



Department for  
Communities and  
Local Government

Ms Joanne Plant  
Locogen Ltd  
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EDINBURGH  
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Our Ref: APP/B9506/W/15/3006387

30 March 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY LOCOGEN LTD:  
LIMOLANDS FARM, VAGGS LANE, HORDLE, LYMINGTON, HAMPSHIRE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI who carried out a site visit on 12 August 2015 in relation to your company's appeal against the refusal of the New Forest National Park Authority (NPA) to grant planning permission for the construction of a ground mounted solar array, capacity up to 5 megawatts; ancillary infrastructure including fencing, security cameras, inverter kiosks and substation building in accordance with application ref: 14/00817, dated 26 September 2014, at Limolands Farm, Vaggs Lane, Hordle, Lyminster, Hampshire, SO41 0FP.
2. The appeal was recovered for the Secretary of State's determination on 2 November 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because the appeal site lies within the New Forest National Park and he wishes to consider himself whether or not the development proposal would have any impact on the National Park (NP).

**Inspector's recommendation and summary of the decision**

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

**Policy and statutory considerations**

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the New Forest National Park Core Strategy and Development Management Policies Development Plan Document (CSDM), adopted in December 2010. The

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Secretary of State agrees with the Inspector that the most relevant policies in the CSDM are CP4 and CP5 (IR24 and IR29-30). CP4 supports proposals to mitigate climate change through, *inter alia*, increasing small scale renewable and low carbon energy generation and CP5 says that renewable energy schemes that assist in contributing towards the achievement of the national renewable energy targets will be permitted where they are small-scale, located and designed to reduce visual impacts and do not have significant impacts on the special qualities of the NP.

5. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (the Framework) and the associated Planning Guidance (the guidance); the CIL Regulations 2010 as amended; the National Parks and Broads Circular (the National Parks Circular); the various statutory provisions which define and limit the purposes of National Parks (IR25-26); and the New Forest Management Plan 2010-2015 (IR28). The Secretary of State has also had regard to the Written Ministerial Statement (WMS): "Planning Update March 2015" which, amongst other things, concerns solar energy.

### **Procedural matters**

6. As indicated at IR4, the Planning Inspectorate ascertained from the appellant, at the Inspector's request, that 29% of the site (approximately 3.9 ha) is Grade 3a (best and most versatile), 67% is Grade 3b and 4% is non-agricultural.

### **Main issues**

7. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR136.

#### *Landscape Character*

8. The Secretary of State agrees with the Inspector (IR137) that the manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the 2 fields and (IR143) that there would be effects on LCA18. The Secretary of State has given careful consideration to the Inspector's reasoning at IR137-142 including the mitigating effects of existing and proposed screening and notes that the Inspector considers that the overall landscape character effects would only be moderate-minor to minor (adverse). However, as the Inspector has acknowledged that the manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the NP, the Secretary of State considers that significant weight should be given to that.
9. In taking this different view from the Inspector on the degree of harm caused, the Secretary of State has taken account of the NPA's reasoning and conclusion at IR46 that the development would result in a semi-industrial appearance which would be at odds with the rural character of the appeal site, harmful to the landscape character of the area and to the special qualities of the NP. He has also had regard to paragraph 115 of the Framework which requires local planning authorities to give great weight to conserving landscape and scenic beauty in NPs, which have the highest status of protection in relation to landscape and

scenic beauty and, in that regard, has taken account of the need to conserve the key positive landscape attributes of the area arising from its historic origins (IR45).

### *Visual amenity*

10. The Secretary of State agrees with the Inspector (IR144) that no harmful visual impacts on residential amenity have been identified so that the main considerations relate to the possibility of views from public places.
11. The Secretary of State has given careful consideration to the Inspector's observations at IR145-151, but he disagrees with the Inspector's conclusion at IR152 that there would only be some very limited residual harm to visual amenity to weigh in the balance. He notes that this conclusion by the Inspector depends on the mitigation of visual effects by proposed planting and considers that more weight should be given to the harm caused by the time required for that to reach maturity. Furthermore, the Secretary of State is concerned that the proposed planting is then likely to have a permanent effect on the landscape of the NP while the intention is that the appeal scheme would have only a limited life, albeit extending over 30 years (see paragraph 18 below). Overall, therefore he gives moderate weight to the negative impact of the proposal on visual amenity.

### *National Park*

12. The Secretary of State agrees with the Inspector at IR153 that, as a nationally designated landscape, the NP is highly sensitive to change, although he accepts that national policy does not preclude the development of solar farms in national parks. The Secretary of State notes that the main parties agree that the current proposal is not small scale (IR154) and he agrees with that assessment (see paragraph 14 below). He therefore concludes that the proposal is in conflict with CSDM Policy CP4 (which supports increasing small scale renewable energy generation) and all three elements of Policy CP5 (see paragraphs 13 and 14 below), and he gives substantial weight to that conflict.
13. The Secretary of State acknowledges that the appellants and the Inspector have cited other cases within the NP as precedents (IR154-160 and IR162), but he considers it appropriate to assess each case on its own merits and, while he notes the Inspector's assessment at IR158 that there would be no material cumulative visual or landscape effects with the other schemes cited, he balances that against the sheer quantitative impact of an increasing number of solar farms in the NP, which he sees as being at odds with the requirement in paragraph 115 of the Framework to give the highest status of protection to the landscape and scenic beauty of NPs. Therefore, while noting the conclusion of the LVIA referred to at IR161 that the appeal scheme would not harm the most sensitive and fragile landscapes, the Secretary of State nevertheless takes the view that that needs to be seen within the overall context of the purpose of the NP designation – where the less sensitive and less fragile landscapes should complement those of the highest order. He has given careful consideration to the evidence available to him on the potential impact of the scheme within the NP in the context of the requirements of paragraphs 115 and 116 of the Framework, and concludes that the exceptional circumstances have not been demonstrated that would satisfy the

requirements of those paragraphs. Nor does he see any justification for reducing the weight to be given to CSDM policies CP4 and CP5 under the terms of paragraph 215 of the Framework.

14. As the Inspector points out at IR162, “major development” is not defined in the Framework and the Guidance confirms that it is a matter for the decision-maker. Having regard to the scale of the proposal (IR46), the fact that the parties agree that it is not small scale (IR154), the description of it making a “significant contribution” at IR169 and the Inspector’s own concluding comments that it would be a major development (IR191), the Secretary of State, as decision maker, concludes that the proposal should be regarded as “major development”. He has then gone on to assess the appeal scheme against the three criteria set out in paragraph 116 of the Framework and concludes that exceptional circumstances have not been demonstrated in terms of the need for the scheme to be located on the appeal site; the scope and cost of alternatives; or the justification for the detrimental effect on the environment, the landscape and recreational opportunities and the limited extent to which those impacts could be moderated.

#### *Impact on Best and Most Versatile Agricultural land (BMV)*

15. The Secretary of State has carefully considered the Inspector’s arguments at IR164-167 in relation to the impact on BMV land, and he agrees (IR172) that the inclusion of BMV land in the development would not of itself warrant the dismissal of the appeal but would be a factor to weigh in the overall planning balance. However, while he acknowledges that the proposal would minimise the use of the BMV land within the site, it would still necessitate the use of about 3.9 hectares of Grade 3a agricultural land, which he sees as representing a significant proportion of the site.
16. He considers that the loss of this BMV land, other than for sheep grazing, weighs substantially against the proposal. He is not satisfied that, in accordance with the WMS of 25 March 2015 (see paragraph 5 above), “the most compelling evidence” has been provided to justify this proposal involving the loss of BMV land, and he does not consider that the appellants have demonstrated clearly that the use of BMV land for this scheme is necessary and justifiable in terms of its loss to the full range of farming practices for which it would otherwise be suitable; and he gives substantial weight to its loss. In coming to this conclusion, he has taken account of the fact that the appellants had taken no account of any differentiation between Grade 3a and Grade 3b agricultural land in drawing up the scheme until that information was sought by the Planning Inspectorate (IR4), despite the fact that paragraph 112 of the Framework requires planning authorities to seek to use areas of poorer quality land in preference to that of a higher quality.

#### *Renewable Energy*

17. The Secretary of State acknowledges that the proposal would have an installed capacity of 5MW with the availability of a grid connection and a willing landowner (IR169), and that this would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets. He gives substantial weight to the contribution the scheme would thereby make to the Government’s commitment to mitigate climate change by reducing carbon dioxide emissions and helping to improve the security of energy supply.

## *Other matters*

18. The Secretary of State has also noted the Inspector's comments on commoner grazing rights for cattle (IR173-175), and agrees that the use of the appeal site for sheep grazing would accord with the aim set out in the planning guidance<sup>1</sup> of allowing for continued agricultural use. However, the Secretary of State considers that the use of the BMV land for sheep grazing needs to be seen in the context of other, potentially more productive, uses for the BMV land (see paragraph 15 above), and so he gives it very little weight as a benefit. He does, however, give moderate weight to the bio-diversity benefits of the proposed scheme, as described at IR176 and IR183; and also gives moderate weight to the benefits that would result to the local economy from long term farming security and farm diversification (IR181-182). With regard to the temporary nature of the scheme (IR177), the Secretary of State takes the view that 30 years is a considerable period of time and the reversibility of the proposal is not a matter to which he has given any weight. He considers that a period of 30 years would not be perceived by those who frequent the area as being temporary and that the harmful effect on the landscape would prevail for far too long.

## **Conditions**

19. The Secretary of State has considered the proposed conditions, as set out in the Schedule to the IR, and the Inspector's comments on them at IR184-185. He is satisfied that these conditions are reasonable and necessary and would meet the tests of the Framework and the guidance. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing the appeal.

## **Planning obligation**

20. The Secretary of State has considered the Inspector's comments at IR185 on the S106 Planning Obligation dated 26 June 2015, and agrees that the provisions are compliant with the Community Infrastructure Levy Regulations 2010 as amended.

## **Overall balance and conclusions**

21. The Secretary of State concludes that, as the appeal scheme conflicts with CSDM Policies CP4 and CP5, it cannot be regarded as being in accordance with the development plan; and he is satisfied that, in accordance with paragraph 215 of the Framework, the relevant CSDM policies can be given full weight as being consistent with the Framework. Hence, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, he has gone on to consider whether there are sufficient material considerations to indicate that the appeal should nevertheless be determined otherwise than in accordance with the development plan.

22. With regard to the material considerations in favour of the scheme, the Secretary of State gives substantial weight to the contribution the scheme would make to the Government's commitment to mitigate climate change by reducing carbon

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<sup>1</sup> paragraph 5-013-20130327

dioxide emissions and helping to improve the security of energy supply. He also gives moderate weight to the bio-diversity benefits of the proposed scheme and to the benefits to the local economy from long term farming security and farm diversification. However, against those considerations, the Secretary of State considers that, as a “major development”, the scheme fails to accord with the terms of the Framework, particularly paragraphs 112 and 115-116, and he gives substantial weight to that conflict. He also gives substantial weight to the loss of 3.9 ha of BMV land for the appeal scheme in view of the lack of compelling evidence to justify that loss; and moderate weight to the negative impact of the proposal on visual amenity with no weight to the potential reversibility of the proposal.

23. Overall, the Secretary of State considers that the benefits of the scheme are outweighed by the factors weighing against it and that there are no exceptional circumstances that would nevertheless justify the scheme. He therefore concludes that there are no material considerations in favour of the proposal of sufficient weight to justify determining the appeal other than in accordance with the development plan.

### **Formal Decision**

24. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector’s recommendation. He hereby dismisses your client’s appeal and refuses planning permission for the construction of a 13.6 hectare solar park, to include the installation of solar panels to generate electricity, with substations, cabins, fencing and other associated works in accordance with application ref: 14/00817 dated 26 September 2014, at Limolands Farm, Vagg Lane, Hordle, Lymington, Hampshire, S014 0FP.

### **Right to challenge the decision**

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State’s decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990. A copy of this letter has been sent to the New Forest National Park Authority. A notification letter/email has been sent to all other parties who asked to be informed of this decision.

Yours faithfully

*Jean Nowak*

**JEAN NOWAK**

Authorised by the Secretary of State to sign in that behalf

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# **Report to the Secretary of State for Communities and Local Government**

**by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

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

**Date: 30 November 2015**

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## **Town and Country Planning Act 1990 New Forest National Park Authority Appeal by Locogen Ltd**

Site Visit carried out on 12 August 2015

Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire SO41 0FP

File Ref: APP/B9506/W/15/3006387

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**File Ref: APP/B9506/W/15/3006387**

**Limolands Farm, Vaggs Lane, Hordle, Lymington, Hampshire SO41 0FP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Locogen Ltd against the decision of New Forest National Park Authority.
- The application Ref 14/00817, dated 26 September 2014, was refused by notice dated 17 December 2014.
- The development proposed is described on the application and appeal forms as: 'Ground mounted solar array; capacity up to 5 megawatts; ancillary infrastructure including fencing, security cameras, inverter kiosks and substation building'.

**Summary of Recommendation: That the appeal be allowed.**

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**Procedural Matters**

1. The appeal form is dated 9 March 2015 and the accompanied site visit was carried out on 12 August 2015. Necessary additional information about agricultural land quality was sought from the Appellant on 21 August 2015 and was submitted on 3 September 2015.
2. Although under the Town and Country Planning (Determination of Appeals by Appointed Persons)(Prescribed Classes) Regulations 1997, the appeal was to have been decided by an Inspector, the Secretary of State now considers that he should determine it himself. Accordingly, and in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 2 November 2015 the Secretary of State directed that he shall determine this appeal instead of an Inspector.
3. The reason for this direction is because the Secretary of State notes that the appeal site lies within the New Forest National Park. He would therefore wish to consider himself whether or not the proposal would have any impact on the National Park and the appeal is therefore being recovered because of the '*particular circumstances*'.
4. The Appeal Form at Qn.I (part two) states that this is not an agricultural holding. However the application form described the site as agricultural land. It is owned and obviously farmed as a beef unit holding by Mr R Bowring on whom notice was served of both the application and appeal. In the circumstances I have taken the response to Qn.I to be in error. However nobody would thereby be prejudiced. Notice was also served on a Mr S Brewis who has an interest in the adjacent woodland and in the land connecting the 2 fields on the appeal site and on Hampshire County Council in respect of the road access. The application site was described as Grade 3 agricultural land. At the appeal stage, the Inspectorate queried whether this was Grade 3a ('good' – 'best and most versatile') land or Grade 3b 'moderate'. The Appellant submitted a survey report which identifies that 67% is Grade 3b, and 29% is Grade 3a and that the remaining 4% is non-agricultural (mainly access). The Grade 3a land would amount to approximately 3.9ha out of 13.6ha.

**Environmental Impact Screening**

5. The Authority issued a screening opinion that, having regard to the scale and location of the development and environmental sensitivities, an Environmental Impact Assessment was not required. I concur.



## **The Site and Surroundings**

6. The site lies in enclosed countryside in Sway Parish between the villages of Hordle and Sway. Whilst the site address is given as Vaggs Lane (where the Limolands farmstead is located), the construction and maintenance access would use an existing access point on Arnewood Bridge Road.
7. The appeal site is located in open countryside within the New Forest National Park which, alongside Areas of Outstanding Natural Beauty, has the highest status of protection in relation to landscape and scenic beauty.
8. The site comprises 2 large fields totalling 13.6 hectares which are linked by a narrow strip of land. The northern field is set away from the highway beyond intervening paddocks and a group of farm buildings at Swaylett Farm. It would be linked to Arnewood Bridge Road by an existing access route. Another new access route would link the northern field to southern field. The latter route passes between areas of woodland, one of which is both ancient woodland and a Site of Interest for Nature Conservation (SINC).
9. The 2 fields are enclosed in part by the woodland and otherwise by hedgerows that incorporate mature trees. In some places the hedges already provide a tall and continuous screen. Elsewhere the hedgerow trees have shaded out other vegetation but the trees still provide a screening or filtering function, particularly in longer views.
10. There is a railway line which lies to the north west and immediately to the south of this railway line is a public footpath. In general, the levels within the northern field are relatively flat although the land does drop away towards the north western boundary and to the south eastern corner of the field.
11. The southern field of the appeal site is bounded by similar agricultural pastoral countryside to the east and south, and by ancient woodland to the north. This field benefits from more limited views from the public realm when compared to the northern field. Notwithstanding this, there are sporadic views from the adjoining fields and the land drops away towards the southern and eastern boundaries.

## **Planning Policy**

12. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the New Forest National Park Core Strategy and Development Managements Policies DPD (2010) (the CSDM).
13. Other important material considerations include: the National Planning Policy Framework (2012) (the Framework) which postdates the CSDM and replaces national previous policy to which the CSDM refers; and national Planning Practice Guidance (PPG) which expands on Government policy.
14. The appeal site lies within the New Forest National Park. Relevant material considerations therefore also include: the statutory purposes of the National Park Authority; the New Forest Management Plan 2010-2015; and the English National Parks and the Broads Circular 2010 (the National Parks Circular).

### *Renewable Energy*

15. The most directly relevant development plan policy is CSDM Policy CP5 *Renewable Energy* which in summary will permit renewable energy schemes that assist towards national renewable energy targets where they: (a) are small scale; (b) are located and designed to reduce visual impacts; and (c) do not have significant impacts on the special qualities of the National Park.
16. CSDM Policy CP4 *Climate Change* supports proposals to mitigate climate change including through increasing small scale renewable and low carbon energy generation.
17. The encouragement of renewable energy is referred to in the Framework's core planning principles (paragraph 17). At paragraph 93 the Framework describes renewable energy as '*... central to the social, economic and environmental dimensions of sustainable development*'. Paragraph 97 seeks to increase the supply and use of renewable energy and also seeks recognition of the responsibility of all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 98 seeks that an application is approved if its impacts are (or can be made) acceptable.
18. The PPG is guidance rather than policy but it acknowledges that the need for renewable energy does not '*automatically override*' environmental protections. It follows that it is necessary to weigh any environmental harm with the benefits, including the wider environmental benefits. The PPG advises that '*large scale*' solar farms are to be '*focussed*' on previously developed and non agricultural land but does not preclude such development on agricultural land.

### *Rural Economy*

19. CSDM Policy CP17 *The Land Based Economy* seeks to support land-based businesses that help to maintain the overall character and cultural identity of the National Park by measures that include: '*(a)(ii) maintaining the supply of land available for back up grazing on the enclosed lands; resisting the loss of back-up grazing through development or change of use*'; '*(b)(ii) farm diversification where this would help to sustain the existing farming business*' including '*non-agricultural diversification through the use of redundant farm buildings, where the new use would have a low environmental impact*' and '*(iii) helping to support markets for local produce and products*'.
20. CSDM Policy DP1 *General Development Principles* sets out principles for all types of development. It is not specific to renewable energy or farm diversification. It seeks amongst other things to respect the natural environment, landscape character and bio-diversity and to avoid adverse effects to amenity through visual intrusion. Paragraph 112 of the Framework provides that authorities should take into account the economic and other benefits of the '*best and most versatile*' agricultural land. Where significant development of agricultural land is necessary, authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

### *Landscape*

21. In the New Forest Landscape Character Assessment 2015 (the LCA) the site is in character area LCA 18 '*Sway Pasture and Residential Settlements*.' Key characteristics that apply to the area around the appeal site include: '*farmed*

*plateaus'; 'small scale landscape with a strong sense of enclosure'; 'ancient field pattern of small pastures and hedgerows [is] an important area for grazing and recreational horse keeping'; 'ancient semi-natural woodlands and roadside oaks give a feeling of being 'in the forest''.*

22. The LCA recommended future landscape management guidelines include: *'to protect the mosaic of small scale fields, enclosed by well managed hedgerows'; 'management to retain and enhance the strong hedgerow network'; 'manage and enhance links between the hedgerow network and the area's woodlands to create a complete ecological network'; 'protect the landscape's traditional pastoral character, particularly that associated with areas of historic and traditional field patterns; protect and manage the important stock of pasture for the grazing of commonable animals'.*

#### *Visual Amenity*

23. The PPG advises at ID 5-013-20150327 that: *'The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'. It also refers to: 'the potential to mitigate landscape and visual impacts through, for example, screening with native hedges'.*
24. CSDM Policy CP5 provides amongst other things that renewable energy developments are to be *'located and designed to reduce visual impacts'.* The PPG advises at ID 5-013-20150327 that for ground mounted solar panels *'with effective screening and appropriate land topography the area of a zone of visual influence could be zero'.*

#### *National Parks*

25. Together with Areas of Outstanding Natural Beauty, National Parks have the highest status of protection in relation to landscape and scenic beauty. The Framework provides at paragraph 115 that *'Great weight should be given to conserving landscape and scenic beauty in National Parks ...'*. Paragraph 116 states that planning permission should be refused for major developments in National Parks except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications shall include an assessment of any detrimental effect on the environment and landscape and the scope for developing elsewhere outside the designated area. There is no policy definition of major development.
26. The statutory purposes of the National Park Authority are: *'(a) to conserve and enhance the natural beauty, wildlife and cultural heritage of the New Forest; and (b) to promote opportunities for the understanding and enjoyment of the special qualities of the area for the public'.* Section 62(2) of the Environment Act 1995 states that in exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to such purposes. When National Parks carry out these purposes they also have a duty to: *'seek to foster the economic and social well-being of local communities within the National Parks'.*
27. Also of particular relevance to renewable energy development in National Parks is Paragraph 47 of the English National Parks Circular 2010 (the Circular) to which

there is a cross reference at paragraph 115 of the Framework and which provides amongst other things in relation to climate change that: *'Assumptions about the value of the traditional appearance of the countryside may have to be challenged as the needs which shape its future may be different from those which have shaped its past.'* ... *'The Parks should be exemplars in renewable energy. Authorities need to work with local communities to reach a position where renewable energy is the norm in all Parks whilst not compromising their overriding duty under the 1949 Act'* ... *'National Parks offer important opportunities for renewable energy generation which must not be overlooked, including ... solar power installations appropriate to the national value of the landscape'*.

28. The New Forest National Park Management Plan identifies ten core topics for the National Park, including Objective 4 'planning for climate change'. This outlines the aim to plan for the likely impacts of climate change on the New Forest by *"supporting local or community-based initiatives for producing renewable energy"*.
29. The CSDM Policies CP4 and CP5 seek to give effect to these provisions by supporting renewable energy development, subject to criteria. In particular CSDM Policy CP5 will permit renewable energy developments that amongst other things, *'do not have significant impacts on the special qualities of the National Park'*. That does not preclude all adverse impacts.
30. Policy CP5 also provides that renewable energy development should be *'small scale'* but that term is not defined.

### **Planning History**

31. A planning application for the construction of a 14 hectare solar farm, to include solar panels to generate electricity, associated plant buildings, perimeter fencing, CCTV cameras, landscaping and associated works was withdrawn on 15 August 2014. (Council Ref: 14/00470). The appeal proposal relates to a planning application which amended that earlier scheme.
32. The Appellant has drawn attention to 2 solar farm developments of similar scale that in 2011 were permitted elsewhere in the National Park by the National Park Authority at Cadland and Hamptworth. The relevant officer reports are at Documents LIM048 to LIM050 and include a report concerning a permitted extension to the Cadland solar farm in 2013 that postdates the introduction of the Framework.

### **The Proposal**

33. There is a site location plan at Document Limo002. The proposal is to site solar panels in rows within each of the two fields. The existing hedgerows would be retained and reinforced with new planting. A 2m security fence would surround each group of panels leaving land outside the fence for bio-diversity enhancement such as meadow planting. Security cameras would be mounted along the fence at intervals on 2m poles. The open areas between the rows of panels and inside the security fence would be grass seeded for grazing by sheep. A layout plan that also shows the proposals for screening and biodiversity enhancement is at Document LIM005. There are photographs of the site and its surroundings at Document LIM015.

34. The Appellant did not agree the amended description used by the Council. Whilst that described the proposal as a '14 hectare solar farm', the site area on the application form is given as only 13.6 hectares. Moreover the solar panels would cover only part of that area. That would allow grazing by sheep between the panels and would retain areas for bio-diverse planting outside the security fence. The appeal has been determined on the basis of the original description.
35. The Council's Decision Notice described the proposal as a 'resubmission of planning permission 14/00470'. However the planning application under that reference was withdrawn in August 2014 and no planning permission was granted. In any event the appeal proposal has included amendments to that scheme to reduce its impact compared to that proposal.

### **S106 Planning Obligation**

36. At the appeal stage the Appellant submitted a unilateral undertaking by the developer and the landowner to carry out additional planting of suitable native species in identified tree lines and hedgerows at Limolands Farm. These hedgerows are outside the appeal site but are on land in the same ownership as the appeal site (Mr Bowring). The locations are shown on the application drawing at Document Limo005.

## **THE CASE FOR NEW FOREST NATIONAL PARK AUTHORITY**

### **Introduction**

37. The appeal application was refused for the following reasons:
1. The proposal would have a detrimental impact on the landscape character (in both short and long distance views) of the area by virtue of its existing intermittent boundary screening and the position of array and infrastructure on the slopes within the site. The proposal is considered not to be small scale and would have an adverse impact on the landscape character of the area and the special qualities of the National Park. Notwithstanding the above it is also considered that the proposal would have an unacceptable cumulative impact on the intrinsic landscape character of the National Park. It has not been demonstrated that the scheme could be considered as a form of agricultural diversification that would outweigh setting aside the adverse impact on the landscape of a scheme of this size and the scheme would therefore be contrary to Policies DP1, CP5 and CP17 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010), the National Planning Policy Framework and National Planning Practice Guidance.
  2. The proposed development, by virtue of its scale, would result in the loss of potential back-up grazing land which is essential to the future of commoning, and therefore would be contrary to policy CP17 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

## Planning Policy

38. The appeal site is subject to primary legislation and stringent planning policies which seek to maintain the unique character of its countryside, and to avoid the cumulative effect of increasing the level of built development.
39. The Core Strategy was adopted in December 2010 and sets out the spatial vision for the National Park to ensure that at the end of the plan period (2026) the New Forest's outstanding natural beauty has been safeguarded and enhanced. The spatial vision includes ensuring that the Park remains an area with a unique and immediately recognisable sense of place, with a mosaic of landscapes, where traditional land management practices continue to thrive and inherent characteristics and local distinctiveness of villages have been retained and enhanced through the highest standards of design.
40. Land-based business, such as agriculture, commoning and forestry, play an important role in supporting the rural economy and maintaining the characteristic New Forest habitats and landscapes. Where agricultural diversification would be beneficial to the New Forest this should be supported. Furthermore, it is important to ensure that the supply of back-up grazing land is maintained by resisting the loss of back-up grazing through development or change of use. This is because commoning is a traditional practice of the New Forest forming part of the Forest's identity and is integral to the maintenance of the essential landscape character and cultural heritage of the area.

## The Authority's Case for Dismissal

41. The Authority recognises its responsibility to contribute towards renewable energy production. Paragraph 5.40 of the Core Strategy confirms that the potential for renewable energy within the New Forest National Park will need to be balanced against the potential adverse visual and amenity impacts and that permission should only be granted where it can be demonstrated that the objectives of the National Park designation will not be compromised. Policy CP5 confirms that renewable energy schemes will be permitted where they are small-scale, are located to reduce visual impacts and do not have any significant impacts on the special qualities of the Park.
42. The emphasis within the policy framework is on supporting small-scale community based schemes. Given the size of the proposed scheme set within a 13.6 hectare site together with the proposed energy output it is not thought the proposal could be considered as being small-scale and this is not disputed by the appellant. While larger scale schemes are not explicitly precluded by national policy, the key policy requirement is the demonstration that the objectives of the National Park designation will not be compromised by the development. If there were significant adverse effects on the special qualities of the Park these would need to be clearly outweighed by environmental, social and economic benefits. Given that the scheme is not small scale, consideration therefore needs to be given as to whether there are other policy reasons which would outweigh the presumption in policy CP5 against larger scale schemes.
43. It is considered that there are three main issues in respect of this appeal:

- i) The impact of the proposals on the landscape character of the site, the surrounding locality and the intrinsic landscape value of the National Park generally.
- ii) The wider socio-economic and environmental benefits.
- iii) The loss of back-up grazing land.

*(i) Landscape*

44. The New Forest is renowned for its diversity of landscapes, natural beauty and amenity value and the combination of heathland, mire and pasture woodlands has a unique cultural identity which has been afforded the highest status of protection. The Authority's primary duty is to deliver the two statutory purposes to conserve and enhance natural beauty, wildlife and cultural heritage of the land within the National Park and promote opportunities for the understanding and enjoyment of its special qualities by the public. The planning system plays a key part in the delivery of these two purposes.
45. The nature of the landscape in the vicinity of the appeal site is one of very sporadic development consisting of dwellings contained in their own defined curtilages and for the most part is characterised by undeveloped fields. It is a landscape with historic origins and of New Forest character, defined by small rectilinear paddocks and fields, which are often used for grazing. It is these ancient field patterns, of small wavy and parliamentary fields surrounded by a network of hedgerows, such as those surrounding the appeal site, which form key positive landscape attributes of this area as is identified by the Landscape Character Assessment (appendix 1).
46. The proposal would result in approximately 20,000 solar panels mounted on rows of metal frames which would have a height of 2m covering a 13.6 hectare area. The development would also require associated infrastructure such as a temporary hardstanding, the upgrading and construction of a new access track measuring a total 900m in length, security fencing of approximately 2m in height together with CCTV mounted on poles of a similar height and plant buildings. The Authority considers the cumulative impact of the proposed development would result in a semi-industrial appearance which would be at odds with the rural character of the appeal site, which is undulating fields with hedgerows typical of the character of this part of the New Forest, harmful to the landscape character of the area and the special qualities of the National Park.
47. The public footpath located to the south of the railway line affords views across the appeal site, particularly towards the northern and north western boundaries of the 'northern field'. There are also sporadic views from the adjoining fields of the 'southern field'. It is acknowledged that the Appellant proposes additional planting to the existing hedgerows as shown on drawing number LIM005 V2 to help screen views of the solar panels and associated infrastructure from the public footpath and has submitted a S106 unilateral undertaking to this effect. However the proposed additional planting would only be effective during the summer months and it is considered views of the northern field would still be afforded from the public footpath due to the topography of the land in the north western corner resulting in an unacceptable harmful visual impact.

48. Even if no public views were afforded of the site this does not mean that landscape impact should be discounted. The Framework acknowledges planning should [recognise] the intrinsic character and beauty of the countryside (para 17). The importance of considering landscape character in decisions, in both designated areas which have the highest level of protection, such as the New Forest National Park, but also non-designated areas, was recently emphasised by the Government in a letter from Brandon Lewis dated March 2015. There are many parts of the New Forest that cannot be seen from public vantage points however this does not confer a propensity for development on those areas. Landscapes seen and unseen from public vantage points are of equal value and are equally protected; it is the mosaic of landscapes within the New Forest National Park which contribute to its unique character. The proposal by virtue of its large scale and unnatural, semi-industrial appearance would have a significant effect upon the fabric, character and quality of the landscape and would become a defining characteristic of the landscape to the detriment of the Park's special qualities and its statutory purposes. The result of the development would therefore be significantly at odds with the weight to be given to conserving the landscape and scenic beauty of the New Forest National Park contrary to local and national planning policy.

*(ii) The Wider Socio-Economic and Environmental Benefits*

49. Policy CP17 confirms that land based businesses that help maintain the overall character and cultural identity of the National Park will be supported by supporting farming that is beneficial to the Forest through farm diversification as is set out in paragraphs 11.19 and 11.20 of the Officer Report.

50. The information submitted with the application on this matter is not considered to be comprehensive despite this being raised as a concern on the previously withdrawn application. In cases where a genuine farm diversification scheme can be demonstrated the Authority would expect a detailed business plan, both short and long term, setting out the growth of the agricultural holding over the next 3-5 years and how the income achieved from the solar farm would be re-invested back into this agricultural activity to ensure that the agricultural enterprise remains core and the main activity within the site. The Appellant has not therefore validated his intentions and for these reasons the Authority would contend that the proposal would not form part of a well-conceived farm diversification scheme and would have limited wider socio-economic benefits which would not outweigh the harmful impact upon the landscape character of the National Park and its intrinsic landscape character.

*(iii) The Loss of Back-Up Grazing Land*

51. Commoning has played a vital role in creating the landscapes and habitats of the Forest over many hundreds of years. It is a traditional land management practice which is under threat from increasing competition from different land uses. There are several rights over the forest including: common of pasture, pasture of sheep, mast, fuel wood, marl and turbarry. The most important of these rights today is that of pasture which allows animals (ponies, donkeys and cattle) to be turned out into the open forest. A report undertaken by the Authority in 2013 (appendix 3) found that 57% of these animals were ponies and 36% cattle.

52. Whilst commoners have rights to graze their animals in the open forest, they also require back up grazing areas in the enclosed agricultural lands as this is



essential in providing land for extra winter grazing as well as a supply of fodder for their livestock. The *State of the Park Report* in 2013 estimated that approximately 4,250ha of land was used for back up grazing land to support commoning in the Forest however commoners were still identifying the need for further access to back up land to help support their commoning activity. It is therefore important that agricultural land, especially land which is adjacent to, or has the right of pasture, is not developed or lost to other uses in accordance with policy CP17. Policy CP17 explicitly states the loss of back-up grazing through development or change of uses will be resisted.

53. A large part of the appeal site has been identified by the Verderers as having the right of pasture, shown as parcel numbers 797 and 728 on the map attached as appendix 4. This means that part of the northern field and the southern field have commoners rights to graze animals in the forest. Given therefore the commoning rights which are attached to the land, together with the hectareage of land which would be lost as a result of the proposal, it is important that the land remains in agricultural use to support current and future commoning activity around this area of the forest. The proposal would result in the direct loss of both parcels of land identified by the Verderers as having the right of pasture, together with adjacent parcels of agricultural land, which would support the historic system of commoning unique to the New Forest. The proposal is therefore contrary to policy CP17 and would harm the special qualities of the National Park in that it would fail to maintain not only the character of the National Park but also its cultural identity.

### **NPA Comments on the Appellant's Grounds of Appeal**

#### *Reason No: 1*

54. The Appellant states that the fact that the existing and proposed hedgerow planting and existing woodland will help to screen the development and therefore *'the intrinsic qualities that underpin the landscape and scenic beauty of the New Forest will be unaffected'*. It is important to refute the concept that just because a site is not completely visible from a public vantage point then a greater propensity for development is conferred on that site. There are many locations in the New Forest National Park that are not readily visible from public vantage points but that does not make them less sensitive to development. There is also the question of seasonal variations to the screening potential of hedgerows and woodland which is not addressed by the appellant. A hedgerow will have less ability to screen in the winter months than in the summer months.
55. The Appellant states that *'the location of the development avoids harm to the most sensitive and fragile landscapes - namely the extensive areas of unenclosed woodland, grassland and heath and the associated qualities they underpin.'* The New Forest National Park Authority does not zone the area within its boundaries into areas of greater or lesser sensitivity or fragility as the whole of the New Forest is afforded the highest level of landscape protection in both primary legislation and national planning policy. The area within the cattle grids, or the perambulation (where stock grazes freely), referred to by the appellant as unenclosed, is one of the iconic landscapes within the whole New Forest National Park, one that many tourists associate with the New Forest. It is, however, not the only landscape within the boundary of the New Forest National Park and the Authority does not have a lower threshold of sensitivity on the enclosed

landscape that surrounds the perambulation area. Indeed the long process of drawing up the boundary to the New Forest National Park was fully consulted upon at the time and forms part of the legislation that protects the landscape within the boundary, without differentiating between enclosed and unenclosed landscapes.

56. The enclosed landscape which makes up around 50% of the designated National Park has strong historic links to the unenclosed heathland and woodland and is inextricably linked to the function of grazing animals over the centuries that has created the New Forest mosaic of landscape types as we know it today. The enclosed landscape stretched much further north, west and eastwards in centuries past and the recognition of the importance of what remains of this historic landscape and its close relationship to the unenclosed landscape was one of the factors that led to it being included within the National Park boundary.
57. The Appellant states that the two fields are not sloping. The land does slope in a natural way towards the watercourses in the immediate vicinity, as would be expected. The northern end of the northern field lies on the 40 metre contour, the southern end on the 35 metre contour, a drop of 5 metres over an approximate distance of 339 metres. The southern field has a drop of 5 metres between the 35 metre contour and the 30 metre contour over an approximate distance of 138 metres. This would constitute a slope to both fields, one steeper than the other.
58. The two previously permitted schemes referred to by the Appellant are considered to be different to the appeal scheme in that there were considered to be wider socio-economic and environmental benefits unique to those schemes which on balance were considered to support the continuing stewardship of the New Forest. As with every application, these schemes were assessed on their own individual merits. The Authority has recently refused another large solar development within the National Park at Exbury. The Officer's report is attached to the Authority's appeal statement at appendix 5.
59. Furthermore, since the consideration of the two schemes referred to by the appellant the PPG has been updated to emphasise the need to focus large-scale renewable energy developments on previously developed or non-agricultural land. This guidance post dates the applications referred to by the appellant and highlights the change in Government policy and guidance on solar development in the last 2-3 years. The PPG (2014) section on renewable energy for example is clear that local planning authorities should encourage the effective use of land *"...by focusing large scale solar farms on previously developed and non-agricultural land,.."* .
60. The Authority considers that the Appellant mis-represents the Authority's socio-economic duty. This duty is not a third purpose and the wording of the Environment Act 1995 is clear that National Parks should seek to foster the economic and social well-being of local communities within the Park while pursuing the two statutory purposes. The duty is therefore only relevant when the Park purposes are met. The socio-economic benefits of a project cannot be a factor if the proposal does not conserve and enhance the National Park.

*Reason No: 2*

61. The Appellant has stated that the installation of solar panels would not result in the field not being able to be used as grazing as it would be appropriate for sheep to graze. 93% of the animals turned out into the forest are either cattle or ponies. The number of properties which have rights of common for sheep within the forest is very low and these commoners, as has been identified by the Appellant, do not live within the vicinity of the appeal site. The installation of solar panels on this land would, however, mean that it would not be suitable for the grazing of ponies and cattle which constitutes the main animal stock turned out into the forest. Furthermore, it should be noted that back-up grazing land is not only used for additional winter grazing but also for fodder for the livestock. It would not be possible to harvest hay from these fields if the solar development were to be granted.

**Conclusion**

62. For the above reasons the Authority contends that the proposed development does not accord with the development plan or the Framework. The Framework's presumption in favour of development acknowledges that National Parks are areas where development may be restricted. The PPG states that the responsibility of all communities to help increase the supply of green energy does not mean that the need for renewable energy automatically overrides environmental protections. The New Forest's landscape has an intrinsic and national value which was a major contribution to its designation as a national park.

63. The proposal fails to comply with CSDM policy CP5 in that it would not be small scale and would have a detrimental impact upon the immediate and intrinsic landscape character of the appeal site. It has not been demonstrated that benefits would outweigh a scheme of this size and it would result in the loss of land that could be used for back-up grazing. The proposal therefore fails to conserve and enhance the natural beauty, wildlife and cultural heritage of the New Forest and would not promote opportunities for the enjoyment or understanding of the Park's special qualities contrary to the two statutory purposes of a National Park. It is therefore requested that the appeal be dismissed.

**THE CASE FOR LOCOGEN LTD**

**Introduction**

*Overview*

64. The application for planning permission was accompanied by:

- A comprehensive drawings package including photographs from ten viewpoints (Documents Limo002 - Limo018 and Limo032 - Limo035); and
- A Supporting Environmental Document (including a Design & Access Statement) and various technical and environmental appendices (Documents Limo019 - Limo030).

Copies of all the aforementioned documents are included as part of this appeal.

The application was refused at the NPA's Development Control Committee on 16 December 2014 (Documents Limo043 and Limo044).

A copy of the decision notice is included at Document Limo047.

#### *Suggested Legal Agreement*

65. As first suggested in an email to the planning officer dated 29 October 2014 (Document Limo036), the Appellant considers that the most appropriate means of delivering the proposed off-site mitigation planting, and its ongoing maintenance throughout the life of the solar array, would be through a legal agreement.
66. To confirm, the areas to be planted lie within the wider landholding of Limolands Farm and therefore fall under the ownership of the Bowring Family, which also owns the appeal site.
67. Notwithstanding the comments of the planning officer in his Committee report (Document Limo043), the Appellant offered to enter into discussions with the NPA's legal officers with a view to agreeing heads of terms and/or progressing a draft agreement prior to the Committee date (Document Limo036). Despite repeated subsequent requests, this offer was not taken up.

#### *Business Case*

68. Document Limo031 is a Business Case for Limolands Farm. Given that this document contains sensitive financial information, the Appellant requests that it remain confidential.

### **Background**

#### *Need for Environmental Impact Assessment*

69. A 'screening' opinion was sought under the EIA Regulations 2011. The NPA's response, dated 21st January 2014, states that "...the proposal does not require EIA procedures, but the size and visual impact of the proposal, including access track and perimeter fencing, as well as the nature of the sensitive area (National Park) would be considered during the course of any planning application submitted" (Document Limo000).

#### *Previous Planning Application*

70. An application for a 5MW solar array was submitted to the NPA in June 2014 (Ref. 14/00470). This application was withdrawn in August 2014 to allow the applicant to address the concerns of stakeholders.
71. The second application (which is the subject of this appeal) sought to address the concerns raised through revisions to the layout and design of the solar array, additional supporting information and, further policy justification. Full details are presented in Chapter 3: Work to Date of the Supporting Environmental Document (Document Limo019).

#### *Consultation with Local Residents*

72. As detailed in Section 3.3 of the Supporting Environmental Document (Document Limo019), the Appellant consulted with local residents prior to the submission of both applications. No comments were received on either occasion.

73. In response to comments received from representatives of both local Parish Councils following submission of the second application, the Appellant also:
- Attended meetings of both Hordle and Sway Parish Councils to present the proposals and answer questions from the community; and
  - Held a 'walk in' public information event at a locally accessible venue. The event was advertised in the local press, invitations were posted to the nearest residential properties and posters were erected at various public venues in Sway and Hordle.
74. Further details are included in Locogen's update email to the planning officer dated 28 November 2014 (Document Limo037).

## **Planning Policy Context**

### *Development Plan*

75. The reasons for refusal refer to three policies. The Appellant is of the opinion that the proposals meet with the aims and objectives of said policies.
76. Policy CP5: Renewable Energy allows for renewable energy development within the National Park, subject to compliance with specified criteria.
77. It is acknowledged that the proposals cannot be described as small-scale in nature. Notwithstanding, in granting 5MW solar arrays elsewhere (Cadland (Ref. 11/96086/FULL) and Hamptworth (Ref. 11/96148/ FULL) Estates), the NPA has stated that larger-scale schemes are not explicitly excluded in policy terms and the key requirement is to demonstrate that the objectives of the National Park designation will not be compromised by the development.
78. This requirement is demonstrated throughout the Supporting Environmental Document (Document Limo019). For example, the LVIA (Chapter 6) concludes that the immediate locality is physically capable of accommodating the scale of development proposed without adversely affecting the characteristic features and qualities of the New Forest.
79. Turning to visual effects, the ZTVs (Drawings LIM009 assuming bare earth and LIM011 including existing woodland screening) demonstrate that the extent of theoretical and likely visibility is very limited. When the screening effect of the proposed mitigation planting (Drawing LIM005) is taken into account, the solar array will effectively be screened from view from the public realm.
80. Policy CP17: The Land-based Economy confirms that agricultural diversification of land-based businesses that helps to maintain the overall character and cultural identity of the National Park will be supported.
81. The land at Limolands Farm, which has been used for local food production for at least the last thirty years in the form of cattle farming, has not at any time been available as back-up land for commoning in the living memory of the current and previous owners (a period of some eighty years). However, this project now intends to make grazing land available to commoners and hence increase the available potential back-up grazing pool.
82. It is therefore considered that the project will help to ensure the future viability of commoning through the provision of previously unused grazing land into the

- back-up grazing pool for commoners raising sheep (of which there are five in the New Forest).
83. As detailed in the Business Case (Confidential Document Limo031), the additional lease income generated by the development is the minimum required to secure the future viability of the existing beef business at Limolands. This will enable the Bowring Family to continue their stewardship of this part of the New Forest, thus contributing towards maintaining its key characteristics and producing local produce.
84. In this respect, the Committee report relating to an extension to an existing solar array at Cadland Estate states, *"...even if there was a technical argument that the scheme does not apply with Policy CP5 by virtue of not being small-scale it is arguable that there are good reasons that outweigh this consideration with specific regard to Policy CP17 and also the duty of the National Park, in pursuing its purposes to foster economic and social well being of communities"*. (Document Limo049)
85. The solar array would result in only a marginal reduction (6%) in the net grazing area for a temporary period of thirty years. Almost a third of the site would be given over to ecological enhancement while the land between the panels will be used to graze sheep.
86. This is consistent with the approach taken by the NPA in granting planning permission for solar arrays on sites elsewhere in the New Forest which were agricultural land including grassland prior to their installation.
87. Where applicable, the submitted scheme has been prepared to comply with the requirements of Policy DP1 General Development Principles.
88. The Site Selection Methodology identifies no suitable or available alternative sites located on non-agricultural or 'brownfield' land in the region, including areas outwith the National Park. In then considering 'greenfield' sites, the search focused on lower quality agricultural land that is generally flat and well screened by established woodland/treebelts – the site meets all of these criteria.
89. The proposals have been carefully designed (including additional planting) to minimise visual intrusion and to respect the character of the surrounding landscape.
90. Subject to the recommended mitigation measures and compliance with best practice, there would be no adverse effects on the natural and built environment and there have been no objections from statutory consultees in this regard.
91. The construction of the solar array would be carefully managed to ensure no adverse impacts in terms of traffic generation, noise, dust etc. Once operational, there will be no visible security lighting thus preserving the rural character of the area.

### **Rebuttal of the Reasons for Refusal**

92. The appellant has already justified the proposals in detail in the documents submitted in support of the application. In rebutting the two reasons for refusal, the appellant respectfully draws attention to the following:

- a) Document Limo019 – Supporting Environmental Document (specifically Chapter 3: Work to Date)
- b) Document Limo031 – CONFIDENTIAL Limolands Farm Business Case
- c) Document Limo036 – Locogen email to NPA dated 29th October 2014
- d) Document Limo037 – Locogen email to NPA dated 28th November 2014
- e) Document Limo045 – Locogen email to Committee members dated 11th December 2014

*Reason No 1*

93. In the opinion of the Appellant's chartered landscape architect, the trees and woodland blocks that surround the site and the pattern of extensive areas of built development and woodlands throughout the wider landscape will, in practice, limit the opportunity for open views of the proposed development and associated changes to the National Park. The intrinsic qualities that underpin the landscape and scenic beauty of the New Forest will therefore be unaffected. The location of the development avoids harm to the most sensitive and fragile landscapes - namely the extensive areas of unenclosed woodland, grassland and heath and the associated qualities they underpin. The Landscape and Visual Impact Assessment (LVIA) (Document Limo019) concludes that the effects on LCA 18 would be moderate-minor to minor (adverse) and that adjoining landscape character areas would not be affected.
94. The solar array will be in situ for a maximum period of thirty years. At the end of its operational life, the array will be decommissioned and the site reinstated. The proposals will not therefore result in the permanent 'urbanisation' of this part of the National Park.
95. It is acknowledged that, without mitigation, glimpsed views of the panels within the northern part of the northern field may be possible from the public RoW that runs alongside the railway line. However, once the supplementary planting on the western boundary of the northern field and along two field boundaries within the intervening landscape have established and grown to approximately 2m in height (Document Limo005), the development would effectively be screened from view from the public realm. In this latter regard, the solar arrays at Cadland and Hamptworth were both deemed to be acceptable subject to inter alia the provision of additional planting to further filter views from local footpaths.
96. More generally, the proposed mitigation planting of native species trees and hedgerows at various locations around the boundary of the site would effectively screen the solar array and its associated infrastructure from nearby areas and help integrate the development into the surrounding landscape fabric. It is predicted that these measures would only result in occasional glimpses of the development through vegetation and would also serve to conserve and enhance the intrinsic character of the local landscape.
97. The PPG seeks to avoid the siting of solar arrays in 'undulating' rural landscapes. While it is accepted that there are a few metres difference in the levels across the site, neither field could reasonably be described as 'sloping'. In addition, great care has been taken in the layout of the scheme to focus the panels on the flatter central areas of the fields.

98. It is acknowledged that the proposals do not constitute small-scale renewable energy development (Policy CP5). Notwithstanding, the NPA has made clear in the past that larger-scale schemes are not explicitly excluded in policy terms (Cadland and Hamptworth are comparable to the appeal proposals in terms of overall electricity generation and the landtake needed to accommodate the array infrastructure). The key requirement is to demonstrate that the objectives of the National Park designation will not be compromised by the development. In this respect, the environmental and technical assessments demonstrate that there would be no demonstrable adverse effects on natural beauty, wildlife or cultural heritage. The proposals do not therefore contravene the overriding objective of National Park designation. In taking forward the purposes of National Park designation, it is relevant to note that there is also a duty to foster economic and social well-being.
99. Consistent with Policy CP17, the proposals comprise an appropriate form of agricultural diversification that will help support an established farming business and the landowner's ongoing rural stewardship of this part of the New Forest.
100. Ensuring the financial viability of his farming business in the long-term is the landowner's key consideration in seeking to diversify into solar electricity generation. To be clear, the additional lease income generated by the proposals is the minimum required to ensure the future viability of the existing cattle business.
101. Traditional farming in this part of the National Park has seen significant decline in recent years as a result of competition for land for non-farming uses (especially equestrian activities) and a reduction in financial viability. Policy CP17 acknowledges that farming contributes to the landscape character and cultural identity of the New Forest and is under threat. The landowner is committed to continuing his farming operations at Limolands and the submitted Business Case (Confidential Document Limo031) demonstrates that the proposed solar array is the only viable means of diversifying and supporting the existing business.

*Reason No 2*

102. The Appellant considers that this part of Policy CP17 has been misapplied in this instance as the wording of the policy relates specifically to (A) maintaining the supply of land available for back-up grazing on the enclosed lands and (B) resisting the loss of back-up grazing through development or change of use.
103. With respect to (A), the Appellant is actively attempting to make the circa 10 hectares of land around the proposed solar panels available to New Forest commoners as back-up grazing or as grazing for their flocks. This is a key point about the proposed solar farm in that the land can still be used as grazing. With the help of the New Forest Land Advice Service, five commoners have been identified who have the right to turn sheep out onto the Forest. At the current time, these commoners have not committed to using the appeal site either because they live too far away in the north of the Forest or have adequate existing land supply. However, they may be interested in future and the Appellant is also currently exploring options to support other small-scale local farmers with this grazing land. For this reason, it is considered that the proposals will not only maintain the supply of land available but, subject to interest from commoners, will also increase the supply of land available for back-up grazing by making this land available to commoners for the first time.



104. With respect to (B), the land at Limolands Farm, which has been used for food production for at least the last thirty years in the form of cattle farming, has not at any time been available as back-up land for commoning in the living memory of the current and previous owners (a period of some eighty years). In addition, the supporting narrative to Policy CP17 states that commoners “require back-up grazing areas in the enclosed agricultural lands (and) consequently it is important that agricultural land, which is used for these purposes, is not developed or lost to other uses”. This implies that the land to be protected is that which is already used as back-up grazing for commoners. For this reason it is considered that the proposals will not in any way result in the loss of back-up grazing and in fact offers a net gain of back-up grazing to the New Forest commoners.
105. Lastly, by way of providing background information to the terms used when discussing commoning in the New Forest, it is useful to understand the following definitions:
- a) Open Forest – The open heath and woodland of the New Forest where animals are seen to roam freely.
  - b) Rights of Common – The right to graze animals on the Open Forest. These rights are not held by individuals directly but are attached to land holdings. If an individual purchases a piece of land that has Rights of Common attached to it, that individual is then entitled to graze animals on the Open Forest.
  - c) Commoner – An individual who owns the title to land to which Rights of Common are attached.
  - d) Active Commoner – A Commoner who exercises their right to graze animals on the Open Forest.
106. Then in the context of the Limolands proposed solar array, part of the appeal site has Rights of Common attached to it, making the landowner, Mr Bowring, a Commoner. If he so wished he could turn his animals out on to The Forest to graze. However he does not currently turn his animals out on to The Forest so he is not considered to be an Active Commoner.

## **Appellant’s Response to the National Park Authority Statement**

### *Landscape and Visual Amenity*

107. The NPA has again over-stated the scale of development proposed. While the overall site area does indeed measure 13.6 hectares, only a quarter would be occupied by the solar array infrastructure. Almost one third would be devoted to habitat enhancement with the remainder given over to livestock grazing.
108. With regard to the proposed access track, only the first section (as far as the sub-station location) within the northern field would be maintained during the life of the project. The remainder would be temporary in nature and returned to an un-surfaced access route once construction is complete.
109. The Appellant appointed a chartered landscape architect to undertake a Landscape & Visual Impact Assessment (LVIA) (Document Limo019). Contrary to the views of the NPA, this assessment finds that the physical features that underpin the intrinsic character of the Sway Pasture & Residential Settlements LCA would be protected, and with the mitigation planting proposed, enhanced.

110. From the RoW adjacent to the railway line (viewpoint VP2), the Appellant's LVIA acknowledges that, before mitigation, significant landscape and visual effects would be experienced. However, after the proposed tree and hedgerow planting (Document Limo005) has established, the solar array and associated infrastructure would be much less visible and limited to glimpses through intervening vegetation. Therefore, even during the winter months (to be clear, the study considers the 'worst case') when the existing and proposed planting will not be in leaf, the LVIA finds that the landscape and visual effects would not be significant.
111. It is acknowledged that some of the proposed mitigation planting falls outwith the 'red line' site boundary. In order to ensure that this planting is provided and maintained throughout the life of the solar array therefore, a S106 Unilateral Undertaking has been prepared and signed by the Appellant and the landowner.
112. Contrary to the views of the NPA, the proposals have been carefully sited and designed to avoid significant landscape and visual impacts. As detailed in the appellant's LVIA, the intrinsic qualities that underpin the landscape and scenic quality of the National Park would not be significantly affected. The scale of development proposed respects the field pattern and the landscape framework in this part of the New Forest. The landscape fabric of woodland, trees and hedgerows would remain intact and, with mitigation planting, strengthened.
113. The appellant is of the opinion that the proposals conserve and enhance the intrinsic character of the surrounding landscape and the National Park designation. Accordingly, the duty to "...foster the economic and social well-being of local communities..." comes into play.

#### *Farm Diversification*

114. Policy CP17 acknowledges that traditional farming contributes to the landscape character and cultural identity of the New Forest and is under threat. The landowner is committed to continuing his Limousin beef farming operations at Limolands and his associated stewardship of this part of the National Park. The support given to farm diversification through Policy CP17 is not limited to powerful estates with vast amounts of land. In this respect, the importance of the solar array at Limolands as a viable means of providing additional income to support the established farming enterprise should not be so easily dismissed by the NPA.
115. The NPA states that the landowner's reasons for seeking to diversify his farming business and the associated socio-economic benefits have not been fully articulated. The Appellant disagrees with this. As detailed in the Business Case (Confidential Document Limo031) and summarised in the Supporting Environmental Document (Document Limo005), the additional lease income generated by the development is the minimum required to secure the future viability of the existing beef business at Limolands Farm.
116. The solar array would provide regular additional income to allow the landowner to continue his farming operations. In turn, this would support his continued stewardship of this part of the New Forest, thus contributing towards maintaining its key characteristics. The NPA supports traditional farming practices as a means of conserving the character and identity of the New Forest. While the landholding at Limolands is not a vast acreage, the appellant considers that

support should be given to diversification schemes that help to stem the incremental loss of more modestly sized farms to other land uses. In this respect, Policy CP17 makes no distinction between large estates and smaller farming enterprises.

#### *Commoning and Back-up Grazing*

117. The Appellant's position in relation to commoning and loss of back-up grazing land is set out in the Appeal Statement. In response to the additional comments of the NPA, the appellant wishes to respond as follows:

118. The NPA states that: "...it is important that the land remains in agriculture use to support current and future commoning activity around this area of the forest". This appears to run contrary to the text that accompanies Policy CP17 which states that commoners "require back-up grazing areas in the enclosed agricultural lands (and) consequently it is important that agricultural land, which is used for these purposes (emphasis added), is not developed or lost to other uses". The latter implies that land to be protected is that which is already used as back-up grazing for commoners.

119. Notwithstanding the right of pasture tied to part of the appeal site, the land at Limolands has not at any time been used as back-up land in the living memory of the current and previous owners (a period of some eighty years). Additionally, neither the current nor the previous owner has any recollection of having been approached by a commoner(s) seeking to rent the land for grazing animals (be they ponies, cattle or sheep) or for producing fodder.

120. Furthermore, permission is sought for a period of thirty years and once the solar array is decommissioned, the site will be returned to its current use. In the meantime, the land between the panels would be available as back up grazing to commoners who have the right to turn sheep onto the New Forest.

#### *Use of Agricultural Land*

121. A Site Selection Methodology (Document Limo023) was submitted as part of the planning application. In summary, the Methodology demonstrates that there are no suitable and/or available 'brownfield' or non-agricultural sites capable of accommodating the proposals within the search area (that extends far beyond the administrative boundary of the National Park Authority, consistent with previous appeal decisions). As it is not referred to in the reasons for refusal, it is contended that the NPA is satisfied this document provides sufficient evidence of a sequential approach to site selection having been undertaken.

122. The NPA infers that consideration of the appeal proposals ought to be different to the NPA's determination of the solar arrays at Cadland and Hamptworth, given the publication of PPG in the intervening period. The Appellant does not agree with this as the statutory purposes of National Park designation are the main considerations in the determination of development proposals within the New Forest. In any case, as detailed above, a site selection process has been undertaken that complies with the PPG.

## **Appellant's Response to Consultee & Third Party Comments**

123. The comments of statutory consultees are summarised in the Committee report (Document Limo043) and the Appellant's responses are set out in an email to the planning officer dated 28 November 2014 (Document Limo037).
124. The Highway Authority (Hampshire County Council) lodged a late objection to the proposals. In response, the Appellant commissioned transport consultants JMP to demonstrate that a suitable access arrangement was achievable. Having reviewed the drawings provided (Documents Limo038-Limo040) and discussed matters further with JMP, the Highways Authority withdrew their objection (Document Limo041) just prior to the Committee meeting. This was reported verbally to Committee so the third reason for refusal was dropped (Document Limo044).
125. For completeness, the NPA Tree Officer was advised of the required tree works at the site entrance following JMP's further assessment. She subsequently confirmed that she too had no objections (Document Limo042).
126. As detailed in the Committee report, the planning application generated just 4 letters of objection from interested persons and 1 letter of support.
127. The comments of interested parties (Hordle Parish Council, Sway Parish Council and the New Forest Association) largely reflect the concerns of other interested persons. Responses were prepared and form part of Document Limo037.
128. Most of the points raised by interested parties and persons at the appeal stage are addressed elsewhere. Those remaining (where they are 'material' considerations and relevant to the determination of the appeal) are responded to as follows.
- a) The development will result in a modest increase in traffic during construction. Once operational, the solar array would require only limited maintenance. There are no objections from statutory consultees in relation to traffic matters.
  - b) One interested person has included a photograph taken from a field gate off Vaggs Lane and commented that "*the development would extend across the entire view*". To be clear, the field in the foreground is not the appeal site. The photograph taken from the RoW along the railway line (viewpoint VP2) is considered to represent the 'worst case' and was assessed as part of the LVIA for this reason.
  - c) The LVIA concludes that the additional planting proposed would need to grow to a height of 2.5 metres to screen much of the development from view.

## **WRITTEN REPRESENTATIONS FROM INTERESTED PARTIES AND PERSONS**

### *Application Stage*

129. The original planning application letters are not on file but are summarised in the Officer Report. At the planning application stage Hordle Parish Council advised that it would be happy to accept the decision reached by the Planning Officers but to increase community engagement, the parish requested officers to thoroughly scrutinise the site's placement. In addition it asked for the company to have more rigid outlines for the proposed ecological aspect of the site.

130. Sway Parish Council recommended refusal on the basis that the location is inappropriate inside a National Park, adjacent to an Ancient Woodland, over a watercourse, and not far from a public right of way. The parish considered that the development is not small scale and it would have an adverse effect on the landscape character and local ecology. There had been insufficient local consultation within Sway and the development was not supported by the Sway Village Design Statement (not submitted in evidence). It would therefore contravene various development plan policies and paragraph 115 of the Framework.
131. There was one letter of support from an interested person on the basis in summary that: there is national public support for green energy; no views would be available from passing trains or from the houses of those who oppose the development; and the landowner should be commended for his support of an agricultural way of life for so long when other land was being converted to horse paddocks. The diversification would allow him to continue to farm.
132. There were 4 letters of objection from local residents. The grounds for objection included that this would be unnecessary and inappropriate development in a National Park or the countryside. Land should be used to grow crops, fruit and vegetables. The ugly rows of panels, plant and fencing would be a bad precedent.
133. There was also a letter of objection from the New Forest Association on the grounds that the proposal is not small scale, that some of the land enjoys the right of common pasture and that the intrinsic value of the site would be harmed.

#### *Appeal Stage*

134. The appeal stage representations are on file. There is one letter of support which also encloses that submitted at the time of the application. There are again 4 objections from local residents. One supports sustainable energy but not in this location. Two object to any industrialisation of the New Forest and any traffic increase and consider that the development would create a precedent. The fourth sets out a detailed response to the Appellant's appeal submission and concludes that the development is considered to be contrary to local and national policy and the wishes of local people. It would set a precedent that could destroy the landscape character of the area.
135. There is a further appeal stage representation from the New Forest Association (NFA). This explains that the NFA did not oppose the permitted Cadland solar farm because it was close to existing intrusive electricity paraphernalia and was made invisible by previous planting of field margins. The officer report for the first solar farm at that site reports that the Association commented then that '*well hidden sites will clearly not have a major impact*'. The NFA claims that it opposed the permitted Hamptworth solar farm and all other applications. However the officer report for the 2013 extension to the Cadland site records that there were no representations. The NFA disputes whether it would be feasible to use the appeal site for sheep grazing. There are comments about pressures for housing and recreation that are not directly relevant to the appeal proposal.

## INSPECTOR'S APPRAISAL

*The figures in square brackets [ ] refer to paragraphs elsewhere in this report.*

136. The main issues are considered to be:

- a) what effect the development would have on: landscape character, visual amenity, the special qualities of the New Forest National Park, agricultural land of good quality, and commoner grazing rights; and
- b) whether any identified harm in these regards would be outweighed by any environmental or economic benefits of the proposed development.

### *Landscape Character*

137. The manufactured and industrial character of the panels and other structures and equipment would inevitably affect the character of the landscape within the 2 fields [45]. However that would apply to almost any solar farm development in any rural area. The effect of the development on the overall character of the landscape character area would be limited because of the mitigating effects of existing and proposed screening that would contain most effects to within the 2 fields. The key characteristics of the local landscape would also be retained. These include the retention of the traditional field pattern and the retention and reinforcement of the characteristic hedgerows [45, 93].

138. The reference in the PPG to the effect of large scale solar farms in 'undulating' landscapes [23, 46, 57, 97] must relate to the possibility in such areas either that longer distance views may be available from higher ground towards lower ground, or that a solar farm may become more visible when it is located on sloping ground that is angled towards the viewer.

139. The appeal site is not described as 'undulating' in either the landscape character area assessment or in the officer report on the application. Instead the latter report described the northern field as '*level in the main*' but '*drops away towards boundaries*' whilst the southern field '*drops away more significantly from west to east and to a lesser extent from north to south*'. There are height variations within each field of about 5m and the land may arguably be described as gently undulating. However the undulations are so slight that existing mature trees and hedgerows still limit long views and avoid the above effects of increased visibility, even when the vegetation is not in leaf [54]. The proposed new planting to reinforce this screening should also be effective.

140. Whilst the opportunities for grazing by larger animals would be reduced by the development, grazing by sheep would be accommodated and the development would enable the continuation of the remainder of the agricultural holding for the pastoral grazing of Limousin beef cattle. That would accord with another management aim of the Landscape Character Assessment [22, 56, 115].

141. The Authority suggests that no part of the National Park has greater or lesser landscape sensitivity [55-56]. However the sensitivity of the different landscape character areas within the Park will inevitably vary. An example would be the contrast between the open unenclosed parts of the Forest (where any development would be widely visible and would be bound to influence landscape character over a wide area) and these more enclosed areas where the landscape

has already absorbed significant buildings and other man-made development but the woodland and hedgerow screening avoids similarly widespread effects on the area's character. The landscape character area around the appeal site already contains many scattered buildings, glasshouses, caravans and overhead power lines but these are generally hidden from wider public view or only partially visible from limited locations.

142. The potential to mitigate landscape and visual impacts by screening with native hedges is recognised as a relevant factor in the PPG [23-24]. The effectiveness of tree and hedge screening was also recognised by the Authority when previously approving 3 planning applications for solar farms in enclosed or woodland locations within the Park [58]. Thus the Authority has already accepted that such locations can have potential for development without detriment to the Park's special landscape qualities and purposes. That some change to traditional landscapes can be acceptable and that solar power installations can be appropriate to the national value of the landscape is also recognised by the National Park's Circular [27].
143. I therefore concur with the conclusions of the Landscape and Visual Impact Assessment (LVIA) that there would be effects on LCA 18 particularly within the 2 fields but the overall landscape character effects would only be moderate-minor to minor (adverse). Adjoining landscape character areas would not be affected [93].

#### *Visual Amenity*

144. The Council's case does not distinguish between effects on landscape character and effects on visual amenity as is advised in the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment. However the matters were distinguished in the Landscape and Visual Impact Assessment submitted with the application. No harmful visual impacts on residential amenity were identified. The main considerations related to the possibility of views from public places such as roads and paths.
145. The appeal site is already hardly visible from any road or private dwelling. This is partly due to distance but also because woodland and hedgerows already provide significant screening. Whilst that screening is most effective when the deciduous vegetation is in leaf, views are also filtered at other times, as the leafless Viewpoint images in Limo015 demonstrate [33]. The woodland is thick enough to provide substantial screening even when the deciduous trees are not in leaf. The southern field is especially well screened. These factors already limit the site's current visual influence and its contribution to the area's visual amenity. They would similarly facilitate the screening of the proposed development and limit its effect on visual amenity.
146. There are currently filtered views of the northern field from a public footpath that follows a roughly north-south route one field distant to the west of the appeal site [47]. This is the view seen from Viewpoint 2 in Document Limo015 and is fairly described by the Appellant as the worst case. Recreational walkers moving slowly through the countryside and looking about them are considered to be sensitive to views of the landscape. In this case the LVIA concludes that such walkers would experience '*moderate-major*' visual effects before mitigation and '*moderate to moderate-minor*' effects after mitigation. That refers to the on-site mitigation planting along the site's western edge.

147. The LVIA does not distinguish between well-used and lightly-used footpaths. The subject public footpath is relatively short and it does not connect to other public footpaths at either end (see location plan at Limo002). Any recreational walkers using the route and seeking to continue their journey would consequently need to walk on the narrow and relatively busy roads to the north and south. That would be hazardous. As a consequence the footpath appears to be only lightly-used and thus few people are likely to experience any adverse visual effects. Only the northern field is partially visible at present, being partially seen from the path, and this would be much mitigated by the proposed reinforcement of existing field hedgerows and tree lines. Even if visible, any view of the solar panels would not be dissimilar in character to the view of the large nearby glasshouses to the west of the railway that is available from some locations.
148. Additional off-site mitigation planting and gap filling has been proposed since the LVIA was carried out and is the subject of a S106 Planning Obligation [36,111]. It should further mitigate those visual effects such that there would usually be either 2 or 3 reinforced hedgerows with trees between the viewer on the public footpath and the solar panels and other works within the northern field. There are public rights of way in similar or closer proximity to the solar farms that have previously been permitted by the National Park Authority and they are referred to in the relevant officer reports. In each case some similar mitigation planting was agreed to reinforce existing screening.
149. To the west of the footpath is the London-Weymouth main railway line. Any adverse effects in relation to views from the railway were addressed in the LVIA and the Council's appeal statement does not claim such harm. I saw that the railway is here mainly in a cutting which would limit views east from the railway towards the appeal site. However the land dips at one point and that could allow a glimpsed view in the direction of the appeal site although a railway user maintains that no views are available [153]. In any case no more than a brief view could be available only for those passengers facing north on the near side of what are likely to be fast moving trains. For passengers facing south any views would be highly oblique such that they would need to turn round in their seats. Rail passengers are not travelling primarily to view the landscape and may not even be looking out of the window at the time when any glimpsed view may be available. Thus they are assessed as of medium sensitivity. The LVIA concludes that rail users would experience minor visual effects before mitigation planting but none afterwards. That latter conclusion would be reinforced by the additional off-site planting which is now proposed and which would be secured by the planning obligation. That was not proposed at the time of the LVIA.
150. For the above reasons the existing hedgerows and trees would provide significant screening for the solar panels and other infrastructure. There is potential to further mitigate the visual impact of the proposed development in views from the footpath and railway by reinforcing the existing hedgerow planting as proposed. The officer report itself concluded that such planting *'might well close off views into the site.'* In respect of the on-site hedgerows that could be secured by a planning condition. The completed S106 unilateral undertaking also allows for the reinforcement of off-site hedgerows by native planting. It does not otherwise detail the form that this would take and I saw that it is unlikely that conventional hedgerow planting would succeed at the field edge under the canopy of mature trees where the ground would be dry and light



limited. However it should be possible to establish suitable planting outside the tree canopies. That would screen or filter any views under the tree canopies towards the appeal site. As land ownership and the unilateral undertaking provide sufficient control, the details of the planting can be made subject to approval by means of a planning condition.

151. The LVIA also identifies minor visual effects on road users of medium high sensitivity should they glimpse the development in one view north from a 50m stretch of Silver Street (Viewpoint 4 in Limo015). However that road is about 400m south of the southern field and the development would be largely shielded by woodland and other trees. The view would be at right angles to the direction of travel and typically only glimpsed by passengers of fast moving vehicles. On the same journey they would already be able to glimpse views of many other man made structures in the local area.
152. Overall it is concluded that the visual effects would be substantially mitigated by existing and proposed planting. The development would be located and designed to reduce visual impacts as required by CSDM Policies CP5(b) [15] and DP1 [20]. However there would be some very limited residual harm to weigh in the planning balance.

#### *National Park*

153. As a nationally designated landscape the National Park is highly sensitive to change. But the Government National Parks Circular nevertheless acknowledges both that the appearance of the countryside in National Parks may need to change and also that solar power installations may be appropriate to the national value of the landscape [27]. National policy does not preclude the development of solar farms in national parks. Neither does it accord higher status to the landscape of national parks than to areas of outstanding natural beauty where such development is also not precluded.
154. The main parties agree that the current proposal is not small scale [58, 119]. However the Appellant points out that the National Park Authority has previously permitted solar farm developments of similar scale to the appeal proposal within the National Park at Hamptworth Estate (near Normansland) (5MW) and at the Cadland Estate (near Langley) (5MW - 12ha) [32, 98]. A large 2.5MW extension to the latter development has also been permitted subsequently in 2013. The NPA concluded then that the scale was outweighed by socio-economic and environmental benefits [84]. That extended 7.5MW development is 50% larger than the appeal proposal.
155. The Report for the Hamptworth Solar Farm similarly concluded that there were good reasons to outweigh its scale conflict with Policy CP5 with specific regard to Policy CP17 to support farming that is beneficial to the forest through diversification and the duty of the National Park, in pursuing its purposes, to foster the economic and social well-being of local communities.
156. Apart from scale, other characteristics that the 3 permitted developments share with the appeal site are: all have claimed economic diversification benefits, all are close to the edge of the Park; the Cadland Estate site (like the appeal site) is apparently within an area of enclosed farmland; and all are likely to be screened from most public views, but may be more visible from a nearby public right of way unless mitigated by new or existing planting. The

Hamptworth Estate site is in a clearing in woodland whereas the other sites adjoin woodland. Nevertheless it closely adjoins a byway.

157. Apart from the Langley substation it is not obvious that there is any major electricity infrastructure close to the Cadland site, as claimed by the New Forest Association [135], and no other infrastructure is referred to in the officer reports for that scheme. The officer report for the first solar farm at that site reports that the New Forest Association commented then that *'well hidden sites will clearly not have a major impact'* [135].
158. The 3 solar farm locations are far removed from one another and it is very unlikely that more than 1 of the sites would even be glimpsed in the same journey unless the viewer was deliberately seeking the sites out. Thus there would be no material cumulative visual or landscape effects and no basis for concluding that the National Park had already reached its maximum capacity for such developments.
159. Neither the statutory duties in respect of the National Park [26], nor national policy in the Circular concerning renewable energy in national parks [27] nor national policy concerning major development in National Parks, has changed since the approval of the previous solar farm developments.
160. The Authority has drawn attention to its recent refusal of a scheme for a 9ha solar farm within the National Park on the Exbury Estate (Ref 14/01004/FULL) [58]. The officer report was appended to the Authority's appeal statement. However there are clear differences between that proposal and the appeal scheme. In particular, and notwithstanding a submitted agricultural land survey, the Authority noted that the Exbury site is within an area of Grade 2 best and most versatile land. The appeal site is a mix of part Grade 3a and mainly Grade 3b land. The NPA has not objected to this development on agricultural land quality grounds. Also there was an ecological objection by the Authority at the Exbury site but not at the appeal site. Both a bridleway and a public footpath on a popular circular route pass close to the Exbury site. That site would have been screened only by an ivy clad fence rather than by reinforced native hedgerows and treeline. That may explain why the Exbury application attracted much more public interest than the current appeal scheme with 55 letters of objection, 9 letters of support and 3 other comments.
161. In this case I agree with the LVIA that most of the intrinsic qualities that underpin the landscape and scenic beauty of the National Park would be unaffected and that it would avoid harm to the most sensitive and fragile landscapes [93]. The effect would thus be moderate-minor adverse and not *'significant'* in the terms of CSDM Policy CP5.
162. Paragraph 116 of the Framework seeks that 'major' development is only permitted in a national park in exceptional circumstances and where they are demonstrated to be in the public interest [25]. It does not define major development and the PPG confirms that is a matter for the decision-maker. Nevertheless such decisions need to be consistent when considering similar types of development. That other solar farms of similar scale have been permitted in the National Park indicates that development of this scale is capable of being acceptable.

163. Paragraph 116 of the Framework provides that consideration of applications for major development should include (in summary): the need for the development and the impact on the local economy; the cost of or scope for developing outside the designated area or meeting the need in another way; and any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which they can be moderated. Relevant matters are addressed under other headings.

*Use of Agricultural Land and Availability of Suitable Alternative Sites*

164. Paragraph 112 of the Framework provides that authorities should take into account the economic and other benefits of the *'best and most versatile'* agricultural land. Where significant development of agricultural land is necessary, authorities should seek to use areas of poorer quality land in preference to that of a higher quality [20]. In that regard the land has only been described in the application as Grade 3 agricultural land. The officer report to the National Park Authority did not question the classification and the Authority has not objected to the development on land quality grounds.

165. Following the appeal site visit the Appellant was asked to identify whether the site is classified as Grade 3a (best and most versatile land - as defined in the Framework) or Grade 3b. A survey report was submitted which identifies that 67% is Grade 3b, and 29% is Grade 3a and that the remaining 4% is non-agricultural (mainly access). The Grade 3a land would amount to approximately 3.9ha [4].

166. Should the development go ahead some of that Grade 3a land (and also the moderate quality 3b land) would be used for less intensive sheep grazing. It could be returned to other agricultural use in the future when the temporary development ceases. If the solar farm development did not go ahead, and if the beef unit continued to operate, it is likely that the land would remain in use for cattle grazing rather than for more intensive use such as arable crops. Should the beef unit cease operation then it is possible that another non-agricultural use such as horse grazing would be sought as this is common in the area.

167. The PPG is guidance rather than policy. It advises that *'large scale'* solar farms are to be *'focussed'* on previously developed and non agricultural land but does not preclude such development on agricultural land [18]. *'Large scale'* is not defined in the PPG but the Council and the Appellant agree that this proposal is not *'small scale'* in the terms of CSDM Policy CP5. Neither national policy nor the PPG set out a formal sequential test such as that required for town centre development or flood risk. However the Appellant has demonstrated through a site-selection process that previously-developed and non-agricultural land to accommodate a *'large scale'* solar farm is very scarce in a broad search area covering southern Hampshire, the Isle of Wight and East Dorset [121]. This is an area with a substantial urban population including Southampton, Bournemouth, Poole and the extensive coastal development bordering the National Park. There are consequently high local energy demands. Much of the open land between the urban areas is variously within the National Park, the equally protected landscapes of Areas of Outstanding Natural Beauty, or the Green Belt. There are also extensive areas of national or international importance for nature conservation such as the heathland near Poole.

168. Even on land outside these designated areas, landscape effects can be an important material consideration, as the Minister highlights in a letter to the Planning Inspectorate on 27 March 2015 to which the Authority has referred [48]. The local opportunities for onshore development for renewable energy outside designated areas are thus also limited, whether for solar or wind energy. Development consent has also recently been refused for a major offshore wind energy scheme at Navitus Bay, further reducing the local opportunities to provide significant amounts of renewable energy.
169. The proposed development would generate up to 5MW within a 13.6ha site. No comparably large areas of rooftop were identified in the site selection process. Those non-agricultural sites that were identified are likely to be used for higher value purposes such as housing or minerals extraction. Other important considerations for siting solar energy developments are the availability of a grid connection and, not least, a willing landowner. The site selection process also sought to avoid higher quality agricultural land and sites in more widely visible locations. The conclusions of the site selection process have not been disputed by the National Park Authority.
170. The officer report on the Exbury solar farm application [58] suggested that the site of the former Fawley oil-fired power station should have been considered as an alternative location for that development. But that location outside the National Park has not been suggested by the Authority as an alternative in the present appeal. Moreover there is no evidence from the Authority to confirm if or when that site could be developed. Neither is there any evidence that it would be allocated by the New Forest District planning authority or otherwise protected for development as a solar farm, rather than be redeveloped for alternative higher value purposes.
171. That the Circular acknowledges the need for renewable energy including solar energy within national parks does not support a contention that solar farm developments should only be sited elsewhere as some interested persons suggest [130, 132-133, 135]. In any event the overall local or national need for renewable energy will not be met by this one development.
172. It is concluded that the site selection evidence has demonstrated that the use of agricultural land is necessary in this case. Having regard to the relatively small proportion of best and most versatile land on the site and to the likely future use of that land for grazing both during and after the development, it is not considered that its inclusion in the development would of itself warrant the dismissal of the appeal. However the partial and temporary loss of that part of the site to agricultural use would be a factor to weigh in the overall planning balance.

### *Grazing Rights*

173. Part of the appeal site benefits from commoner grazing rights within the open unenclosed part of the New Forest that lies to the north of Sway village [51-53, 61, 102-106, 133, 135]. The Appellant reports that the landowner has not exercised these rights for his cattle in living memory and disputes that the land has ever constituted part of the 'back-up grazing pool'. Neither has the grazing been rented to other commoners. Instead it will have been used either for grazing the landowner's own animals or harvested for fodder such as hay.

174. The Authority has submitted *The State of the Park Report 2013* [52] which noted that there have been significant increases in recent years in the number of practising commoners and also in the numbers of ponies that are 'depastured' in the open Forest. This may be linked to the conversion and subdivision of other farms for equestrian use. The neighbouring landowner points out that a nearby farm has only recently been split into multi-ownership horse paddocks.
175. In relation to solar farms the PPG at paragraph 5-013-20130327 supports continued agricultural use of solar farm sites and/or encourages biodiversity improvements around arrays. If the development goes ahead the Appellant intends that sheep grazing would be carried on between the rows of panels within the security fence. There are separate common rights for sheep from other grazing animals. Comparatively few sheep are grazed in the forest, particularly in the south. However it does not follow that such grazing would be of no benefit. The higher land within the proposed security fence could be grazed by sheep whether or not those sheep also use common land elsewhere. Such continued agricultural use would accord with an aim of the PPG.
176. Land outside the fence would be managed for bio-diversity, such as by planting as meadows and additional hedge planting. That would accord with relevant aims of Policy DP1 and the PPG and the statutory purpose of the National Park to conserve and enhance wildlife.
177. The proposed development would be for a temporary 30 year period and the land would be available for more intensive agricultural use again in the future, subject to the preferences of the landowner at that time.

#### *Benefits*

178. The development plan, the National Parks Circular and the Framework all provide in-principle support for renewable energy.
179. Although not definitively small scale in the terms of CSDM Policy CP5, the scale would be similar to the Hamptworth solar farm and smaller than the extended Cadland solar farm in the National Park [32]. That scale would '*assist towards national renewable energy targets*' in the terms of Policy CP5 [15]. If it were significantly smaller, more schemes would be needed to achieve equivalent energy output with potentially wider ranging impacts in more locations. Policy CP5 does not identify what scale of development would qualify as small scale. But if for example development in the National Park were limited to small domestic installations, the maximum generation from the appeal scheme would be equivalent to the output from 1,250 individual properties with 4kw panels (or a larger number with smaller output panels). In any event, to allow the appeal scheme to proceed would not prevent other smaller schemes from being installed where appropriate.
180. The Government is committed to national targets for renewable energy to 2020 and 2050 and these are also subject to international obligations. It has not been confirmed that sufficient renewable energy installations will be in place to meet the 2020 target and solar schemes of this type are likely to be needed as part of the energy mix. The renewable energy targets are intended to mitigate the environmental effects of climate change. The energy produced would also have other economic benefits including reducing energy imports and improving the security of supply. These benefits all merit substantial weight, particularly as

the encouragement of renewable energy is referred to in the Framework's core planning principles (paragraph 17) and is described in paragraph 93 as central to the economic, social and environmental dimensions of sustainable development [17].

181. Limolands Farm produces local New Forest Limousin beef as one of only a few surviving agricultural holdings in the local area [114]. It is apparent that many former farms in the vicinity of the appeal site are no longer in agricultural use and have instead been given over to horse grazing or other non-agricultural purposes. The surviving beef farm contributes to the area's cultural identity in accordance with Policy CP17.
182. The proprietor of Limolands Farm is a farmer in the later part of his career and approaching retirement, which I am aware is the case across much of the agricultural industry. The operation of the beef unit is consequently becoming more physically demanding for him. If the development goes ahead it would significantly boost the income of the holding and enable the farmer to afford to employ necessary additional labour in order to continue beef production [116]. That would be of economic benefit and would help to sustain the farming business in accordance with the above aims of CSDM Policy CP17 to support agriculture, local food production, and cultural identity and the cultural heritage of the National Park [19]. That is relevant to the economic and social well-being of the area which National Park Authorities have a duty to foster when carrying out their statutory purposes [26] and it merits significant weight.
183. The development would also provide an opportunity for bio-diversity enhancements through the additional planting in the hedgerows and diverse planting on the land outside the security fence. Those are further environmental benefits.

### **Conditions and Obligation**

184. The Authority and the Appellant have both suggested conditions to be applied in the event that the appeal is allowed. The attached schedule of conditions amalgamates the conditions suggested by each party. Some have been reworded in the interests of clarity and to reflect the tests for conditions in the Framework. Reasons for each condition are included on the schedule. Not all of the drawings listed on the decision notice have been referred to as many of those do not show the proposed development but are rather supporting information.
185. It is considered that the submitted S106 unilateral undertaking referred to above [36, 111, 148] does accord with the tests for planning obligations in the Community Infrastructure Levy Regulations 2010 (as amended) and it has been taken into account in this report.

### **Planning Balance and Conclusions**

186. Overall it is concluded that, after mitigation in the form of reinforced landscape screen planting both on and off-site, there would remain some limited harm to landscape character within a small area and mainly within the 2 fields of the appeal site which are generally hidden in wider views and make little contribution to the area's landscape character. Whilst the associated harm to the landscape and natural beauty of the National Park within the appeal site merits great weight, it is limited and not considered to be 'significant' in the terms of CSDM Policy CP5.

In relation to the other special qualities of the National Park the bio-diversity enhancement would benefit and not harm wildlife. The support for a local beef producer would conserve part of the area's cultural heritage and economic and social well-being.

187. Existing glimpsed views from a railway are likely to be screened by the planting [171]. If the proposed screen planting is not entirely effective over its full length, more especially in winter, there could be some residual visual harm in filtered views, albeit from a lightly-used public footpath [146-148] and in glimpsed distant and filtered views from a road [151]. Nevertheless these glimpsed views would be representative of glimpsed views of other man-made structures in the same landscape character area and the well-screened development would not materially affect public enjoyment of the park's special qualities.
188. The National Parks Circular acknowledges that development for renewable energy is desirable in National Parks and that solar power installations can be appropriate to the national value of the landscape [27]. Whilst CSDM Policy CP5 seeks to promote only undefined 'small scale' renewable energy schemes, solar farm schemes of similar or greater scale as the appeal proposal have already been permitted by the National Park Authority elsewhere in the Park on sites which are similarly concealed from wider views [98]. In carrying out its duties the Authority is also enjoined to have regard to the social and economic well-being of local communities. The previously approved solar farms schemes were on large estates where the Authority took into account the economic diversification benefits of the development. There would similarly be economic diversification benefits from the appeal proposal for one of the area's few active farms [98-101]. Income from the renewable energy produced is likely to support the continuation of the beef unit on the rest of the farm with local social and economic benefits [101].
189. During the life of the development the partial occupation of some Grade 3a agricultural land and reduced grazing opportunities for larger commonable animals represents some potential for harm. However the Grade 3a land only accounts for a minority of the site which is mainly Grade 3b and it has not been used for more versatile purposes than grass or grazing in the past. Moreover the common grazing rights and back-up grazing have not been exercised on this land in living memory and are unlikely to be so used whilst the beef unit continues. Some grazing by sheep would continue on site during the life of the development [102-106]. As the development would be temporary, the land can be restored to grazing of larger animals in the future and its partial Grade 3a status would be unaffected in the longer term. Therefore there would not be material harm to development plan objectives in relation to currently available back-up grazing or to PPG objectives to prefer the use of poorer quality land.
190. Against the identified harm the renewable energy would contribute significantly to as yet unmet national and international targets for renewable energy to combat climate change [179]. That also merits great weight, particularly as the Appellant's site selection exercise illustrates the constraints to development of solar energy in the sub-region [88, 167-169]. Other forms of renewable energy are also likely to be constrained [168].

191. Whilst the matter is finely balanced it is concluded overall that the impacts have been satisfactorily addressed and that this is a well-designed and well-screened development. Whilst it is not a 'small scale' development and, like the other approved solar farms thus does not literally accord with that criterion of CSDM Policy CP5, it does generally accord with the overall objectives of the development plan and the National Parks Circular to support renewable energy whilst protecting the Park's special qualities in accordance with the statutory objectives. The diversification would help to sustain an existing farming business and local produce in accordance with CP17(b) and fostering the economic and social well-being of the local farming community in the National Park. Use for grazing would be sustained alongside the development. The development would also accord with the objectives of CSDM Policy DP1 to respect the natural environment, landscape character and bio-diversity and to avoid adverse effects to amenity through visual intrusion [20]. In these respects the circumstances are very similar to those that applied when 3 similar developments were permitted by the National Park Authority. This would be an environmentally and economically sustainable development in the terms of national policy in the Framework. The public benefits outweigh the identified harm and exceptionally support this major development within the National Park.

### **Recommendation**

192. For the above reasons it is recommended that the appeal be allowed and planning permission granted subject to the conditions set out in the attached schedule.

*R P E Mellor*

INSPECTOR

### **APPEARANCES AT THE ACCOMPANIED SITE VISIT**

FOR THE APPELLANT:

Mr J Orme	Head of Solar Team, Locogen Ltd
Ms J Plant	Planner, Locogen Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ms K McIntyre	Planning Officer, National Park Authority
Ms S Kelly	Landscape Officer, National Park Authority



## **SCHEDULE OF CONDITIONS**

### *Time Period*

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### *Drawings*

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

- LIM001 Site Location Plan
- LIM002 v1 Planning Application Boundary
- LIM003 v2 Site Layout Plan
- LIM004A v2 Cross Section Location Plan
- LIM004B v2 Typical Cross Sections
- LIM005 v2 Landscaping and Biodiversity Plan
- LIM006 v2 Frame and Inverter Design
- LIM007 Substation Building
- LIM008 v2 Security Components

Reason: In the interests of certainty as to what is permitted.

- 3) The solar array hereby approved shall be removed from the land on which it is sited within six months of it no longer being required for generating electricity or 30 years from the date that the development is first connected to the grid, whichever is sooner, and the land shall be restored to a condition which has first been agreed in writing by the New Forest National Park Authority. The date of the first production of electricity shall be notified in writing to the Local Planning Authority within 28 days of the event occurring.

Reason: Because permission has been sought for a temporary period and to protect the visual amenities of the area.

### *Tree Protection*

- 4) No development hereby permitted shall commence (including site clearance and any other preparatory works) until a scheme for the protection of trees in accordance with the submitted Arbtech Consulting's Arboricultural Method Statement and Tree Protection Plan (Drawing TPP 01) dated 22nd July 2014 has been implemented. This shall include a requirement for a pre commencement site meeting with the New Forest National Park Authority to consider the details. The protection measures shall continue to be implemented throughout the construction period.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area.

### *Biodiversity*

- 5) No development hereby permitted shall commence, including vegetation management, until a final scheme of biodiversity mitigation has been submitted to and approved in writing by the New Forest National Park Authority. Details shall include measures for nesting birds, hedgerow removal and confirmation of method statements for reptiles and amphibians based on measures outlined in ecology reports by BSG and CGO Ecology. Development shall be implemented in accordance with the agreed details unless otherwise agreed in writing.

Reason: To enhance biodiversity.

- 6) No development hereby permitted shall commence until a final plan for biodiversity enhancement has been submitted to and approved in writing by the New Forest National Park Authority in the form of a Habitat Management Plan, this shall include amongst other details; plans of badger gates and proposals for long term habitat management & maintenance for the whole development area. The Habitat Management Plan shall include a specification and timetable of operations to meet agreed aims and objectives as well as measures for monitoring and reactive management. The plan shall be reviewed and programme of annual works for the following 12 months agreed with the Authority at an annual management meeting organised by the developer.

Reason: To enhance biodiversity.

### *Drainage*

- 7) No development hereby permitted shall commence until details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the New Forest National Park Authority. Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate.

### *Ancillary structures*

- 8) Notwithstanding any details in the submitted drawings, no development shall take place until full details of the photovoltaic collectors, security cameras, ancillary infrastructure buildings, fencing and boundary treatments (including badger gates), and access arrangements (including water course crossings) have been submitted to, and approved by, the New Forest National Park Authority. Development shall be carried out in accordance with the approved details.

Reason: To protect the character and appearance of the area.

### *Lighting*

- 9) No external lighting shall be installed on the site until details of such proposals have first been submitted to and approved in writing by the New Forest National Park Authority.

Reason: To protect the visual amenities of the area and wildlife.

### *Construction Traffic Management Plan*

- 10) No development hereby permitted shall commence until a Construction Traffic Management Plan, to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles, lorry routeing and a programme of works has been submitted to and approved

in writing by the New Forest National Park Authority. The approved details shall be implemented before the development hereby permitted is commenced and retained through out the duration of construction.

Reason: In the interests of highway safety.

### *Landscaping*

- 11) No development hereby permitted shall commence until a scheme of landscaping of the site and for the off-site planting identified in the accompanying Section 106 unilateral undertaking has been submitted for approval in writing by the New Forest National Park Authority. This scheme shall include:
- a) the existing trees and shrubs which have been agreed to be retained;
  - b) a specification for new planting across the site and along those hedgerows on the appeal site and identified elsewhere in the accompanying unilateral undertaking to mitigate the visual and landscape effects of the development (species, size, spacing and location);
  - c) areas for hard surfacing and the materials to be used;
  - d) other means of enclosure;
  - e) location of trenches for cabling and depth/width of trenches; and
  - f) a method and programme for its implementation and the means to provide for its future maintenance including the heights at which the hedgerows are to be maintained.

Reason: To protect the character and appearance of the area.

- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the New Forest National Park Authority gives written consent to any variation.

Reason: To protect the character and appearance of the area.

### *Archaeology*

- 13) No development shall commence until a programme of archaeological recording work including a Written Scheme of Investigation has been submitted to and approved by the New Forest National Park Authority in writing. Details shall include:
- a) the programme and methodology of site investigation and recording;
  - b) the programme for post investigation assessment;
  - c) provision to be made for analysis of the site investigation and recording;
  - d) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - e) provision to be made for archive deposition of the analysis and records of the site investigation; and

- f) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Reason: To protect and/or record any items of archaeological interest.



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

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

#### **Challenges under Section 288 of the TCP Act**

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

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

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

### **SECTION 3: AWARDS OF COSTS**

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

### **SECTION 4: INSPECTION OF DOCUMENTS**

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