Department for Communities and Local Government

Gillian Slater
Wardell Armstrong
Baldhu House
Wheal Jane Earth Science Park
Baldhu, Truro Cornwall
TR3 6EH

Our Ref: APP/B5480/W/15/3007618

2 February 2016

Dear Miss Slater

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY GREEN SWITCH DEVELOPMENTS LTD
AT LAND ASSOCIATED WITH CLAY TYE FARM, CLAY TYE ROAD, UPMINSTER, ESSEX, RM14 3PL
APPLICATION REFERENCE P1249.14

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Brian Cook BA (Hons) DipTP MRTPI, who made a site visit on 28 September 2015 into your client's appeal against the decision of the London Borough of Havering (the Council) to refuse planning permission for a solar farm with an output of approximately 16MW at land associated with Clay Tye Farm, Clay Tye Road, Upminster, Essex, RM14 3PL in accordance with application reference P1249.14 dated 3 September 2014.

2. On 30 September 2015 the appeal was recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

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

Department for Communities and Local Government
Christine Symes, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1634
Email: PCC@communities.gsi.gov.uk

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.

5. In this case the development plan consists of the Further Alterations to the London Plan (FALP) and the Core Strategy and Development Control Policies Development Plan Document (DPD). The Secretary of State considers that the development plan policies of most relevance to this appeal are those identified by the Inspector at IR9 to 16. The Secretary of State has had regard to the Inspector's remarks at IR13 on the consistency of DPD policy DC45 with Green Belt policies in the *National Planning Policy Framework*, March 2012 (the Framework). He agrees with the Inspector that greater weight should be afforded to the Framework in accordance with paragraph 215 of the Framework.

6. Other material considerations which the Secretary of State has taken into account include the Framework and the planning practice guidance first published in March 2014 (the guidance). He has also had regard to the Written Ministerial Statement of March 2015 which, amongst other matters, concerns solar energy and the protection of the local and global environment.

7. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess.

Main Issues

8. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR71-73.

Harm to the Green Belt

9. The Secretary of State has taken account of the Inspector's remarks at IR71 that the appeal site lies within the Green Belt, where the proposal would constitute inappropriate development. He also agrees with the Inspector's remarks at IR72 and he attaches substantial weight to the harm which arises because the scheme is inappropriate development in the Green Belt. For the reasons given by the Inspector at IR74 to 76, the Secretary of State further agrees with him that the proposed solar farm would have a significant harmful effect on the openness of the Green Belt and that, it would be a significant encroachment of built development into the countryside. Like the Inspector (IR76), the Secretary of State considers that, in combination, this would be an additional conflict with national Green Belt policy and he attaches considerable weight to that additional harm.

The effect on the landscape character and visual appearance of the area

10. In respect of the scheme's impact on character and appearance, for the reasons given by the Inspector at IR77-83, the Secretary of State agrees that the proposed development would only result in very limited substantial and substantial to moderate landscape and visual effects in close proximity to the appeal site (IR83). He concurs with the Inspector's view (IR83) that while the proposal would lead to a conflict with DPD policy DC50, the landscape and ecological enhancements proposed would accord with DPD policy 61 and that on balance the weight attributed to this additional harm in the Green Belt balance should be minimal.

The effect on the amenity of users of public rights of way in the area

11. Turning to the effect on the public right of way, the Secretary of State agrees with the Inspector's analysis at IR84-87 and with his conclusions at IR88 that although the development would conflict with DPD policy DC22, in view of the limited use of the path, the weight to be attributed to this harm in the Green Belt balance is limited.

Other matters

12. For the reasons given by the Inspector at IR92-93, the Secretary of State concurs with his view that the proposed development would not result in any harm to the setting or significance of the Grade II listed Bury Farmhouse.

Other considerations and the Green Belt balance

13. The Secretary of State has given careful consideration to the Inspector's conclusions on the other considerations set out at IR95-104. He agrees with the Inspector (IR98) that considerable weight should be afforded to the delivery of renewable and low carbon energy infrastructure. However, he concurs with the Inspector's analysis at IR99-104 and he endorses the Inspector's overall view at IR105 that very little additional weight should be attached to the remaining other considerations put forward by the appellant (IR99 to 104).

14. The Secretary of State has found that the appeal amounts to inappropriate development in the Green Belt and he has attributed substantial weight to the harm arising thereby (at paragraph 9 above). He has also identified additional harm that the scheme would cause to the Green Belt and he considers that this additional harm carries considerable weight. As set out at paragraph 10 above, the Secretary of State has given minimal negative weight to the harm which the scheme would cause to the landscape character and visual appearance of the area. He has also attributed limited weight to the harm which the scheme would cause in respect of public rights of way (paragraph 11 above).

15. Turning to the other considerations in this case, the Secretary of State has afforded considerable weight to the benefits to the delivery of renewable and low carbon energy infrastructure (paragraph 13 above). However, he considers that very little additional weight should be attached to the remaining other considerations put forward by the appellant (paragraph 13 above).

16. The Secretary of State agrees with the Inspector's remarks at IR105. He too takes the view that the harm which this scheme would cause to the Green Belt and the other harm he has identified would not be clearly outweighed by other considerations and that very special circumstances have not been demonstrated in this case. The Secretary of State agrees with the Inspector (IR106) that the scheme gives rise to conflict with FALP policy 7.16 and since DPD policy DC45 is inconsistent with the Framework, national Green Belt planning policy set out generally in the Framework section 9 and more particularly in Framework paragraphs 87 and 88.

17. In the light of his conclusion on the Green Belt in the preceding paragraph and for the other reasons set out in this letter, the Secretary of State concludes that the appeal proposal would not be in accordance with the development plan overall. Whilst the Secretary of State has identified a benefit in terms of the delivery of renewable and low carbon energy, he does not consider that this amounts to a material consideration of sufficient weight to justify him determining the appeal other than in accordance with the development plan.

Conditions

18. The Secretary of State has had regard to the Inspector's remarks on conditions at IR63 to 69, the suggested conditions at Schedule 1 of the IR, paragraphs 203 and 206 of the Framework and the guidance. He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework. However, he does not consider that the suggested conditions would overcome his reasons for dismissing the appeal.

Formal Decision

19. Accordingly, for the reasons given above the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a solar farm with an output of approximately 16MW at land associated with Clay Tye Farm, Clay Tye Road, Upminster, Essex, RM14 3PL in accordance with application reference P1249.14 dated 3 September 2014.

Right to challenge the decision

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

21. A copy of this letter has been sent to London Borough of Havering. A letter of notification has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

Christine Symes

Christine Symes
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Brian Cook BA (Hons) DipTP MRTPI

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

Date: 16 November 2015

THE TOWN AND COUNTRY PLANNING ACT 1990

THE LONDON BOROUGH OF HAVERING

APPEAL BY

GREEN SWITCH DEVELOPMENTS LTD

Site visit made on 28 September 2015

Land associated with Clay Tye Farm, Clay Tye Road, Upminster, Essex RM14 3PL

File Ref: APP/B5480/W/15/3007618

File Ref: APP/B5480/W/15/3007618
Land associated with Clay Tye Farm, Clay Tye Road, Upminster, Essex RM14 3PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Green Switch Developments Ltd against the decision of the Council of the London Borough of Havering.
- The application Ref P1249.14, dated 3 September 2014, was refused by notice dated 6 January 2015.
- The development proposed is installation of a solar park with an output of approximately 16 MW on land associated with Clay Tye Farm.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. The Council issued a Screening Opinion on 25 June 2014 that environmental impact assessment was not required in this case. On receipt of the appeal against the Council's refusal of planning permission, the Secretary of State did not disagree with that Opinion.

2. On 13 August 2015 an appeal (APP/B5480/A/14/2227508) against the same Council's decision to refuse a planning application for a solar park on land on the other side of the M25 motorway from the appeal site was allowed. The views of the parties to this appeal were requested on 23 September 2015 and those expressed have been taken into account in the preparation of this report.

3. The appeal was recovered for determination by the Secretary of State on 30 September 2015. The reason given for recovery was that the appeal involves proposals for significant development in the Green Belt.

The Site and Surroundings

4. The appeal site is located about 500m to the east of the M25 motorway. It comprises a number of sub-divided fields separated by hedgerows, each of which is in agricultural use which, at the time of my site visit, appeared to be the grazing of cattle and the taking of a hay crop. The field in the south-west quadrant of the site is detached from the remainder. The total land area extends to some 30ha.

5. The northern boundary of the site adjoins open agricultural land and woodland known as Clay Tye Wood, a designated Site of Nature Conservation Importance. The eastern boundary also runs alongside the agricultural land and an area containing the agricultural buildings and a Grade II Listed Building at Bury Farm. The western boundary is set back the width of a field from Clay Tye Road. Residential properties line this route in a linear arrangement. The southern boundary is a private track that gives access to Fairplay Farm. Along this route runs a public right of way which leaves the track just before the Fairway Farm buildings and heads north-east across the appeal site towards Bury Farm.

6. The whole site in effect wraps around the large Warley National Grid electricity substation. Electricity pylons and overhead power lines cross two areas of the appeal site.

7. In terms of designations the whole of the appeal site is within the Green Belt and the Thames Chase Community Forest, the north-eastern part is a Countryside Conservation Area and areas at the northern end are within Flood Zones 2 and 3.

Planning Policy

8. The development plan includes the Further Alterations to the London Plan (FALP) adopted in March 2015 and the Core Strategy and Development Control Policies Development Plan Document (DPD) adopted in 2008.

9. FALP policies 5.1 and 13 set out the Mayor's approach to achieving an overall reduction in London's carbon dioxide emissions while policy 5.7 addresses renewable energy. The strategic aim of this policy is to increase the proportion of energy generated from renewable sources while the 'planning decisions' part of the policy states that major development proposals should provide a reduction in expected carbon dioxide emissions through the use of on-site renewable energy generation, where feasible. The 'LDF preparation' part of the policy is not directly relevant to the determination of this appeal. FALP Policy 7.16 deals with Green Belt. With respect to planning decisions it states that the strongest protection should be given to London's Green Belt, in accordance with national guidance. Inappropriate development should be refused except in very special circumstances. Development will be supported if it is appropriate and helps secure the objectives of improving the Green Belt as set out in national guidance.

10. In the report to the Council's Regulatory Services Committee reference is made to DPD policies DC32, DC45, DC48, DC50, DC58 and DC61. The appellant additionally refers to policies CP14, CP15, CP16 and DC22.

11. Policy DC22 seeks to increase opportunities for informal recreation in the countryside and includes in bullet form a number of means by which this would be achieved. The third bullet is relevant given the location of the appeal site and states 'ensuring that all developments located within the Thames Chase make a positive contribution to the implementation of the Thames Chase Plan by improving, for example, access, recreation opportunities, the landscape and nature conservation.' The Thames Chase Plan has not been provided in evidence.

12. Policy DC32 is in two parts the first only of which is relevant. This states that new development which has an adverse impact on the functioning of the road hierarchy will not be allowed.

13. Development in the Green Belt is addressed through policies CP14 (which the appellant says seeks to protect the Green Belt) and DC45 which addresses appropriate development in the Green Belt. The reasoned justification for this policy is said to be based on the guidance set out in the now replaced Planning Policy Guidance Note 2, *Green Belts.* The policy is however worded positively and sets out the circumstances in which planning permission will be granted for particular types of development. It does not say however that planning permission will be given for inappropriate development in Green Belt where justified by the demonstration that very special circumstances exist. The Secretary of State may consider that this is inconsistent with the relevant paragraphs of the National Planning Policy Framework (the Framework) and that greater weight should therefore be given to that in accordance with the advice in Framework paragraph 215.

14. Flood risk is addressed through policy DC48. In essence, this requires the sequential approach set out in Framework paragraph 100 to be followed. Policy DC50 addresses renewable energy and is again in two parts, the second of which is relevant to this appeal. This states that proposals will be acceptable subject to there being no detriment to the character of the area, no demonstrable harm to visual or residential amenity and no unacceptable levels of pollution generation. It also states that the benefits of achieving diverse and sustainable energy supplies and reducing greenhouse effects will be balanced against any harm arising from the development.

15. Biodiversity and geodiversity are the subject of policy DC58. Of relevance to the appeal the policy seeks, in summary, to protect and enhance sites of local importance for nature conservation and protect the individual character of and promote access to each countryside conservation area.

16. Finally, policy DC61 is entitled 'Urban Design'. It is set out in two parts. The first is concerned with maintaining, enhancing or improving the character and appearance of the local area by ensuring that development must achieve criteria that are set out in bullet form. The first is of direct relevance to the appeal proposal and states that the development must harness the topographical and ecological character of the site, including the retention of existing trees and landscape features while providing appropriate landscaping. The second part sets out the circumstances where planning permission would not be granted. In summary these are where there would be adverse effects on the living conditions of nearby occupiers or the environment or where the development of adjoining land and/or the surrounding area as a whole would be prejudiced.

17. There are numerous references in the evidence to the Framework with Framework paragraphs 2, 8, 9, 14, 17, 18, 28, 79 to 92, 93, 95, 97, 98 and 197 all being cited. The Secretary of State will be very familiar with these and the renewable energy section of the Planning Practice Guidance (PPG). The Council has also referred to the Written Ministerial Statement *Planning Update March 2015* and the section on solar energy drawing particular attention to the passage relating to the use of agricultural land and the need for schemes involving the best and most versatile agricultural land to be justified by the most compelling evidence.

Planning History

18. There is no relevant planning history.

The Proposals

19. Some 60,100 free-standing solar panels generating a maximum output of 15.93MWp of electricity to feed directly into the local electricity distribution network would be installed. The panels would be mounted on frames with a height at the front of some 0.8m and a back panel height of about 2.4m giving a tilt angle of approximately 25°. The arrays would be on an east-west alignment facing south to maximise sunlight exposure. There would be a separation distance between the rows of 3-4m and a set-back from the site security fence to both prevent shadowing from adjoining vegetation and provide for a wildlife buffer.

20. The panels would be secured through piles driven into the ground. There would therefore be no requirement for excavation or the laying of concrete which assists decommissioning and restoration to the previous agricultural use. The frames are fixed so the panels do not track the path of the sun.

21. A number of buildings would be erected. These would include:
    i) A small control building/sub-station housing both the low tension and high tension control panels and the transformer.
    ii) Some 14 inverter enclosures arranged throughout the site and typically being a weather proof fibre glass structure.
    iii) Wire mesh deer fencing around the entire site at a height of 2.4m.
    iv) A number of pole-mounted infrared CCTV cameras.
    v) Connection to the local electricity distribution network would be by underground cable, the route of which is shown on the application drawing.

22. Access would be via an existing private tarmacked road off St Mary's Lane to the north-east of the site. No permanent access tracks or ways will be constructed on-site as the only traffic would be small tracked or 4 wheel drive maintenance vehicles.

23. Construction would take about 3-4 months. Once completed, the construction compound would be removed and the site restored. It is expected that about 100 heavy goods vehicles will be required to deliver the materials. These movements would be staggered throughout the construction period to reduce the impact on the local highway network.

24. Decommissioning would take place after 25 years which would be the operational life of the project. This would involve the removal of all materials and equipment and would take no more than 2 months. The site would be restored to arable land.

25. For the duration of the project all existing trees and hedgerows to field boundaries would be retained with new lengths of native hedgerow provided along those sections of the public right of way where it passes through the development. Once established, hedgerows would be brought into regular agricultural management and maintained at a height of some 3m. Ecological enhancement measures in part of the south-eastern field include wildflower meadow areas, insect hotels and reptile refugia. A viewing area adjacent to the public right of way with benches and an interpretation board would be provided.

26. Grass would be allowed to grow across the site and a wildflower mix would also be sown around field margins. Mowing would take place in April and August to ensure no harm to the panels and ensure species had the chance to seed between mowing events. Alternatively, livestock would be encouraged to graze within the site and the landowner has been offered a grazing license.

The Case for the appellant

27. The appellant explains that informal pre-application discussions were held with the Council. The advice given was that providing that the site could be well screened and would not be visible from a wide area, the proposal could be

supported in the Green Belt, particularly considering the benefits of renewable energy.

28. During August 2014 a public exhibition was held having been advertised in the local press and held in a venue nearby; no members of the public attended. Once submitted, there was little public comment on the planning application. Three letters of objection were received with two further letters of representation. In, fact, the Council's officer report also notes three letters of support. No objections were received from any statutory consultees. The officer recommendation was one of approval subject to the prior completion of a planning agreement under s106 of the Act to secure a community benefit in the form of a 'Fit for Free' scheme that would provide domestic solar equipment to neighbouring properties.

29. In reviewing national planning policy and guidance extensive reference is made to the passages set out above [paragraph 17]. In particular, Framework section 10, *Meeting the challenge of climate change, flooding and coastal change*, is referred to with emphasis placed upon Framework paragraphs 93, 95, 96 97 and 98. In summary, the appellant says that the message given is that: planning plays a key role in helping to secure radical reductions in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy; this is seen as central to the economic, social and environmental dimensions of sustainable development; that local planning authorities should expect developments to comply with adopted local plan policies on local requirements for energy supply; that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources; and that applicants should not need to demonstrate the overall need for renewable or low carbon energy recognising that even small-scale schemes make a valuable contribution to cutting greenhouse gas emissions.

30. In that context, the development proposed would meet the needs of approximately 4,800 homes off-setting the emission of some 8,000 tonnes of CO_2 annually. In addition, the agricultural use of the site would be maintained with enhanced ecological benefits and the scheme would represent a form of agricultural diversification facilitating ongoing investment in the wider agricultural holding. There is a nearby connection to the national electricity distribution network and a willing landowner. The development would therefore be deliverable and would make a significant contribution to renewable energy generation and carbon emission reduction targets for the Borough, London and the UK. The development is therefore supported by the Framework.

31. FALP Chapter 5, *London's Response to Climate Change,* advises that the Mayor seeks to achieve an overall reduction on London's carbon dioxide emissions of 60% (below 1990 levels) by 2025. The Mayor supports the greater use of renewable and low carbon energy generation technologies and seeks to increase the proportion of energy generated from renewable sources.

32. A sequential site search was undertaken. This showed that, since over 50% of the Borough is designated Green Belt, any alternative site for a ground-mounted solar farm will probably also be located within the designated area. However, the financial, technical and physical ability to connect to the grid is critically

important to project deliverability; those are not constraints to the appeal proposal.

33. It is accepted that the proposal amounts to inappropriate development in Green Belt. However, Framework paragraph 91 says that the very special circumstances that need to be demonstrated for such renewable energy projects to succeed may include the wider environmental benefits associated with increased production of energy from renewable sources. Reference is also made to four appeal decisions where solar farm proposals of varying size have been allowed in the Green Belt.

34. Nine considerations are put forward to demonstrate that, in this case, very special circumstances do exist to justify the development proposed. These are set out in turn.

35. The development would have little **landscape and/or visual impact**. The Landscape and Visual Impact (LVIA) study that accompanied the planning application noted that the introduction of the development into a landscape character that is heavily influenced by man-made features such as the over head power lines and associated pylons, the major sub station and the M25 motorway would not be incongruous. The panels would generally be below the height of the field boundary hedgerows and, given the flat nature of the site and the surrounding landscape, would have very little visual impact. The officer's report did not seriously dispute that analysis and concluded that the proposal would not result in any significant visual intrusion within the landscape or harm to the character of the area.

36. The generation of a **significant amount of renewable energy**. This has already been quantified [paragraph 30]. The sizable contribution to the aims and ambitions of both the Borough and the Mayor merits appropriate weight in accordance with Framework paragraph 93.

37. The **temporary nature of the development**. The period of the development would be 25 years with very little disturbance to the soil profile during construction and decommissioning. These matters can be controlled by condition. The temporary nature of such developments has been confirmed in recent appeal decisions and five are referred to.

38. There would be **no permanent loss of agricultural land**. The land would experience a rest from intensive farming activities which would allow biodiversity improvements. The financial subsidy available for a period of 20 years gives greater economic security than many other forms of agricultural diversification. An appeal decision where these benefits were recognised is referenced.

39. The design of the scheme would enable **sheep grazing** beneath the panels and manage the grass sward.

40. The outcome of the **sequential site search** has already been referred to [paragraph 32] as has the **availability of an affordable grid connection** [same paragraph].

41. A **wildflower meadow** would be created throughout the site in accordance with guidance published by the Building Research Establishment, *Biodiversity Guidance for Solar Farms* (April 2014). There would be benefits for bumblebees and sheep grazing is more suitable than cattle. The biodiversity benefits of the

development were acknowledged in the officer report and supported by Essex Wildlife Trust.

42. Finally, **community benefits** would be available in the form of the viewing and information area and the community renewable energy scheme referred to above [paragraph 28].

43. To conclude on Green Belt, the appellant considers that these other considerations amount to the very special circumstances that outweigh the inappropriate nature of the proposed development. On that basis the development would comply with DPD policy DC45, FALP policy 7.16 and the Framework.

44. The LVIA acknowledged that the development would have adverse impacts on users of the public right of way where it passes through the development site. The proposal is that the path would be screened from the solar park by fencing and new hedgerow planting. However, views from this path would be limited and it is considered that this would be the only detrimental impact of the proposed development. It is notable that there appears to have been no objection from any organisation or individual to this aspect of the development.

45. Finally, the appellant sets out the need for renewable energy in both the Havering area and in London. Total electricity consumption in 2014 was 818.2 GWh/y and 40,989.4 GWh/y respectively (source quoted is DECC). Reference is again made to the Mayor's overall climate change strategy and the *Decentralised energy capacity study; Phase 1: Technical Assessment Sub-national consumption statistics* published by the Greater London Authority in October 2011. This highlights that up to 34% of London's electricity could be sourced from renewable sources by 2031 with solar PV having the greatest technical potential of any renewable energy technology. Various figures are quoted to show the potential contribution that could be made from solar PV (between 2,108MW and 9,247MW), the potential electricity generation (up to 7,948 GWh with a saving of 3.1 Mt CO_2) and the estimate that this could amount to nearly 20% of London's future energy mix.

46. In conclusion, the appellant argues that there is a significant demonstrable need for the development and that this should be attributed appropriate weight within the planning balance.

The Case for the Council

47. The Council acknowledges that the officers' recommendation was for approval but notes that it is Members who are the decision makers and states that their decision was based on a consideration of valid planning reasons. The Council considers the main issues for the determination of this appeal to be whether the proposal would constitute inappropriate development in the Green Belt, whether the proposal would result in significant visual harm, along with harm to the amenities enjoyed by the general public.

48. The Council considers that the development proposed would amount to inappropriate development in Green Belt. In accordance with Framework policy such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the

potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

49. Turning to the visual impact of the proposal, the flat open grassland used for grazing livestock would be replaced by a hi-tech, large-scale and quasi-industrial form of development. While the panels themselves would be some 2.4m in height, other elements of the development, such as the inverter, sub-station and control buildings, would be up to 4.4m high.

50. While Members noted the conclusions of the appellant's LVIA and accepted that there are some existing trees and vegetation they did not accept that the impact of the development would be limited to certain specific areas only. In their view the installation of over 60,000 panels across an area of some 30ha would be clearly seen as a man-made intrusion into the rural landscape, compounded by the associated equipment and structures including six 3m high CCTV towers and the other elements set out above [paragraph 21]. This would serve to enhance the impression of an urbanised environment and amount to an alteration to a key landscape characteristic (the arable farmland) such that the landscape character would be changed.

51. Visually, the panels and associated infrastructure would appear as utilitarian features in a countryside location. The appearance and colouring would not be typical of the agricultural landscape and would appear as a discordant element of significant scale in the local landscape resulting in significant visual harm to the area.

52. The Council accepts that the openness of this part of the Green Belt is affected by the presence of the pylons and the power lines they support and the large National Grid substation. The eastern section of the appeal site contains some material stockpiles, a number of steel containers used for storing livestock feed and items of redundant equipment. Nevertheless, Members came to the view that the combination of layout and arrangement of the elements of the proposed scheme would be markedly harmful to the openness of the Green Belt in this locality. In addition, it would conflict with one of the purposes of Green Belt designation, namely safeguarding the countryside from encroachment.

53. The Council concludes on the first two issues identified that the proposal would be inappropriate development in the Green Belt that would be harmful both in principle and by its likely physical impact. The arguments advanced by the appellant in support of the proposal do not outweigh the substantial harm. The very special circumstances necessary to justify the development do not therefore exist. The proposal therefore conflicts with DPD policy DC45 as it would fail to complement or improve the amenity and character of the area through its appearance, materials used, layout and integration with surrounding land and buildings. Furthermore it would be contrary to FALP policy 7.16 and the guidance in the Framework.

54. On the third issue the scheme would alter the outlook for those using the public right of way. It passes to the south of the site and then through it [paragraph 5]. There is a further public right of way to the east of the appeal site from where relatively close-up views can be obtained of the appeal site.

55. It is accepted that there is an element of screening provided by the existing planting on some boundaries. The new planting proposed would, over time,

soften or screen the views across the site as it matured. However, this would not mitigate the significant adverse effect on users of the public right of way. While the planting itself might be in keeping with the landscape character of the wider area, once matured to effective height, it would give a sense of enclosure for path users and completely change the view from that section of it. Moreover, the time for the planting to become effective is put at approximately five years. In the context of the period for which the development would be in place, that represents a considerable degree of uncertainty.

56. The Council therefore considers that in this respect the proposal would conflict with DPD policy DC22.

57. The Council draws attention to a number of other matters.

58. First, the core principles set out in Framework paragraph 17 encourage the development of renewable energy while recognising the intrinsic character and beauty of the countryside. However, the proposal would clearly conflict with current national planning policy, recently re-emphasised in the Written Ministerial Statement of 25 March 2015, that development such as that proposed should be focussed on previously developed and non-agricultural land.

59. Second, the community benefit offered by the appellant needs to be secured by way of a planning agreement under s106 of the Act. If such an obligation is not provided, that would be an additional reason to dismiss the appeal.

60. Third, although the appellant has indicated that the appeal site would be grazed by sheep, there is no mechanism to secure this and, in any event, the Council's understanding is that the appeal site is part of an arable farm.

61. Finally, the responsibility that all communities have to help to increase the use and supply of green energy and the need for renewable energy does not override the environmental protection and planning concerns of local communities. The Council's conclusion is that the development is contrary to the aims and objectives of DPD policies DC45 and FALP policy 7.16.

Written Representations

62. The Planning Inspectorate received five representations from three addresses in the local area. In summary, the points made are as follows:

i) The panels will be built on Green Belt land and will therefore be a blight on the countryside.

ii) The sunlight on the panels could distract drivers on the M25 motorway and Clay Tye Road, possibly causing an accident.

iii) There is a risk of flooding on the appellant's own admission.

iv) The proposal would constitute inappropriate development in the Green Belt.

v) No very special circumstances have been shown to outweigh the harm by reason of inappropriateness and visual harm to the character and openness of the Green Belt.

vi) The development would destroy this area and the open character of the Green Belt.

vii) It would be shameful to bring large areas of arable land that have been farmed for centuries into the dark shadow of infertility.

viii) Nearby there are enough factory roofs that could meet the same purpose without the same visual impact.

ix) The proposal would be harmful to the character of the North Ockendon Conservation Area.

x) At a time of rising food prices the development constitutes an inappropriate change of use of large sections of high quality arable land.

Conditions

63. The Council has suggested 17 conditions that should be imposed in the event that planning permission is granted for the development. The appellant considers that two fail to meet the tests set out in the PPG while four others impose unnecessary time restraints on the submission of details for approval by the local planning authority. I have considered the suggested conditions and the appellant's comments upon them in the light of the relevant sections of the PPG and include at Schedule 1 the conditions that I consider should be imposed if the Secretary of State allows the appeal. I have altered the wording of some of those suggested by the Council for clarity and consistency with the PPG.

64. Turning first to the conditions that the appellant feels fail the tests set out in the PPG, I agree that suggested condition 11 is not necessary or relevant to planning. It would require the necessary agreement, notice or licence to enable the proposed works to the public right of way to be entered into before the development commences. However, my understanding is that the keeping open of a public right of way, even during the implementation of a planning permission, is the subject of other legislation. This condition is therefore not required.

65. I also agree that suggested condition 17 is unnecessary and not relevant to the development to be permitted. The Council clearly has concerns regarding the effect on visual amenity of the plant, containers and other materials now stored on parts of the site [paragraph 52]. However, the condition requiring them to be removed and for no similar materials or items to be stored for the duration of the development reads more like the requirements of an enforcement notice issued under s172 of the Act. As the appellant fairly points out, it would not be possible to implement the approved plans without removing these items. The condition is not therefore necessary.

66. It seems to me that the Council's suggested condition 5 which deals with wheel cleaning to prevent mud and other debris being carried onto the highway during construction is unnecessary given that its suggested condition 10 requires a construction method statement which can include these measures.

67. The other 14 conditions all seem to me to meet the six tests and be required to control the development. Using the condition numbers in Schedule 1, conditions 1 and 2 are the standard commencement condition and one setting out the approved plans respectively. Conditions 3, 4, 5 and 12 are required to ensure that the landscape and biodiversity measures and enhancements are implemented and maintained while conditions 10 and 11 will secure the detailed appearance of the CCTV equipment and buildings to be provided in the interests of the appearance of the area. It is important that highway safety and residential amenity is protected for the duration of the development and that the temporary

construction compound is removed and the land restored in accordance with a scheme agreed with the Council; conditions 9 and 14 respectively would control these matters.

68. Conditions 6, 7 and 8 will ensure that the development is removed after 25 years or sooner if electricity export to the National Grid ceases for a period of at least six months with the land being restored in accordance with an approved scheme. Finally, condition 13 requires details of the seating and information area to be provided and approved.

69. The appellant contends that preventing development commencing until the details of the schemes required by what would now be conditions 10, 11, 12 and 13 would unnecessarily delay the development. I do not agree. Details of the CCTV equipment (10) and the buildings (11) should be readily available and the appellant must have a clear idea in mind for the seating and information area proposed (13). In my view, the scheme to secure biodiversity enhancements should be approved prior to the commencement of the development (12) in order that the development activity itself does not compromise the achievement of those enhancements. As appropriate, the Council could secure grazing by sheep as part of this scheme.

Conclusions

70. Throughout this section numbers in [] are references to source paragraphs elsewhere in the report from which the conclusions are drawn. Source references to the Framework are given as (#) although the principal reference is at [17].

Matters on which the Secretary of State's decision should be based

71. The appeal site lies within the Green Belt [7]. The parties are agreed that the development would amount to inappropriate development in Green Belt [33, 48]. Since it would involve the laying out of some 60,000 panels, a control building, substation, some 13 inverter buildings CCTV masts and perimeter security fencing [19 to 21], the proposed solar farm would fall within the definition of a building given in s336(1) of the principal Act. Having regard to the longstanding national planning policy regarding the construction of new buildings in Green Belt, most recently reaffirmed in the Framework (#89), the parties' position is clearly correct.

72. As a matter of national planning policy (#87) inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application for development in the Green Belt local planning authorities, and by extension the Secretary of State on appeal, are required by the Framework (#88) to ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

73. In assessing whether or not there would be any other harm to add to that by reason of inappropriateness, the matters on which the Secretary of State's decision should be based are:

a) The effect of the development proposed on the openness of the Green Belt and the purposes served by Green Belt;

b) The effect on the landscape character and visual appearance of the area; and

c) The effect on the amenity of users of public rights of way in the area.

The effect of the development proposed on the openness of the Green Belt and the purposes served by Green Belt

74. Although the essential characteristics of Green Belts are their openness and their permanence (#79), 'openness' is not defined in statute or Guidance. Generally, the courts have held that it means an absence of development. While the extent to which the proposed development may be seen and thus its visual impact appreciated may go to the weight to be attributed in carrying out the Green Belt balance, it does not influence the principle that the openness of the Green Belt would be affected by built development. The effect on openness is therefore determined not only by the footprint of the structures and the loss of open land to development but by the nature of the buildings erected.

75. In this case the footprint of the development would be extensive. Almost the whole of the appeal site would be covered by the arrays of panels [19]. Furthermore, the entire site would be enclosed by a metal fence some 2.4m high [21(iii)]. However, since they would be distributed among the arrays or at points along the boundary respectively, the buildings [21(i), (ii)] and the pole-mounted CCTV cameras [21(iv)] would have little additional effect on openness.

76. The openness of this part of the Green Belt is already compromised to a degree by the National Grid electricity substation and the pylons supporting overhead power lines [6]. Nevertheless, given the extensive coverage of what is now agricultural land that there would be by built development, I consider that there would be a significant harmful effect on the openness of the Green Belt arising from the appeal proposal. Furthermore, there would be a significant encroachment of built development into the countryside contrary to one of the five purposes that Green Belt is intended to serve (#80). In combination, this would be an additional conflict with national Green Belt policy that should be afforded considerable weight in the Green Belt balance.

The effect on the landscape character and visual appearance of the area

77. The appeal site is within the Northern Thames Basin National Character Area (NCA). This is an extensive area taking in parts of both Hertfordshire and Essex counties. The key characteristics of the NCA as a whole are noted in the appellant's LVIA. Those features represented in the area surrounding the appeal site are the more open character of the mixed farming and arable land typical of this part of Essex.

78. However, the appeal site itself is a more enclosed landscape with each of the fields bounded by considerable hedgerows with some trees. This contrasts with the more open farmed landscape to the south of the public right of way and to the east where more extensive views across the landscape are available. The framing structure of the landscape of the appeal site would be undisturbed by the development proposed [25].

79. Nevertheless, the farming character of the landscape would be completely changed for the duration of the development [24] from one that is agricultural to one that would have an urbanised/industrial character. In my view, it is the

extent to which that change would be appreciated that is determinative of this matter.

80. Both parties refer to the energy and transport infrastructure already present in the area and indeed directly affecting the appeal site [35 and 52]. The pylons and associated power lines are clearly visible but these are not especially unusual features in any landscape, particularly near urban areas. The National Grid substation seemed to me to be set down somewhat into the landscape. I acknowledge that my site view took place when the trees and hedgerows were still in full leaf but it was only when walking the public right of way [5] that the National Grid substation was prominent in the view. Even then, it was only at points when there were significant gaps in the field-boundary planting. From further afield, such as when travelling along the M25 Motorway in either direction or the more local roads, it was barely noticeable.

81. The panels would be set down within the field-boundary planting at a maximum height of 2.4m [19]. Changes in levels across the appeal site are limited [35] and in my judgement the appeal development would be appreciated in near views only and, even then, only to a limited extent.

82. In terms of any cumulative impact arising from the approval of a similar but significantly smaller scheme nearby [2], the parties agreed in their respective responses that this matter had been addressed in the appellant's LVIA. They also agreed that any potential effect would be limited and experienced principally by those using the M25 Motorway. I concur with that analysis and have already expressed my judgement about the views available from that route [80].

83. In conclusion on this matter, I believe the conclusions of the appellant's LVIA to be fair. These are that the proposed development would only result in very limited substantial and substantial to moderate landscape and visual effects in close proximity to the appeal site. I therefore conclude that while this would lead to a conflict with DPD policy DC50 [14] in this regard the landscape and ecological enhancements proposed would accord with DPD policy 61 [16]. On balance, I consider that the weight to be attributed to this additional harm in the Green Belt balance should be minimal.

The effect on the amenity of users of public rights of way in the area

84. A public right of way runs from Clay Tye Road past and through the appeal site as described above [5]. For the duration of the development the footpath would be enclosed where it passes through the appeal site [25]. There is no doubt therefore that users of this path would have a different experience for the duration of the development to the one they have now.

85. Over the first part of this route, the path runs along the track leading to Fairplay Farm [5]. In my view this is an experience with little to commend it but it would be largely unchanged by the development. Where there are gaps in the hedgerows to the north they allow a view to the National Grid substation. Views across the appeal site fields are largely screened.

86. When the footpath leaves the track it crosses a field ditch by a wooden bridge that appeared to me to be in a poor state of repair and quite rickety. The path then crosses the appeal site in a more or less straight line. There was little

evidence of the path on the ground. This is suggestive of little use and there is no other evidence from the parties either way about this.

87. This section of the walk would be between two lines of hedgerows once the planting proposed matures. Once it does, there would be a feeling of being enclosed which would be at odds with the current experience. However, until it does, there would be extensive views across the panels. The view would therefore be across an urbanised landscape rather than the farmland seen today. In my view, throughout the life of the development there would be a qualitative change in the experience of path-users which would be harmful. I do not consider that the seating area and interpretation board [25], although of value in themselves, would mitigate that harm.

88. For this reason I consider the development would conflict with DPD policy DC22 [11]. However, in view of what appeared to be the limited use of the path, I consider that the weight to be attributed to this harm in the Green Belt balance is limited.

Other matters

89. There are a number of other matters which, although not being 'main matters', are nevertheless factors about which the Secretary of State should be advised. These are addressed in the Council's officer report to the Regulatory Services Committee. There is no evidence before the Secretary of State to disagree with the Council's analysis and conclusions on these matters. I therefore deal with them briefly.

90. With regard to any effect on the living conditions of nearby occupiers, the closest dwellings would be at least 50m from the nearest part of the development. Given the function of the equipment and the passive nature of the activity solar farms are not significant noise generators and most of the disturbance would arise during construction and decommissioning. Subject to the condition discussed above [67] there would be no conflict with DPD policies DC50 and DC61 [14 and 16 respectively].

91. The Highway Authority has raised no objection to the access arrangements [22]. Subject to the condition discussed above [67], there would be no conflict with DPD policy DC32 [12]. No objections have been raised by the Environment Agency on flood risk grounds following full consideration of the Flood Risk Assessment submitted with the planning application.

92. There is a Grade II Listed Building near to the eastern boundary of the site [5]. No further information is given about this building. In its consultation response on the planning application English Heritage (as it then was) deferred any comment on this aspect to the Council's conservation officer. There is no evidence on the appeal file of that officer's advice. The relevant DPD policy is DC67 but that has not been provided in the evidence. However, from the summary of it in the Council's officer report it would appear not to be consistent with Framework #132 to #134. The officer's conclusion that the proposal would not result in significant harm to the setting of the Listed Building without then weighing that harm against the public benefits of the proposal is also contrary to the advice in Framework #134.

93. As far as I can tell from the evidence, the appeal site is not associated with Bury Farm. I do not believe therefore that any part of the appeal land can be said to be within the setting of the Listed Building, Bury Farmhouse. The appeal proposal would not, on the limited evidence available, affect the setting of a Listed Building and there would be no conflict with national planning policy in this regard. There is no evidence regarding the Ockendon Conservation Area against which to assess the alleged effect of the development [62(ix)]

94. Contrary to an assertion in the representations [62(x)], the Council says that the appeal site is not the best and most versatile agricultural land. The appeal proposal would not conflict therefore with Framework #112.

Other considerations and the Green Belt balance

95. The appellant has put forward nine other considerations [34] to weigh against totality of the harm to the Green Belt to determine whether or not the very special circumstances necessary to clearly outweigh that harm exist (#88). I shall deal with these in turn and in the order set out above [35 to 42].

96. Landscape and visual matters [35] have already been considered under the second main matter and do not amount to an 'other consideration' for the purposes of the Green Belt balance.

97. I shall consider three more of the nine together since they relate to essentially the same consideration. These are the contribution to renewable energy [36], the sequential site search and the availability of the grid connection [40].

98. Framework section 10 is very supportive of the delivery of renewable and low carbon energy and associated infrastructure (#93). Moreover, there is no requirement for applicants to demonstrate the overall need for renewable or low carbon energy while the valuable contribution to cutting greenhouse gas emissions that even small-scale projects can provide is recognised (#98). On that ground alone, the contribution that there would be from the development [30] should be afforded considerable weight. However, the contribution that would be made to the needs of London and the Borough [45] seem quite modest and that context should be taken into account.

99. The appellant explains that a viable grid connection is vital [32] and this would appear to have influenced the site search which is also guided by the extent of the Green Belt in the Borough [32]. The tension between two national policy aims - Green Belt protection and provision of renewable and low carbon energy infrastructure - that would arise from any proposal would need to be resolved on a case-by-case basis. The appellant's conclusion that any other ground-mounted solar farm would therefore also be in Green Belt [32] and, by implication, be no more preferable does not necessarily follow. The other appeal decision [2] is testament to that. While recognising that the appeal site is technically suitable for the development proposed, I believe that little weight should be given to this argument.

100. I turn next and briefly to the temporary nature of the development [37]. While the development is proposed to be for a 25 year period only [24], that is a generation in human terms and remains a lengthy period during which the effects outlined above would be experienced. I therefore believe very little weight

should be attributed to what the appellant terms the temporary duration of the development.

101. A number of points have been made with regard to agriculture [38 and 39]. The implications for policy of the agricultural land quality have already been addressed [94]; this is not a consideration that can weigh in the Green Belt balance. Although put forward only as an alternative grass management method [26], the grazing by sheep that the layout would enable [39] could be secured by condition and the appellant has indicated a willingness to accept such. This is addressed above [69]. While the proposal may well generate additional income for the farm enterprise no evidence has been provided with regard to the amount or the effect it would have on the overall farm budget. In these circumstances, very little weight can be attributed to this consideration.

102. The Essex Wildlife Trust support the appellant's proposals for biodiversity enhancements which take the form of a wildflower meadow being created 'throughout the site' [41]. However, on close examination of the application drawing (PV Layout Revision: K), it appears that the wildflower meadow areas will be located around the field edges only and, in many cases, will be of limited width. While not incorrect to characterise this as 'throughout', it is nevertheless a little misleading.

103. Furthermore, as the appellant acknowledges at final comments stage, these works do not require the appeal proposal to be granted planning permission in order to proceed. While it is also fairly pointed out that they would not do so in the absence of any approval that very much reduces the weight that should be afforded to this other consideration in the Green Belt balance. It should also be noted that in the other appeal [2] the Inspector attached considerable weight to the ecological benefits that would be achieved by that development. My opinion on the same consideration is therefore a clear distinguishing factor between the two appeals.

104. Finally, I turn to the community benefit offered [28 and 42]. I have already addressed the seating and information board [87]. As with the wildflower meadow, there is no reason why the provision of seating should be dependent on the appeal proposal going ahead although the interpretation board would serve no purpose if it did not. I have some concern that the 'Fit for Free' scheme may not comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended, and the guidance in Framework #204. However and in any event, no agreement or unilateral undertaking under s106 of the Act has been entered into or submitted so this does not need to be explored further. This is therefore a consideration to which no weight can be given.

105. Turning now to the balance, to the substantial weight that must be given to the harm by reason of inappropriateness [72] must be added the considerable weight arising from the effect on openness and the purposes served by the Green Belt [76], the minimal weight to the effect on landscape character and visual appearance [83] and the limited weight that arises from the effect that there would be on the amenity of users of the public right of way [88]. On the other side there is the considerable weight that should be afforded to the delivery of renewable and low carbon energy infrastructure [98]. However, I consider that very little additional weight accrues from those other considerations put forward by the appellant [99 to 104]. I therefore find that the other considerations in

this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

106. The appeal proposal would therefore conflict with FALP policy 7.16 [9] and, since DPD policy DC45 is inconsistent with the Framework [13], national Green Belt planning policy set out generally in Framework section 9 and more particularly in Framework #87 and #88.

Recommendation

107. I recommend that the appeal be dismissed. However, in the event that the Secretary of State disagrees, I recommend that the conditions in Schedule 1 below be attached to the permission.

Brian Cook

Inspector

Schedule 1: Conditions

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

2) The development hereby permitted shall be carried out in accordance with the following approved plans, particulars and specifications: 33KV Substation UKPN; GSS100A_001; GSS100A_002; GSS100A_003; Location Plan; PV Layout Revision K; Solar Panel Arrangement; Substation Layout; Temporary Construction Compound Layout Plan; and Typical Trench Detail.

3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include indications of all existing trees and shrubs on the site and details of any to be retained together with measures for their protection in the course of development. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the full installation of the development as notified under condition 6 and any trees or plants which within a period of 5 years from implementation of the approved scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed by the local planning authority in writing.

4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme indicating the details of all walls, fences and positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter in accordance with the approved scheme.

5) No development shall take place until a landscape management plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved landscape management plan and retained thereafter for the duration of the development.

6) The local planning authority shall be notified in writing within 7 days of the date that the development hereby approved is fully installed or within 7 days of the date that a connection is made between the development and the National Grid whichever is the sooner.

7) All buildings and man-made structures associated with the development hereby approved shall be removed from the land within 25 years of the date communicated to the local planning authority in accordance with condition 6. The land shall be restored in accordance with a restoration scheme submitted to the local planning authority prior to the commencement of the development hereby approved for approval in writing. The restoration scheme shall be implemented as approved within the timetable agreed within the scheme.

8) If after the date notified to the local planning authority in accordance with condition 6 electricity is not exported to the National Grid from the

development hereby approved for a continuous period of at least six months, the development hereby approved shall be removed from the land as required by condition 7 and the restoration scheme approved under condition 7 shall be implemented as approved within the timetable agreed within the scheme or a period of three months whichever is the sooner.

9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
   i) the parking of vehicles of site operatives and visitors
   ii) loading and unloading of plant and materials
   iii) storage of plant and materials used in constructing the development
   iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
   v) wheel washing facilities at all relevant site entrances
   vi) measures to control the emission of dust and dirt during construction
   vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
   viii) the siting and design of temporary buildings
   ix) a scheme to predict, monitor and minimise the impact of noise and, as appropriate, vibration arising from the construction activities.

10) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of the proposed CCTV equipment and mountings. The development shall be carried out in accordance with the approved details.

11) No development shall take place until details of the materials including the colours to be used in the construction of the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

12) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of biodiversity enhancements. The scheme shall include details of the proposed grass-seeding and habitat creation measures to be implemented throughout the site. The scheme shall be implemented as approved within the timetable agreed within the scheme and retained thereafter for the duration of the development.

13) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of the proposed public seating and information area. The details shall be implemented as approved within the timetable agreed within the scheme and retained thereafter for the duration of the development.

14) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of the construction compound including a timetable for its subsequent removal.

The development shall be carried out in accordance with the approved details

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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