



## Department for Communities and Local Government

Mr Arthur Bell  
GEUK Direct Ltd  
Maine House  
Adlington  
Cheshire  
SK10 4PZ

Our Ref: APP/G2245/W/15/3011499

08 August 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY GEUK DIRECT LTD  
SKINNERS FARM, SKINNERS LANE, EDENBRIDGE, KENT TN8 6LW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Woolcock BNatRes(Hons) MURP DipLaw MRTPI, who carried out an Inquiry held on 15 and 16 December 2015 into your client's appeal against a decision of Sevenoaks District Council ('the Council') to refuse planning permission for a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works in accordance with application reference SE/14/03361/FUL, dated 9 January 2015.
2. The appeal was recovered for the Secretary of State's determination on 8 December 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves proposals for significant development in the Green Belt.

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

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

**Procedural matters**

4. Changes in the scheme from that submitted with the application are noted and the appeal is considered on the basis of the landscape layout shown on drawing No GEUK 1001-804-1500 D (IR2).

## **Policy and Statutory considerations**

5. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Sevenoaks Core Strategy, adopted in 2011 ('CS') and the Allocations and Development Management Plan, adopted in 2015 ('ADMP'). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR12-15.
6. Other material considerations which the Secretary of State has taken into account include the Council's supplementary planning document 'Development in the Green Belt' adopted February 2015, the National Planning Policy Framework ('the Framework'); the planning guidance published in March 2014; and the Written Ministerial Statement "Planning Update March 2015" which, amongst other matters, concerns solar energy and the protection of the local and global environment.
7. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess.

## **Main issues**

8. The Secretary of State agrees that the main disputed issues in this case are those outlined by the Inspector at IR69.

### *Green Belt*

9. For the reasons given at IR71-73 the Secretary of State agrees with the Inspector that the proposal would be inappropriate development in the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. He further agrees (IR72) that the solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt and that the security fencing and equipment would adversely affect the countryside, even if controlled by condition. The proposal would fail to assist in safeguarding the countryside from encroachment, contrary to one of the five purposes of the Green Belt. For the reasons set out above, the proposal would harm the Green Belt and the Secretary of State gives substantial weight to that harm.

### *Character and appearance*

10. For the reasons given at IR74-78 the Secretary of State agrees that the proposal would harm the character of the area, but would have a limited and localised adverse effect on its appearance. He also agrees that overall the proposal would have an adverse effect of moderate significance on the local landscape (IR79).

### *Agricultural land and soils*

11. For the reasons given at IR80-83 the Secretary of State agrees that the likely loss of productivity from using 7.7 ha of the best and most versatile agricultural land would not, in the circumstances which apply here, weigh significantly against the proposal (IR83).

### *Heritage Assets*

12. Having considered the Inspector's assessment of harm to heritage assets at IR84-86 the Secretary of State agrees that the proposed development would have some effect on the traditional wider setting and landscape of the grade II listed Medhurst Row Farmhouse but it would not affect how the farm buildings are experienced. He also agrees that the intervening screening by existing and proposed vegetation would limit the effect on the setting of the listed building to an adverse impact of minor / moderate significance. However, even this harm would be sufficient to bring the proposed development into conflict with ADMP Policy EN4.
13. For the reasons outlined at IR85, the Secretary of State agrees that there would be minimal adverse impact on the setting of grade I listed St Peter's Church and on the setting of grade II listed Skinners Farmhouse and Whistler's Farmhouse. There would be even less effect on the setting of the listed buildings at Delaware Farm and the proposal would not adversely affect the setting of grade I listed Hever Castle.
14. Overall, the Secretary of State agrees that any effect on heritage assets would, at worst, result in an adverse impact of minor/moderate significance. This would be less than substantial harm for the purposes of applying the Framework, which needs to be balanced against the public benefits of the proposal in accordance with paragraph 134 of the Framework. The Secretary of State gives considerable importance and weight to the desirability of preserving the setting of listed buildings in the overall planning balance.

### *Biodiversity*

15. For the reasons given at IR87 the Secretary of State agrees that overall the proposed development would be likely to enhance biodiversity, which weighs in favour of the proposal.

### *Highway safety and residential amenity*

16. Turning to the Inspector's conclusions on highway safety and residential amenity, the Secretary of State agrees, for the reasons given at IR88-91 that subject to the imposition of appropriate planning conditions the proposed development would be unlikely to have an unacceptable adverse effect on either highway safety or living conditions of neighbouring residents (IR91).

### *Drainage and flood risk*

17. For the reasons given at IR92 the Secretary agrees that the likelihood of worse flooding is not a consideration that weighs against the proposal.

### *Other considerations*

18. The Secretary of State agrees that farm diversification would be beneficial to the holding, and the scheme would make a valuable contribution to the rural economy (IR93). With regard to the temporary nature of the scheme (IR94) the Secretary of State takes the view that 25 years is a considerable period of time and the loss of openness and landscape harm, albeit reducing over time as screen planting matured, would affect residents and visitors for a long time and the duration and reversibility of the proposal are matters which he has given limited weight.

19. Like the Inspector, the Secretary of State agrees that other appeal decisions cited by the parties are of little help in determining this appeal on its own merits as much depends on the particular circumstances (IR95).

#### *Renewable energy*

20. The Secretary of State notes the significant contribution the proposed development would make towards achieving renewable energy targets as identified by the Inspector at IR96 and agrees that the wider environmental and energy security benefits of the proposal weigh significantly in favour of allowing the appeal. He agrees with the Inspector that difficulty in finding suitable sites in the locality should not be a decisive or influential consideration. Neither is there anything to require this area to contribute to national targets by means of solar development (IR97).

#### *Development plan*

21. For the reasons given at IR107 the Secretary of State agrees with the Inspector that the scheme would not breach CS Policy SP2 but that it would conflict with policies LO8, EN1 and EN4. He also finds that the breaches of policy would be sufficient to bring the proposal into some conflict with the development plan when read as a whole (IR107). The Secretary of State goes on to consider the proposal's conformity with CS policy LO1 and ADMP Policy SC1 below, following on from his assessment of whether there are very special circumstances.

### **Conditions and Obligations**

22. The Secretary of State has considered the Inspector's reasoning and conclusions on conditions and obligations, as set out at IR109-114. He is satisfied that, in the form recommended by the Inspector, the conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. However, he does not consider that they would overcome his reasons for dismissing the appeal. The Secretary of State notes that though a number of financial contributions are proposed, none of these would be necessary to make the scheme acceptable in planning terms (IR114).

### **Planning balance and conclusion**

23. Having had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State finds that the proposed development would not be in accordance with the development plan overall for the reasons outlined in this decision letter. The Secretary of State has therefore considered whether there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan.
24. As outlined above at paragraph 9, the proposal is inappropriate development in the Green Belt. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. Therefore, the Secretary of State has carefully considered whether the potential harm to the Green Belt, by virtue of inappropriate development, and any other harm, is clearly outweighed by other considerations. The Secretary of State gives significant weight to the contribution that the scheme would make to the Government's commitment to tackle climate change, by reducing carbon dioxide emissions and towards energy security, along with ecological enhancement, and the benefits that would result to the local economy from job creation and farm

diversification. Even in apportioning significant weight to the renewable energy benefits of the scheme, combined with the moderate weight to biodiversity and local economy benefits, the Secretary of State does not find that the benefits clearly outweigh the harm to the Green Belt (which is given substantial weight), the harm to the character and appearance of the area (which is given moderate weight) and the less than substantial harm to designated heritage assets (which is given considerable importance and weight). In finding the development would cause less than substantial harm to designated heritage assets, the Secretary of State has weighed this harm against the public benefits identified above however this harm alone is insufficient to outweigh the public benefits of the proposal.

25. Having reached the conclusion that very special circumstances have not been demonstrated, the Secretary of State finds that there is further conflict with the development plan as, in contrast to the Inspector at IR107, he finds that the proposal would conflict with CS policy LO1 and ADMP Policy SC1.
26. Overall, the Secretary of State considers that the benefits of the proposal do not clearly outweigh the harm to the Green Belt and the other harm identified. Accordingly, he concludes that very special circumstances necessary to justify the development do not exist, and does not find that the impacts can be made acceptable according to the terms of paragraph 98 of the Framework. There are no material considerations which indicate that this proposal should be determined otherwise than in accordance with the development plan.

### **Formal Decision**

27. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works in accordance with application reference SE/14/03361/FUL, dated 9 January 2015.

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

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

Yours faithfully

***Philip Barber***

**Authorised by Secretary of State to sign in that behalf**

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

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Date: 7 March 2016

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Town and Country Planning Act 1990

Sevenoaks District Council

Appeal by

GEUK DIRECT Ltd

Hearing held on 15 and 16 December 2015

Skinners Farm, Skinners Lane, Edenbridge, Kent TN8 6LW

File Ref: APP/G2245/W/15/3011499

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**File Ref: APP/G2245/W/15/3011499**

**Skidders Farm, Skidders Lane, Edenbridge, Kent TN8 6LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Arthur Bell GEUK DIRECT Ltd, against the decision of Sevenoaks District Council (SDC).
- The application Ref: SE/14/03361/FUL, dated 22 October 2014, was refused by notice dated 9 January 2015.
- The development proposed is "a Solar PV Park complete with landscaping mitigation, inverters, substation, security fence, infra red CCTV, access for the landowner to farm, new planting, and all necessary ancillary works."

**Summary of recommendation: The appeal be allowed.**

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**Procedural matters**

1. The site lies within the Metropolitan Green Belt. The appeal was recovered, by letter dated 8 December 2015, for determination by the Secretary of State because the appeal involves proposals for significant development in the Green Belt.
2. SDC considered an amended scheme from that submitted with the application. The revision included provision for a permissive footpath around the northern and western boundaries of the site. Minor changes were made to the provision for kissing gates, and a further alteration was included at the appeal stage to correct an incorrect annotation for an existing hedgerow. These changes were discussed at the Hearing and the appellant requested that the appeal proceed on the basis of the landscape layout shown on Drawing No.GEUK 1001-804-1500 D.<sup>1</sup>
3. The appeal site is drawn tightly around the proposed solar panels.<sup>2</sup> It does not include land that would be required for access to the proposed development from Skidders Lane, or the proposed wild flower meadow.<sup>3</sup> The submitted drawings also indicate an ownership boundary.<sup>4</sup> It was clarified at the Hearing that the shared access drive between the end of Skidders Lane and the appeal site lies within this ownership boundary.<sup>5</sup>
4. The evidence before SDC when it determined the application was that the site comprised land classified as grade 3b agricultural land. But later survey work indicated that 7.7 ha is classified as grade 3a land, with the remaining 3.2 ha grade 3b.<sup>6</sup>

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<sup>1</sup> HD2.

<sup>2</sup> The appeal site is edged in red on Drawing No.GEUK 1001-804-1500 D.

<sup>3</sup> The landscape layout plan shows a maintenance track through the centre of the appeal site and western part of the site. This track is shown continuing west of the appeal site into the adjoining field. The preliminary layout plan 1001-804-0001 G includes a short section of this proposed track to the boundary of this field within the appeal site.

<sup>4</sup> As indicated by the line edged blue on Drawing No 1001-804-0003. The Site Ownership Certificate section of the Appeal Form indicates that notice was served on Mrs Edna Atfield (Certificate B).

<sup>5</sup> HD11.

<sup>6</sup> HD1.2 Appendices 1 and 4.

5. Documents entitled 'Development Contribution', dated 24 March 2015, refer to one off contributions by the developer, subject to the success of the planning application reference number SE/14/03361/FUL. These include contributions to Edenbridge Hockey Club (£750), Edenbridge Brownies (£750), Edenbridge Spitfires (£500), Edenbridge Scouts (£750), Edenbridge Town Council (£1,000 per MW per annum for 25 years index linked), along with a contribution to Edenbridge Leisure Centre for a rooftop system not to exceed £35,000.<sup>7</sup> There is nothing to indicate that these documents are made pursuant to section 106 of the 1990 Act. The copies submitted are initialled by one party, but not signed or witnessed.
6. Suggested conditions were discussed at the Hearing and a version agreed between SDC and the appellant.<sup>8</sup> The discussion continued at the site visit, and I did not close the Hearing until the conclusion of the site visit. I deal with the suggested and necessary conditions in more detail in my Appraisal section of this report.

### **The site and surroundings**

7. The site lies about 1.5 km to the east of Edenbridge, and is accessed via the end of Skinners Lane. It is part of Skinners Farm, a 100 ha sheep enterprise. The appeal site is an open field and is used for grazing sheep. It occupies part of the crown and upper slopes of a locally prominent hill. There are public footpaths adjoining the southern and eastern boundaries of the appeal site, which link into a network of footpaths to the east and north of the site. A bridleway passes near to the south-western corner of the site. This extends into Edenbridge and joins other Public Rights of Way (PRoW) to the south of the site. Trees to the north of the appeal site, and located within Cauk Wood, are the subject of a Tree Preservation Order (TPO). The land to the north, east and south of the appeal site, which is not part of Skinners Farm, is in arable production.
8. In the Sevenoaks District Countryside Assessment, which was adopted as a supplementary planning document in 2011 (SPD), the site lies within the Edenbridge Low Weald Farmlands character area. This is characterised by an undulating landscape, with long views to the northern scarp and southern High Weald. It has a strong hedgerow pattern, with infrequent small isolated woodlands and many historic properties. The SPD states that the scale of the landscape is predominantly small-medium scale.
9. The nearest dwelling to the appeal site is Medhurst Row Cottage. The curtilage of this house is about 190 m north of the northern boundary of the appeal site. Other dwellings in the locality include Medhurst Row Farm (340 m) to the north, Whistlers Farm (640 m) to the east, Delaware Farm (530 m) to the south, and Skinners (600 m) to the west.<sup>9</sup>

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<sup>7</sup> These refer to S.S.O.G.E. Limited as the developer. The report accompanying the application states that it was prepared on behalf of SSOG E by Green Energy UK Direct with permission from the landowners.

<sup>8</sup> HD10.

<sup>9</sup> I visited Medhurst Row Cottage, Whistlers Farm and Skinners as part of my accompanied site inspection.



10. Medhurst Row Farmhouse is a grade II listed building, and there are other listed buildings further to the north of the railway line. There are also grade II listed buildings at Whistlers Farmhouse, Delaware Farm and Skinners. Hever Castle (grade I listed) is located about 2.2 km to the east of the site. The Church of St Peter at Hever is also listed grade I.<sup>10</sup>

### **Planning policy**

11. The development plan includes the Sevenoaks Core Strategy, adopted in 2011 (CS) and the Allocations and Development Management Plan, adopted in 2015 (ADMP).
12. CS Policy LO1 concerns the distribution of development. Outside towns and villages it gives priority to protecting the rural character of the District. Policy LO1 adds that development would only take place where it was compatible with policies for protecting designated areas, such as the Green Belt.
13. CS Policy LO8 maintains the extent of the Green Belt and provides that the countryside would be conserved and distinctive features protected and enhanced where possible. Particular regard would be given to the condition and sensitivity of the landscape character, and securing the recommendations in the SPD. This policy also provides that development that supports the maintenance and diversification of the rural economy would be supported, subject to compatibility with policies protecting the Green Belt, the conservation and enhancement of the value and character of woodland and landscape, and takes into account infrastructure requirements.
14. CS Policy SP2 concerns sustainable development and low-carbon energy generation. It provides, amongst other things, support for small scale and community-based renewable energy developments where such development would not adversely affect the openness of the Green Belt.
15. ADMP Policy SC1 concerns sustainable development and has a similar aim to the *National Planning Policy Framework* (hereinafter the *Framework*). ADMP Policy EN1 sets out criteria for high quality design, including respecting the character of the surrounding area, and ensuring satisfactory means of access for vehicles. Policy EN2 seeks to safeguard the residential amenity of nearby occupiers by ensuring that development would not result in excessive activity or vehicle movements or visual intrusion. Policy EN4 provides that proposals which would affect a heritage asset or its setting would be permitted where the development conserved or enhanced the character, appearance and setting of the asset.
16. *Development in the Green Belt* was adopted by SDC as a supplementary planning document in 2015. This applies national policy and guidance relevant in this case concerning the change of use of Green Belt land and the application of very special circumstances.
17. The *Planning Practice Guidance* (hereinafter the *Guidance*) refers to particular factors that would need to be taken into account, including that solar farms are normally temporary structures and planning conditions can be used to ensure

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<sup>10</sup> The distribution of Scheduled Monuments and Listed Buildings is shown on Figure 3 of the appellant's Setting Assessment. Figure 5 shows heritage assets in relation to the Zone of Theoretical Visibility with mitigation measures.

that the installations are removed when no longer in use and the land restored to its previous use.

### **The proposal**

18. The construction period would take 8-12 weeks. A route along public roads to Skinners Lane is proposed for construction vehicles, but no detailed scheme for access to the appeal site from the end of Skinners Lane has been submitted. The scheme anticipates up to 15 deliveries per day, with the photo-voltaic (PV) modules delivered in 40 foot containers by an estimated total of 62 HGV deliveries over a 60 day period. The appellant stated at the site visit that the existing bridge on the farm track that leads to the appeal site might need strengthening or replacing if that route was used by HGVs. No details about this, or any other necessary off-site works, have been submitted.<sup>11</sup> The Construction Management Plan, dated 24 October 2014, also states that two site offices and an unloading/storage compound and parking area would be required.
19. The proposed solar panels would have a maximum height of 2.4 m. They would be enclosed by a 1.8 m high wire mesh security fence, with infra red CCTV. The scheme would include a substation, inverters and transformers. The land around and beneath the panels would be laid to grass and grazed by sheep. The scheme also proposes a wild flower meadow to the east of the appeal site, and new hedgerows, and the gapping up of existing hedgerows, along the eastern, northern and western boundaries of the site. A permissive path is proposed along the northern and western site boundaries so as to provide a circular walk around the site, using the existing PRow to the east and south.
20. The appeal scheme would have a generation capacity of 6 MW and an average electrical output of 11,850 MWhr/yr. This would service about 1,500 homes, with carbon dioxide emission savings of some 2,150 tonnes per year. The scheme indicates a grid connection via the fields to the west of the appeal site, along Skinners Lane, and then along parts of the B2027 and B2026 in Edenbridge.
21. The Design and Access Statement states that the solar installation would have a life of 25 years, after which it would be decommissioned and the land returned to its original condition.

### **The case for Sevenoaks District Council**

22. SDC's case is set out in its Hearing Statement. The gist of SDC's objections to the proposal is as follows.
23. SDC acknowledges, given the lie of the land, along with existing and proposed screening, that in time the proposed solar park would have little impact on the wider landscape character and visual amenities of the area. However, the site would be very much apparent to those using the network of public footpaths that pass the site. The appearance of the fencing, solar panels and associated structures would, in the short term, significantly detract from the visual amenities of the area, detracting from the appreciation of the attractive

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<sup>11</sup> When this was raised at the site visit I indicated that, if planning permission was granted for the appeal scheme, any off-site works would need to be addressed by a planning condition, and that whether any permission, consent or authorisation would be required for such works would be a matter for SDC in the first instance.

countryside. Furthermore, once established, the new hedgerow along part of the eastern site boundary, which is currently open, would visually reduce the appreciation of the long views across the site, and so would harm its open character.

24. The development would be inappropriate in the Green Belt and so it is necessary to consider the case for very special circumstances. SDC's views on the 'other considerations' put forward by the appellant are as follows.

- (1) National renewable energy targets are reflected in the *Framework*, and should be afforded significant weight. But these need to be achieved in a manner that complies with all relevant planning policies.
- (2) The grid offer from the DNO is relevant, but as the connection would be underground this is a consideration that should be afforded very limited weight.
- (3) The income for the farm and support for the rural economy should be given limited weight.
- (4) The agricultural land is of an average grading and sheep grazing would continue, but this carries little weight as a very special circumstance.
- (5) The development would be temporary, but 25 years would be a significant period.
- (6) Efforts to bring community benefits would be commendable, but should be given little weight, as the scheme would not be community-based, and the local community would not benefit from the electricity produced.
- (7) Local support would not amount to a very special circumstance as it could apply to any development in the Green Belt. In addition, the support here was not just from local residents.
- (8) The benefits of the permissive footpath should be given limited weight.
- (9) The investment in the site would bring ecological benefits, which should be given limited weight.
- (10) Non-Green Belt locations are severely limited in the District, but the evidence submitted indicates other areas that are less constrained where there is grid capacity.

25. The appellant's sequential analysis has not satisfactorily answered the question as to why the solar park needs to be located on this site, in an open field, in the Green Belt. The assessment fails to fully demonstrate that there are no alternative sites that are subject to fewer environmental constraints.

26. Other appeal decisions for solar panels in the Green Belt, which have been dismissed, were cited by SDC.

27. Although there may be some benefits to the proposal, including contributing towards the Government's renewable energy targets, these do not outweigh the significant harm to openness and significant encroachment into the countryside. Very special circumstances do not exist.

28. SDC acknowledged at the Hearing that the proposal would not breach CS Policy SP2, and that if, contrary to its case, very special circumstances did exist, then the proposal would comply with CS Policy LO1.

### **The case for Edenbridge Town Council**

29. Edenbridge Town Council's (ETC) case is set out in its written statement.<sup>12</sup> The gist of ETC's objections to the proposal is as follows. Views across the valley to the panels would be detrimental to residents living close by and those enjoying the countryside. The scheme would change the character and appearance of the area. It would result in a loss of openness and would encroach into the countryside. This is the wrong location. ETC believes it to be inappropriate development, and questions whether every effort has been put into locating sites where the visual damage would be less detrimental.

### **The case for others opposing the scheme**

The following people joined in the discussion at the Hearing, and a summary of their submissions is included below.

30. Mr Gotobed, who lives at Medhurst Row Cottage raised concerns that are outlined in his written submission, which is dealt with in more detail later in this report.
31. Mrs Burges, who lives at Skinners, raised issues about the effects on the local countryside. She is particularly concerned about construction vehicles using the shared access drive that serves Skinners and other residential properties that are also accessed from the drive that extends beyond the end of Skinners Lane. The entrance gate to Skinners is close to the shared drive and if HGVs used this route it would adversely affect the residential amenity of Skinners, which is a listed building. The bridge located further along this drive to the east of Skinners is substandard and would not be able to cope with heavy construction traffic. An alternative route should be used, with possibly a new bridge crossing on a different part of the holding.
32. David Norris, representing the occupiers of Whistlers, was concerned that the scheme would have an urbanising effect and a significant visual impact. Screening would be inadequate and mitigation would take more than five years to be effective, and would still result in some harm. The harm would last for 25 years. He noted that paragraph 91 of the *Framework* states that benefits may include the wider environmental benefits of renewable energy, but added that measures to mitigate any harm resulting from the scheme should not weigh as 'other considerations' in the very special circumstances balancing exercise.
33. Cllr McGregor supported SDC's case, and highlighted the Green Belt grounds against the proposal.

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<sup>12</sup> HD9.

## The case for GEUK Ltd

34. The appellant's case was updated and summarised in the addendum submitted at the Hearing.<sup>13</sup>
35. The Landscape Statement (LS) submitted at the appeal stage, which supplemented the Landscape and Visual Impact Assessment (LVIA) submitted with the application, concluded that the overall landscape character and visual effects of the scheme would be no more than of a moderate scale and relatively easily mitigated to a lower minor level effect.<sup>14</sup> The panels would introduce new man-made structures into the landscape, including an industrial style security fence, inverters and substation. But screening and hedgerows would help restore landscape character. With a moderate landscape sensitivity and medium magnitude of effect, the proposal would have a moderate level of significance on landscape character.
36. In terms of visual effects the site is positioned on elevated land with trees and hedgerows around the crest of the hill top. There are very few areas of higher land in the area which can see into the site, as is apparent from the Zone of Theoretical Visibility.<sup>15</sup> Significant visual effects would be restricted to a short 300 m section of the footpath along the side of the site. Mitigation by means of additional hedgerow planting would limit such effects within 3-5 years, and would help to restore the landscape character of this field, as some hedgerows have been removed from the appeal site since 1961.<sup>16</sup> A moderate level effect was recorded for LS viewpoint VP D on the footpath to the south of the site.<sup>17</sup>
37. It was confirmed at the Hearing that the GLVIA states that reversibility can be a very important issue, and that duration and reversibility is one of three considerations used to assess the magnitude of landscape/visual effects. The GLVIA considers 10-25 years to be long term, and notes that consideration should be given to the practicality of the effects being reversed in a generation.<sup>18</sup>
38. The modest area of the best and most versatile agricultural land on the appeal site represents some of the lowest quality agricultural land in the wider context of Kent, where there is a high proportion of grade 1 and 2 land. Furthermore, the site has a history of low yielding crops and consequently has been used for grazing since 1989. The solar park would provide for dual use of the land with the continuation of grazing.
39. A Biodiversity Management Plan includes measures to improve the land over 25 years.<sup>19</sup> The benefits would include un-interrupted hedgerows for small animals, increased planting to encourage new habitats, wood stumps, and boxes for hedgehogs, birds and bats. The ecological value of the land would significantly increase over the lifespan of the development.

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<sup>13</sup> HD1 sections 3 and 4. This Addendum updated the appellant's Appeal Statement of Case.

<sup>14</sup> HD1 Appendix 1 page 23. This statement refers to the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* 3<sup>rd</sup> Edition 2013 (GLVIA).

<sup>15</sup> LVIA Figures 2 and 3.

<sup>16</sup> HD1 Appendix 1 page 35.

<sup>17</sup> Viewpoints in the LVIA are recorded in this report as VP 1-17 and in the LS as VP A-H.

<sup>18</sup> Inspector's questions to Mr Hares.

<sup>19</sup> The appellant's Biodiversity Management Plan dated 25 October 2014.

40. Following the mitigation proposed the scheme would have minimal adverse impact on the setting of St Peter's Church, Skinners Farmhouse and Whistler's Farmhouse. It would have a minor/moderate adverse impact on the setting of Medhurst Row Farmhouse. However, this would relate to the partial erosion of the traditional wider setting and historic landscape characterisation surrounding the asset through the change in function of the appeal site, and would not affect how the farm buildings are experienced. Overall the impact would result in less than substantial harm, which would need to be balanced against the benefits of the proposal.<sup>20</sup>
41. The site lies within Flood Zone 1. There would be no net increase in discharge rate or runoff volume from the scheme. However, the existing land drainage could be improved with the installation of swales and infiltration trenches.<sup>21</sup> The development would therefore be suitable for this site.
42. The Alternative Site Search identified a number of sites within 4 km of the appeal site, which were previously-developed land or non-best and most versatile agricultural land, but all of these have been deemed as being unsuitable.<sup>22</sup>
43. It is acknowledged that solar parks are inappropriate development in the Green Belt, and that there would be some effect on openness. But that effect would be temporary and reversible. However, the material considerations that weigh in favour of the scheme cumulatively amount to very special circumstances, sufficient to clearly outweigh the harm to the Green Belt and any other harm. These considerations are as follows.
- (1) The generation of electricity from a renewable source making a significant contribution to national targets for the reduction of greenhouse gas emissions, having regard to paragraph 91 of the *Framework*.
  - (2) The existence of a guaranteed grid offer from the DNO, which should be made use of in an area where it is difficult to find suitable sites for solar development. PV development can be constructed quickly and so can contribute quickly to meeting targets for renewable energy.
  - (3) Income for the farm and support for the rural economy.
  - (4) The current use of the site for sheep grazing would continue with no material loss of the best and most versatile agricultural land.
  - (5) The development would be temporary and reversible.
  - (6) A unilateral undertaking to set up a community fund and to support local groups and green energy initiatives.
  - (7) Significant local support.
  - (8) Creation of an additional permissive footpath.
  - (9) Site wide measures to conserve and enhance biodiversity.

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<sup>20</sup> The appellant's Setting Assessment dated March 2014.

<sup>21</sup> The appellant's Flood Risk Assessment Report dated July 2014.

<sup>22</sup> HD1 Appendix 2.

- (10) Non-Green Belt locations are severely limited as 93% of the land outside built up areas in the District is within the Green Belt.

The loss of best and most versatile agricultural land would not be significant, and the benefits outweigh any alleged adverse impact on visual amenity and any harm to the Green Belt. There are very special circumstances that justify the creation of a solar park on the appeal site and the harm to the Green Belt and any other harm is clearly outweighed by the numerous benefits of the scheme.

44. The appellant referred to several appeals for solar development in the Green Belt.<sup>23</sup>
45. The proposal would not result in a material infringement of relevant CS policies. Furthermore, the CS was adopted before the introduction of the *Framework*, and it does not contain policies relating directly to the provision of larger scale renewable energy schemes. The scheme complies with the *Framework*, the *Guidance* and ADMP policies.

### **The case for others supporting the scheme**

The following people joined in the discussion at the Hearing, and a summary of their submissions is included below.

46. Sue Rule representing Sustainable Edenbridge supports the proposal, which would accord with the group's vision for Edenbridge. The value of the Green Belt is recognised, but this solar park would not have any lasting damaging effects. It would be a temporary use and the site could be restored to full agricultural use in the future. The solar park would represent an improvement to the environment by switching to clean energy.<sup>24</sup>
47. Julian Hatcliffe referred to the outcome of the recent Paris UN Conference, including the need to significantly reduce carbon emissions. There is a need for small energy producers. There are no clear objections to the scheme, and the short length of footpath affected should not jeopardise the project given the extent of the footpath network in the area. Defra and Kent County Council recognise the need for farmers to diversify.<sup>25</sup>
48. Terri Scanes is a local resident and Brownie Pack Leader. Many local residents are in favour of this proposal. The scheme would be ideal for teaching about generating electricity within the community.<sup>26</sup>
49. Peter and Mark Atfield, who graze sheep at Skinners Farm, gave evidence about current farming practice on the holding.<sup>27</sup> The field has been used for sheep since 1989. When the field was purchased in 1988 cereal was planted, but this resulted in a poor crop. It would need a lot of fertiliser and chemicals to get value into a crop, so the field has since been down to grass.<sup>28</sup> The soil on the crown of the hill is exposed and dries out in the summer, which adversely affects

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<sup>23</sup> Statement of Case Appendix 9.

<sup>24</sup> HD5.

<sup>25</sup> HD6.

<sup>26</sup> HD8.

<sup>27</sup> HD7.

<sup>28</sup> HD1 Appendix 5.

the growth of grass. The proposed panels would provide shade in the summer and so would assist with soil moisture retention, and so aid the growth of grass during dry periods. The proposed development would make little difference to the grazing of this field by sheep. The income generated for the farm from the solar panels would contribute towards the maintenance and improvement of the holding.

## **Written representations**

### *Pre-application community consultation*

50. Every household in Edenbridge received details about the public consultation and drop-in session. Sixty residents attended the exhibition. Seven respondents expressed positive comments, nine negative, and nine were undecided. Several residents commented on the need to ensure that the site was appropriately screened. Some residents also raised concerns regarding access to the site.

### *Application stage*

51. SDC received 123 representations about the application. Of the 113 representations in support of the scheme, 100 were by way of a proforma citing the renewable energy and carbon saving benefits of the temporary development, along with its screening and ecology benefits. Letters of support were from individuals living in Edenbridge and the surrounding areas, as well as further afield, including some resident outside the District.
52. Issues raised by the 10 objectors included the matters of concern to SDC, along with representations about the impact on noise and residential amenity, the effects on trees and agricultural land quality, crime, heritage assets and light pollution.

### *Consultees*

53. Consultation replies at the application stage are summarised in paragraphs 15-32 of SDC's Planning Committee Report, and the gist of these submissions follows.
54. Edenbridge Town Council objected on Green Belt grounds and did not consider that the evidence established that there were not more suitable sites within the wider area. Noise and visual appearance were considered to be unacceptable given the proximity of residential properties, particularly at Medhurst Row.
55. The Environment Agency had no objection subject to the imposition of appropriate conditions.
56. Upper Medway Internal Drainage Board had no objection subject to conditions.
57. Natural England raised no objection.
58. Kent County Council had no biodiversity objection subject to conditions, and the footpath officer was satisfied that mitigation would offset any adverse visual impact on the footpath network. The latter was confirmed by letter dated 2 July 2015.<sup>29</sup>

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<sup>29</sup> Red folder on file.



59. Highways and Transportation Kent County Council required the construction management plan to include provision for wheel inspection and cleaning if necessary.
60. NATS and Gatwick Airport had no safeguarding objection to the proposal regarding air traffic.
61. Kent Police provided general crime prevention advice about solar parks.
62. SDC's Agricultural Consultant noted [on the basis of the evidence then available] that a solar park on Grade 3b land, which would be maintained as sheep grazing, would not be a 'significant' development of agricultural land in terms of paragraph 112 of the *Framework*.

#### *Appeal stage*

63. There were 3 written submissions at the appeal stage, which are summarised as follows.

#### Written submissions objecting to the proposed development (2)

64. Edenbridge Town Council, by online representation received 6 July 2015, maintained its objection to the proposal, but withdrew its concerns about noise.
65. George Gotobed (Medhurst Row Cottage) raised concerns about the appearance of the proposed panels, which would be visible from a living room in his house. The local footpaths are used by dog walkers, ramblers, joggers and picnickers. The soil quality on the appeal site is being underutilised in this Green Belt location. The night sky is blighted by lights - if such wastage was stopped, all the power stations would not be needed. There are 10 local objections to the scheme, and many others who oppose the development were not aware that they had to object again when the application was resubmitted.<sup>30</sup> There is nothing in this scheme for Edenbridge.<sup>31</sup>

#### Written submissions in support of the proposed development (1)

66. Ben Brownless supports the scheme because of the vital need to generate more power from renewables near to demand, so as to reduce transmission losses. The scheme would be temporary, is for a well-chosen site, which could be screened effectively. The land could still be used for sheep grazing, albeit at a lower concentration, but allow for farm diversification.<sup>32</sup>

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<sup>30</sup> An earlier application for a solar park on this site was withdrawn in August 2014.

<sup>31</sup> Red folder on file.

<sup>32</sup> HD3.

## Appraisal

### *Preliminary matters*

67. The following appraisal is based on the written submissions, the evidence given at the Hearing, and my inspection of the site and its surroundings. In this section the figures in parenthesis [ ] at the end of paragraphs indicate source paragraphs from this report.
68. The suggested amendments to the scheme at the appeal stage are minor alterations that would not substantially change the proposal. These were discussed at the Hearing, and no one would be prejudiced by dealing with the appeal on the basis of Drawing No.GEUK 1001-804-1500 D. [2]

### *Main considerations*

69. In the absence of any matters set out, about which the Secretary of State particularly wishes to be informed for the purposes of considering this appeal, the evidence indicates that the main considerations here are as follows. [1]
- (1) Whether the development conflicts with policy to protect the Green Belt and the effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it.
  - (2) The effects of the proposed development on the character and appearance of the area.
  - (3) The effects of the proposed development on agricultural land and soils.
  - (4) The effects of the proposed development on heritage assets.
  - (5) The effects of the proposed development on biodiversity.
  - (6) The effects of the proposed development on highway safety and residential amenity.
  - (7) The effects of the proposed development on drainage and flood risk.
  - (8) Other considerations, including the duration and reversibility of the scheme.
  - (9) The contribution of the proposed development towards the generation of energy from renewable sources.
  - (10) If the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
  - (11) The extent to which the proposed development would be in accordance with the development plan for the area.
  - (12) The extent to which the proposed development would be in accordance with the *National Planning Policy Framework* (the *Framework*) and *Planning Practice Guidance* (the *Guidance*).

70. I consider whether any permission should be subject to any conditions or obligations and, if so, the form that these should take, before considering my overall conclusions. The remainder of this report addresses the matters outlined above, and my recommendation is based on these findings.

#### *Green Belt*

71. The scheme would involve development that is not included in the exceptions set out in paragraph 89 of the *Framework*, and paragraph 90 does not apply. The advice in the *Framework* that elements of many renewable energy projects will comprise inappropriate development applies in this case to the proposed panels, electrical equipment and security installations. The proposal would be inappropriate development in the Green Belt. The *Framework* states that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The *Framework* provides that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. [1,24,39]
72. The solar panels and associated equipment would have a significant adverse effect on the openness of the Green Belt. The scheme includes security fencing and equipment, which would also adversely affect the countryside, even if their details were controlled by condition. The resultant encroachment into the countryside would be at odds with one of the purposes of the Green Belt. [29,33,41]
73. The proposal would be inappropriate development in the Green Belt. Furthermore, it would be at odds with one of the purposes of the Green Belt, and would erode its openness. The proposed development would, therefore, harm the Green Belt. I next consider whether the proposal would result in any other harm, and then have regard to other considerations, so as to undertake the balancing exercise outlined above.

#### *Character and appearance*

74. The site lies within the Edenbridge Low Weald Farmlands character area, which is characterised by an undulating landscape, with a strong hedgerow pattern and infrequent small isolated woodlands. The scale of the landscape is predominantly small-medium scale. The panels and associated infrastructure would be utilitarian structures in this countryside location. The construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The man-made structure would be of a colour and texture that was not typical of its agricultural context, and so the proposed development would introduce a discordant element into the local landscape. The area has a moderate sensitivity to the development proposed, and with a medium magnitude of effect, the proposal would have an adverse effect on the landscape resource of moderate significance. I turn next to visual effects. [7,8,19,23,29,31,32,35,36,57,58]
75. The proposed reinforcement of the existing trees and vegetation along the northern site boundary would soon soften the visual impact of the rear of the panels in views from vantage points further to the north [VPs 5, 6, 7 and 17]. Glimpses of some panels from the garden and windows of Medhurst Row Cottage

might be possible at times when the trees were not in leaf, but these would not significantly affect the outlook from this property given the separation distance.

76. In views from the west of the appeal site [VPs 8,9,10,11,12,13 and H], including the area near to Skinners and nearby PRoW, the proposed panels would be sited beyond the brow of the hill. The existing and proposed hedgerows would provide an effective screen from vantage points to the west of the site. From closer vantage points and from the south [VPs 14, G and C] some of the panels and infrastructure would be apparent until the existing hedgerow along the southern boundary of the site was allowed to grow in height sufficient to screen close-up views of the proposed development. Thereafter any glimpses of the panels through the hedgerow would not have a significant adverse effect on the outlook from the PRoW that adjoins the site boundary. Further to the south, towards Delaware Farm [VPs 1 and B], the proposed development would again lie beyond the brow of the hill, or would be screened by nearby vegetation. In distant views from the south across the valley [VPs A, 4 and 16] the panels might be apparent in some views depending upon the weather and light conditions. However, the separation distance would mean that the development was seen in the context of a wide panoramic view of the countryside, and so would not have a significant adverse impact. From the west and south the proposal would initially have a slight adverse visual effect, but with the proposed mitigation this would in a short time reduce to a negligible effect.
77. The most significant visual impact of the scheme would be from the east [VPs D, 3 and 15]. The proposed panels, electrical equipment and fencing would be apparent in close-up views from the existing footpath. However, the proposed new hedgerow along this boundary would, in time, soften this adverse effect. The new hedge would not unduly affect the openness of the local landscape as distant views are limited by the hill and Cauk Wood. Furthermore, hedgerows are a characteristic of this landscape and the new hedgerow would go some way towards compensating for those that have been removed since 1961. [36]
78. I saw at my site visit that the north-eastern corner of the proposed development would be seen from the properties at Whistlers on the sloping land above the proposed new hedgerow. In time, with maturing of the hedgerow, this impact would moderate, but it would be likely that some of the panels would remain visible, albeit in side view as the glazed surfaces would face south. Further to the east [VP 2] the scheme would have only a limited impact in the wide views of the countryside. The development would not be likely to affect distant views from Hever Castle, which is sited in a wooded setting.
79. The proposal would harm the character of the area, but would have a limited and localised adverse effect on its appearance. Overall, the proposal would have an adverse effect of moderate significance on the local landscape.

#### *Agricultural land and soils*

80. The *Framework* provides that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing soils. It also adds that account should be given to the economic and other benefits of the best and most versatile agricultural land, defined as grades 1, 2 and 3a land, and where significant development of agricultural land is necessary areas of poorer quality land should be preferred to that of a higher quality. This preference is reiterated in the *Guidance*, which goes on to refer to

proposals allowing for continued agricultural use where applicable and/or encouraging biodiversity improvements around arrays of solar panels.

81. The appeal scheme would use 7.7 ha of grade 3a agricultural land. However, the land is currently used for grazing, and this would continue beneath and around the proposed panels. Shading from the panels might adversely affect the growth rate of grass at times, but I have no reason to doubt the evidence about these soils drying out in the summer because of the exposed nature of the site on a crown of a hill with south facing slopes. There is no convincing evidence that the appeal site is currently underutilised, as the adjoining arable fields are not as exposed to the sun and wind. [4]
82. The overall change in the productivity of the grassland with the installation of the panels would depend on how much the shading reduced light and growth, and how much it assisted with soil moisture retention in dry times, and so encouraged the grass to grow. No reliable evidence was adduced about likely stocking rates achievable with the panels in this field. However, given the factors involved here, it is likely that the proposed development would have only a marginal adverse effect on the agricultural productivity of this field. This would not, in my view, be sufficient to bring the proposal into significant conflict with national policy and guidance about using the best and most versatile agricultural land. I have taken into account that the use of heavy construction equipment on these soils could result in lasting damage, but a method statement could be included in a construction management plan. [38,49,58,62,65,66]
83. I find that the likely loss of productivity from using 7.7 ha of the best and most versatile agricultural land would not, in the circumstances which apply here, weigh significantly against the proposal.

#### *Heritage assets*

84. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the setting of a listed building. The scheme would have some effect on the traditional wider setting and historic landscape of Medhurst Row Farmhouse, but it would not affect how the farm buildings are experienced. The intervening screening by existing and proposed vegetation would limit any effect on the setting of the listed building to an adverse impact of minor/moderate significance. Even so this slight harm would be sufficient to bring the scheme into conflict with ADMP Policy EN4. This is a consideration which should be given special weight and considerable importance in the overall planning balance. [10]
85. It was apparent at my site visit that part of the tower of St Peter's Church is visible, at a distance, from parts of the appeal site. However, given the separation distance and limited inter-visibility between the church and the site, the proposed development, with appropriate mitigation measures, would have minimal adverse impact on the setting of St Peter's Church. Following the mitigation proposed the scheme would also have minimal adverse impact on the setting of Skinners Farmhouse and Whistler's Farmhouse, and even less effect on the setting the listed buildings at Delaware Farm. The proposal would not adversely affect the setting of Hever Castle. There is nothing evident from either the written submissions or from my site visit to indicate that the appeal scheme would have a significant adverse effect on any other heritage items in the area. [40]

86. Overall, any effect on heritage assets would, at worst, result in an adverse impact of minor/moderate significance. This would be less than substantial harm for the purposes of applying the *Framework*, but nonetheless would need to be balanced against the benefits of the proposal.

#### *Biodiversity*

87. Construction and decommissioning would be disruptive for any wildlife using the site. However, the effects on wildlife would not be significant given the limited diversity of recorded species and the availability of similar habitats elsewhere in the locality. Nature conservation interests and any protected species could be adequately safeguarded by the imposition of appropriate planning conditions. The proposed wild flower meadow would be beneficial for wildlife, as would the new and improved perimeter hedgerows. Overall, the proposed development would be likely to enhance biodiversity. This is a consideration that weighs in favour of the proposal. [39]

#### *Highway safety and residential amenity*

88. There is no convincing evidence that construction traffic would significantly increase the risk to those using the local highway network. Implementing a construction traffic management plan would also help to minimise any congestion or risk to highway safety.
89. There is local concern about HGVs affecting the residential amenity of those occupying dwellings near to the shared access drive that extends from the end of Skinners Lane. However, it seems to me from what was evident at my site visit, particularly concerning the extent and availability of the land within the ownership boundary between the end of Skinners Lane and the appeal site, that there would be a realistic prospect of devising and implementing an appropriate scheme for construction traffic to access the site without an unacceptable adverse impact on the residential amenity or safety of nearby residents. Land within Skinners Farm provides considerable scope for minimising any harm to neighbours by reason of construction traffic. If it was not possible to devise a scheme that secured a satisfactory means of access in accordance with ADMP Policies EN1 and EN2, then recommended Condition 15 of Annex A to this report would mean that the permission could not be implemented. [3,18,31,59]
90. The proposed landscaping would not at all times entirely screen out views of the solar panels from nearby residential dwellings. However, it is likely that vegetation would soften any adverse impact on such properties. Given the separation distance of the proposed panels from nearby properties, and the height of the panels, the scheme would not have a dominating or overbearing effect on the outlook from nearby residential dwellings. Noise and disturbance, especially during construction and decommissioning, could be minimised by the implementation of an approved construction environmental management plan. Noise from the electrical equipment would not be likely to affect nearby residents because of the separation distance. [9,10,29,31,32,64,65]
91. Subject to the imposition of appropriate planning conditions the proposed development would be unlikely to have an unacceptable adverse effect on either highway safety or the living conditions of neighbouring residents.

### *Drainage and flood risk*

92. The wider locality has experienced flooding in the past and run-off from hard surfaces has the potential to increase flood risk. However, the submitted Flood Risk Assessment demonstrates that surface water run-off could be adequately controlled. There is scope within the appeal site to design and implement a drainage scheme that would ensure that the development did not significantly increase flood risk. The Environment Agency has no objection to the proposal. The likelihood of worse flooding is not a consideration that weighs against the proposal. [41,55,56]

### *Other considerations*

93. The farm diversification would be beneficial to the holding, and the scheme would make a valuable contribution to the rural economy. [47,49]
94. Permission is sought for a period of 25 years. The development would be temporary, but the GLVIA considers that for this period any harm to the landscape would be long term. However, it would be practical to reverse the effects on both the character and appearance of the area, and the Green Belt, within a generation. The *Guidance* advises that conditions can require the site to be restored to its previous use. The duration and reversibility of the development is a material consideration, but the loss of openness for this part of the Green Belt for 25 years, and the landscape harm, albeit reducing over time as screen planting matured, would affect residents and visitors for a long time. I consider that the duration and reversibility of the development are factors that should be given limited weight in the planning balance that applies here. [21,24(5),37,43,46]
95. Other appeal decisions cited by the parties are of little help in determining this appeal on its own merits as much depends on the particular circumstances. [26,44]

### *Renewable energy*

96. The appeal scheme, with an estimated installed capacity of 6 MW and average electrical output of 11,850 MWhr/yr, would make a significant contribution to achieving renewable energy targets. The scheme would generate enough electricity to supply some 1,500 homes and reduce carbon dioxide emissions by about 2,150 tonnes per year. The proposal would also utilise the available grid connection, and make use of the relatively high radiation levels in this area. The wider environmental and energy security benefits of the proposal weigh significantly in favour of allowing the appeal. [20,46,47,48,66]
97. I have taken into account the appellant's alternative site search, and noted the availability here of a grid connection. However, I do not consider that the difficulty in finding suitable sites in the locality should be a decisive or influential consideration. Notwithstanding that the *Framework* refers at paragraph 97 to the responsibility on all communities to contribute to energy generation from renewable or low carbon sources, targets for renewable energy are set on a national basis. There is nothing to require this area to contribute to national targets by means of solar development. [25,29,42,54]

*Very special circumstances*

98. Of the factors cited by the appellant and others supporting the scheme, to be weighed in the balancing exercise as 'other considerations', significant weight should be given to the generation of electricity from a renewable source, which would make a valuable contribution to cutting greenhouse gas emissions. Paragraph 91 of the *Framework* provides that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. [24(1),43(1)]
99. It is also the case that PV development can be constructed in a short time period, and so can contribute quickly to meeting targets for renewable energy. However, neither this, nor the existence here of a guaranteed grid offer from the DNO, are factors that should be given much weight as relevant 'other considerations' in their own right, because these would be an integral part of achieving the benefits of the renewable energy from the scheme as set out in the previous paragraph. [24(2),43(2)]
100. The proposal would be a farm diversification that would generate income for the agricultural holding and support for the rural economy. These are benefits that weigh in favour of the proposal, which could be achieved here with minimal loss of agricultural productivity, given that the current use of the site for sheep grazing would continue. [24(3)(4),43(3)(4)]
101. The development would be temporary and reversible, but this just means that both the harm and the benefits would be time limited. Duration and reversibility are not factors that should be given much weight in determining whether very special circumstances exist. [24(5),43(5)]
102. Even if the proposed financial contributions to local organisations and facilities could be secured by means of a properly executed section 106 obligation, no weight should be given to them in the planning balance that applies here because they would not be necessary to make the scheme acceptable in planning terms. The offer to set up a community fund and to support local groups and green energy initiatives should not be given any weight because there is no evidence that this would accord with relevant statutory and policy requirements. [5,24(6),43(6)]
103. There is significant local support for the proposal, but also local objections. The weight of representations for and against the scheme is not a consideration that can be factored into the Green Belt balancing exercise. [24(7),43(7),50,51,52]
104. The creation of an additional permissive footpath would be beneficial, as would the measures to conserve and enhance biodiversity. The availability of a circular route for local walkers would be useful, but not a factor that should be given much weight. The advantages of the scheme for nature conservation and local wildlife would be of much more significance. [24(8)(9),43(9)(9)]
105. The appellant argues that non-Green Belt locations are severely limited as 93% of the land outside built-up areas in the District is within the Green Belt. This may be so, but it cannot properly be a consideration to weigh in the very special circumstances balancing exercise, given that targets for renewable energy apply nationally. [24(10),43(10)]



106. I consider that significant weight should be given to the contribution that the scheme would make to the Government's commitment to tackle climate change by reducing carbon dioxide emissions and towards energy security, along with ecological enhancement, and the benefits that would result to the local economy from job creation and farm diversification. The disadvantages of the appeal scheme include the harm to the Green Belt and moderate harm to the character and appearance of the area, along with some minor/moderate harm to heritage assets. Substantial weight should be given to the harm to the Green Belt in the balancing exercise which applies here. The other harm I have identified is significant, but localised and limited. The significant weight to be given to the renewable energy benefits of the scheme, when combined with the benefits to biodiversity and the local economy, weigh heavily in favour of the proposal. Taking all the above into account for the appeal scheme on its own merits, I find that the 'other considerations' in this case clearly outweigh the harm I have identified, and the very special circumstances necessary to justify the development exist. [27,43]

#### *Development plan*

107. The appeal scheme would not breach CS Policy SP2, which deals with small scale and community-based renewable energy developments. Furthermore, if very special circumstances were to exist then the proposal would accord with CS Policy LO1 and ADMP Policy SC1. The scheme would not fully square with CS Policy LO8 because this states that support for the diversification of the rural economy is subject to, amongst other things, the conservation and enhancement of the character of the landscape. The proposed development would not accord with that part of ADMP Policy EN1 that requires development to respect the character of the surrounding area, and would breach ADMP Policy EN4 concerning heritage. These breaches of relevant policies would be sufficient to bring the proposal into some conflict with the development plan when read as a whole. However, relevant development plan policies here are not entirely consistent with the balancing exercise in the *Framework* regarding sustainable development. In determining this appeal more weight should be given to the provisions of the *Framework*. [11-15,28,45]

#### *National Policy and Guidance*

108. The core planning principles set out in the *Framework* encourage the development of renewable energy, whilst recognising the intrinsic character and beauty of the countryside. Furthermore, the *Framework* provides for very special circumstances in the Green Belt. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework*, require in this case that a balancing exercise be performed to weigh the benefits of the proposed solar park against its disadvantages. For the reasons set out above regarding 'very special circumstances', the balance here falls in favour of the proposal. The evidence submitted demonstrates that the impacts of the appeal scheme could be made acceptable. I find, therefore, that the proposal would accord with the requirements for sustainable development set out in the *Framework*.

## Conditions and obligations

109. SDC and the appellant reached agreement about possible conditions at the Hearing. I have considered the need for conditions and their wording in the light of the advice contained in the *Guidance*. [6]
110. A commencement period of three years would be appropriate here (Condition 1). Otherwise than as set out in any decision and conditions, it would be necessary that the development was carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). A condition would be required to specify that the permitted development was temporary and for a 25 year period (Condition 3). Decommissioning and restoration to a solely agricultural use would also be necessary (Condition 4). So too, would provision for restoration upon cessation of electrical generation from solar panels for a period of six continuous months (Condition 5). Drainage would need to be approved in the interests of the amenity of the area (Condition 6), but it would not be necessary to refer to the Flood Risk Assessment.
111. No pesticides should be used on the site and a biological management plan would need to be approved and implemented in the interests of biodiversity (Conditions 7 and 9). No external lighting should be installed on the site, and details would need to be approved about the CCTV cameras to be installed, in the interests of the appearance of the area (Conditions 8 and 13). A construction management plan would need to be approved and implemented in the interests of the amenity of the area (Condition 10). Details of hard and soft landscape works for both the site and the adjoining Wild Flower Meadow, along with a management plan, would need to be approved and implemented for landscape and biodiversity reasons (Conditions 11 and 12).
112. The scheme includes a permissive path and wild flower meadow, and it would be necessary to secure these by condition so as to ensure that the development was consistent with the proposal that was considered and assessed at the Hearing (Condition 14).
113. Given that no details have been submitted about access to the site, except for a drawing showing a track cross-section, development should not commence until all necessary off-site works for access and construction had been carried out in accordance with a scheme previously approved by SDC (Condition 15). Condition surveys for Skinners Lane and the shared access drive, along with provision for any necessary remediation works after construction and decommissioning, would be required in the interests of highway safety and the amenity of the area (Conditions 16-18). For the avoidance of doubt the conditions should also define the site and the residential property known as Skinners. In the event that the appeal is allowed, Annex A to this report lists the conditions that I consider should be attached to any permission granted.
114. The appellant intends to make financial contributions to a number of local groups and organisations if planning permission for the appeal scheme was granted. These commitments are not currently in a form that would ensure that they were delivered if permission were to be granted. However, any such deficiencies would be of no consequence here because none of the financial contributions provided in the documents submitted would be necessary to make

the scheme acceptable in planning terms. There is nothing to indicate that any other obligations would be necessary.

## **Conclusions**

115. The Council received 123 representations about the application, including 113 letters in support of the proposal. At the appeal stage there were two written submissions objecting to the proposed development, and one written representations in support of the scheme. Measures to inform and involve the local community reasonably comply with relevant requirements. Local opinion about the proposal is divided. The appeal should be decided having regard to the development plan, and the determination made in accordance with it, unless material considerations indicate otherwise.
116. The public benefits arising from the generation of renewable energy would far outweigh the limited harm here to heritage assets. The proposal would be inappropriate development in the Green Belt. It would result in some harm to landscape character, but its adverse visual effects would be localised and limited. The wider environmental benefits associated with the increased production of energy from a renewable source that would result from the scheme weigh significantly in favour of the proposal. In my judgement, and for the reasons set out above, the 'other considerations' in this case, clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, and the very special circumstances necessary to justify the development exist.
117. The proposal would conflict with relevant development plan policies, but would accord with the requirements for sustainable development set out in the *Framework*. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

## **Recommendation**

118. I recommend that the appeal be determined on the basis of the amendments shown on Landscape Layout Drawing No.GEUK 1001-804-1500 D, and that the appeal be allowed and planning permission be granted subject to the conditions set out in Annex A of this report.

*John Woolcock*  
Inspector

## ANNEX A - CONDITIONS 1-18

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

GEUK 1001-804-0000 Revision D  
GEUK 1001-804-0001 Revision G  
GEUK 1001-804-1500 Revision D (or Revision B if the amendment at the appeal stage is not accepted by the Secretary of State)  
GEUK 4001-804-0001 Revision G  
GEUK 4001-804-0002 Revision G  
GEUK 5000-804-0002 Revision A  
GEUK 5000-804-0003 Revision A  
GEUK 5001-804-0001-96250 Revision A  
GEUK 9000-804-0001 Revision A  
GEUK 9000-804-1707 Revision A  
GEUK 9001-804-1706 Revision A

For the purposes of these Conditions the Site is shown edged red on Drawing No. GEUK 1001-804-0000 Revision D.

3. The permission hereby granted is for the development to be retained for a period of not more than 25 years from the date when electricity is first exported to the electricity grid (Energisation Date), or in the event that electricity is not exported to the electricity grid from the date that works first commenced on the Site. Written confirmation of both the date works commenced and the Energisation Date shall be submitted in writing to the local planning authority within one month of the event occurring.
4. No later than 12 months before the end of the 25 year period granted by Condition 3, a Decommissioning Method Statement for the Site shall be submitted to and approved in writing by the local planning authority. The scheme shall make provision for the removal of all above ground structures, equipment and materials from the Site (including security fencing) and the restoration of the Site for a solely agricultural use. It shall also include details of:
  - i. A traffic management plan for vehicles used in the decommissioning and restoration, including details of any temporary off-site works, along with provision for the restoration of these sites when no longer needed.
  - ii. An ecological scoping survey.
  - iii. A specific species survey (as recommended by the ecological scoping survey).
  - iv. A detailed mitigation strategy (informed by the above surveys); and
  - v. Provisions for the implementation of any necessary mitigation.
  - vi. A timetable for decommissioning and site restoration.

The approved Decommissioning Method Statement shall be implemented within six months of the end of the 25 year period granted by Condition 3, or such other period approved in writing by the local planning authority prior to the end of the 25 year period granted by Condition 3.

5. No development shall be carried out on the Site until an Operations and Maintenance Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include provisions for the reinstatement of the Site, or part thereof, to its original state upon cessation of electrical generation from solar panels for a period of six continuous months.
6. No development shall be carried out on the Site until a sustainable surface water drainage Scheme for the Site has been submitted to and approved in writing by the local planning authority. The drainage strategy for the Scheme should demonstrate that the surface water run-off generated up to and including the 100 year critical storm would not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so would not increase the risk of flooding either on-site or off-site. The Scheme shall include a timetable for its implementation along with a programme for the maintenance of drainage infrastructure for the duration of this planning permission. The Scheme shall be implemented in accordance with the approved details.
7. No pesticides shall be used on the Site.
8. No external lighting shall be installed on the Site.
9. No development shall be carried out on the Site until an updated Biodiversity Management Plan for the Site and the adjoining Wild Flower Meadow has been submitted to and approved in writing by the local planning authority. The Plan shall include avoidance measures and a detailed ecological enhancement strategy. The development shall be carried out in accordance with the approved Plan and the Site and the adjoining Wild Flower Meadow shall thereafter be managed in accordance with the Plan for the duration of this planning permission.
10. Notwithstanding the information submitted as part of the planning application, no development shall be carried out until a detailed Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include details of wheel washing facilities, temporary surface treatment, times of working and traffic management. The development shall be carried out in accordance with the approved plan.
11. No development shall be carried out on the Site until full Details of hard and soft landscape works for both the Site and the adjoining Wild Flower Meadow have been submitted to and approved in writing by the local planning authority. These Details shall include:
  - i. Details of hard surface treatment.
  - ii. Tree protection measures.
  - iii. Planting plans (identifying existing planting, plants to be retained and new planting).
  - iv. A schedule of new plants (noting species, size of stock at time of planting and proposed number/densities).
  - v. The benches and information board to be installed on the Wild Flower Meadow.
  - vi. A programme of implementation.Hard and soft landscape works shall be carried out in accordance with the approved Details.

12. No development shall be carried out on the Site until a Landscape Management Plan for the Site and the adjoining Wild Flower Meadow has been submitted to and approved in writing by the local planning authority. The Plan shall include provision for the replacement of dead, removed or seriously damaged trees or plants in the next planting season with others of a similar size and species for the duration of this permission. The Site and the adjoining Wild Flower Meadow shall be managed in accordance with the approved Plan for the duration of this planning permission.
13. No development shall be carried out on the Site until full details of the location and height above ground level of all CCTV cameras to be installed on the Site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and no cameras shall be installed on the site except as shown in the approved details.
14. No development shall be carried out on the Site until a Scheme to secure the provision of a Permissive Path and the Wild Flower Meadow have been submitted to and approved in writing by the local planning authority. The Scheme shall include the following:
  - i. Details of the route of the Permissive Path, based on that shown on Landscape Layout Drawing No.GEUK 1001-804-1500 D.
  - ii. Details of the dimensions, surfacing, accessible kissing gates and signage for the Permissive Path.
  - iii. Details of a management plan to ensure that the Permissive Path remains unobstructed and available (except where necessary to maintain its permissive status, the details of which shall be specified in the management plan) and in a suitable condition for use by the public.
  - iv. A legally binding agreement or licence to provide the Permissive Path and the Wild Flower Meadow in accordance with the above details for the duration of this planning permission.
15. No development shall be carried out on the Site until all necessary off-site works for access and construction have been carried out in accordance with a Scheme which has been previously submitted to and approved in writing by the local planning authority. The Scheme shall include:
  - i. Any necessary works to provide access for HGVs along Skinners Lane and its junction with the B2027.
  - ii. Any necessary works to provide access for HGVs between Skinners Lane and the Site.
  - iii. Any proposed temporary off-site compound(s) for unloading/loading, storage and parking.
  - iv. A timetable for the implementation of all off-site works.
  - v. Copies of any necessary permissions, consents or approvals obtained for off-site works.

The Scheme shall also include measures for the restoration of any temporary off-site compound(s) for unloading/loading, storage and parking, along with a timetable for their restoration, and these measures shall be implemented as approved.

16. Prior to the commencement of the development hereby permitted, a condition survey of Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to and approved in writing by the local planning authority.
17. Within three months of the Energisation Date or the date of completion of the installation of the panels hereby permitted a condition survey and report for Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to the local planning authority. The report shall identify whether there has been any deterioration in the surface of the lane/drive when compared to the survey submitted under Condition 16. If there is any deterioration a schedule of remedial measures, a timescale for their implementation and a methodology for a further condition survey and report and remedial measures shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved timescale and details.
18. Within three months of the completion of decommissioning in accordance with Condition 4 a condition survey and report for Skinners Lane and the shared access drive from the end of Skinners Lane to the entrance at Skinners shall be submitted to the local planning authority. The report shall identify whether there has been any deterioration in the surface of the lane/drive when compared to the survey submitted under Condition 16. If there is any deterioration a schedule of remedial measures, a timescale for their implementation and a methodology for a further condition survey and report and remedial measures shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved timescale and details.

For the avoidance of doubt in Conditions 16-18 Skinners is the residential property located to the west of the appeal site, which is accessed from the shared drive that extends off Skinners Lane, and is the last dwelling before the existing bridge on the farm track that leads to the Site.

## ANNEX B - APPLICATION PLANS

Site location & connection cable route	GEUK 1001-804-0000 Revision D
Preliminary layout plan	GEUK 1001-804-0001 Revision G
Landscape layout	GEUK 1001-804-1500 Revision D
(or Revision B if the amendment at the appeal stage is not accepted by the Secretary of State)	
Section through site @ AA'	GEUK 4001-804-0001 Revision G
Section through site @ BB'	GEUK 4001-804-0002 Revision G
Proposed security fence elevation	GEUK 5000-804-0002 Revision A
Proposed security gate elevation	GEUK 5000-804-0003 Revision A
Indicative proposal based on 60 cell solar panel range	GEUK 5001-804-0001-96250 Revision A
Substation drawing	GEUK 9000-804-0001 Revision A
Inverter and transformer detail drawing	GEUK 9001-804-1706 Revision A
Access track drawing	GEUK 9000-804-1707 Revision A

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mike Holmes Principal Planning Officer.

### FOR THE APPELLANT:

Richard Tilley MA MRTPI MRICS	CgMs Ltd.
Daniel Corcoran	GEUK.
David Hares CMLI MBIAC	Landscape Architect.
Arthur Bell	GEUK.

### INTERESTED PERSONS:

Cllr Stuart McGregor	Ward Member for Edenbridge North.
Terri Scanes	Local resident.
David Norris	ADN Planning Ltd representing local residents.
Sue Rule	Sustainable Edenbridge.
Julian Hatcliffe	Local resident.
Peter Atfield	Skinners Farm.
Mark Atfield	Skinners Farm.
Jill Davison	Edenbridge Town Council.
Christine Lane	Edenbridge Town Council.
Christine Burges	Local resident.
George Gotobed	Local resident.



## DOCUMENTS SUBMITTED AT THE HEARING (HD)

- Document 1 Addendum to appellant's statement of case, including:
  - 1.1 Appendix A - Landscape Statement.
  - 1.2 Appendix B - Alternative Site Search and Agricultural Land Impact Report.
  - 1.3 Appendix C – Qualifications and Experience.
- Document 2 Landscape Layout Drawing No.GEUK 1001-804-1500 D.
- Document 3 Written submission by Ben Brownless.
- Document 4 Statement of Common Ground dated 15 December 2015.
- Document 5 Statement by Sue Rule on behalf of Sustainable Edenbridge Group.
- Document 6 Statement by Julian Hatcliffe.
- Document 7 Statement by Mark Atfield.
- Document 8 Statement by Terri Scanes.
- Document 9 Statement by Edenbridge Town Council.
- Document 10 Suggested conditions.
- Document 11 Enlargement of ownership boundary between the end of Skinners Lane and the appeal site.



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

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

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

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

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

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

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

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

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

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

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

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

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

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