazing can continue with biodiversity improvements proposed. An appropriate assessment of alternative brownfield, commercial and greenfield land has been provided.

Development of agricultural land

51. The applicant's surveyor has advised that the land is graded as Grade 4 and possibly 5 and is therefore of low quality. The arable crops taken from the land are of a lower yield to others on the farm and the land is expensive on energy and labour with little or no profit in most years with an input of pesticides. The solar farm would not have any direct impact on the agricultural land quality as there is very little in the way of intrusive works into the soil and the land could continue to be farmed both during its lifetime and following decommissioning. The proposal would not result in the loss of the best and most versatile agricultural land and the loss of agricultural land over the 25 year lifetime of the proposal should not be a factor to warrant refusal.

Impact on the landscape and character of the area

52. As part of its core principles the Framework requires account to be taken of the different roles and character of different areas, and recognition to be given to the intrinsic character and beauty of the countryside, as well as seeking to secure high quality design. The UK Solar Road map requires proposals to be appropriately sited and the Guidance advises local authorities to consider the potential to mitigate landscape and visual impacts of renewable energy schemes.

53. There is no landscape designation for the site but it is pleasant rolling countryside and there are panoramic views from the higher ground at Claverdon over the site and to more distant views. A Special Landscape Area for the Arden is recommended under the Special Landscape Study 2012 and which comprises part of policy CS.12 of the draft Core Strategy. However, due to its status in the emerging Core Strategy this particular policy is of limited weight.

¹⁴ Doc 6

54. Typical features of the Ancient Arden landscape include its undulating form, hedgerow and roadside oaks, irregular pattern of small to medium sized fields, network of winding lanes and tracks with high banks, scattered hamlets and farmsteads. The site is large open fields but the locality of the site displays these landscape characteristics.
55. The Council's Sensitivity Study is not adopted but provides a landscape sensitivity study for wind and solar energy development by reference to character areas. The site lies at the edge of the Ancient Arden sub-character area and adjacent to the Arden Wooded Estate lands. The study categorises the proposal as a medium sized solar farm.
56. The Sensitivity Study perceives the landscape experience as being "moderately open with attractive unspoilt middle distance views across valleys to surrounding hills. This is modified by tree cover which encloses some areas". It finds the Ancient Arden to be of high sensitivity to medium scale solar energy development due to its prominent rounded hills and undulating sloping topography.
57. Despite the railway line the site has a tranquil character. There are open, attractive views from the edge of Claverdon and from the footpath to the east over this site. The railway is not particularly discernible in views from higher ground and has a limited visual impact in the landscape. The solar panels would be a striking feature in public views and at odds with the open, rural character of the area.
58. Views of the site from the A4189 are limited to near the access and views to road users would be negligible although there would be various glimpsed views. The solar panels would be visible to train passengers and those on the station platform and the effect on visual perception of the landscape would be reasonable in this context.
59. In crossing the site on PROW SD162a there would be a significant effect. The views would finish at the railway line for a walker heading towards Claverdon and for a walker heading east the impact would finish once beyond the solar panels and in the trees. Views looking north, particularly in the vicinity of Bargain Wood would be relatively conspicuous and only partially screened between November and March. These views would be significant and unreasonable with the panels appearing as an incongruous and intrusive addition to the rural landscape.
60. In walking towards Claverdon on PROW SD162a and from the footpaths on the eastern edge of Claverdon the panels would be visible due to the extent of the proposal and would unreasonably detract from the views across the landscape. The alteration to the vehicular access and wheel wash facility would exacerbate the suburbanising influence on the relatively open rural character of the site and surroundings.

Green Belt

61. The proposal is inappropriate development as defined by the Framework. This is, by definition, harmful and should not be approved except in very special circumstances.
62. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open. This proposal would not constitute urban sprawl. The land would not remain open but would be enclosed by this

development for a time limited period of up to 25 years which is a large part of an average person's lifetime. The proposal is reversible and this should be taken into account.

63. Openness is an essential characteristic of the Green Belt and is generally defined as the absence of built form. This does not depend on visibility and as a large, man-made feature the proposal would considerably reduce openness and would add to the harm by reason of inappropriateness.
64. The site coverage, visibility from local vantage points including footpaths and the railway line ensure the development will be highly visible and an incongruous addition to this open, rolling landscape. The proposal conflicts with Green Belt policy unless special circumstances can be demonstrated to justify the impact.

The Balancing Exercise

65. The proposal is inappropriate development and has been shown to cause harm to the Green Belt by reason of inappropriateness, because of a reduction in openness that it would involve and through harm to the landscape over a 25 year period. The Framework advises that substantial weight should be given to any harm to the Green Belt.
66. Balanced against this are the matters advanced by the applicant in support of the application which they claim are the very special circumstances needed to outweigh this demonstrable harm and thus enable the application to be supported.
67. There is no dispute that the proposal would provide a valuable contribution to cutting greenhouse gas emissions in accordance with the Framework, would provide income to the farm assisting with its maintenance and farming activity to continue for the next generation. An agricultural use could continue with sheep grazing the land and there would be some benefit to the wider economy through the creation and security of employment for those building the facility and providing materials and maintenance. There would be expenditure in the local economy at least during the construction phase.
68. The proposed biodiversity enhancements would be a significant ecological enhancement of the site which should contribute towards the very special circumstances involved in the balancing exercise.
69. The development does not constitute a sustainable form of development due to the level of environmental harm which would be caused. The unacceptable harm to the Green Belt over a lengthy period of time outweighs the special circumstances advanced in favour of the proposal.

Other Matters

70. In walking footpath SD162a the tower of the Church of St Michael and All Angels situated in the village of Claverdon which is a Grade II* listed building becomes visible. However, due to the distance of the site from the church and the setting of the church amongst existing trees and buildings the effect on the experience of the Church tower at this distance is negligible. In terms of the Framework the harm to the setting of the church would be very limited and less than substantial and outweighed by the public benefits of the proposal of tackling climate change and its effects. Other listed buildings within the vicinity and the

two conservation areas within Claverdon would not be adversely affected by the proposal.

71. The proposal would not impact unacceptably upon the living conditions of local residents, ecology, drainage, flood risk, highway safety or the setting of nearby listed buildings.
72. Overall the harm to the Green Belt, both in principle and in terms of openness and the harm to the landscape is significant. The benefits associated with the proposal do not amount to the very special circumstances clearly outweighing the various harms.

Written Representations

Appeal Stage

73. The Planning Inspectorate received 8 responses to the Council's notification letter of 24 August 2015 from local residents and the responses are on the case file. One letter raises concerns including: inappropriate development on Green Belt land; the sensitivity of the landscape to solar energy development; that the land has been classified as Grade 3a or 3b by their own expert; agricultural land should be used to support food production; the impact on the village of Wolverton; the contribution to the community shop and post office has not been raised with the Chairman or Board of the shop. A further letter was received from the Chairman of the Board representing the shop to confirm that no approach has been made and that any financial support would be carefully considered.
74. Support from 6 residents including the landowners of the site raise matters including: land can be used for other useable products; there is a need to develop modern methods of energy generation; the proposal will be a legacy for future generations; the land is of poor quality and requires chemicals and fertilisers; the land is separated from the rest of the farm and requires crossing the railway line; planting and conservation commitments have been recognised and would be enhanced; the proposal provides a lifeline for the farm; the surrounding fields are already used for a railway, electricity sub-station and sewerage beds for the locality; the scheme has been altered to reflect local concerns; it would be an educational asset; the site is well screened; it is close to the sub-station; grazing would continue under the panels; Warwickshire is not meeting its target for solar power and it would make the village energy self-sufficient in an emergency.

Application Stage

75. Written representations received at the application stage have also been taken into account and are on the case file. They are summarised in the Council's committee report¹⁵ and which records that there were approximately 117 letters of representation, 64 of which were objecting to the proposal and 53 supporting. One letter of objection was prepared on behalf of a group of residents by the firm Zyda Law and included a review of the appellant's flood risk assessment report,

¹⁵ Doc 6, Appendix 1

an assessment of the submitted LVIA, and an Agricultural Land Classification desk top review¹⁶.

76. In addition to the representations raised by a local resident at appeal stage and identified above, the other main concerns raised are: non-compliance with local and national policy; the landscape impacts would be greater than suggested; insufficient very special circumstances have been demonstrated; brownfield sites should be considered first; the development would exacerbate flooding; a temporary period of 25 years does not justify the harm; harm to listed buildings; impacts on highway safety and living conditions; noise; impact on ecology; the electricity would not be provided to the local village; alternative sites have not been considered outside the Green Belt; and there is misleading and contradictory information.
77. In addition to those identified above, the main reasons for support raised are: the proposal would provide clean energy in line with Government aims; the development is temporary; there would be minimal harm to local residents; it would protect the site from housing development; there would be limited visual or other impacts and the proposal benefits biodiversity.
78. Responses received from consultees and other organisations at the application stage have also been taken into account. Following the submission of additional documents and details the Environment Agency and Warwickshire County Council Highway Control Engineer raise no objection. Severn Trent Water, Warwickshire County Council's Ecologist, and Natural England have no objection and English Heritage require the application to be determined in accordance with national and local policy guidance. Network Rail confirmed that there would be no glint and glare effects for the adjacent railway line and Coventry Airport states there would be no effects on the safety of aircraft operations.
79. The Warwickshire Ramblers query the line of the definitive footpath and Warwickshire County Council's Rights of Way Officer confirms that the layout does not interfere with the definitive route for footpath SD162a and raises no objection.
80. Warwickshire County Council's Planning Archaeologist identifies that the site lies within an area of significant archaeological potential and the development could disturb archaeological deposits. She recommends that the applicant be requested to arrange for an archaeological evaluation to be undertaken before any decision on the planning application is taken in line with the Framework's approach. Should this evaluation not be carried out the absence of an evaluation and the possible adverse consequences of the development should be included as a reason for refusal.
81. Claverdon Parish Council objects to the proposal. It recognises the need for "green energy" but not where it has adverse effects on the Green Belt. The proposal would impact on ecology and wildlife habitat and it is not realistic to expect the development to cease at the end of 25 years and not be replaced. It would be contrary to Government guidelines on development in the Green Belt.

¹⁶ Doc 2

82. Langley Parish Council is in favour of solar technology but questions whether this should be in the Green Belt rather than a brownfield site. Of more concern was the impact of runoff and the effects on flooding which it has already spent £3000 combatting.
83. Wolverton Parish Council is not against solar farms in principle but objects to this particular application as it is within the Green Belt and constitutes inappropriate development, the environmental benefits do not outweigh the damage to the landscape, character and openness of the Green Belt and Arden Special Landscape Area and the industrial type development will unacceptably harm the enjoyment of the footpath SD162a between Wolverton and Claverdon.
84. The ward member Councillor Horner requests that the application be considered by committee as it will be necessary to balance the effect on openness of the Green Belt with the social sustainability that the community contribution will deliver and due to the split in villagers' views.
85. Warwickshire Campaign to Protect Rural England finds the proposal would be an eyesore but in view of the mitigating factors that it is adjacent to the railway line, the structures would be painted green, there would be no lighting and the trees would be retained it recommends that conditions be imposed on any permission.

Appraisal

86. 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;
 - whether it has been demonstrated that there is a need for the development to be located on greenfield, agricultural land;
 - 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

87. Paragraphs 89, 90 and 91 of the Framework identify the types of development that are inappropriate in the Green Belt. Paragraph 91 identifies that elements of many renewable energy projects will comprise inappropriate development. In this case the solar panel arrays, the associated transformer houses, switchgear building, storage containers and security installations would comprise such inappropriate development and there is no dispute between the main parties on this issue. [21, 33, 47, 61, 65, 73, 76, 81, 82, 83].
88. The Council's development plan policies provide a general presumption against inappropriate development in the Green Belt and this is in accord with the approach in the Framework. The Framework identifies that inappropriate development is by definition harmful. Substantial weight should be given to this harm with inappropriate development only being approved in very special circumstances. [14, 21, 30, 31, 32, 44, 73, 76, 83].

Effect on the Green Belt

89. The essential characteristics of Green Belts are their openness and their permanence. The appellant contends that the site provides only a slight contribution towards the purposes of the Green Belt as the site is contained by robust barriers such as the railway line and A4189. The appellant accepts that there will be a temporary loss of openness but considers this will be limited and localised. [21, 39, 47, 63, 64].
90. In my assessment the extensive array of solar panels and associated development within an area of open and undeveloped countryside would have a significant adverse effect on the openness of the Green Belt. The concept of openness is not confined to its visibility but to the lack of development. Whilst it is acknowledged that the proposal is relatively low in height, has been amended to remove panels from the field adjacent to the A4189 and screening is proposed [26], the development of a solar farm on some 16 hectares of open farmland would clearly have an impact on the openness of the area. The proposal relates to a substantial area of undeveloped land and the introduction of a large number of panels and associated development would impact significantly on this openness. [39, 47, 63, 72, 73, 75, 76, 81, 82, 83, 84].
91. Whilst the development has a limited time frame of up to 25 years, this represents a substantial part of the average person's life time. The development would be a visible change to the openness of the Green Belt over a significant length of time. It would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment. This would be an additional significant harm to the Green Belt [21, 47, 62, 63, 72, 73, 75, 76, 81, 82, 83, 84].

Character and Appearance

92. The application was accompanied by a Landscape and Visual Impact Assessment (LVIA) which considered the landscape and visual effects of the proposal¹⁷. The site does not contain any statutory landscape or conservation designations and falls within National Character Area 97 characterised for its well wooded

¹⁷ Doc 5

landscape with rolling landform, woodlands, meandering clay river valleys, diverse field patterns and complex and contrasting settlement pattern and transport infrastructure. The Ancient Arden area identified in the document County Landscape Character – Warwickshire Landscape Guidelines is characterised by its small scale, intricate landscape with many low rounded hills, steep scarps and small incised valleys with the landform relating intimately with tree cover and field pattern and views restricted by thick roadside hedgerows. The management strategy for the area includes conserving and restoring the ancient irregular landscape pattern and hedgerows and the pastoral landscape¹⁸ [7, 54].

93. The Sensitivity Study found that the Ancient Arden district landscape area in which the site lies has no capacity for field solar energy development but the adjacent Arden Wooded Estates character area contains occasional capacity for field solar energy development in it and/or intervisible in another landscape character area¹⁹. [17, 55, 56].
94. The appellant's LVIA states that the site displays a small number of the elements relating to the Ancient Arden character area but is not typical of the overall area and meets a large percentage of the criteria used in the Sensitivity Study for solar development. The LVIA finds the sensitivity of the NCA, the Arden County Landscape Character Area and the Ancient Arden District Landscape Character Area to be medium, the magnitude to be low and the impact to be slight/moderate during both construction and operation [42, 43].
95. An assessment of the LVIA submitted with the application has been submitted on behalf of residents of Claverdon and has provided additional viewpoints and analysis of the landscape impacts of the proposal²⁰. I have taken it into account in my analysis [75].
96. The proposed development would extend along the side of the railway line and along the valley floor for some distance. Whilst it is accepted that the solar farm would introduce large man-made features into a predominantly natural landscape and would inevitably have a major effect on the character of the site itself, due to the position of the site on the valley floor, the topography of the surrounding countryside and the relatively low height of the development, its impacts on the overall landscape character including the villages of Wolverton and Claverdon would be negligible [42, 43, 57, 73, 74, 75, 76, 83].
97. The existing field boundaries and pattern would remain and would be complemented by some additional planting. There is other man-made development within the vicinity, namely the station, electricity sub-station and associated overhead lines and the sewage treatment works. Whilst several of these are in more discreet locations closer to the main road and the village context the railway extends along the valley on a slightly elevated level and despite screening to a certain extent by hedgerows and trees is a clear linear man-made element in the local landscape. The solar farm would follow the line of the railway in a relatively narrow strip in the context of the wider landscape and the existing vegetation to the east of the site would limit any harmful effects.

¹⁸ Docs 5 & 6

¹⁹ Doc 5

²⁰ Doc 2

In my assessment the landscape is capable of absorbing this particular development without harming its essential characteristics [42, 43, 57, 74, 75, 76].

98. The Council has raised concern that the improvements to the access would also emphasise the development and its visual impact. In the context of the entrance from a main road adjacent to the existing electricity sub-station the alterations to provide a bell mouth entrance and associated works would not cause significant harm to the character and appearance of the area [60].

Visual Amenity

99. Turning to visual effects, the proposal would be clearly visible from footpath SD162a that crosses the centre of the site and forms part of a walk between Claverdon and Wolverton. The development would be particularly visible from Viewpoint 10 in the LVIA and shown in Figure 7 of Zyda Law's submitted assessment of the LVIA. It would also be clearly visible when following the path in an easterly direction from Viewpoint 9. Due to the elevated nature of parts of the path as it traverses through the valley views would be of the majority of the development and screening would have little effect due to the topography. The path passes directly through the site and whilst a wildflower meadow would be created to the south side of the path, views from this section of the path would be dominated by the proposal. Views would diminish and become more filtered further away from the site higher up the valley sides [6, 42, 43, 57, 59, 60, 73, 74, 75, 83].
100. The path appeared well trodden on my site visit and users of the path would be sensitive receptors to visual amenity. The experience for users of footpath SD162a is of a gently undulating, attractive pastoral landscape and the enjoyment of this route would be significantly affected and harmed by the proposal over a relatively long distance of a route that connects the two villages. This visual impact would have a moderate/substantial significance [6, 42, 43, 57, 59, 60, 73, 74, 75, 83].
101. In respect of other viewpoints within the LVIA there would be views of the proposal from the station platform and railway as well as from those properties situated to the north of the site (Viewpoints 1, 2, 3, and 4 and additional viewpoint in Zyda Law's submitted assessment of the LVIA). Hedge planting is proposed along the northern boundary of the solar panel arrays and over time this would diminish views of the site. Whilst there would inevitably be views of the site from properties and the station platform to the north irrespective of planting, due to the distances involved with a field between the properties and platform and the start of the panels, in my assessment these impacts would be minimal and would not be harmful to residents' living conditions or to users of the station [42, 43, 58, 76, 83].
102. Passengers on trains on the adjacent railway would have views of the proposal but in view of the transient nature of such passengers and the speeds they would be travelling any impact would be negligible [42, 43, 58].
103. Other views would be limited by distance, topography and screening and most would be filtered and be limited to glimpsed views [42, 43, 58].

104. The proposal would not cause significant harm to the landscape character of the area, but would have a significant adverse effect on the visual amenities of the public right of way SD162a. This would not be in accord with the Local Plan and in particular the relevant policy PR.6 [14]. This would be of moderate/substantial significance and weighs against the proposal.

Use of Agricultural land

105. Representation has been made that the development will take place on greenfield land without proper justification and that the land is of a higher agricultural grade than claimed by the appellant. An alternative agricultural land classification has been submitted in the representation from Zyda Law²¹. The Guidance encourages the use of previously developed and non-agricultural land and where greenfield land is to be used consideration is required to be given as to whether 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. The proposal should also allow for continued agricultural use where applicable and/or encourage biodiversity improvements around arrays [21, 22, 25, 38, 50, 51, 73, 74, 75, 76, 82].
106. Reference has been made to case law²² that held where a proposed development has significant environmental effects and where a key justification is that the need outweighs these adverse effects it may be relevant to consider whether there is a more appropriate site. The judgement in this case is acknowledged and the appellant has provided information in respect of the availability of other sites in a letter dated 11 November 2014²³. This advises that solar farms need large areas of land and available connection capacity within the national grid. It is stated that there is limited availability of brownfield sites throughout England with data from the Homes and Communities Agency suggesting that there are 195 sites in England that may be potentially viable and available for solar development. No further assessment is given to these sites [25, 38, 50, 51, 73, 74, 75, 76, 82].
107. The evidence focusses on those sites allocated within the emerging development plan, the Warwickshire Structure Plan and the Local Plan. Little evidence has been provided on the availability of other potential brownfield sites that may not be allocated for development and could be suitable for a large scale solar farm. Whilst I acknowledge the Council's acceptance of this assessment I find it to be lacking in detail on potentially available other sites [50].
108. The appellant has provided an assessment of the quality and productivity of the land²⁴. Whilst the LVIA states that generic information on the Department of Food and Rural Affairs maps grades the land on which the site is located as Grade 3, the assessment concludes that the land is predominantly Grade 4 and possibly some areas as Grade 5. This assessment has been based on the heavy clay content of the land, its wet characteristics and the crop yields. The assessment submitted by Zyda Law concludes that the land will fall into the Agricultural Land Classification Grade 3a if the soils are Wetness Class III and the topsoil is clay

²¹ Doc 2

²² Doc 2

²³ Doc 11

²⁴ Doc 12

loam. If the clay contents exceed 27% the soil would be classed as heavy clay loam and would reduce the grade to Grade 3b [25, 38, 51, 73, 74, 75, 76, 82].

109. Neither assessment appears to have been provided based on a site assessment and the submitted evidence indicates some doubt as to the classification of the land. The best and most versatile land falls into Grades 1, 2 and 3a and on the evidence before me the critical factor as to whether the site would fall into the Grade 3a classification is the specific soil content of the site. In the absence of any specific soil analysis and site data I am unable to reach a conclusion as to the likely quality of the land.

110. As such, there is inconclusive evidence before me to conclude that the proposal would be using poorer quality land. There is a further lack of conclusive evidence that there are no available brownfield sites that could be utilised. These matters weigh significantly against the proposal.

Other Matters

Heritage Assets

111. The site lies within 1km of the eastern Claverdon Conservation Area (the Conservation Area) and several listed buildings, namely Old Mill House in Station Road, Park Farm House and Barn, Porlock and Church View, Church Road and St Michael and All Angels Church. I viewed the site in the context of the conservation area and these listed buildings on my site visit [6, 70, 75, 76].

112. In assessing the impact of the proposal on 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 character or appearance of conservation areas. Sections 16(2) and 66(1) require special regard to be paid to the desirability of conserving the 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.

113. The appellant provided a Historic Visual Impact Assessment²⁵ which focussed particularly on the eastern conservation area in Claverdon and the setting of the church. I concur with its findings that principal views towards the heritage assets concerned would be from locations where the proposed site is not visible or largely obscured. I also agree with the Council's assessment that there would be no impact on the setting of the Conservation Area and any impact on the setting of the Church as a result of partial views of the church tower would be negligible. I find any effects would be neutral and not harmful to its special interest or setting. I am also satisfied that due to the topography there would be no impact on the western conservation area [35, 70, 75, 76].

114. Turning to other listed buildings, those situated within and to the east of Church Street, namely Park Farm House and Barn, Porlock and Church View are situated some distance from the site and on significantly higher ground. There is

²⁵ Doc 13

- little inter visibility between the site and these listed buildings and I am satisfied that due to the distance, and topography that the proposal would not be harmful to the special interest or setting of these buildings [35, 70, 75, 76].
115. The Old Mill House is situated on Station Road and is segregated from the site by the electricity sub-station and the station. It is screened from the site by substantial mature vegetation. Despite it being within 0.5km of the site I do not consider that the proposal would result in any harm to its special interest or setting due to its divorced location both visually and physically from the site [35, 70, 75, 76].
116. I note the reference to a Court of Appeal decision that any harm identified to the setting of a listed building should be given considerable weight. Given that I have found that the proposal would not be harmful to the setting of any listed building, this decision does not affect my conclusions²⁶ [75, 76].
117. The Council's archaeological advisor objected to the proposal in the absence of any archaeological evaluation [80]. On the evidence before me the appellant provided the results of an Archaeological Gradiometer Survey dated 18 November 2014²⁷. This concluded that there are relatively few features of archaeological origin present and those that are relate to historic field boundaries. The site does not contain any Scheduled Ancient Monuments with the closest being some 1.2km away and on the evidence before me I have no reason to believe that the proposal would impact on any archaeological remains or be harmful to these interests. I note that the Council has not raised any objection on this ground.
118. In my assessment the proposal would not cause any harm to historic assets and this matter would not weigh against the development.

Flood Risk

119. A number of objectors raise concerns in relation to flooding and Zyda Law has provided a review of the appellant's flood risk assessment dated 3 January 2015²⁸. The report concludes that the overland flow and surface water flooding are significant at the site and there is a potential risk of flooding to the receiving watercourses downstream and to local roads which should be assessed. It states there is a need for further details regarding the on-site and off-site drainage strategy and mitigation measures [35, 71, 75, 76, 82].
120. The proposals have been amended to take account of original concerns raised by the statutory advisor the Environment Agency by removing panels from Flood Zone 3 and altering the landscaping proposals. Neither Severn Trent Water or the Environment Agency have an objection to the revised plans and on the evidence before me I am satisfied that subject to conditions requiring the details of the landscaping to be agreed that the proposal would not give rise to any significant concerns in relation to flooding and as such these considerations would not weigh against the development [35, 71, 75, 76, 78, 82].

²⁶ Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and Others [2014] EWCA Civ 137

²⁷ Doc 13

²⁸ Doc 2

Ecology

121. Concerns relating to the impact on ecology and wildlife are noted. The proposal has the potential to enhance the biodiversity of the site through the reduction in the use of pesticides and fertilisers previously used to improve crop yield. On the evidence before me I have no reason to believe that the proposal would give rise to any impacts on the SSSI subject to the seed stock from the green hay collected from the SSSI being used on the site as required by Natural England. This can be secured under a landscaping condition. The positive impacts arising to biodiversity weigh in favour of the development and I give them some limited weight [35, 38, 41, 47, 68, 71, 74, 76, 78, 81].

Highways

122. The impacts of additional traffic and highway safety concerns are acknowledged. Further details of the access arrangements were provided during the processing of the application and the Council's Highways advisor has not raised any objection on highway grounds subject to conditions being imposed. I viewed the access on my site visit and am satisfied that the proposed arrangements would provide sufficient forward visibility in both directions and would result in a satisfactory means of access. This matter would be neutral in the planning balance [25, 35, 71, 76, 78].

Noise

123. I note concerns in respect of noise arising from the installation and increased use of the electricity sub-station. I have little evidence before me that the proposal would give rise to any significant increase in noise levels that would be harmful to the living conditions of nearby residents. I give this matter little weight [76].

Renewable Energy

124. The development would clearly make a significant contribution to providing energy from a renewable source. The proposal would produce 6,810MWh per annum which the appellant states is the equivalent to the consumption of 1,294 residential properties and an associated CO2 emissions saving of 2,124t per annum. 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 [10, 19, 20, 27, 28, 38, 45, 46, 47, 65, 74, 77, 81, 82, 83].

125. It is also noted that the scheme has been designed to maximise the amount of electrical hours of production per hectare with the closer alignment of arrays being able to produce approximately 50% more PV per hectare than typical designs. This has resulted in design criteria of 7.16MWp into 11.9 hectares in comparison to the industry standard that allows for 1MW PV modules per 2.8 hectares. The efficient use of the land is beneficial for energy production and this benefit weighs in favour of the proposal [26].

126. Both national and local planning policies provide support for renewable energy proposals where there are no unacceptable impacts. The UK Solar Strategy supports such installations and is a material consideration [14, 16, 18, 19, 20].

127. The application has generated a considerable amount of support on this basis [74, 75, 77] and the contribution that the proposal makes to energy security and national renewable energy targets weighs significantly in favour of the proposal.

Very Special Circumstances

128. 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 [20, 32, 61].

129. The appellant has put forward a number of other considerations. Having regard to these matters and others put forward by supporters of the scheme 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.

130. The appellant also highlights the priority of national and local policy in achieving sustainable development and contends that this proposal meets the Framework's commitment to sustainable development. There is no dispute that the Framework prioritises sustainable development nor that solar energy comprises such a form of sustainable development. However, the Framework is clear that the presumption in favour of sustainable development should not result in granting planning permission where there are specific policies in the Framework that indicate development should be restricted such as Green Belts²⁹ although it also indicates that very special circumstances may include the wider environmental benefits associated with the production of energy from renewable sources³⁰ [21].

131. I give some weight to the contribution that the proposal would make to the farm business and its future security and which is supported by development plan policy CTY.4. However, this support is qualified by proposals being satisfactorily integrated into the landscape [15, 30].

132. There would also be some benefits to the local community through job creation particularly during the construction and decommissioning periods. Nonetheless these are likely to be relatively short term benefits. I have no information before me with regard to any potential educational resource arising from the proposal and no weight should be given to the offer of a community fund to the local shop and post office as this is not material to the planning merits of the proposal [11, 40, 67].

133. The temporary nature of the development means that any effects would be removed after 25 years; however I consider this to be a relatively long period of time in the average person's lifetime. The absence of any significant agricultural activity over this time would result in some benefits to the ecology of the site through a reduction in the use of chemicals on the land to increase crop yield and I give this some limited weight [121].

134. I note that the design of the scheme has been altered to respond to the community consultation and the concerns of statutory consultees [3, 26]. Whilst

²⁹ Footnote 9, Paragraph 14, National Planning Policy Framework

³⁰ Paragraph 91, National Planning Policy Framework

this may have altered the effects of the scheme on the character and appearance of the area and on the Green Belt, in my assessment I have found that the revised scheme causes harm to the openness of the Green Belt and its purpose in safeguarding the countryside from encroachment and to the visual amenities of the area and I afford these amendments little weight [104, 90, 91].

135. 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 this harm would be temporary and reversible it would be harmful for a considerable period of time and weighs substantially against the proposal [21, 87, 88, 90, 91].
136. The development would also be harmful to the character and appearance of the area through its impact on the visual amenities of the area, and in particular to footpath SD162a. I consider that this would be of moderate/substantial significance [104].
137. There is also not compelling evidence that the use of this agricultural land is necessary and that there is no availability of other brownfield land or that it comprises lower grade agricultural land. This is a significant consideration and in the absence of convincing evidence the proposal does not accord with national policy guidance [110].
138. In weighing the combined harm to the Green Belt with the other harm that I have identified in line with recent case law³¹, 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 of the proposal could be made acceptable. As such the very special circumstances necessary to justify the development do not exist.
139. As such the proposal would not be in accord with policies PR.1, PR.2, PR.6 and CTY.4 of the Local Plan, policy CS.3 of the Core Strategy and would be in conflict with the objectives of the Framework and the Guidance.
140. In reaching this view, I note the reference by an objector to a similar scheme in Solihull that had similar characteristics and was refused³². I have not been provided with any details, but nonetheless each proposal should be considered with regard to its particular characteristics and context and do not affect consideration of the planning balance of this particular proposal.

Conditions

141. The Council's statement of case includes a list of suggested conditions at its Appendix 4³³. The appellant has confirmed acceptance of the conditions although notes that conditions 5 and 7 are repeats of each other and presumes that the square brackets in condition 19 regarding the expiry of the consent is such that it will be revised to 25 years from the date on the decision notice should consent be

³¹ Secretary of State for Communities and Local Government and Others v Redhill Aerodrome Ltd [2014] EWCA Civ 1386

³² Doc 2

³³ Doc 6

forthcoming³⁴. I have considered the need for conditions and their wording in the light of the advice in the Guidance.

142. 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 and includes all the plans in Annex A agreed at my site visit. Condition 3 is necessary to ensure that the site is appropriately landscaped and that the ecology of the site and adjacent SSSI are protected and enhanced. Condition 4 is reasonable and necessary to ensure that the construction phase is appropriately managed in the interests of residents' living conditions and highway safety.
143. To ensure any archaeological findings are protected and recorded condition 5 requires a programme of archaeological work to be approved, and condition 6 is necessary to protect trees on the site from damage. Condition 7 is in response to the need to ensure that appropriate mitigation is put in place for potential flood risks and conditions 8 and 9 are required in the interests of highway safety. Conditions 10 and 11 are required to ensure that the development is decommissioned after 25 years and the land restored to an appropriate condition. I have amended the wording of condition 11 to reflect the appellant's comments and to include 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.
144. The Council also requested that conditions be imposed in respect of the detailed design and finishes for the panels and associated development. These elements are indicated on the submitted plans and I do not find the submission of further details to be reasonable or necessary. Furthermore, condition 7 relates to the drainage measures to be implemented as set out in the Flood Risk Assessment and I find the imposition of further conditions requiring drainage measures to be unnecessary. Details of foul drainage are not required as no foul sewerage is proposed. The suggested condition 15 in relation to deliveries can be controlled under Condition 4.
145. In the event that the appeal is allowed, Annex B lists the conditions that I consider should be attached to any permission granted.

Conclusions

146. A decision on the appeal is required to be made in accordance with the development plan unless material considerations indicate otherwise. In this case the Council's adopted and emerging relevant development plan policies are in general conformity with those in the Framework [27, 30].
147. The proposal would be inappropriate development in the Green Belt. It would cause harm to the openness of the Green Belt and its purpose in assisting in safeguarding the countryside from encroachment.
148. In my assessment the proposal would also cause harm to the visual amenities of public right of way SD162a. There is inconclusive evidence on which basis to conclude that the proposal would be using poorer quality land and that there are no available brownfield sites that could be utilised.

³⁴ Doc 10

149. For the reasons set out above the other considerations put forward by the appellant and many supporters 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 that I have identified. As such, the very special circumstances required to justify the development do not exist.
150. The proposal would conflict with the relevant policies PR.1, PR.2, PR.6 and CTY.4 of the adopted development plan and would not be in accord with the objectives of national policy.
151. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Recommendation

152. I recommend that the appeal be dismissed. However, if the Secretary of State is minded to allow the appeal, Annex B lists the conditions that I consider should be attached to any permission granted.

Vicki Hirst

INSPECTOR

ANNEX A – APPLICATION PLANS

Location Plan – 1258/2861 V1 – 22 July 14
Development Layout, SPP.1790.1A, Rev V7, Nov 2014
Inset Map 1, 1258/2853, Rev V3, 10 Nov 14
Inset Map 2, 1258/2854, Rev V3, 10 Nov 14
Inset Map 3, 1258/2855, Rev V3, 10 Nov 14
Deer Fence Elevation – 1258/2833 – 21 July 14
Switchgear Building Elevations – 1382/2856 – 21 July 14
Storage Container Elevation – 1258/2857 – 21 July 14
CCTV Elevation – 1258/2864 – 10 June 14
Site Topo, 1258/2858, Rev V1, 21 July 14
Topo Inset Plan 1, 1258/2859, Rev V1, 22 July 14
Topo Inset Plan 2, 1258/2860, Rev V1, 21 July 14
Topo Inset Plan 3, 1258/2861, Rev V1, 21 July 14
Panel Elevation, 1258/2831, 10 Jun 14
Indicative swale cross-section, 1258/2897, 10 Sep 14
GRP Substation, 1258/2867, 29 Jul 14
Construction compound, 1258/2966, Rev V1, 7 Nov 14
Site Access General Arrangement, E12505/AT01, 10/2/15
Site Access General Arrangement, E12505/SKT01, 10/2/15

ANNEX B – 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:

Location Plan – 1258/2861 V1 – 22 July 14

Development Layout, SPP.1790.1A, Rev V7, Nov 2014

Inset Map 1, 1258/2853, Rev V3, 10 Nov 14

Inset Map 2, 1258/2854, Rev V3, 10 Nov 14

Inset Map 3, 1258/2855, Rev V3, 10 Nov 14

Deer Fence Elevation – 1258/2833 – 21 July 14

Switchgear Building Elevations – 1382/2856 – 21 July 14

Storage Container Elevation – 1258/2857 – 21 July 14

CCTV Elevation – 1258/2864 – 10 June 14

Site Topo, 1258/2858, Rev V1, 21 July 14

Topo Inset Plan 1, 1258/2859, Rev V1, 22 July 14

Topo Inset Plan 2, 1258/2860, Rev V1, 21 July 14

Topo Inset Plan 3, 1258/2861, Rev V1, 21 July 14

Panel Elevation, 1258/2831, 10 Jun 14

Indicative swale cross-section, 1258/2897, 10 Sep 14

GRP Substation, 1258/2867, 29 Jul 14

Construction compound, 1258/2966, Rev V1, 7 Nov 14

Site Access General Arrangement, E12505/AT01, 10/2/15

Site Access General Arrangement, E12505/SKT01, 10/2/15

3. Prior to the commencement of development, a combined soft landscape, ecological and habitat management plan shall be submitted and approved in writing by the local planning authority. This shall include details of the measures to be implemented for landscaping, ecological enhancement, habitat management, measures for monitoring of outcomes/means of reviewing the strategy and the body or organisation responsible for the implementation of the strategy. The development shall be fully implemented in accordance with the details within the approved landscape, ecological and habitat management plan.

4. Prior to the commencement of any part of the development hereby permitted, a Construction Method and Phasing Statement, to include a Construction Traffic Management Plan, shall be submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Construction Method and Phasing Statement. The Statement shall include:
 - a) Details of the proposed phasing of the development;
 - b) Details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
 - c) Details of the proposed storage of materials and disposal of surplus materials;
 - d) Details of a schedule for the delivery of all materials to the site, to include details of how deliveries would not take place during peak-time hours of the highway network in the vicinity of the site, and details of the nature and number of vehicles, temporary warning signs to be used, and measures to manage crossings across the public highway;
 - e) Details of routing of construction traffic, including details of the construction access, and swept path of the largest construction vehicles requiring access during the period of works;
 - f) Details of dust management;
 - g) Pollution control measures in respect of water courses and ground water and bunding of storage areas;
 - h) Details of temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
 - i) Details of the phasing of construction works;
 - j) Details of surface treatments and the construction of all hard surfaces and tracks to include their decommissioning and subsequent reinstatement of the land;
 - k) Details of emergency procedures and pollution response plans;
 - l) Siting and details of wheel washing facilities;
 - m) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
 - n) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
 - o) Details and a timetable for post construction restoration of the land associated with the temporary working areas and the construction compound;
 - p) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009.
5. No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation approved in writing by the local planning authority has been implemented.
6. No part of the development shall be commenced or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on the site has been submitted and approved in writing by the local planning authority. The scheme shall thereafter be

carried out and retained for the construction period in accordance with the approved scheme.

7. The development shall be carried out in accordance with the Aardvark Flood Risk Assessment dated November 2014 (Ref: 1258-3941, Rev 1) and the following mitigation measures:
 - a) No new hedgerows shall be planted in the floodplain;
 - b) Existing stock fencing around the site will be removed and replaced with deer fencing, that will allow the flow of water through the site at the eastern boundary;
 - c) The positioning and height of the panels is to be set according to the Environment Agency comments dated 6 October 2014 and included in Appendix 1 of the Flood Risk Assessment.
8. The development shall not be used for exporting electricity until the access has been surfaced with a bound material for a minimum distance of 20 metres as measured from the near edge of the carriageway.
9. The development shall not be used for exporting electricity until the gates erected at the entrance have been hung so as not to open within 20 metres of the near edge of the carriageway.
10. The developer shall notify the local planning authority within 21 days of such time that electricity from the development is first exported to the national grid.
11. All solar panels, racks, inverters, transfer stations, collecting stations, storage containers, hard standing and associated cabling and equipment shall be removed from the site within 6 months of the cessation of exporting electricity to the grid from the site or on or before the expiry of 25 years of the date of this decision, whichever is the sooner, in accordance with a written scheme detailing the management of the removal which shall be submitted to and approved in writing by the local planning authority.

ANNEX C – LIST OF DOCUMENTS REFERENCED IN REPORT

Reference	Description
Doc 1	ES Adequacy Check
Doc 2	Letter from Zyda Law, 30/1/15
Doc 3	Flood Risk Assessment dated Nov 2014
Doc 4	Assessment of the potential for a solar PV farm to impact on Railway Meadows SSSI dated July 2014
Doc 5	Appellant's Landscape Visual Impact Assessment, Nov 2014
Doc 6	Council's statement of case – Appendix 1
Doc 7	Appellant's statement of case, July 2015
Doc 8	Letter from Aardvark to Mr Lees, 10/11/14
Doc 9	Decision Notice
Doc 10	Appellant's final comments, 13/10/15
Doc 11	Letter from Aardvark to Mr Butler, 11/11/14
Doc 12	Assessment of Quality of the Land, Letter from Mr Earle to Mr Leaney, 17/1/14
Doc 13	Archaeological Gradiometer Survey & Selective Historic Visual Impact Assessment, 18/11/14



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.

3134301

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

Brentwood Borough Council

23 May 2016



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 represent 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 CO₂ emissions each year, would contribute towards renewable energy and CO₂ 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

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 surroundings¹. 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 circumstances 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 significant or permanent 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 immovable 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 its 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 proposals⁴

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 site⁵. 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 on to 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 CO₂ 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 2020⁶.
- 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 be 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 any 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.

3012014 & 3013863

Two Appeals - Both at Land North of Dales
Manor Business Park,
West Way,
Sawston,
Cambridgeshire

South Cambridgeshire District Council

15 June 2016



Department for Communities and Local Government

Luke Simpson
RPS, 20 Western Avenue
Milton Park
Milton
Abingdon
Oxfordshire OX14 4SH

Our Ref: APP/W0530/W/15/3012014 &
APP/W0530/W/15/3013863

15 June 2016

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 TWO APPEALS BY SAWSTON SOLAR FARM LIMITED: BOTH AT LAND NORTH OF DALES MANOR BUSINESS PARK, WEST WAY, SAWSTON, CAMBRIDGESHIRE

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Bern Hillier BA (Hons) MRTPI, in relation to your client's appeals against the decisions of South Cambridgeshire District Council to refuse planning permission for:
 - The installation of a 28MW solar farm, in accordance with application ref S/1615/14/FL, dated 17 June 2014 (**Appeal A**); and
 - The installation of a 14MW solar farm and associated development (resubmission of S/1615/14/FL), in accordance with application ref S/2409/14/FL, dated 14 October 2014 (**Appeal B**).
2. A hearing was held into both appeals on 22 and 23 March 2016.
3. Both the appeals were recovered for the Secretary of State's determination on 7 March 2016 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposals are for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that both the appeals be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation to dismiss the appeals and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to that report (i.e. including paragraph numbers), are in relation to both appeals unless otherwise stated.

Policy considerations

5. 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. For both appeals, the development plan consists of the South Cambridgeshire Core Strategy (CS) and the Development Control Policies (DCP) Development Plan Documents adopted in 2007. The Secretary of State considers that relevant development plan policies include those set out in IR11-12.

Emerging Plan

6. The Secretary of State notes that the Council is currently reviewing its Local Plan for the period 2011-2031, and the Examination in Public is set to continue with further hearing sessions scheduled to September 2016. The Secretary of State notes that the Inspector considers that the emerging policy for renewable energy is worded similarly to DCP Policy NE/2 and continues to give in principle support to renewable energy (IR19). He has also taken into account the Council's proposal to amend Policy CC/2 to ensure that consideration is given to the impact of the proposed development on high quality agricultural land. Overall, for the reasons given at IR19, the Secretary of State agrees with the Inspector that at this stage limited weight can be given to the relevant policies in the emerging Local Plan.

Other material considerations

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework'), the associated planning practice guidance ('the Guidance'), and the matters set out at IR13-18.

Procedural matters

8. The Secretary of State notes that an amended landscaping plan for each proposal was submitted with the appeals. He agrees with the Inspector that taking the amendments into account would not materially prejudice the interests of objectors or other parties, and has proceeded on the basis of the amended plans.

Main issues

9. The Secretary of State agrees with the Inspector that the main considerations for the appeals are those set out in IR54.

Impact on the Green Belt

10. The Secretary of State considers that these proposals constitute inappropriate development in the Green Belt. For the reasons given in IR55-57, the Secretary of State agrees with the Inspector that for **Appeal A**, the adverse effect on openness would be very significant, while for **Appeal B** it would be significant.
11. For the reasons given at IR59-62 and IR81, the Secretary of State agrees with the Inspector that **Appeal A** would conflict significantly with the second purpose of the Green Belt (preventing neighbouring towns merging), and with the provisions of CS Policy ST/1. He has taken into account the fact that **Appeal B** would not reduce the gap, and would not be seen from the road (IR59), and considers that **Appeal B** would not conflict with this purpose of the Green Belt, and would not conflict in this respect with the provisions of CS Policy ST/1.
12. The Inspector also considered the impact of the proposals on the first purpose of the Green Belt (preventing the unrestricted sprawl of large built up areas). For the

reasons given at IR58, the Secretary of State agrees that the proposed developments would not affect this purpose.

13. For the reasons given at IR63-65, the Secretary of State agrees with the Inspector's conclusion that for both appeals that there would be considerable encroachment of development into the countryside which would have significant adverse landscape and visual effects. This would conflict with the third purpose of the Green Belt (assisting in safeguarding the countryside from encroachment). He further agrees that both proposals would be contrary to CS Policy ST/1 in as much as the rural quality of the landscape is harmed through encroachment (IR83).
14. Overall the Secretary of State concludes that the harm to the Green Belt from inappropriate development, along with the other harm identified above, carries substantial weight against **Appeal A**. Although **Appeal B** does not cause harm in terms of the second purpose of the Green Belt, the Secretary of State nevertheless considers that the harm through inappropriateness and other harm identified above carries substantial weight against **Appeal B**.

North Farm living conditions

15. For the reasons given at IR66-67, the Secretary of State agrees with the Inspector that there would be little adverse impact on outlook from either appeal proposal.

Other harm

16. The Guidance encourages the use of previously developed and non-agricultural land. Where greenfield land is to be used, consideration is required to be given as to whether 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. In this case the Council does not dispute the view of the appellant who argues there would be no loss of food production through the proposal. The WMS of March 2015 indicates that any proposal for solar development involving the use of BMV land would need to be justified by the most compelling evidence. In this context, and for the reasons given at IR68-70, the Secretary of State agrees with the Inspector that there is no certainty that it would be possible to realise the proposals. Like the Inspector, he is not persuaded that there is the most compelling evidence that BMV land should be used. The Secretary of State therefore considers that the use of BMV land weighs significantly against the proposals and that it conflicts with national policy on this matter.

Other considerations

17. For the reasons given at IR71 and IR82, the Secretary of State considers that having regard to the scale of the proposals, substantial weight should be given to the contribution they would both make to national renewable energy targets (and the consequent reduction in greenhouse gases).
18. For the reasons given at IR73-75 and IR82, the Secretary of State also agrees with the moderate weight attributed by the Inspector to the economic and ecological benefits associated with the proposals, and with his conclusion that little favourable weight should be attached to the proposed agricultural uses.
19. The Secretary of State agrees with the Inspector that no weight attaches to the assertion that a connection to the national grid is an essential site requirement (IR76).

Conditions

20. The Secretary of State agrees with the Inspector's comments at IR77-80 on planning conditions and is satisfied that the separate conditions recommended in the IR Appendix for both the appeals are reasonable and necessary, and would meet the tests in paragraph 206 of the Framework. However, the Secretary of State does not consider that either set of recommended conditions would overcome his reasons for dismissing the appeals.

Overall planning balance and conclusions

21. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. The Secretary of State has considered whether the potential harm to the Green Belt, by virtue of inappropriate development, and any other harm, is clearly outweighed by other considerations.
22. In the case of **Appeal A**, the Secretary of State considers that there is harm from inappropriate development, as well as adverse impacts on openness, and from conflict with the second and third purposes of the Green Belt. This harm carries substantial weight. The use of BMV land also weighs significantly against the proposal.
23. In the case of **Appeal B**, the Secretary of State considers that there is harm from inappropriate development, as well as adverse impacts on openness, and from conflict with the third purposes of the Green Belt. This harm carries substantial weight. The use of BMV land also weighs significantly against the proposal.
24. The Secretary of State has taken into account the benefits in terms of renewable energy. For both appeals he gives this substantial weight. He has also taken into account the economic and ecological benefits of the proposals, and for both appeals gives these benefits moderate weight, with little favourable weight attaching to the proposed agricultural uses.
25. Overall he agrees with the Inspector that these benefits do not clearly outweigh the harm identified to the Green Belt in relation to both **Appeal A** and also **Appeal B**, despite some lesser impacts from this proposal. Very special circumstances therefore do not exist.
26. The proposals are therefore contrary to DCP Policy GB/1. In as much as the rural quality of the landscape is harmed through encroachment, they are also contrary to CS Policy ST/1. **Appeal A** would also conflict with CS Policy ST/1 because of harm through coalescence. The Secretary of State considers that neither appeal is in accordance with the development plan overall. They are also both contrary to national policy. The Secretary of State finds no material considerations that indicate either appeal should be determined other than in accordance with the development plan.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses both **Appeal A** and **Appeal B** and refuses planning permission for each of these proposals.

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 decisions 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.

29. A copy of this letter has been sent to South Cambridgeshire District Council. A notification letter has been sent to all other parties who asked to be informed of the decisions.

Yours faithfully

Maria Stasiak

MARIA STASIAK

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by B.Hellier BA(Hons) MRTPI

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

Date: 11 April 2016

TOWN AND COUNTRY PLANNING ACT 1990
SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL
APPEALS BY
SAWSTON SOLAR FARM LIMITED

Hearing held on 22 and 23 March 2016

Land north of Dales Manor Business Park, West Way, Sawston, Cambridgeshire

File Refs: APP/W0530/W/15/3012014 and APP/W0530/W/15/3013863

Appeal A: APP/W0530/W/15/3012014

Land north of Dales Manor Business Park, West Way, Sawston, Cambridgeshire

- 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 Sawston Solar Farm Limited against the decision of South Cambridgeshire District Council.
- The application Ref S/1615/14/FL, dated 17 June 2014, was refused by notice dated 7 October 2014.
- The development proposed is the installation of a 28MW solar farm.

Summary of Recommendation: The appeal be dismissed

Appeal B: APP/W0530/W/15/3013863

Land north of Dales Manor Business Park, West Way, Sawston, Cambridgeshire

- 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 Sawston Solar Farm Limited against the decision of South Cambridgeshire District Council.
- The application Ref S/2409/14/FL, dated 14 October 2014, was refused by notice dated 12 December 2014.
- The development proposed is the installation of a 14MW solar farm and associated development (resubmission of S/1615/14/FL).

Summary of Recommendation: The appeal be dismissed

Procedural matters

Recovery by the Secretary of State

1. The appeals were recovered for decision by the Secretary of State for Communities and Local Government by a letter dated 7 March 2016. The reason for this direction is because the appeals involve proposals for significant development in the Green Belt.

Amended plan

2. The appellant submitted with the appeals an amended landscaping plan for each proposal. The changes principally reflect advice from the Council Landscape Officer. It was agreed that taking the amendments into account would not materially prejudice the interests of objectors or other parties. I have therefore proceeded on the basis of the amended landscaping plans.

Reasons for refusal

3. Planning permission was refused for Appeal A for the following reasons.
 1. *The proposed solar farm would represent inappropriate development that is, by definition, harmful to the Green Belt in policy terms. The proposal is therefore contrary to Policy GB/1 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states that there is a presumption against inappropriate development in the Green Belt and paragraph 87 of the National Planning Policy Framework 2012 that*

states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

2. *The proposed solar farm would also cause other harm. It would lead to encroachment into the Green Belt and countryside that would result in the coalescence of the villages of Sawston and Babraham through a loss of visual separation. The proposal is therefore contrary to Policy ST/1 of the South Cambridgeshire Local Development Framework Core Strategy DPD 2007 that states a Green Belt will be maintained around Cambridge to prevent the environs of Cambridge from merging into one another in order to preserve the distribution, physical separation, setting and scale and character of Green Belt villages. It would also have an unacceptable adverse visual impact upon the amenities of the neighbour at North Farmhouse. The proposal is therefore contrary to Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.*
3. *No very special circumstances have been demonstrated that would clearly outweigh the harm to the Green Belt through inappropriateness and the other harm identified.*
4. Planning permission for Appeal B was refused for the following reasons.
 1. *The proposed solar farm would represent inappropriate development that is, by definition, harmful to the Green Belt in policy terms. The proposal is therefore contrary to Policy GB/1 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states that there is a presumption against inappropriate development in the Green Belt and paragraph 87 of the National Planning Policy Framework 2012 that states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*
 2. *The proposed solar farm would also cause other harm. It would lead to encroachment into the Green Belt and countryside that would result in the coalescence of the villages of Sawston and Babraham through a loss of visual separation. The proposal is therefore contrary to Policy ST/1 of the South Cambridgeshire Local Development Framework Core Strategy DPD 2007 that states a Green Belt will be maintained around Cambridge to prevent the environs of Cambridge from merging into one another in order to preserve the distribution, physical separation, setting and scale and character of Green Belt villages.*
 3. *No very special circumstances have been demonstrated that would clearly outweigh the harm to the Green Belt through inappropriateness and the other harm identified.*

Site and surroundings

5. Both appeals relate to the same site which is a single large L-shaped field of some 49ha of arable land. The field lies to the north of the village of Sawston. The shorter but fatter eastern arm abuts the Dales Manor Business Park and runs for about 700m in a northerly direction towards the River Granta. The western arm follows the line of the river for about 1.1km and is separated from Sawston

by a strip of land occupied by a house, North Farm, and its substantial grounds. For Appeal A the solar panels would cover the whole site. In Appeal B they would cover a reduced area of 16ha utilising the western arm. The appeal site also includes, at the western end, a 1.0km long access route to the public road. For the first part from the road this is a good agricultural track. It then becomes a desire line across an adjacent field.

6. The eastern part of the field lies at about 25m AOD. It is undulating and drops gently towards the valley. There is a slight rise and high point at the axis of the two arms. The western part of the field then slopes down from here and for much of its length is flatter and lower although still with a fall towards the river. The western end of the field is at 20m AOD. There are tall but gappy hedges marking the eastern and western boundaries; along the lower northern boundary is a post and wire fence with a single group of trees; and on the southern side there is a good hedge along the boundary with North Farm.
7. The village of Babraham is to the east of Sawston. A low ridge and substantial shelter belt planting hide Babraham village in views from the north and west although the higher research buildings of the Babraham Institute are visible from many places. The eastern edge of Sawston village is clearly defined by housing and the business park. The business park also forms a strong northern limit to the village although, further west, trees in the grounds of North Farm and the wooded fringe of an old quarry provide a softer edge.
8. To the north beyond the River Granta the land rises to Magog Down with a high point of 74m AOD about 2km from the appeal site. This land is managed by a local trust as a conservation and recreation area and is well used by walkers. The Granta valley is also a popular walk for local people. Rowley Lane is a track used as a public footpath and bridleway from Babraham following the valley floor and a footpath from Sawston runs along the eastern boundary of the appeal site to join up with this track.

The proposal

9. The solar farm would consist of panels erected on ground mounted frames fixed to pile-driven steel supports and arranged in rows running east-west, 3.8m apart. The panels would be inclined at 25° with the highest point 2.7m above ground (Appeal A) or at 20° and 2.6m above ground (Appeal B). The associated infrastructure includes a sub-station, control building, and customer room located at the west end of the site adjacent to the access point. Transformers, 3m high, with a footprint of 12m x 2.4m, would be necessary at intervals within the panel arrays, a total of 20 for Appeal A and 9 for Appeal B. The panel area would be surrounded by a 2.2m high deer/security fence with CCTV cameras on 2m stalks regularly spaced around the perimeter. The electricity generated would be fed into the national grid by an underground line to a 33kv overhead line which runs just to the west of the site.
10. For both appeals the site would remain in agricultural use but as chalk grassland pasture rather than arable. Proposals involve sheep grazing and poultry keeping both under and between the lines of panels, soft fruit growing between the rows, and bee keeping around the field edge. The hedges on the eastern, southern and western perimeter would be reinforced and along the open northern boundary a small shelter belt would be created to provide a visual screen and to mark the boundary between the site and the adjacent floodplain. The eastern boundary

for Appeal B is undefined on the ground. This would be protected with a new hedge with scattered hedgerow trees. A small nature reserve is proposed in the north-west corner of the site.

Planning Policy

Development Plan

11. The development plan consists of the Core Strategy (CS) and the Development Control Policies (DCP) Development Plan Documents. The site lies within the Cambridge Green Belt. CS Policy ST/1 indicates that one of the purposes of this Green Belt is to prevent surrounding communities from merging with each other and with the city of Cambridge. In considering the impact of development on the setting of the city regard should be given to the distribution, physical separation, setting, scale and character of Green Belt villages and the strong rural quality of the landscape. DCP Policy GB/1 confirms that, in accordance with national policy, there is a presumption against inappropriate development in the Green Belt.
12. DCP Policy NE/2 supports proposals to generate energy from renewable sources subject to them according with sustainability, design and development principles set out elsewhere in the plan. DCP Policy DP/3 is relevant to Appeal A in as much as there is a general requirement to protect residential amenity.

National policy

13. Government policy is to support the development of renewable energy sources, including solar power, to help to ensure that the country has a secure energy supply and to reduce greenhouse gas emissions. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources by 2020. The 2006 Energy Review has an aspiration of 20% of electricity from renewable resources by 2020. The 2009 UK Renewable Energy Strategy and the UK Low Carbon Transition Plan has as a lead scenario that this figure should increase to 30% although this is not a commitment. None of these documents sets a ceiling and there is a considerable on-going need for renewable energy projects.
14. Reflecting Government policy the National Planning Policy Framework (NPPF) emphasises that local planning authorities should recognise the responsibility that rests with all communities to contribute to energy generation from renewable sources. An application for renewable energy should normally be approved if its impacts are (or can be made) acceptable¹.
15. The Government also attaches great importance to Green Belts. The fundamental aim of Green Belts is to prevent urban sprawl by keeping land permanently open and thus their essential characteristics are their openness and their permanence². The purposes of Green Belts include: checking the unrestricted sprawl of large built up areas; preventing neighbouring towns merging into one another; and assisting in safeguarding the countryside from encroachment³. Inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances which will not exist unless the harm to the Green Belt by reason of inappropriateness,

¹ NPPF paragraphs 97 and 98

² NPPF Paragraph 79

³ NPPF Paragraph 80

and any other harm, is clearly outweighed by other considerations¹. Very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources².

16. The NPPF indicates that local planning authorities should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land³. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. A written ministerial statement (WMS) from the Secretary of State for CLG in March 2015⁴ advises that use of BMV agricultural land would need to be justified by the most compelling evidence.
17. The NPPF also states that planning should operate to encourage, and not act as an impediment to, sustainable growth⁵. Therefore significant weight should be placed on the need to support economic growth through the planning system. Planning policies should support the rural economy by promoting the development and diversification of agriculture and other land-based businesses⁶.
18. Current web based national planning practice guidance (PPG) sets out particular considerations that relate to large scale solar farms⁷. They include the potential to mitigate landscape and visual impacts through, for example, screening with native hedges. Where greenfield land is used it encourages continued agricultural use and/or biodiversity improvements around the arrays.

Emerging Local Plan

19. The South Cambridgeshire Local Plan (LP) was submitted to the Secretary of State in March 2014. However the examination was suspended until March 2016 to allow further work to be carried out, in particular on objectively assessed housing need and the development strategy⁸. Modifications have been made to the Submission Local Plan but these have yet to be examined. At this stage in the adoption process limited weight can be given to its policies. Having said that, LP Policy CC/2 *Renewable and Low Carbon Energy Generation* is worded in a similar vein to DCP Policy NE/2 and continues to give in principle support to renewable energy proposals.

Agreed matters

20. The Council and the appellant have signed a Statement of Common Ground. Other matters were agreed in the written statements or at the hearing.
 - a. The applications are for temporary permission for a period of 25 years. At the end of this period the site would be cleared and restored to solely agricultural use.
 - b. Both proposals would be inappropriate development in the Green Belt.

¹ NPPF paragraphs 87 and 88

² NPPF paragraph 91

³ NPPF paragraph 112

⁴ Planning Update: Written Statement HCWS488 by the Secretary of State for Communities and Local Government. 25 March 2015

⁵ NPPF paragraph 19

⁶ NPPF paragraph 28

⁷ Planning Practice Guidance: Paragraph: 013 Reference ID: 5-013-20150527

⁸ Documents B7 and B8

- c. The appellant carried out a site specific agricultural land classification assessment of the appeal site informed by a soil survey. This concludes that the appeal site is Grade 3a and as such is considered to be BMV agricultural land. On the basis of the proposals for continued agricultural use the Council raises no objection to the use of this BMV land.
- d. The proposed developments would both make a significant contribution to meeting national climate change objectives and reducing carbon emissions. They would produce electricity equivalent to the usage of about 8500 households (Appeal A) or 4250 households (Appeal B).
- e. The Appeal B development would have no adverse effect on living conditions.
- f. The appellant carried out a Landscape and Visual Impact Assessment (LVIA)¹. This concludes that for both developments there would be a significant effect on landscape character for a temporary period of 25 years. There would also be significant visual effects experienced from some properties and from a number of public viewpoints but these would be mitigated by planting and in all cases by year 12 the effects would be not significant.

The case for the appellant

The material points are:

Green Belt harm

Openness

21. There is no dispute that the two developments would be inappropriate and would result in a loss of openness but this must be tempered by their temporary nature. The land will continue to be Green Belt and will in the future revert to its previous use. Indeed it will return in an improved state due to the planting and ecological works proposed. Whilst there may some impact on the landscape this does not amount to harm. Solar farms are by their nature a rural land use and should not be automatically treated as being out of place in the Green Belt. Other solar farm proposals have been allowed in the Green Belt. The Council has previously allowed one at Haslingfield and one was allowed on appeal in 2014 at Bletchington in Oxfordshire².
22. The proposed mitigation measures are not development and, whilst affecting landscape openness, would not impact on Green Belt openness. In any event the ordnance survey plan of the field in 1950 shows that at that time the appeal site was not one field but three. The site lies within *East Anglian Chalk National Landscape Character* where Council guidance³ supports small shelter belts and mixed woodland which break up the largest areas of farmland. New and reinforced hedgerows here would not be out of place.

Purposes

Check unrestricted sprawl of large built up areas

23. The appeal proposals do not constitute a built form typical of a built up area. Green Belt policy was conceived prior to the emergence of solar farms which are an extensive countryside use. They are low rise, temporary and allow

¹ Document A Tab 19 and document B Tab 10

² Documents L and M

³ Landscapes in New Development SPD. March 2010. Page 41

agricultural production to continue. Whilst there are a number of small buildings associated with the proposals they are not so large or dominant as to constitute a large built up area. They cannot be compared with the form, scale and visual impact of residential and employment development. The proposals cannot therefore be seen as an extension to the built up area.

24. In practice a solar farm on the edge of the village would be likely to discourage further housing development on adjacent land and so the development would act to discourage further sprawl.

Prevent neighbouring towns merging

25. It is accepted that this purpose could reasonably be applied to the objective in CS Policy ST/1 of maintaining the physical separation of settlements, in this case Sawston and Babraham. As the crow flies there is some 1.7km between the main built up parts of these villages. Appeal B would not reduce this gap. Appeal A would reduce the gap to about 1.5km. There would still be a perfectly reasonable separation between the villages. Also telling is the fact that the Council has put forward two housing allocations in the emerging LP which would also extend Sawston to the east and reduce the gap by a similar amount¹. Unlike the appeal proposals the housing would result in a permanent loss of Green Belt. There is no suggestion that the potential merging of the villages was seen as a constraint when these potential housing allocations were selected.

26. In perceptual terms neither of the appeal developments would be easily visible from the Sawston-Babraham road, being screened by an existing hedge. Babraham in particular is not seen from the road until the last minute. From the footpath network to the north there would be no inter-visibility between the two villages. From further away the solar panels, the built up area of Sawston and the Babraham Institute would be in the same view but even here Babraham village itself is not seen. In any event a solar farm is not built development and cannot, by definition, extend the built up area.

Safeguarding the countryside from encroachment

27. It is acknowledged that there would be encroachment but it would be limited by the following considerations:
- it would be temporary;
 - the solar panels and the associated subsidiary agricultural use would not be typical of the built form of a settlement and from a distance would appear as another colour in the mosaic of the rural landscape; and
 - from short distances views would be limited to glimpses, with mitigation planting strengthening boundary vegetation which by year 12 would remove any significant visual evidence of encroachment.

North Farm living conditions

28. The outlook from the front of the rebuilt house at North Farm faces the eastern arm of the field which would be part of the Appeal A development. There is an intervening paddock/pasture which results in the solar panels being over 100m away. At this distance the effect on outlook would not be overbearing or result in an excessive degree of enclosure. There are already some intervening trees and

¹ Distances and relationship between uses is well shown in documents D and E

a new hedge would be planted to give further visual protection over time. There would be no significant adverse effect on the living conditions of occupiers.

Other considerations

29. In the face of continuing evidence of global warming the benefits of the production of energy from renewable sources are axiomatic. Both proposals would produce substantial amounts of electricity, enough in the case of Appeal A to supply some 50% of the new housing need for South Cambridgeshire over the 20 year period of the emerging Local Plan. This must weigh heavily in favour of the proposal and it is notable that the Haslingfield and Bletchington cases referred to above were approved on the basis of a significantly lower energy output than is proposed here.

30. There are other benefits which add support to the proposal

- There would be an estimated 50 jobs during the 14 week construction period and 5 long term local employment opportunities associated with maintenance during the operation of the site. In addition there would be further employment from the agricultural uses. As such the proposal would accord with the economic policies set out in paragraphs 19 and 28 of the NPPF. Not only would there be job creation but the proposed developments would result in an approximate investment of £11.5 million (Appeal B) and £23 million (Appeal A).
- The field is BMV agricultural land although at the lower end of this classification. However, as recommended in the PPG it would continue to be used for agriculture. Measures proposed and set out in a Vision Statement¹ go beyond the traditional incorporation of sheep grazing and would involve a mix of horticultural and agricultural activities which have been designed and developed in accordance with national guidance². This would involve local land based businesses³ and support the local economy in accordance with the objectives of the NPPF. It is notable that the Lanyon Solar Park in Cornwall was allowed on appeal⁴ partly due to the weight given to the benefits arising from the extensive agricultural uses proposed.
- A range of biodiversity measures in respect of both applications include hedgerow planting and management of existing hedgerows and new tree planting; creation of a grassland habitat with species rich field margins; measures to encourage corn buntings, barn owls, bats, badgers and small mammals; and the formation of a nature reserve. At the end of the operational period there would be a significant net benefit to the landscape and the ecological quality of the land.
- The site benefits from an accessible grid connection with adequate capacity to take the electricity loading from the site. Furthermore there are few areas in the East of England with available capacity⁵. Where the network needs reinforcing this takes time, often requires new wayleaves and imposes extra costs. The availability and viability of a connection in this case is a significant benefit.

¹ Documents A Tab 16 and B Tab 23

² Document I

³ Letters of intent for bee-keeping and sheep grazing in document H

⁴ Document U

⁵ Document T

Planning balance

31. The proposal is an exemplar of sustainable development clearly supporting the three pillars of sustainability set out in paragraph 7 of the NPPF. Renewable energy is unquestionably environmentally sustainable and further environmental benefits would accrue from the biodiversity improvements. There would be economic benefits from job creation, financial investment and continued agricultural use. There would be a social gain from the provision of an educational resource for local schoolchildren. The generation of renewable energy on the scale proposed must attract substantial weight. The other benefits would add further significant weight.
32. It is accepted that the policy harm and harm to the openness of the Green Belt taken together should carry substantial weight. There would be some further limited weight from encroachment. However for the reasons set out there would no material effect on the sprawl of large built up areas or on the coalescence/merging of Sawston and Babraham. There would be no adverse effect on living conditions. For a development of this scale there would be surprisingly little other harm. The totality of what harm there is would be clearly outweighed by the benefits of what is a highly sustainable development. In both appeals this strong balance in favour of the proposal would amount to the very special circumstances necessary to justify the development.

The case for the Council

The material points are

Green Belt harm

Openness

33. The concept of openness relates to the lack of development or the built form. Large, precision-engineered solar panels and associated buildings, security fencing and CCTV poles would become predominant features of the appeal site, largely obscuring the grass from view. These features are not characteristic of an agricultural rural landscape. For the lifetime of the development the regimented rows of hard surfaced solar panels would be intrusive, utilitarian landscape elements on an industrial scale in the open countryside which would have a significantly harmful effect on the openness of this part of the Cambridge Green Belt.
34. In addition in both appeals the loss of openness would be compounded by the proposed new and infill hedge planting. Whilst technically not development its purpose is to hide the proposed semi-industrial development and in doing so serves to reinforce the loss of openness.
35. Twenty five years is a generation. It is a long time and there should be no reduction in the weight given to Green Belt harm because of its temporary nature. The NPPF says that substantial weight should be given to any Green Belt harm and this is the case in two solar farm appeal decisions at Marksbury¹ and Chorley² where there is a finding of substantial harm notwithstanding the temporary nature of the proposal.

¹ Document B4 (paragraph 22)

² Document B3 (paragraph 25)

Purposes

Check unrestricted sprawl of large built up areas

36. Sawston is the second largest village in South Cambridgeshire with an area of 117 ha, a population of some 7100, over 3000 dwellings, a good range of services and an industrial estate. Whilst not as large as Cambridge it is considered that it comprises a fairly large built up area. The two proposed developments would extend far beyond the settlement edge leading to sprawl to the north of Sawston. Appeal A would effectively increase the geographical area of the village by 40% and Appeal B by 14%, extending its boundaries to the north and north-east. Both appeals would therefore be in conflict with this Green Belt purpose.

Prevent neighbouring towns merging

37. The proposals would reduce the gap between Sawston and Babraham. From the road between the villages the Appeal A development would be seen through the gaps in the eastern boundary hedge extending the village to the north beyond the industrial estate. From the north both developments would be visible filling the landscape between the two villages. It is accepted that it is the Babraham Institute that is seen rather than the village proper. It is also the case that from the Granta valley it is only the edge of Sawston that is seen. Nonetheless even where there is no inter-visibility there would still be the perception that the separating wedge of countryside was being squeezed. There would be a clear conflict with CS Policy ST/1.
38. The proposed housing sites would also cause harm through coalescence although they are less in area than the appeal proposals. At present they are only proposals but the site selection process would have taken into account the Local Plan development strategy which would have to be weighed against Green Belt harm. They may also be distinguished from the appeal proposals in being set against the backcloth of similar development thereby reducing the visual impact.

Safeguarding the countryside from encroachment

39. The developments would be seen from the east and north as a considerable encroachment into the countryside. The Appeal A development would be seen by drivers on the Sawston to Babraham road through the gaps in the eastern hedge and through the hedge itself in winter. It would also be visible along a stretch of the A1307 north-west of Babraham at Copley Hill.
40. The main impact would be on the surrounding footpath network within 1km of the site, particularly the footpath which runs alongside the eastern hedge and the main footpath to the north along the Granta valley. From here the appeal field slopes up to the south and development would be very obvious even after tree/hedge planting proposals take hold. There also are views from some 2km away from the access land at Magog Down from which the full extent of the development would be visible and, from this height, would not be screened.
41. Whilst the mitigating planting proposed is helpful there is no guarantee that it would mature as quickly as is envisaged and even if it did there would be an adverse visual impact for half the 25 year life of the project.

North Farm living conditions

42. Under the Appeal A proposals the solar panels would wrap around the property along the entire length of its eastern and northern boundaries. A football stand and pitches have recently been granted permission on the southern boundary. Views from the front would be affected with clear views of a long edge of development. This is recognised in the LVIA which states: *Given the proximity of the property to the site, this visual receptor will have a high sensitivity to change. From the east of the house there will be a major change in view with the proposals for the site dominating it and therefore the magnitude of change is considered high. The effect of the change would be substantial and therefore significant¹.*
43. Planting is proposed which would eventually restrict views of the development to first floor windows but this would take several years to mature. It is considered the increased sense of enclosure resulting from the development would have a considerable adverse effect on the outlook of the occupiers of the dwelling contrary to the provisions of DCP Policy DP/3.

Other considerations

44. It is agreed that any proposal for large solar farms generating 14MW and 28MW respectively of much needed renewable energy should be accorded substantial weight. However it is disputed that any significant weight should be given to the additional benefits put forward by the appellants.
45. The construction phase would last for 14 weeks and would have little impact on the local economy. The appellant acknowledges that the five forecast jobs would not be full time and once operational the solar farm would be unmanned and only accessed for occasional maintenance. Any other employment would be dependent on the success of the various agricultural enterprises but there is no evidence that they will come to fruition. They are not secured by a contract or an associated S106 agreement which would come into force once planning permission is granted.
46. In the light of the proposed continuing agricultural use the Council does not object to the use of BMV agricultural land. However this use does no more than neutralise what would otherwise be a net loss of agricultural production.
47. The landscape proposals have been developed in order to screen development and in practice result in a less open landscape. Nonetheless, it is accepted that the landscape mitigation and ecological proposals were developed in conjunction with, and ultimately the support of, the relevant Council officers. Once the solar panels are removed at the end of the 25 years, it is agreed that there would be a small ecological benefit from the planting that has taken place. Whilst the nature reserve would be part of this ecological benefit there is no information as to how it would be managed for educational use.
48. The benefits of a connection to the grid are noted but this is one of many development constraints that a developer has to take into account and should not be afforded weight.

¹ Document A Tab 19 paragraph 6.3.3

Planning balance

49. The harm from inappropriate development attracts substantial weight. To this should be added further substantial harm from loss of openness, from urban sprawl, from coalescence and from encroachment. Whilst the contribution to renewable energy and the effects of global warming would be substantial, the economic and ecological benefits would be limited. No weight should be attached to agricultural use, educational use or to the availability of a grid connection. These other considerations do not clearly outweigh the identified harm to the Green Belt and they cannot therefore amount to very special circumstances.

Third party representations

Sawston Parish Council

50. The Parish Council objects to development taking place within the Green Belt particularly intruding into the limited gap between Sawston and Babraham. The appeal site is close to a number of footpaths and to the public amenity land controlled by the Magog Trust. From these locations the solar panels would be readily visible as an intrusion into unspoilt countryside. The footpaths are enormously important to local people and well used so that there would be a significant deleterious effect on countryside recreational activity.
51. There are very few solar farms in the Green Belt. Not all of South Cambridgeshire is in the Green Belt and most current examples of solar farm development are in non-Green Belt locations. There is also a concern that the proposal would result in the loss of very high grade agricultural land.
52. In terms of an educational resource the Parish Council note that the nature reserve would not be open to the general public. It offers the practical thought that school timetabling would be likely to demand that any out of school destination would need to be readily accessible with a coach parking/turning area.

Written Representations

53. The two applications between them attracted a limited response of some 30 letters from members of the public, the majority of which were in support of the proposal. The objectors included the occupiers of North Farm. Babraham Parish Council objected on similar grounds to Sawston Parish Council.

Inspector's Conclusions

References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus: []

Main considerations

54. Given agreement that the proposal would be inappropriate development in the Green Belt I consider the main issues are:
- The effect of the proposal on the openness of the Green Belt and on its purposes having particular regard to its role in preventing the coalescence of the settlements of Sawston and Babraham.
 - The effect on the outlook of the occupiers of North Farm House (Appeal A only).
 - Whether there are other considerations which give support to the proposal including those associated with the production of renewable energy and associated job creation and environmental enhancements.
 - Whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Impact on the Green Belt

Openness

55. Both appeals are for large developments covering an extensive area of the Green Belt which is currently open agricultural land notable for its lack of development. I accept that a solar farm is a form of development that is different from permanent buildings and that, in theory at least, the openness of the Green Belt could be restored after 25 years [21]. However this is such a long period of time that for a generation of local people it might as well be permanent so that in terms of the weight to be applied to the harm to openness there is little distinction to be made [35].
56. The Council argues that the introduction of further planting would in itself reduce openness. In landscape terms this is so but Green Belt openness is simply about the absence of development and is not concerned with landscape quality and the Council confuses the two. Furthermore openness is not a matter of appearance. There is some dispute as to the effectiveness of the existing and proposed vegetation in helping to screen the development. This is considered elsewhere but it is not helpful in assessing loss of openness [22][34].
57. Having regard to the scale of the two developments I consider for Appeal A the adverse effect on openness would be very significant and for Appeal B it would be significant.

Green Belt purposes

Check unrestricted sprawl of large built up areas

58. One of the purposes of the Cambridge Green Belt described in CS Policy ST/1 is to preserve its unique character *as a compact, dynamic city with a thriving historic core*. The key to this must be resisting the extension of the boundary of the built up area of the city itself. The appeal proposals would have no effect on

this objective. Whilst the proposals would be attached to and extend beyond the built up area of Sawston I do not accept the argument that the village of Sawston can reasonably be described as a large built up area [36]. I find that the proposed developments would not affect this purpose.

Prevent neighbouring towns merging

59. There is a limited gap of countryside between Sawston and Babraham. Appeal A would physically extend the built up area of Sawston into this gap. Travelling along the road between the villages the eastern edge of the solar farm would be visible. On the other hand Appeal B would not reduce the gap and would not be seen from the road [25].
60. Babraham has a well wooded and enclosed setting and is not seen from nearby in the same views as Sawston. However from the longer distance viewpoint on Magog Down both developments would be clearly seen infilling the countryside between the Dales Manor Business Park on the edge of Sawston and the Babraham Institute. Whilst the Institute is not within the village framework boundary in the Local Plan, it is nonetheless an integral part of the village both physically and functionally.
61. Solar farms are extensive moveable structures not normally found within the built up area of a village and as such may be distinguished from permanent built development. However the two appeal proposals are, by definition, development which is inappropriate in the Green Belt, and in circumstances where they are situated between the two villages, would result in a loss of intervening countryside in the same way as would be the case with a housing development [26] [37]. I find that Appeal A would conflict significantly with this Green Belt purpose and with the provisions of CS Policy ST/1. On the other hand there would be only a limited effect from the Appeal B development.
62. The proposed housing allocations would be no less harmful to this Green Belt purpose than the appeal proposals. However they must be seen in the context of the emerging Local Plan development strategy, selection process for housing sites and Green Belt review¹. They are not a reason to give less weight to the harm the appeal proposals cause through coalescence [25] [38].

Safeguarding the countryside from encroachment

63. Both developments would significantly affect the appearance and character of the countryside to the north of Sawston as the LVIA acknowledges. The appeal field is not flat but slopes down to the north to the River Granta and also forms a low dome [6]. Consequently in views from the valley footpath/bridleway the rows of solar panels would be on rising ground. They would be angled to the south so the views would be of the back of the rows and from some locations would form a jagged skyline. The boundary of the Appeal B development would be close to the highest part of the field and would form a harsh edge against the sky. From Magog Downs the individual panels would not be so obvious but the rear view of geometric rows of glazing would be intrusive. The Appeal A development would also be clearly seen from the footpath along the eastern boundary of the field.
64. The appellant has sought to mitigate the visual impact with planting. From the east and from close quarters to the north this would be increasingly effective

¹ Matters that were not before the Hearing

over time, becoming fully effective at the latest after 12 years. However from much of area to the north and from Magog Downs the developments would be visible above the proposed valley shelter belt/hedge planting [27] [40].

65. It is agreed that the landscape would revert to open countryside after 25 years and that the mitigation planting would, once the site is restored, result in a modest landscape gain. Even so I find in both appeals that there would be a considerable encroachment of development into the countryside which would have significant adverse landscape and visual effects. In coming to this conclusion I have been particularly influenced by the considerable recreational use made of the Granta valley footpath network and the public access area of Magog Downs. Given these nearby public uses the harmful sense of encroachment is compounded by the open setting of the field sloping gently above the valley floodplain. I consider for both developments significant weight should be given to the harm caused by encroachment into the countryside.

North Farm living conditions

66. I can understand the concern of the occupiers that if the Appeal A proposals were to go ahead then the Green Belt surrounding their property on three sides would be developed. However, whilst the visual change would be significant, the planning system does not seek to protect private views unless those views are so altered as to result in unacceptable living conditions.
67. This would not be the case here. The front windows are a considerable distance from the appeal site and the impact would be further reduced by the provision of a hedge along the boundary. I also noticed on my site visit that the house is set down on the site and within front and back gardens screened by good hedges. I find that there would be little adverse impact on outlook [28] [41].

Other harm

68. The NPPF requires planning decisions to take account of the economic and other benefits of BMV land and, where significant development of agricultural land is demonstrated to be necessary, then poorer quality land should be used in preference to that of a higher quality. The March 2015 WMS indicates that any proposal for a solar farm involving the use of BMV land would need to be justified by the most compelling evidence [16].
69. The appellant argues that in these appeals the land would continue to be used productively for an intensive mix of agricultural activities so that there would be no loss of food production. It is put forward as an approach that is innovative and goes far beyond that traditionally employed in solar farm developments and as such would amount to compelling evidence which would satisfy the provisions of the WMS [30]. The Council does not dispute this position and does not raise it as a reason for refusal [20c].
70. I do not doubt that there is a genuine intention to utilise the land as set out in the applications but there is no certainty that it would be possible to realise the proposals. Neither the land owner nor the appellant are farmers. There is no evidence of third party interest in fruit growing or poultry. Even if the proposals are accepted at face value there is also a requirement to show that less valuable agricultural land is not available elsewhere. I am not persuaded that there is the

most compelling evidence that BMV land should be used. This consideration also weighs against the proposal.

Other considerations

71. There is an undisputed ongoing need to develop renewable energy sources, to reduce CO² emissions and to thus combat global warming. This is Government policy and is reflected in the NPPF and the development plan. Having regard to the scale of the proposals substantial weight should be given to the contribution they would make to national renewable energy targets.
72. There are a number of other factors that are put forward in support of the proposals.
73. Construction jobs, although significant numerically, would only be for a 12 week period. Five long term operational jobs would not be full time. The investment of up to £23 million would be very significant but the net benefits to the economy are uncertain given the public funding that supports the project and the lack of information on how much of the money is spent or stays in the UK. Nonetheless some moderate weight attaches to the economic activity associated with the projects.
74. The use of BMV agricultural land would normally count against the proposals. The appellant argues and the Council does not dispute that the land will remain in production and that therefore paragraph 112 of the NPPF does not apply. At the very best the continuing agricultural use might be considered to offset the loss of the normal productivity of the land [30] [45]. As indicated above I have a concern that the vision document represents an admirable aspiration but that it is short on clarity as to how it would be delivered [70]. I find little favourable weight should be attached to the proposed agricultural uses.
75. The appellant has taken advantage of the opportunities a solar farm development offers to provide ecological benefits particularly in relation to grassland, hedgerows and field edge habitats and in supporting endangered species [30] [47]. I consider this, and setting aside and improving land as a nature reserve, should attract moderate weight. However I am not persuaded that these measures would become an educational resource because they are not open to the public and because, in the case of the nature reserve, it is not accessible and there are no management arrangements in place [52].
76. A connection to the national grid is an essential site requirement and the availability of a connection in a part of the network with capacity to accept the output is of assistance to the appellant but it does not bring a public benefit and adds no weight to the planning case for the proposals [30].

Conditions

77. The Council submitted suggested conditions¹ which formed the basis of a discussion at the hearing. For both appeals there would be a need for a standard commencement condition and for one listing the approved plans. It was agreed that, as the development would be time limited, a reinstatement condition would be necessary. Further details of landscaping and ecological works would be required to address future maintenance. Surface water drainage, including a

¹ Document D1

SuDS scheme, should be designed so as not to increase the rate of run-off from the site as recommended by the Environment Agency and in accordance with the flood risk assessment that accompanied the application.

78. An archaeological investigation has shown that piled supports should be avoided in the central portion of the field and it sets out an appropriate alternative design. Details of the access track are set out in the traffic management plan and details of the construction phase are set out in a method statement. Conditions would be needed to tie the development to these submitted details. Any future lighting should also be controlled.
79. Whilst the Vision Statement describes the potential of the land for a variety of agricultural production, it lacks details of how, when and by whom it would be achieved. More detail would be needed and should be secured by a pre-commencement condition. In view of the uncertainty over the form of agricultural uses a condition would be needed to control agricultural permitted development.
80. Should either appeal be allowed and planning permission granted the suggested conditions are set out in the Appendix to this report.

Planning balance and final conclusions

81. Considering in the first place Appeal B, the smaller of the proposals, then substantial weight must be given to the harm caused by inappropriate development in the Green Belt and further significant weight to the impact on openness and on encroachment into the countryside. The harm associated with Appeal A would be rather greater because it would have a very significant impact on openness and cause further significant harm by intruding into the narrow undeveloped gap between Sawston and Babraham. The use of BMV land would also weigh against the proposals.
82. Set against this harm substantial weight should be given to the production of renewable energy and the consequent reduction in greenhouse gas emissions. There would be further moderate benefits arising from the provision of local employment and improvements to bio-diversity. I also find in favour of the appellant in relation to living conditions. However on balance I find that these other considerations do not clearly outweigh the harm identified to the Green Belt in relation to both Appeal A and Appeal B. Very special circumstances therefore do not exist. If harm from the non-disputed use of BMV is taken into account then the balance lies even more against the proposals.
83. The proposals would therefore be contrary to DCP Policy GB/1 and, in as much as the rural quality of the landscape is harmed through encroachment, to CS Policy ST/1. Appeal A would also conflict with CS Policy ST/1 because of harm through coalescence.
84. The proposals would not deliver a sustainable development. National Green Belt policy makes an important contribution to the environmental pillar of sustainability. The NPPF says that it is its policies taken as a whole that constitute what sustainable development means in practice for the planning system¹. In this instance there is clear harm to the openness of the Green Belt and to its purposes that would not be justified by very special circumstances.

¹ NPPF paragraph 6

The proposed developments would therefore be contrary to the provisions of NPPF paragraph 87. Since the impacts of the developments are not acceptable and cannot be made acceptable paragraph 98 of the NPPF indicates that the appeals should be dismissed.

Recommendation

85. I recommend that Appeal A for the installation of a 28MW solar farm and Appeal B for the installation of a 14MW solar farm and associated development both be dismissed. In the event that the Secretary of State disagrees with me, I recommend that any permission granted for either Appeal A or Appeal B be subject to the conditions in the Appendix below.

Bern Hellier

INSPECTOR

APPENDIX

SUGGESTED CONDITIONS IF PLANNING PERMISSION IS GRANTED

APPEAL A

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: PVF-CB2-15A (site location); PVF-CB2-02C (site layout); PVF-CB2-07 (mini sub-station); PVF-CB2-08 (control building); PVF-CB2-09 (customer building); PVF-CB2-10 (inverter transformer building); PVF-CB2-11B (site layout at A1); PVF-CB2-12A (site block plan A); PVF-CB2-13A (site block plan B); PVF-CB2-14A (site block plan C); PVF-CB2-17A (planning boundaries); PVF-CB2-18 (filter trenches); PVF-CB2-19A (standard details); PVF-CB2-22B (connection details); PVF-CB2-27 and 28 (culvert details); JNY8435-01 (visibility splay); 1:1250 plan of area of archaeological sensitivity; ground mounted solar panel PvMax3; 32004 (landscape planting and biodiversity scheme) dated 2 April 2015.
3. This permission shall expire after 25 years following the date that energy production commences. The local planning authority shall be notified of such date in writing not later than one month from the event taking place. Within 12 months of the end of the 25 year period, or if the solar array ceases to be operational for a continuous period of 6 months at any time prior to this, the solar array and its associated infrastructure shall be removed from the site and the land reinstated to a condition that has been first agreed in writing by the local planning authority.
4. Development shall not commence until a final biodiversity/landscaping management plan has been submitted to and approved in writing by the local planning authority. The plan shall be based on amended drawing 32005 and shall be implemented as approved.
5. All planting and seeding comprised in the approved landscaping details shall be carried out prior to construction or in accordance with a programme agreed in writing with the local planning authority and 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 and species, unless the local planning authority gives written approval to any variation.
6. The development shall be designed and carried out in accordance with details set out in Section 6 of the Flood Risk Assessment (ref. 1278/RE/05-14/01 Rev A) and all on-site drainage and SUDS elements shall be maintained in accordance with the drainage inspection checklist in the Drainage Management Plan (ref.CB2/DM1 dated 9 October 2014). The scheme shall be implemented in accordance with the approved details before the development becomes operational.
 7. Construction work shall be carried out in accordance with the archaeological mitigation strategy set out in Section 2.2 of the Archaeological Trial Trench Evaluation dated October 2014.
 8. The development shall be carried out in accordance with the details set out in the Traffic Management Plan dated 25 June 2014. No materials shall be brought onto the site until the access track has been constructed.
 9. Development shall not commence until details of the implementation, future management and commencement dates for the proposed agricultural uses in accordance with the Vision Statement dated October 2014 have been submitted to and approved in writing by the local planning authority. The uses shall be implemented, commenced and managed in accordance with the approved details.
 10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Class A of Part 6 to Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the local planning authority.
 11. No external lighting shall be installed on the site unless details of such lighting has been submitted to and approved in writing by the local planning authority.
 12. The construction phase of development, including hours of working, shall be carried out in accordance with the amended Construction Methodology Plan dated 2 October 2014.

APPEAL B

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: PVF-CB2-102 (site layout); PVF-CB2-08 (control building); PVF-CB2-09 (customer building); PVF-CB2-110 (transformer building); PVF-CB2-111 (site layout at A1); PVF-CB2-112 (site block plan A); PVF-CB2-113A (site block plan B); PVF-CB2-114 (site block plan C); PVF-CB2-115 (site location plan); PVF-CB2-17A (planning boundaries); PVF-CB2-118 (filter trenches); PVF-CB2-119 (standard details); 444-CV-06 (switch room); PVF-CB2-22B (connection details); PVF-CB2-27 and 28 (culvert details); JNY8435-01 (visibility splay); 1:1250 plan of area of archaeological sensitivity; ground mounted solar panel PvMax3; 32005 (landscape planting and biodiversity scheme) dated 2 April 2015.

3. This permission shall expire after 25 years following the date that energy production commences. The local planning authority shall be notified of such date in writing not later than one month from the event taking place. Within 12 months of the end of the 25 year period, or if the solar array ceases to be operational for a continuous period of 6 months at any time prior to this, the solar array and its associated infrastructure shall be removed from the site and the land reinstated to a condition that has been first agreed in writing by the local planning authority.
4. Development shall not commence until a final biodiversity/landscaping management plan has been submitted to and approved in writing by the local planning authority. The plan shall be based on amended drawing 32004 and shall be implemented as approved.
5. All planting and seeding comprised in the approved landscaping details shall be carried out prior to construction or in accordance with a programme agreed+ in writing with the local planning authority and 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 and species, unless the local planning authority gives written approval to any variation.
6. The development shall be designed and carried out in accordance with details set out in Section 6 of the Flood Risk Assessment (ref. 1278/RE/05-14/01 Rev A) and all on-site drainage and SUDS elements shall be maintained in accordance with the drainage inspection checklist in the Drainage Management Plan (ref.CB2/DM1 dated 9 October 2014). The scheme shall be implemented in accordance with the approved details before the development becomes operational.
7. Construction work shall be carried out in accordance with the archaeological mitigation strategy set out in Section 2.2 of the Archaeological Trial Trench Evaluation dated October 2014.
8. The development shall be carried out in accordance with the details set out in the Traffic Management Plan dated 25 June 2014. No materials shall be brought onto the site until the access track has been constructed.
9. Development shall not commence until details of the implementation, future management and commencement dates for the proposed agricultural uses in accordance with the Vision Statement dated October 2014 have been submitted to and approved in writing by the local planning authority. The uses shall be implemented, commenced and managed in accordance with the approved details.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Class A of Part 6 to Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the local planning authority.
11. No external lighting shall be installed on the site unless details of such lighting has been submitted to and approved in writing by the local planning authority.
12. The construction phase of development, including hours of working, shall be carried out in accordance with the amended Construction Methodology Plan dated 2 October 2014.

APPEARANCES

FOR THE APPELLANT:

Mr Christopher Boyle	of Counsel
Mr Luke Simpson	Senior Planner (RPS Group)
Mrs Jacqui Jobbins	Landscape Architect (Greenlight Environmental Consultancy)
Mr Etienne Swarts	Ecologist (Greenlight Environmental Consultancy)

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Sarah Ballantyne-Way	Planning Consultant (SBW Planning)
Mr David Huskisson	Landscape Architect (David Huskisson Associates)

INTERESTED PERSONS:

Mr David Bard	Sawston Parish Council
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DOCUMENTS

A. Submitted with Statement of Case for the appellant

A	Volume 1 Appeal A submission documents (A4) Tabs 1-24
A	Volume 2 Appeal A submission documents (A3) Tabs 25-45
B	Volume 1 Appeal B submission documents (A4) Tabs 1-27
B	Volume 2 Appeal B submission documents (A3) Tabs 28-46
C	Landscape and Visual Resources Statement
C	Landscape and Visual Resources Figures and Appendices
D	Village Framework, Babraham Institute and proposed development boundaries
E	Approved and proposed development adjacent to the appeal site
F	Babraham Institute application
G	Football ground application
H	Letters of intent for agriculture purposes
I	BRE: Agricultural Best Practice for Solar Developments 2014
J	Objection from North Farm September 2014
K	Objection from North Farm November 2014
L	Appeal decision APP/C3105/A/13/2207532 Bletchington, Oxfordshire
M	Planning permission S/0154/11 Cantelupe Farm, Haslingfield
N	Landscape Officer response to Appeal B application
O	North Farm planning applications
P	North Farm sight lines
Q	Appeal decision APP/Q3060/A/13/2200191 Woollaton, Nottingham
R	Appeal decision APP/R0660/A/14/2211721 Willaston, Cheshire
S	Grid connection details
T	Distributor Network Operator Grid Capacity Map
U	Appeal decision APP/D0840/A/14/2213745 Lanyon Farm, Hayle, Cornwall
V	West Berkshire and another v DCLG [2015] EWHC 2222 (Admin)
W	R (Basildon District Council) v First Secretary of State and Temple [2004] EWHC (Admin)

B. Submitted with the Statement of Case for the Council

- B1 Appeal decision APP/Y3615/A/14/2212923 Eashing Farm, Godalming
- B2 Appeal decision APP/C3620/W/14/3002006 Beare Green, Surrey
- B3 Appeal decision APP/D2320/A/14/2222025 Heapey., Chorley, Lancashire
- B4 Appeal decision APP/F0114/A/13/2198715 Wilmington Farm, Marksbury, Bath
- B5 South Cambridgeshire District Council Services and Facilities Study 2014
- B6 Plan showing appeal site contours
- B7 Letter from the Planning Inspectorate re Local Plan Examination dated 20 May 2015
- B8 Council response to Planning Inspectorate dated 30 June 2015
- B9 Draft planning conditions (Appeal A)
- B10 Draft planning conditions (Appeal B)

C. Other documents

- C1 Statement of Common Ground
- C2 Core Strategy DPD Policy ST/1
- C3 Development Control Policies DPD Policies GB/1, DP/3, NE/2
- C4 1950 6" to a mile Ordnance Survey map of appeal site
- C5 Appeal Hearing notification letter



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.

3131943

Land South Of Three Houses Lane,
Three Houses Lane,
Codicote,
Hertfordshire,
SG4 8S

North Hertfordshire District Council

31 October 2016



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.

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

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

File Ref: APP/X1925/V/15/3131943

Land south of Three Houses Lane, Three Houses Lane, Codicote, Hertfordshire SG4 8SU

- 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 Pellett 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 Pellett 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

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
John Chapman

Landscape and Urban Designer.
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
Tim Wise

Local resident.
Local resident.

INTERESTED PERSONS:

Stephen McPartland MP
David Hamid

Member of Parliament for Stevenage.
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 Rectorry 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	<i>Original Plans (Superceded)</i>
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	<i>Amended and Original Plans (To be determined)</i>
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	<i>Original Supporting Documents (Superseded)</i>
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	<i>Amended and Original Supporting Documents (To be determined)</i>
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	<i>Representations received</i>
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.

3278065

Land north of The Street,
Cawston,
Norfolk NR11 7QR

Broadland District Council

7 June 2022



Appeal Decision

Hearing held on 5 April 2022

Site visit made on 6 April 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2022

Appeal Ref: APP/K2610/W/21/3278065

Land north of The Street, Cawston, Norfolk NR11 7QR

- 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 Anthony Brindle (Docking Farm Solar Limited) against the decision of Broadland District Council.
 - The application Ref: 20201776, dated 18 September 2020, was refused by notice dated 21 April 2021.
 - The development proposed is a ground-mounted solar farm including associated infrastructure, namely inverters, transformer, a DNO substation, battery storage and grid connection.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development set out above refers to battery storage, but this aspect of the scheme was omitted during the course of the determination of the planning application and the layout plan amended to reflect this. I have therefore omitted that aspect from the description and rely on the remainder described above. At the Hearing, the main parties also agreed that the drawing for energy storage containers should also be discounted (Ref PL_011).
3. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The relevance of the revised content of the Framework was discussed at the Hearing and I am satisfied that the revisions do not significantly alter the policies upon which this appeal turns.
4. Since the determination of the appeal application the Council has granted planning permission for an alternative solar farm (the approved scheme). This is comprised of two separate planning permissions¹, as the triangular field northwest of the appeal site, did not fall within the land outlined in red for the appeal application. The approved scheme was granted recently and there have been no relevant intervening changes in planning policy. The site, its environs and the substance of the approved scheme are broadly the same to the appeal scheme before me. The approved scheme is therefore a material consideration of significant weight in my deliberations.

¹ Planning References: 20211249 and 20211288.

Applications for Costs

5. An application for costs was made by Mr Anthony Brindle (Docking Farm Solar Limited) against Broadland District Council, which is the subject of a separate Decision.

Main Issues

6. Having regard to the Council's reasons for refusal, the main issues are:
 - effect of the proposed development on the use of best and most versatile agricultural land, including consideration of the site selection process and evidence to justify any loss;
 - the effect of the scale and form of the proposed development on the surrounding rural landscape character, cumulative with other schemes approved on the site and nearby, including Oulton Airfield; and
 - the benefits of the appeal scheme.

Reasons

Best and Most Versatile Agricultural Land

Planning Policy

7. The Written Ministerial Statement (WMS) of 25 March 2015 relates to the unjustified use of agricultural land and expects any proposal for a solar farm involving the best and most versatile agricultural land (BMV) to be justified by the most compelling evidence. The WMS was linked to updated National Planning Practice Guidance² (NPPG), which explains that where a proposal involves greenfield land, consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. This approach is also reflected in the Framework, which suggests that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality³.
8. Policy GC5 of the Development Management DPD 2015 (DMDPD) refers to proposals for renewable energy technology and suggests that they will be encouraged where their impacts are (or can be made acceptable), which mirrors the approach in Paragraph 158 of the Framework. The supporting text for Policy GC5 refers to an open list of considerations, including site specific issues. It does not allocate any sites for renewable and low carbon energy sources, but the Framework suggests this is only a consideration and not a requirement, this matter is therefore not determinative in this appeal. Policy 17 of the Joint Core Strategy for Broadland, Norwich, and South Norfolk⁴ (JCS) refers to the countryside and is supportive of development where it furthers the objectives of the JCS, which includes the delivery of Infrastructure as set out in Policy 20, particularly 'local and renewable energy generation'. None of the above development plan policies specifically refer to the loss of BMV.

² Paragraph: 013, Reference ID: 5-013-20150327, Revision date: 27 March 2015.

³ Footnote 58, within paragraph 175.

⁴ Adopted March 2011, amendments adopted January 2014.

Effect of the Proposal

9. The Framework clarifies in its glossary at Annex 2 that BMV equates to land falling within grades 1, 2, and 3a of the Agricultural Land Classification. It is therefore this land which requires greatest consideration when determining appeals.
10. The appellant's Site Selection Assessment (SSA) fixed the study area for the appeal proposal to distance of 2.5km from a connection point to an existing electricity substation, which the Council had accepted for the approved scheme. On this basis, at the Hearing, it was agreed that the same overarching approach was also applicable to the appeal scheme. The SSA was also informed by constraints, including the location of sensitive environmental areas such as County Wildlife Sites and designated heritage assets. On this basis, the Council also confirmed its acceptance to the overall location of the site within the study area. I have not therefore considered the macro-scale site selection, beyond the study area, any further.
11. Prior to the Hearing I asked the main parties to set out the differences between the approved and current appeal schemes. The Officer Report for the approved scheme suggests that additional information was submitted regarding the impact of the solar farm on the viability of the farming enterprise, amongst other things, including reference to disease control. At the Hearing the Council confirmed that this information was identical to that provided with appeal. The principal difference between the approved and appeal schemes, relevant to this main issue, therefore, relates to the extent of BMV used for the proposal.
12. The appeal site comprises three large agricultural fields north of the B1149 and west of The Street, covering an area of 35.67ha within an overall farm holding of 700ha, which is farmed for a combination of crops including potatoes, sugar beet, wheat, and barley.
13. The appellants' Agricultural Land Classification Report⁵ provides a breakdown of the grading of land within the site. Some 23.1 hectares (71.1 percent) would be BMV, including a hectare of Grade 2 land. The remainder is classified as moderate quality agricultural land (Grade 3b). By comparison, the approved scheme would not use any Grade 2 land and BMV land required would be around half (12.7 hectares).
14. The proposed solar farm would occupy land within the site for a temporary period of forty years, after which the land would return wholly to agricultural use, with grazing possible between and under the arrays while in situ. It seems to me that these justifications could be made on most agricultural land and more than these simple measures are required to justify the use of BMV for the proposal, as there is likely to be an effect on food production over the 40-year period, which in more meaningful terms itself exceeds a generation of change.
15. I am mindful that 76 percent of the land required for the part implemented scheme for a solar farm⁶, at the former Oulton Airfield to the northwest of the site, would be BMV. This would amount to a greater uptake in percentage terms when compared to the appeal scheme. However, it is not appropriate to quantify the loss of BMV on the basis of the percentage of land within a farm

⁵ January 2020.

⁶ Planning Reference: 20150952.

holding that would be developed, as the same percentage of land could equate to a significantly greater proportion of a smaller farm holding.

16. The appeal site comprises land with varied gradings, including within individual fields. I accept that areas of Grade 2 and 3a land remaining in the parcels of land between the fields of arrays of the approved scheme would be unlikely to be farmed differently to the rest of the holding. Nevertheless, the smaller amount of land required through the approved scheme would ensure a greater extent of BMV land would be available for food production, throughout the lifetime of that development. Moreover, the approved scheme demonstrates that arrays can be configured within the appeal site and an adjoining area of land within the holding, with a significantly lesser extent of BMV taken out of arable production. I note that such an approach is endorsed in the appellant's Statement of Case.
17. The appeal scheme therefore fails to demonstrate that it would be necessary for all of the agricultural land within the site to be used for the siting of the proposed solar arrays, or that poorer quality land would be used in preference to higher quality land, as required by the WMS, NPPG and the Framework. I acknowledge that the proposal would allow for continued agricultural use and biodiversity improvements around arrays, in accordance with the NPPG, but these conditions need to be met alongside the use of BMV land. I address these matters further in the third main issue and the Planning Balance. For these reasons, I have therefore arrived at a different conclusion to the Inspectors for the appeal decisions for other solar farms and proposals on BMV land to which I have been referred.
18. In light of the above, I conclude that the loss of BMV throughout the lifetime of the proposed development has not been justified by the most compelling evidence, as required by the WMS, NPPG and the Framework. This amounts to a site-specific impact that would conflict with DMDPD Policy GC5, which brings the proposal into conflict with DMDPD Policy GC2, as this refers to the impacts of locating new development outside of settlement limits.

Rural Landscape Character

19. The appeal site is situated within Landscape Character Area E1: Blickling and Oulton, as identified in the Council's Landscape Character Assessment⁷. It is generally formed of gently rolling arable fields, enclosed by mature trees and hedges, and pockets of woodland surrounding the settlements therein. Field boundaries within the site are delineated by mature hedge and tree planting, including those adjoining the B1149 and The Street. Mature trees situated within a tree belt to the north and wooded area to the east provide a verdant backdrop to the site. The site and its surroundings therefore embody the typical landscape characteristics of the character area, which make a positive contribution to the rural landscape character of the locality.
20. The application was supported by a Landscape and Visual Appraisal (LVA). This is a robust assessment of the site and its surroundings and suggests it has medium landscape sensitivity. Based on its findings, it is clear that there would be some visibility of both the approved and proposed schemes from within close proximity of the site, from neighbouring properties, and through and over field boundaries to the B1149 and The Street, particularly in winter months.

⁷ Supplementary Planning Document, September 2013.

- Nevertheless, the presence of the planting of field boundaries further afield and woodland within the landscape, would ensure that the visual impact of the proposal would be confined to close-proximity views.
21. The arrays in the southern field of both schemes would be more prominent during the course of construction of nearby Nationally Significant Infrastructure Projects⁸ (NSIPs), as hedges are required to be kept lower for forward visibility along The Street to enable access to construction compounds. New planting would also take some time to establish.
 22. Like the approved scheme, at the Hearing the appellant committed to infill gaps in hedge planting, including at the junction of The Street and the B1149, and to provide semi-mature planting to the rear of the proposed vehicular access and egress. In granting the earlier permission, the Council accepted that when the planting matured it would screen the arrays from view from The Street and the B1149. Planting in this form would therefore have a similar impact for the proposed scheme, which could be secured by a planning condition requiring approval of a Landscape and Ecological Management Plan (LEMP).
 23. The approved scheme would not develop the northern half of the northeast field and the majority of the northwest field. While the impact of the former would be to reduce the extent of arrays that could be viewed from The Street, there would be little visual benefit to the latter, as the field is beyond other arrays so would be screened from public viewpoints.
 24. The additional arrays within the northeast field, associated with the appeal scheme, would increase the extent of development adjacent to The Street and non-residential development on the approach to Oulton, but the field is not subject to the hedge reduction required for forward visibility for NSIPs. The break in arrays provided by the approved scheme would make a very limited contribution to the appearance of the solar farm within its surroundings and it is likely that the appearance of the arrays in this location could be satisfactorily addressed by the combination of existing and proposed planting to be set out by the LEMP.
 25. Given the above and having regard to the planting situated around the triangular parcel of land included in the approved scheme, I am satisfied that, were the approved and appeal schemes to be implemented together, the cumulative impact of the combined area of solar arrays would not have a significantly greater visual impact on the rural landscape character of the area.
 26. It is unclear whether the remaining two elements of the Oulton Airfield solar farm would be implemented, but the smaller of these would extend closer to the appeal site, with the larger portion situated on land enclosed between the former runways, some distance north of the site and beyond intervening agricultural buildings. Due to the distance from the appeal site, topography of the surrounding landscape and the extent of dense mature planting between, there would be limited visibility between them and they would not be experienced in the context of one another from surrounding public viewpoints. Therefore, it is unlikely that there would be a cumulative landscape impact associated with the Oulton Airfield and approved and appeal schemes, including sequentially when the approved and/or appeal schemes would be viewed from neighbouring roads.

⁸ Hornsea Three (EN010080), Norfolk Boreas (EN010087) and Norfolk Vanguard (EN10079).

27. In light of the above, I conclude that the scale and form of the proposed development would not have a harmful effect on the surrounding rural landscape character, even when considered cumulatively with other schemes approved at the site and nearby, including Oulton Airfield. Hence, the proposal would accord with the landscape character aims expressed in DMDPD Policy EN2. This means that this aspect of the proposal would not conflict with the aims of DMDPD Policies GC2 and GC5. The proposal would also accord with the guidance in the NPPG in this regard, which acknowledges that landscape and visual impacts can be mitigated through screening by native species.

Benefits of the Appeal Scheme

28. At the Hearing, the main parties agreed that the declaration of a Climate Emergency by the UK Government in May 2019, is a material consideration. Given the scale and urgency of the emergency, I attach significant weight to this material consideration, including the impact of climate change on food production. A balance therefore needs to be struck to reduce the former to protect the latter. There was also agreement that energy and food security are both key issues, which are affected by foreign markets, including through conflicts such as that taking place in Ukraine.
29. The UK is legally bound through the Climate Change Act (2008) to reduce UK greenhouse gas emissions by at least 80% by 2050, from a 1990 baseline. The proposal has potential to generate approximately 30,882MWh/annum of electricity to serve a significant number of homes (upwards of 8000), in a manner which would considerably reduce the potential implications of CO2 pollutants generated by equivalent electricity produced from fossil fuels (13,279 Tonnes). This would therefore amount to a significant environmental benefit, which would also be a form of development that would further the objectives of JCS Policies 17 and 20.
30. The potential reduction in energy costs for consumers could help to address fuel poverty, which disproportionately affects low-income households and contributes to economic inequality. As the number of homes that could be affected is considerable so too could the economic benefits.
31. There would be a Biodiversity Net Gain through the implementation of the proposal with onsite enhancement and mitigation measures encompassing several key measures, such as planting of wildflowers in field margins and other seed mixes between and underneath arrays to provide a greater diversity of species. The majority of existing trees would be retained and additional trees planted to provide a further foraging resource. Additional hedge planting, including infilling to gaps in existing hedgerows with native and woody species, would provide habitat for nesting birds and a foraging resource for a variety of species. Bat, bird and bug boxes and log piles would also be installed. The majority of these benefits would be at least throughout the lifetime of the development, as there is a commitment to monitor and report on biodiversity, with a contingency to use different seed mixes if they do not establish. Hedges would be managed and maintained thereafter, but lower-level planting could be ploughed back into the land. As such, the environmental benefits associated with the Biodiversity Net Gain would be of moderate weight.
32. The soil within the appeal site has Potato Cyst Nematode (PCN) present. This has implications for potato cropping and requires the use of strong pesticides, which impact on insect life, soil profile and the overall yield and farm holding

profitability. The fallow period associated with the proposal would enable PCN to naturally be removed from this part of the site and improve the health of the soil. However, this is not a determining factor for the quality or grading of the land, as other crops can be grown in place of potatoes, and it is a prevalent issue in the UK that is not specific to the site.

33. The selection of the proposed site ensures a viable scheme through reduced connection costs emanating from construction work and landowner agreements. Moreover, the proposal would be connected to the electricity grid via the existing 33kV overhead powerlines crossing the site and existing substation at Oulton Airfield. As this would be the starting point for any scheme of this nature and it would only serve to benefit the appellant it would have a limited economic benefit. However, keeping the proposal close to existing infrastructure would reduce its environmental impact, in landscape terms. This would amount to a benefit of moderate weight.
34. In light of uncertainty regarding farming subsidies, the proposal would enable the farm holding to diversify its income and invest in infrastructure, buildings, and ongoing maintenance of the holding to ensure it remains competitive and viable in the long term. Due to economies of scale associated with the size of the farm holding, the land taken out of arable production is unlikely to affect the workforce or overall viability of the holding. The construction phase would be over a relatively short period of around five months due to the lightweight nature of the array materials, but there would be direct employment opportunities from the local labour market (including archaeological advisors) and the procurement of materials and equipment. There would also be indirect short-term benefits, from spend by contractors on accommodation and services during the construction phase, and some long-term employment through management, maintenance, monitoring and security of the site. The development would also be subject to business rates, which could equate to a considerable regular income for the Council over the course of the development. Given the scale of the development proposed these would be social and economic benefits of moderate significance.

Other Matters

35. Third parties have raised concern regarding the visual impact of the proposal when viewed from The Old Railway Gatehouse. The proposal would cover a large area in close proximity of that property, but the appearance and scale of the arrays would be likely to be mitigated by the combined screening effect of existing and proposed planting. The proposal would not therefore result in harm to the outlook and, thereby, the living conditions of occupants of that property, I note that the Council arrived at a similar conclusion.
36. Natural England (NE) has recently updated its advice in relation to nutrient level pollution in a number of existing and new river basin catchments. The advice finds that an increasing number of waterbodies, in or linked with European Sites, are now deemed to be in 'unfavourable' conservation status for the purposes of the Habitats Regulations. More plans and projects, in relevant river basin catchment areas and proximate to a European Site, will therefore need to be screened in accordance with the Habitats Regulations. Broadland is included in the list of authorities affected by the latest changes, principally due to effects on the River Wensum Special Areas of Conservation and parts of the Broads Special Area of Conservation and Ramsar site. However, given that the

proposal does not include any overnight accommodation, NE's Nutrient Neutrality Methodology does not apply and this would not be a constraint to the development.

Planning Balance and Conclusion

37. I have set out the benefits of the appeal scheme above, the provision of clean renewable energy would accord with JCS Policies 17 and 20 and in the second main issue I found that there would not be harm to the rural character of the area. In terms of harms, the impact of the loss of BMV throughout the lifetime of the proposed development would be a site-specific impact which would bring conflict against development plan policy.
38. While collectively there would be benefits associated with the proposal of considerable and significant weight, the harm that would be caused by allowing development, through the loss of BMV over the lifetime of the development, would be of greater significance.
39. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission that outweigh the benefits identified.
40. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Beddoe	BA (Hons) MSc MRTPI	Lighthouse Development Consulting
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FOR THE LOCAL PLANNING AUTHORITY:

Helen Bowman	BA (Hons) MSc MRTPI	Principal Planning Officer
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Andrew Parnell	BSc (Hons)	Planning Officer
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INTERESTED PARTIES

Susan Mather	Oulton Parish Council (Chair)
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Paul Killingback	Oulton Parish Council
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Alison Shaw	Oulton Parish Council
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Clive Searson	Occupier, The Old Railway Gatehouse
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