



Department for  
Communities and  
Local Government

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DLP Planning Ltd  
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28 Cathedral Road  
Cardiff  
CF11 9LJ

Our Ref: APP/T3535/A/13/2193543

Your Ref: N/SF114/1P

11 March 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MRS J WALL OF LARK ENERGY  
AT LAND AT AND ADJACENT TO ELLOUGH AIRFIELD, BENACRE ROAD,  
ELLOUGH, SUFFOLK  
APPLICATION REFERENCE DC/12/1113/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Neil Pope BA (hons) MRTPI, who held a public local inquiry on 11 and 12 June 2013 into your client's appeal against the decision of Waveney District Council (the Council) to refuse planning permission for the installation of a 24MW solar farm and associated infrastructure at land at and adjacent to Ellough Airfield, Benacre Road, Ellough, Suffolk, in accordance with application reference DC/12/1113/FUL, dated 19 February 2013.
2. On 14 March 2013, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.
3. The Secretary of State issued his decision in respect of the above appeal in his letter dated 16 October 2013. That decision letter was the subject of an application to the High Court and was subsequently quashed by order of the Court dated 3 July 2014. The appeal therefore falls to be re-determined by the Secretary of State.

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

4. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

5. The Secretary of State notes that prior to the Council's determination of the application the scheme was amended, which reduced the capacity of the proposed solar farm from 30MW to 24MW (IR1). He has determined the appeal on this basis.
6. The Secretary of State has determined the appeal on the basis of the details shown on the plans and drawings listed in IR2.
7. The Secretary of State notes that late representations, in the form of Planning and Landscape Statements, were accepted by PINS and a Rebuttal Statement was dealt with as part of the Inquiry (IR4-5). As the Inspector has considered these matters in his conclusions, the Secretary of State is satisfied that no interests would be prejudiced by him taking these representations into account.
8. The Secretary of State has taken into account that in April 2013 the Council granted planning permission for application DC/13/0239 for the installation of a 14.1MW solar farm and associated infrastructure on the northern part of the appeal site (the permitted scheme) (IR27).
9. At the Inquiry, an application for a full award of costs was made by your client against the Council. This application was decided by the Secretary of State in his costs decision letter of 16 October 2013.

### **Matters arising after 16 October 2013**

10. Following the quashing of his decision letter of 16 October 2013, the Secretary of State issued a letter, dated 16 September 2014, under Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, to all the main interested parties, setting out a written statement of the matters with respect to which further representations were invited for the purposes of his re-determination of the appeal. These matters were:
  - (a) New national planning practice guidance, and particularly the updated guidance therein on renewable and low carbon energy;
  - (b) The UK Solar PV Strategy Part 1 published in October 2013 and Part 2 published in April 2014;
  - (c) Any other material change in circumstances, fact or policy, that may have arisen since his decision of 16 October 2013 was issued and which the

parties consider to be material to the Secretary of State's further consideration of this application.

11. The Secretary of State received responses from the Council and Worlingham Parish Council both dated 7 October 2014 and from the appellant dated 8 October 2014. These responses were recirculated for comment and one further response was received from the appellant dated 15 October 2014. The Secretary of State has taken account of all these responses in his consideration of the appeal before him. Copies of this correspondence may be obtained on written request to the address at the bottom of the first page of this letter.

### **Policy considerations**

12. In deciding the application, 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.
13. The Secretary of State agrees with the Inspector that, in this case, the development plan comprises the 2009 Waveney District Council Core Strategy (CS) and the Council's 2011 Development Management Policies (DMP) (IR16). He considers the development plan policies relevant to this appeal to be those set out by the Inspector at IR17-18.
14. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework); the associated planning practice guidance; the documents referred to at IR23-26 and the UK Solar PV Strategy referred to at paragraph 10 above.
15. The Secretary of State notes that there are several listed buildings within the surrounding area (IR15). In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, he has paid special regard to the desirability of preserving these listed structures or their settings or any features of special architectural or historic interest which they may possess.

### **Main issues**

16. The Secretary of State agrees that the main issue in this case is whether the benefits of the scheme, including the production of electricity from a renewable source, outweigh any harmful impacts, having particular regard to the effect upon the character and appearance of the countryside, including the likely impact upon the Hundred Tributary Valley Farmland Landscape Character Area (HTLCA) (IR37).

### *Benefits of the scheme*

17. The Secretary of State agrees with the Inspector that the scheme would provide a considerable amount of clean, renewable and sustainable electricity, which would contribute to national and local targets for renewable energy. In addition, the proposal would make a valuable contribution to cutting greenhouse gas emission and help tackle climate change. He agrees that these are important wider environmental benefits of the scheme that all these benefits should be

given significant weight in the overall planning balance. He also agrees that the scheme would accord with the broad thrust of DMP policy DM03; the sixth bullet point of paragraph 17 of the Framework; and the thrust of various Acts, Directives and Statements issued in respect of renewable energy (IR82).

18. The Secretary of States agrees with the Inspector that, for the reasons given at IR83, the local environmental benefits of the scheme resulting from the new hedgerow planting are important considerations that carry much weight.
19. The Secretary of State has had regard to the Inspector's conclusions regarding the economic benefits of the scheme at IR84. For the reasons given he agrees that the benefits, together, should be afforded significant weight.

*Effect on the character and appearance of the countryside*

20. The Secretary of State has carefully considered the Inspector's conclusions regarding the impact of the proposal upon the character and appearance of the countryside at IR86-94. Like the Inspector, he agrees that there would be no harmful impact upon the Norfolk Broads and the Suffolk Coastal Area of Outstanding Natural Beauty (IR86).
21. The Secretary of State also agrees with the Inspector's assessment of landscape impacts within the site and its environs at IR87-93. He agrees that during the life-time of the scheme the arable character of the site would be replaced by a rather utilitarian form of development with very many arrays of solar panels and the associated infrastructure, which would considerably change the character of the site and detract from its largely unspoilt rural qualities, at odds with aspects of DMP policy DM02 (IR88). He agrees that this weighs against granting permission (IR90).
22. However, the Secretary of State agrees that the topography of the site would be undisturbed and existing trees and hedgerows, which are important/key characteristics of the area, would be retained. New planting and the 'gapping-up' of hedgerows would be a more permanent addition to the character of the site. In time, this would reinforce the pattern of field boundaries and enhance the landscape structure of the site. He agrees that this would accord with other aspects of DMP policy DM02 and assist in mitigating the impact of the development (IR88).
23. The Secretary of State agrees that, within a distance of about 1km from the northern, eastern and western boundaries of the site the appeal scheme would have a very limited adverse effect upon the mixed and varied character of this part of the district, but that the harm to the character of this part of the district would be no greater than that which has already been accepted by the Council when it approved a 14.1MW solar farm on this part of the site in April 2013 (IR89).
24. In addition to the harm identified at IR88 The Secretary of State notes the limited harm to the enjoyment of the countryside by users of highways and he agrees with the Inspector that also weighs against the proposal (IR92 and 93). However, as he agrees with the Inspector's overall assessment at IR87-93 the

Secretary of State also agrees that the harm to the character and appearance of the area that the Inspector identified at would not, in the context of either the most relevant development plan policies or the Framework, amount to significant adverse effects (IR94). Though he considers that there would be limited conflict with aspects of DMP policy DM02, in his view there would be no significant conflict with DMP policy DM27 or with the development plan as a whole in regard to landscape matters.

#### *Listed buildings*

25. The Secretary of State has carefully considered the Inspector's conclusions regarding the impact of the proposal on the listed buildings within the surrounding area at IR76-79 and has paid special regard to the desirability of preserving these listed structures and their settings and any features of special architectural or historic interest which they may possess. He agrees with the Inspector (IR77) and the main parties (IR36) that the appeal site does not form part of the setting of any listed building or monument (IR77). He agrees with the Inspector's assessment at IR95, including that the scheme would not harm the significance of any listed buildings and that if any harm were to arise it would be very limited and, in the context of the Framework, less than substantial.

#### *Impact on outlook of nearby homes and highway safety*

26. The Secretary of State agrees with the Inspector that, for the reasons given at IR96-97, the scheme would not give rise to any significant adverse effects or cumulative adverse effects upon the amenities of the nearby residents, and would be unlikely to compromise the safety of existing road users or inconvenience those living within the surrounding area.

#### *Best and most versatile agricultural land*

27. The Secretary of State agrees with the Inspector that, though there is no certainty that sheep would graze the land after the completion of the development, there is no cogent evidence to demonstrate that the proposal would result in a significant or permanent loss of the best and most versatile agricultural land, or harm the agricultural industry.

#### **Conditions**

28. The Secretary of State has considered the schedule of planning conditions at Annex A of the Inspector's report, the Inspector's comments regarding the suggested conditions set out at IR98-103 and national policy as set out in the Framework. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework.

#### **Overall Conclusions**

29. The Secretary of State agrees with the Inspector's assessment of the overall planning balance at IR105-106. Like this Inspector he does not set aside lightly the concerns of those parish councils or local residents who have objected to

the scheme. However, when all of the above matters are weighed, the Secretary of State concludes that the significant benefits of the proposal outweigh the limited harm to the character and appearance of the countryside. He also concludes that the scheme would accord with the development plan as a whole and the provisions of the Framework.

30. The Secretary of State also considers that, if the proposal is considered to form part of the setting of any of the designated heritage assets identified by the Inspector, and having special regard to the desirability of preserving the settings of listed buildings, then the wider environmental and economic benefits of the scheme would outweigh the less than substantial harm to the significance of these heritage assets.

### **Formal decision**

31. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeal and grants planning permission for the installation of a 24MW solar farm and associated infrastructure in accordance with application reference DC/12/1113/FUL, dated 21 September 2012, subject to the conditions listed at Annex A to this letter.

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

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
33. A copy of this letter has been sent to Waveney District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Julian Pitt*

**JULIAN PITT**

Authorised by Secretary of State to sign in that behalf

## **ANNEX A**

### **SCHEDULE OF PLANNING CONDITIONS: APPLICATION DC/12/1113/FUL**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: planning layout (1:4000 scale drawing No. Ver 15A), as amended by the solar panels details specified on the 1:20 scale drawing (Ref. Frame) for the northern part of the site ie, the arrays coloured blue on the planning layout and the solar panel details specified on the 1:20 and 1:40 scale drawings (No. Ellough/DWG002-V15) for the southern part of the site i.e. the arrays coloured purple on the planning layout; temporary site access (drawing No. SF114T-002-01) and; permanent site access details (drawing No. SF114T-003-01).
- 3) No development shall commence until details of the associated inverter stations, transformers, substation, CCTV (including the pole mountings) and weldmesh security fencing have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 4) The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the date of commencement of the development hereby permitted. Written notification of the date of commencement shall be given to the Local Planning Authority no later than 14 days after the event.
- 5) No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.
- 6) If any of the individual solar panel(s) ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.
- 7) The solar panels shall not exceed 3 metres above ground level on the northern part of the site (ie, within the area coloured blue on the planning layout drawing) and shall not exceed 2 metres above ground level on the southern part of the site (ie, within the area coloured purple on the planning layout drawing). The security/perimeter fence shall not exceed 2.25 metres above ground level and no other equipment/apparatus shall exceed 4 metres above ground level.
- 8) In relation to the construction of the development hereby permitted, no machinery shall be operated, no process shall be carried out and no construction traffic shall

enter or leave the site except between the hours of 08.00 hours and 18.00 hours Monday to Saturday, unless approved in writing in advance with the Local Planning Authority.

- 9) The construction phase of the development shall be undertaken in accordance with the details specified in the Deliveries Management Plan dated November 2012 and prepared by DLP Transportation Ltd, including the construction traffic route contained within Appendix C.
- 10) The development shall be undertaken in accordance with the recommendations contained within section 5.2 of the Delta-Simons Extended Phase 1 Habitat Survey dated September 2012, as amended/modified by the 'Biodiversity Enhancement Details' dated 10 December 2012.
- 11) No development shall take place until a landscaping scheme, including details of new hedgerows to be planted and the 'gapping-up' of existing hedgerows in and around the site, as well as a timetable for implementation/planting has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and timetable. Any trees/shrubs or plants which die, are removed or become diseased within 5 years of planting shall be replaced during the next planting season with trees/shrubs/plants of a similar size and species.
- 12) No development shall take place within areas F5 and F6 of the site (as shown on figure 2 of the Pre-Construct Geophysics Ltd Report dated December 2012) until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of investigation shall include an assessment of significance and research questions; and:
  - a. the programme and methodology of site investigation and recording;
  - b. the programme for post investigation assessment;
  - c. provision for analysis of the site investigation and recording;
  - d. provision for publication and dissemination of the analysis and records of the site investigation;
  - e. provision for archive deposition of the analysis and records of the site investigation;
  - f. nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
  - g. the site investigation shall be completed prior to the commencement of the use of areas F5 and F6, or in such other phased arrangement, as agreed in writing by the LPA.

The solar panels in areas F5 and F6 shall not be used until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the LPA, in accordance with the programme set out in the Written Scheme of Investigation and provision made for analysis, publication and dissemination of results and archive deposition.



- 13) The rating level of the noise emitted from the site shall not exceed the existing daytime background noise level (determined to be 32 dB as a LA90 1 Hour) by more than +2dB between 07.00 hrs and 23.00 hrs Monday to Sunday. The noise levels shall be determined at the facade of the nearest noise sensitive receptor which is Warrens Farm. The measurements and assessment shall be made according to BS 4142:1997.
- 14) The inverter cooling fans shall not operate between the hours of 23.00 to 07.00.



The Planning  
Inspectorate

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

by Neil Pope BA (HONS) MRTPI

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

Date 8 July 2013

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**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

**WAVENEY DISTRICT COUNCIL**

**appeal by**

**MRS J WALL OF LARK ENERGY**

Inquiry held on 11 and 12 June 2013

Land at and adjacent to Ellough Airfield, Benacre Road, Ellough, Suffolk, NR34 7UH.

Report APP/T3535/A/13/2193543

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CONTENTS	PAGE
Procedural Matters	2
The Site and Surroundings	3
Planning Policy	4
Other Documents	6
Planning History	6
The Proposals	6
The Statement of Common Ground	7
Other Agreed Matters	8
The Case for Mrs J Wall of Lark Energy	8
The Case for Waveney District Council	11
The Cases for Interested Parties	13
Planning Conditions and Obligations	16
Conclusions	17
Recommendation	22
Schedule of Planning Conditions	24

Main Abbreviations Used

aOD – Above Ordnance Datum

AONB – Suffolk Coastal Area of Outstanding Natural Beauty

BR2 – The bridleway through the site

CS – Core Strategy Development Plan Document

CWS – County Wildlife Site

DMP – Development Management Policies Development Plan Document

HTLCA – Hundred Tributary Valley Farmland Landscape Character Area

LVIA – Landscape and Visual Impact Assessment

PINS – The Planning Inspectorate

PoE – Proof of Evidence

SBF – Mr S Basey-Fisher

SoCG – Statement of Common Ground

SPLCA - Saints Plateau East Landscape Character Area

The Framework – The National Planning Policy Framework

WLCA – Waveney District Landscape Character Assessment

**Report Ref: APP/T3535/A/13/2193543**

**Land at and adjacent to Ellough Airfield, Benacre Road, Ellough, Suffolk, NR34 7UH.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs J Wall of Lark Energy against the decision of Waveney District Council.
- The application Ref. DC/12/1113/FUL, dated 21 September 2012, was refused by notice dated 19 February 2013.
- The development proposed is the installation of a 30MW solar farm and associated infrastructure.

**Summary of Recommendation: The appeal be allowed and planning permission granted subject to conditions in the attached Schedule.**

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**Procedural Matters**

1. The scheme<sup>1</sup> was amended prior to the Council's determination of the application. A parcel of land to the north east of the B1127 (approximately 5ha in size) was deleted from the application. The amended 'red line' appeal site is approximately 46ha. The height of the proposed solar panels in the southern part of the site was reduced. The spacing between the proposed rows of panels in this part of the site was also reduced. I was informed by those acting on behalf of the appellant that the capacity of the proposed solar farm would be 24MW.
2. Both main parties agreed that the appeal should be determined on the basis of the details shown on the following plans/drawings: planning layout (1:4000 scale drawing No. Ver 15A); solar panels details – northern part of the site (1:20 scale drawing Ref. Frame); solar panels – southern part of the site (1:20 and 1:40 scale drawing No. Ellough/DWG002-V15); temporary site access (drawing No. SF114T-002-01) and; permanent site access (drawing No. SF114T-003-01). These access drawings can be found in Appendices C and D of the appellant's Transport Statement dated September 2012. In addition, the construction traffic route comprises Appendix C of the appellant's Deliveries Management Plan.
3. The appeal was recovered for determination by the Secretary of State by letter, dated 14 March 2013, because it involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.
4. Planning and landscape Statements were submitted on behalf of an interested party<sup>2</sup> after the deadline<sup>3</sup> for the receipt of comments. Notwithstanding concerns raised on behalf of the appellant, PINS accepted these late representations and gave the appellant until 28 May 2013 to submit a Rebuttal Statement<sup>4</sup>. On 29 May 2013 a Rebuttal Statement was submitted on behalf SBF. In the interests of procedural fairness and the need to avoid prejudicing the cases of the main

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<sup>1</sup> In September 2012, the Council issued a negative Screening Opinion under Article 5 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011, in respect of a 58.7ha solar farm which included the appeal site.

<sup>2</sup> NWA Planning and Allen Pyke Associates on behalf of Mr S Basey-Fisher (SBF) of Warrens Farm.

<sup>3</sup> The Council's letter informing interested parties of the appeal advised that all comments must be received by the Planning Inspectorate (PINS) by 25 April 2013.

<sup>4</sup> Received by PINS on 28 May 2013.

parties, I declined, in advance of opening the Inquiry, to accept the Rebuttal Statement from SBF.

5. At the opening of the Inquiry I informed those present that a written request had been made, on behalf of SBF, to consider the contents of his Rebuttal Statement. The appellant's advocate informed me that the matters raised by that Statement could be dealt with as part of the examination-in-chief of his client's witnesses. I have taken all of the Rebuttal Statements into account in preparing this report.
6. Amongst other things, SBF has argued<sup>5</sup> that the proposals would affect the settings of several listed buildings, including a Grade I listed church. SBF has also argued<sup>6</sup> that consultation may be required with Natural England. I address these matters as part of my conclusions below having regard, amongst other things, to Annex 2 of the National Planning Policy Framework ('the Framework'), as well as Article 16(1) and Schedule 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2010.
7. I viewed the site and surroundings, on my own, on 10 and 13 June 2013. This included walking the roads and public rights of way that cut cross and surround the site. I also viewed the site from the wider surroundings, including from the Church of All Saints and Jay's Hill Road. At the appellant's request, I also walked across part of the site to which there is no public access. On 10 June I heard what appeared to be go-karts using the track alongside the appeal site.
8. At the Inquiry an application for an award of costs was made by the appellant against the Council. This application is the subject of a separate report.

### **The Site and Surroundings**

9. The appeal site is roughly an L-shaped area of land located to the south east of the town of Beccles. The small settlements of Ellough and Hulver Street lie to the south west and south east. This part of the countryside contains a variety of uses. These include agriculture, industrial premises on parts of Beccles Airfield, flying/parachuting activities, a go-kart track and a scatter of dwellings. There are also some small areas of woodland, such as Ellough Wood and Jakie's Wood.
10. The northern boundary of the site abuts the B1127 (Benacre Road) and part of the south eastern boundary abuts Warrens Lane. This single track lane provides access to a commercial turkey farm and the closest dwelling<sup>7</sup> (Warrens Farm). In effect, the appeal site wraps around the twelve large sheds that comprise the turkey farm. The go-kart track and its lighting columns abut the north western edge of the site. A bridleway (Ref. BR2) runs along part of the western boundary of the site, between Hulver Road to the south and Benacre Road. A farm track provides access to the south eastern corner of the site from Hulver Road.
11. The appeal site comprises a mix of arable farmland (wheat and oilseed rape) and grassland with established hedgerows (2-3m high) and some trees. Parts of the site are in Countryside Stewardship schemes. This includes the north eastern section<sup>8</sup> which has a permissive footpath linking Benacre Road with Warrens

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<sup>5</sup> Paragraphs 1.5-1.9 and 5.22-5.27 of NWA Planning Statement dated 10 May 2013 (Blue folder - 3<sup>rd</sup> Party Representations) and paragraph 2.11 of Rebuttal Statement dated 28 May 2013 (Document 1).

<sup>6</sup> Paragraph 5.11 of NWA Planning Statement of 10 May 2013.

<sup>7</sup> This dwelling is about 140 metres from the nearest part of the site.

<sup>8</sup> This scheme is due to expire in 2014.

- Lane. The bulk of the site is Grade 3b agricultural land<sup>9</sup> with about 11.6 ha comprising Grade 3a land<sup>10</sup>. It lies within an area categorised as Flood Zone 1<sup>11</sup>.
12. The site previously formed part of the operational area for Beccles Airfield<sup>12</sup>. Some overhead power lines now cross part of the site.
  13. The site slopes gently down from about 23m above Ordnance Datum (aOD) on Benacre Road to about 10m aOD in the south eastern corner of site. It lies on a plateau above the Hundred River valley which flows to the south of Hulver Road. This part of the District is within the Suffolk Coast and Heaths National Character Area (2005). Under the more detailed Waveney District Landscape Character Assessment (WLCA)<sup>13</sup>, most of the site lies within the Saints Plateau East Landscape Character Area (SPLCA). The south eastern part of the site<sup>14</sup> is within the Hundred Tributary Valley Farmland Landscape Character Area (HTLCA).
  14. The Suffolk Coastal Area of Outstanding Natural Beauty (AONB) is located approximately 750m to the east of the site at the junction of Benacre Road, Jay's Hill Road and Hulver Road. The Norfolk Broads National Park is located about 2.5km to the north of the site. There are four County Wildlife Sites (CWS) within 2km of the site<sup>15</sup>. These include Ellough Airfield CWS to the north of the B1127.
  15. There are several listed buildings within the surrounding area. These include the redundant Grade I listed Church of All Saints (about 850m to the south west of the site), the Grade II listed Marsh Farm (about 300m to the south of the site) and the Grade II listed Valley Farm (about 850m south east of the site)<sup>16</sup>.

## Planning Policy

16. The development plan includes the Waveney District Council Core Strategy<sup>17</sup> (CS) and the Council's Development Management Policies<sup>18</sup> document (DMP).
17. CS policy CS01 sets out the spatial strategy for the District. CS policy CS02 seeks to achieve high quality and sustainable design, including conserving and enhancing biodiversity and wildlife corridors. Under CS policy CS16 there is a

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<sup>9</sup> Based on the Agricultural Land Classification for England and Wales: Guidelines and Criteria for Grading the Quality of Agricultural Land, MAFF 1988.

<sup>10</sup> Land Research Associates Report dated 16 April 2013 – Appendix DLP6 to Mr Osborn's PoE.

<sup>11</sup> Morgan Tucker Ltd Flood Risk Assessment dated August 2012. (Supporting Documents 1 of 2)

<sup>12</sup> Sections 6 and 7 and Figure 3 of the Pre-Construct Geophysics Ltd Report dated December 2012 (blue folder Supporting Documents 2 of 2) and Appendix DLP7 to Mr Osborn's PoE.

<sup>13</sup> Published in 2008

<sup>14</sup> Drawing No.3422\_001 which comprises Appendix 4 to Mr Brashaw's PoE shows the boundaries of these LCAs and many of the other features described above.

<sup>15</sup> Appendix III of the Delta-Simons Extended Phase 1 Habitat Survey dated September 2012.

<sup>16</sup> The listing descriptions for the Church of All Saints and Marsh Farm comprise Appendices 5 and 6 to NWA's Statement of 10 May 2013 and a list description for Valley Farm is in Document 7. Viewpoint 12 in Appendix 4 to Mr Brashaw's PoE and View 3 in DA Appendix 4 to the Statement prepared on behalf of SBF show views from the Church of All Saints towards the appeal site. Views 15a and 15b in DA Appendix 8 to the Statement from SBF are views from BR2 towards the church. Viewpoint viii in Appendix 4 to Mr Brashaw's PoE and View 8 in DA Appendix 6 of SBF's Statement shows the view towards Marsh Farm from the southern edge of the appeal site. View 4 in DA Appendix 5 to SBF's Statement is from Marsh Farm looking towards the site. View 5 in DA Appendix 5 to SBF's Statement is of Valley Farm.

<sup>17</sup> 'The Approach to Future Development in Waveney to 2021 Core Strategy Development Plan Document' adopted in January 2009.

<sup>18</sup> 'Policies to Help Make Decisions on Planning Applications Development Management Policies Development Plan Document' adopted in January 2011.

- requirement to protect and enhance the natural environment. CS policy CS17 aims to protect and enhance the built and historic environment of the District.
18. DMP policy DM02 sets out design principles for new development. These include respecting and enhancing the identity and character of a site, protecting the amenity of neighbouring occupiers and retaining and enhancing landscaping and natural features. DMP policy DM03 sets local renewable energy targets and is permissive of renewable energy schemes where, amongst other things, the wider environmental, economic, social and community benefits outweigh any potentially significant adverse effects. DMP policy DM27 aims to protect landscape character and, amongst other things, requires proposals to be informed by and sympathetic to the distinctive character areas, strategic objectives and considerations identified in the WLCA. Development affecting the Tributary Valley Farmland areas will not be permitted unless it can be demonstrated that there is an overriding national need and no alternative site can be found. Separate policies are aimed at protecting biodiversity (DM29), the historic environment (DM30) and archaeological sites (DM31).
  19. Copies of the above policies have been provided in answer to Question 21(f) of the Appeal Questionnaire and Appendices 8 and 9 of the Statement from NWA Planning dated 10 May 2013.
  20. The Core Planning Principles of the National Planning Policy Framework ('the Framework') include encouraging the use of renewable resources, for example by the development of renewable energy, and recognising the intrinsic character and beauty of the countryside. In determining applications, it adds that applicants should not be required to demonstrate the overall need for renewable energy and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Applications should be approved if the impacts are (or can be made) acceptable. 'The Framework' also provides that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. Authorities should set criteria based policies against which proposals for any development on or affecting landscape areas would be judged.
  21. The Companion Guide<sup>19</sup> to PPS22 remains extant. Amongst other things, this recognises that the landscape and visual effects of renewable energy schemes will only be one consideration to be taken into account and that these must be considered alongside the wider environmental, economic and social benefits that arise from such proposals. A guiding principle refers to the aim to source energy from UK renewable sources for reasons of energy security.
  22. Paragraph 3 of 'the Framework' states that national policy statements are a material consideration in decisions on planning applications. Both main parties have agreed that the overarching National Policy Statement for Energy (EN-1) is a material consideration. However, EN-1 paragraph 1.4.5 states that the generation of electricity from renewable sources other than wind, biomass and or waste is not within the scope of this national policy statement.

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<sup>19</sup> 'Planning for Renewable Energy A Companion Guide to PPS22' (2004).

## Other Documents

23. Whilst not part of the development plan, attention has been drawn to the Suffolk Landscape Character Assessment (2008), the East of England Landscape Framework (2009) and the WLCA<sup>20</sup>. [Extracts from these documents are contained within appendices 6 and 9 of Mr Brashaw's proof of evidence, Appendix 10 to Allen Pyke Associates Statement<sup>21</sup> and Document 5 listed below.]
24. The WLCA does not identify sensitivity to development. However, the key characteristics and strategic objectives<sup>22</sup> of the HTLCA and SPLCA are set out in paragraphs H3.1, H3.18, 12.1 and 12.9.
25. The WLCA has been subject to a process of public consultation. The Council informed me that this document had not been adopted for development management purposes but is referred to within the supporting text to DMP policy DM27. Amongst other things, the WLCA identifies the key characteristics and strategic objectives of the different landscape types within the District.
26. Within the Planning and Sustainability Statement that accompanied the application attention is drawn to the 2005 Kyoto Protocol wherein the UK committed to reducing its greenhouse gas emissions by 5.2% from 1990 levels by the year 2012, as well as the EU Renewable Energy Directive<sup>23</sup> which sets a target for the UK to achieve 15% of its energy consumption from renewable sources by 2020. Attention has also been drawn to the Stern Review<sup>24</sup> on tackling climate change. In addition, reference is made to the Energy White Paper 2007<sup>25</sup> which aims, amongst other things, to reduce carbon dioxide emissions by 60% by 2050 and reduce emissions by 20% below 1990 levels by 2020, as well as securing energy supplies. Reference has also been made to the Energy Act 2008, the Government's '2008 Energy Market Outlook-Electricity Demand Forecast Narrative' and the Government's Renewable Energy Roadmap Update (2012). The evidence also includes copies of the Statements made by the Minister of State for Climate Change on 16 January and 7 February 2013<sup>26</sup>.

## Planning History

27. In April 2013 the Council granted planning permission for the installation of a 14.1MW solar farm and associated infrastructure on part (28.6 ha) of the appeal site (Ref. DC/13/0239). This permission relates to the northern part of the appeal site (land coloured blue on drawing Ref. VER 15A). A copy of this permission and the approved plan comprises Appendix 1 to the Statement of Common Ground (SoCG) that has been agreed by the Council and the appellants.

## The Proposals

28. The scheme would include erecting about 98,000 solar panels, in arrays, across the site. These would be fixed to frames that would be driven into the ground to a depth of about 2m. A concrete fill could be required in some instances to

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<sup>20</sup> This document formed part of the evidence base to the DMP.

<sup>21</sup> On behalf of SBF.

<sup>22</sup> These characteristics and objectives form part of Appendix 9 to Mr Brashaw's PoE.

<sup>23</sup> Directive 2009/28/EC

<sup>24</sup> The Stern Review: The Economics of Climate Change, 2006

<sup>25</sup> Meeting the Energy Challenge A White Paper on Energy (CM 7124)

<sup>26</sup> Appendix DLP13 to Mr Osborn's PoE.



- secure the frames into the ground. In the northern part of the site the panels would be no higher than 3m above ground level and the arrays would be set about 4m apart. In the southern part of the site the panels would be no higher than 2m above ground level and the arrays would be about 2m apart.
29. In addition, there would be about 20 inverter stations and about 20 transformers across the site (approximately 7.5m long x 3m wide x 3m high). A substation building<sup>27</sup> (approximately 4m high) would also be provided towards the south eastern corner of the site and near to the existing overhead power lines. Any new cabling on the site would be underground.
  30. 2.25m high green coloured, weldmesh security fencing would be erected around the edges of the site and about 65 infra-red CCTV cameras would be installed on poles (no higher than 4m). The width of the bridleway (BR2) would be not less than 4m with the solar panels set back about 2m from the security fences.
  31. New hedges would be planted within the site where they currently do not exist (e.g. along the south side of Benacre Road) and existing hedges would be allowed to grow to about 3m in height. Some gaps in existing hedges would be filled using native species. In total about 1,096m of new hedgerow would be planted. A wildlife buffer (at least 4.5m wide) would be provided between the boundary hedges and the arrays. Parts of the site would also be planted with a species-rich grassland mix of seed.
  32. A temporary construction access with car parking (approximately 60 spaces) and a construction/storage compound would be provided off Benacre Road. A permanent site access would be formed off Warrens Lane but the permissive footpath through this part of the site would be retained.
  33. The solar panels would be delivered to the site by articulated vehicles<sup>28</sup>. The components would be delivered to the site via the A14 at Felixstowe, then the A12 past Ipswich until Lowestoft where they would travel west along the A1145 and then the A146 until the B1127. Construction work would last for about 20 weeks. After commissioning there would be about 3 visits/year for maintenance.
  34. Permission is sought for a 25 year period.

### **The Statement of Common Ground (SoCG)**

35. This sets out matters of agreement between the Council and the appellant. It includes a description of the site and surrounding area, matters relating to the planning history, identification of the reports and information that were submitted in support of the application, identification of the application drawings and relevant planning policies. The following matters are also agreed between the main parties: i) there would be no significant adverse effects or cumulative adverse effects upon townscape; ii) there would be no significant adverse effects or cumulative adverse effects upon historic features; iii) there would be no significant adverse effects on the amenities of nearby residents by way of noise, dust, odour or increase in traffic; iv) the site access arrangements would be acceptable; v) the proposed construction route would be acceptable; vi) there would be enhancements to biodiversity; vii) there is no requirement for a

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<sup>27</sup> This would be a weather-proof cabinet accessed from the existing farm track off Hulver Road.

<sup>28</sup> During the peak construction period up to 40 HGV movements are anticipated per day.

planning obligation and; viii) the appellant's offer of installing solar panels on a community building is not a consideration in the determination of this appeal.

### **Other Agreed Matters**

36. At the Inquiry the Council and the appellant agreed, as an addendum to the SoCG, a Statement in respect of Heritage Assets (Document 8 listed below). Amongst other things, this states that the proposal does not fall within the setting of any listed building or monument and no other building in the vicinity is locally listed or merits specific consideration for its heritage value. Both main parties also agreed a Note in respect of the progress towards meeting the Council's renewable energy targets (Document 9 listed below). It was also agreed that the lighting columns on the go-kart track were about 9m high.
37. In addition to the above, all those appearing at the Inquiry agreed that the main issue for consideration in the determination of this appeal was:
- whether the benefits of the scheme, including the production of electricity from a renewable source, outweighs any harmful impacts, having particular regard to the effect upon the character and appearance of the countryside, including the likely impact upon the HTLCA.*
38. The Council informed me that, with the exception of paragraph 6.1.5, it accepted the Summary and Conclusion of the appellant's LVIA dated May 2013<sup>29</sup>.

### **The Case for Mrs J Wall of Lark Energy**

The main points<sup>30</sup> are as follows.

39. The Council's reliance on DMP policies DM03 and DM27 was misplaced and without foundation. Policy DM03 was in accordance with 'the Framework' and provided a presumption in favour of proposals subject to DM03 criteria. The appellant agrees with the Council<sup>31</sup> that this is the most relevant policy to the determination of this appeal. The only issue between the Council and the appellant is the impact upon the landscape. The scheme would have only a limited landscape impact and as such would accord with policy DM03.
40. DMP policy DM27 does not distinguish between nationally important landscape areas and those which have been locally designated. It is inconsistent with paragraph 113 of 'the Framework' and, having regard to paragraph 215 of 'the Framework' should be given reduced weight in any decision. In any event, the scheme would not conflict with this policy as it would not harm the strategic objectives as identified in paragraph H3.18 of the HTLCA. Only 14%<sup>32</sup> of the site is within the HTLCA. This is indistinguishable from the surrounding fields which form part of the SPLCA and which are not subject to policy DM27. The WLCA had been carried out at a broad scale and in reality the change in character between these two LCAs was gradual and subtle. It was untenable for the Council to argue that the proposal would harm the setting of the HTLCA. There is a lack of visibility between the true HTLCA which lies to the south of Hulver Road and the small part that is included within the appeal site. (*Under cross examination its*

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<sup>29</sup> Appendix 1 to Mr Brashaw's PoE.

<sup>30</sup> Based largely upon the appellant's Closing Submissions (Document 15).

<sup>31</sup> Paragraph 2.14 of Mr Perkin's PoE.

<sup>32</sup> This figure was conveyed to me by Mr Brashaw not 16% referred to in the Closing Submissions.

*planning witness accepted that the DMP policy DM27 was seeking to protect valued landscapes and was one of the start points for considering the scheme. This witness also informed me that the WLCA should be given moderate weight. Under cross-examination its landscape witness accepted that the HTLCA was a high sensitivity character area but the part of the appeal site within this LCA did not have the same sensitivity as the river valley.)*

41. Having undertaken a detailed LVIA, the greatest effects on landscape character would be on the character of the site itself. The proposal would introduce new development and materials into a rural landscape that is strongly influenced by existing development to the north. It would be in keeping with the vertical scale of existing features in and around the site and would only be visible from the south and up to a distance of just over 1km. Effects of high magnitude would only occur at one viewpoint on BR2 within the site. There are no public rights of way within the Hundred River valley or the valley sides to the south of the site. The appellant's evidence demonstrates that even in the worst case scenario the landscape impact would be limited and negligible<sup>33</sup>. The proposal has been informed by and would be sympathetic to the LCAs.
42. The security fence would be positioned inside the perimeter hedging and landscape planting would be allowed to grow to a height equal to the maximum height of the solar panels. This new planting would substantially mitigate the landscape and visual impacts of the development. The impacts would not be substantial. Moreover, these have to be considered in the context of any solar farm in the countryside. The Council's references to a tranquil and unspoilt location are made without the benefit of any objective assessment. This appears to ignore the permitted scheme on the northern part of the site, the impact of the industrial estate, the factory scale turkey farm and the go kart track. *(Under cross examination its landscape witness accepted that the HTLCA had a tranquil and strong rural character but that noise, including that from the go kart track and its associated floodlighting disturbs this tranquillity.)*
43. The proposals would contribute towards meeting district wide renewable energy targets. Whilst the Council appears to be making progress in meeting these targets paragraph 98 of 'the Framework' states that there is no requirement for applicants to demonstrate overall need for renewable energy projects. There is also a national policy presumption in favour of renewable energy proposals. 'The Framework' should be given very significant weight. Government and Ministerial Statements endorse renewable energy proposals and identify solar energy production as a priority industry. It is one of the most efficient renewable energy sources. The Renewable Energy Roadmap Update predicts a rise in electricity demand by 2050 of between 30% and 100%. The need for renewable energy and national energy policy must be weighed in the planning balance.
44. The proposals would also deliver other significant material benefits. These comprise: contributing to the continued viability of the agricultural industry and/or diversity of the local rural economy; helping to address fuel security and fuel poverty; aiding the reduction in the reliance on fossil fuels<sup>34</sup>; reducing CO<sub>2</sub> emissions; local green infrastructure and enhancements to wildlife corridors and

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<sup>33</sup> Including photomontages from Jay's Hill Road and Hulver Road in Appendix 5 of Mr Brashaw's PoE.

<sup>34</sup> Over the course of a year the proposal could generate the electricity equivalent of approximately 5,760 households.

- networks<sup>35</sup>; connectivity to the grid<sup>36</sup>; reversibility and; a continuation of agricultural use through an intention to allow sheep grazing on the site. There would be no harm to any habitats or species, including CWSs and about 100 people would be employed during the construction phase. These matters significantly outweigh the reasons for refusal. There are no adverse impacts that significantly and demonstrably outweigh the benefits of the development. *(Under cross examination its planning witness agreed that grid connection was not a benefit of the scheme to be weighed against harm. It was also accepted that the scheme would not deliver any benefits to the local community in terms of jobs or cheaper energy.)*
45. The concerns of interested parties are without foundation and, for whatever reason, some objectors chose not to attend the Inquiry and have their evidence tested. Public rights of way would be protected and the development would be set back an adequate distance from neighbouring properties, with intervening vegetation, sufficient to protect outlook. There would be no loss of light, pollution<sup>37</sup> or odour and the appellant's Flood Risk Assessment<sup>38</sup> concludes that there would be no harmful increase in surface water run-off. *(Under cross examination its landscape witness agreed that the proposal would have a significant adverse effect when seen from photo viewpoints 1 [Benacre Road] and 14 [BR2]. In response to my questions this witness informed me that the proposal would erode the enjoyment of BR2 for some users.)*
46. Concerns regarding the setting of listed buildings were entirely misconceived. The agreement reached with the Council on this matter was a true and correct position in both policy and law. There was no reasonable basis for concluding that the setting of any listed buildings would be affected or compromised. Some of the photographs that had been submitted on behalf of the occupier of Warrens Farm may have been taken with a zoom lens and did not appear to reflect recognised guidelines for assessing landscape and visual impact. *(The planning witness informed me that the setting of a listed building was not determined by whether or not you could see it from a particular location but the extent of the relationship between a heritage asset and its surroundings. This was a functional relationship. Valley Farm was related to the river valley to the south of Hulver Road rather than the appeal site. Neither this building nor Marsh Farm had any historic farming association with the appeal site. Their settings were determined by the river valley rather than the wider landscape.)*
47. The appellant undertook extensive consultation with the local community prior to submitting the application<sup>39</sup> and amended the scheme in an attempt to overcome the Council's concerns. The proposals were recommended for approval by the

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<sup>35</sup> Paragraphs 4.13(k) and 4.16 of Mr Osborn's PoE. Reference is made to the creation of grassland with wild flowers, a 'beetle bank', management of ponds and new planting with field maple, hazel, hawthorn, blackthorn and dogwood and opportunities for ground nesting birds.

<sup>36</sup> In comparison to the permitted scheme, the proposal would allow the substation to be located at the southern end of the site. It is argued that this would have reduced costs and greater efficiency (less electrical losses between the point of generation and national grid), less disruption locally and obviate the need for further trenching or overhead lines. (Paragraphs 2.12 and 5.3 of Mr Osborn's PoE.) At the Inquiry I was informed this would avoid having to install an extra 1500m of cable.

<sup>37</sup> The Noise Impact Assessment by Cross Allen Associates dated January 2013, concludes that the predicted noise impact of the development would be acceptable. (Supporting Documents 2 of 2)

<sup>38</sup> Morgan Tucker report dated August 2012.

<sup>39</sup> Paragraphs 2.5-2.6 of Mr Osborn's PoE

Council's officers on three separate occasions<sup>40</sup>. There was no objection from any statutory consultee or the Council in terms of agricultural land quality. It was also accepted on behalf of SBF that 93-95% of glare would be absorbed<sup>41</sup>. This would not be valid reason to dismiss the appeal. If the proposal was acceptable there was no requirement to put forward alternative sites.

48. The proposals would fully accord with national and local policies which look to encourage renewable energy developments. The scheme would comply with DMP policy DM03 and there would be no conflict with policy DM27 and its objectives. The Council had failed to properly and objectively weigh in the balance the wider environmental, economic and social benefits of the scheme. The scheme comprises sustainable development in a suitable location and should be allowed.

### **The Case for Waveney District Council**

The main points<sup>42</sup> are as follows.

49. DMP policies DM03 and DM27 are the primary relevant development control policies. These policies do not conflict with one another and on any sensible reading their test of 'harm' is the same. They operate side by side and address subtly different factors. Both would be offended by the proposal. *(In response to my questions its planning witness informed me that these policies were the most relevant to the determination of the appeal and the decision-maker should start by looking at DM03 first.)*
50. The scheme would have a significant and adverse impact and thus, in principle, unacceptable impact on the character of the landscape. Although not mentioned in the reasons for refusal and not relied upon by the Council, if it is accepted that the proposals cause unacceptable harm to the landscape character of the site then it follows that they would not be in conformity with CS policies CS02 and CS16. Both require proposals to avoid harm to landscape character.
51. The Council is well on its way (51%) to meeting the electricity generation target contained within DMP policy DM03. The weight to be attached to the contribution made by the proposal to meeting that target should not be overestimated. The Council is ahead of the curve in providing renewable energy infrastructure. Whilst any contribution is valuable, the scheme should be seen in context. *(Under cross-examination its planning witness accepted that the scheme's contribution towards meeting renewable energy targets was a significant factor in favour of an approval. It was also accepted that the reduced costs and increased efficiency that would be derived by developing the southern part of the site was a material consideration in this appeal.)*
52. DMP policy DM03 sets a presumption in favour of granting renewable energy schemes where there are no significant adverse impacts on the landscape and where the wider benefits directly related to the scheme outweigh those effects. The appellant's LVIA concludes that there would be a significant adverse impact

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<sup>40</sup> Copies of the officer's reports are contained in response to Question 21(d) of the Appeal Questionnaire.

<sup>41</sup> Paragraph 3.2.1 of Mr Brashaw's PoE states that the panels are designed to reflect 2% of incoming sunlight.

<sup>42</sup> Based largely upon the Council's Closing Submissions (Document 14)

- on the landscape of the site. There is no requirement to assess the magnitude of this significant adverse effect.
53. The Council's landscape evidence draws a distinction between that part of the site within the HTLCA and that part which lies within the SPLCA. There is intervisibility between these LCAs along the valley crest. Views are panoramic and are characterised by wooded skylines and farmed land under big skies. Industrial buildings on the edge of the former airfield are dominant features of views including from the HTLCA. The reference to limited visibility<sup>43</sup> is not the same as limited significance or limited impact. The straight lines of the arrays and the colours of the solar panels would be alien features in the landscape<sup>44</sup>. There would be a significant adverse effect on the landscape of the site. On that basis DMP policy DM03 applies. *(Under cross-examination its landscape witness informed me that the proposal would have a limited landscape impact.)*
54. For DMP policy DM27 to be engaged any effect on the landscape character area, or on the landscape generally, must be both significant and adverse. It is no answer for the appellant to argue that the effect on the landscape character area as a whole would not be adversely affected. It is hard to imagine a single development proposal, by itself, causing significant harm to a character area which runs for several kilometres in each direction. There is no justification for dismissing the identified adverse effect on this part of the protected character area because the effect on the character area as a whole would be no more than negligible. The scheme would cause significant adverse effect on part of the character area and DMP policy DM27 applies.
55. The boundaries of the HTLCA were drawn recently and DMP policy DM27 afforded protection to the whole area. This is a good example of the change from centralised to localised planning. The Council had identified and assessed the LCAs that it wished to protect owing to their sensitivity to development, including the HTLCA. Protection was afforded to this LCA under DMP policy DM27. This is exactly what 'the Framework' envisages in terms of plan making and the policy had been found to be sound. *(Under cross examination its planning witness informed me that DMP policy DM27 was not entirely commensurate with paragraph 113 of 'the Framework' and in conflict with it. As a result, this policy should be given reduced weight but was still a significant consideration.)*
56. Moreover, DMP policy DM27 incorporates a distinction in the way that national policy areas are treated, as opposed to the protected LCAs. Unlike the LCAs, this policy gives protection to the settings of national policy areas which do not require consideration of strategic objectives. *(Under cross examination its landscape witness informed me that the appeal site was not a riparian landscape but was within the setting of the HTLCA.)*
57. The supporting text to DMP policy DM27 suggests that in each case the strategic objectives within the LCAs are to be considered. The introduction of alien features, such as a solar array and its ancillary structures, into a tranquil, unified landscape with a strong rural character would undermine the strategic objective

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<sup>43</sup> Mr Newton's consultation response, dated 29 January 2013. (Included within the correspondence forming part of Question 20 of the Appeal Questionnaire.)

<sup>44</sup> In cross examination the planning witness informed me that glare/reflection from the panels, to which paragraph 2.8 of his PoE referred, was not an issue in this appeal.

of conserving and enhancing the textured landscape quality and the varied landscape elements in this location. Whilst the site is not one of the examples of different textures featuring within the area it does not mean that it does not contribute to the mosaic or patchwork of different textures and forms. Arable fields are an example of such a patchwork. Adding solar arrays to this valued patchwork would detract from the strong rural character. The proposed boundary hedge planting would not sufficiently screen the solar panels to mitigate the visual or landscape impact on the HTLCA. The panels would be unscreened on south facing slopes when seen from Jay's Hill Road. *(Under cross-examination its planning witness informed me that the Council had not undertaken any assessment of the sensitivity of viewpoints and it would be from viewpoint 5 in Appendix 4 of Mr Brashaw's PoE where the visual impact of the development would be at its worse. This witness also agreed with the assessment of this view and the assessments of viewpoints 11 and 12 on pages 51, 58 and 59 of Appendix 1 (LVIA) to Mr Brashaw's PoE. In examination-in-chief its landscape witness informed me that the wider visual impact of the proposal would be acceptable.)*

58. The proposal would not create jobs or community benefits. The contribution to national and renewable energy need was not determinative by itself. The new hedges and biodiversity enhancements would be of benefit to the landscape but were insufficient to override the landscape impact of the scheme. Reversibility was not a benefit but a limit on the harm. The balance came out against allowing this development. The appellant had not sought any alternative site and the Council had a good record of permitting solar farms outside of protected landscapes. The proposal would be contrary to the development plan. *(In response to my questions its planning witness informed me that neither he nor the Council's landscape witness had set out or weighed the benefits of the scheme against the alleged harm. Under cross examination its planning witness acknowledged that the Council had approved a solar farm in another Tributary Valley Farmland area to which DMP policy DM27 also applies.)*

### **The Case for Worlingham Parish Council**

59. There are concerns over the size of the site and the impact of the scheme upon the Hundred River valley. The proximity of the site to the airfield and road could compromise the safety of parachutists and highway users. The scheme would not deliver any local investment and could exacerbate traffic problems in the village. The infrastructure was not in place to serve additional development on the airfield. *(Under cross-examination the Chairman of the Parish Council conceded that the proposal would have no impact on the village itself and accepted that the Parish Council's concerns for parachutists related to the initial scheme rather than the revised plans. It was also conceded that permission had already been granted for solar panels to be erected alongside the road.)*
60. The development would be a travesty. The site contains and is bound by woods, hedges, spinneys and ponds. The proposal would be contrary to section 13 of the Wildlife and Countryside Act 1981 as it would result in the uprooting and destruction of plants, lichen and ferns. The area is also important for hedgehogs, orchids, crested newts, toads, frogs, bumble bees, shrews, bats, stag beetles, curlew, grassland, snipe and woodcock. During the winter it is a migration feeding area. Birds and bats also feed, nest and hibernate in the area. A wildlife and flora and fauna survey should be undertaken before development commences. Trees and hedges would also need protecting and construction

traffic would damage wildlife. The Hundred River valley was a valuable archaeological area with medieval finds. There would be a considerable visual impact when seen from the Church of All Saints. The area was popular with walkers and cyclists. Much land would be taken out of agriculture at a time of world food shortages. *(In response to my questions, Cllr Knights informed me that he had not been provided with or read the Phase 1 Habitats Survey that had been submitted in support of the application. Under cross-examination Cllr Knights informed me that he was unaware that neither Suffolk Wildlife Trust nor the County Council's Archaeologist had raised any objections to the scheme.)*

61. The site was as big as an industrial estate and yet would not create 1 local job. If buildings were proposed the Parish Council would be likely to receive section 106 monies for community use. The Parish Council would not receive any money from the appeal scheme.

### **The Case for Beccles Town Council**

62. The Town Council was invited to attend a site visit prior to the application being submitted. This was an extremely comprehensive visit and the appellant was aware of all possible sensitivities. The majority of the land was Grade 3c. The Town Council had looked at all the evidence. There were no real grounds for withholding permission on the basis of any conflict with DMP policies DM03 and DM27. The Town Council supported the proposals.

### **Written Representations**

#### *Application Stage*

63. The Council received about 10 messages/letters in respect of the initial application. 9 of these were in opposition to the scheme. Following amendments to the proposals, further objections were made on behalf of SBF. Letters were also received from the licensee of Beccles Airfield and UK Parachuting to the effect that these two parties did not object to the amended scheme. (Copies of all of these are included in response to Question 21(c) of the Appeal Questionnaire.) The parish councils of Worlingham, Ellough, Mutford and Henstead all objected. Beccles Town Council supported the scheme.
64. In summary, the outstanding concerns related to the impact of construction traffic, safety implications for users of the airfield, the impact upon the character and appearance of the area, impact upon wildlife, loss of agricultural land, precedent for further development, harm to the setting of heritage assets, loss of amenity, effect on house prices, no local benefits, noise impact, need for an EIA, interference with a right of way, conflict with the development plan, lack of advertisement/consultation in respect of listed buildings. (A detailed summary is set out in the Council's February 2013 Development Control committee report<sup>45</sup>.)

#### *Appeal Stage*

#### The Case for Shadingfield, Sotterley, Willingham and Ellough Joint Parish Council

65. The Council strongly objects to the proposal because of its adverse visual impact on the area, safety issues related to the operation of the airport, the impact on businesses close to the airport and the removal of land for either agricultural use

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<sup>45</sup> Included as part of 21(d) of the Appeal Questionnaire.



or expansion of the industrial development area. Further concerns relate to the perimeter fence alongside the B1127 which poses a safety hazard to road users. There are also concerns regarding how the grass under and around the panels would be managed. There is no conclusive evidence that sheep grazing would be a viable solution and this could result in the use of herbicides and impact on a wide area. An increased use of herbicides would not support the appellant's claims concerning advantages to wildlife.

#### The Case for Mr S Basey-Fisher (SBF)

The main points<sup>46</sup> are as follows.

66. The proposal would affect the setting of several heritage assets including the Grade I listed Church of All Saints. There is a statutory duty to advertise such applications and a need to consult English Heritage. The proposal would also result in the loss of high quality agricultural land. This could trigger a need for formal consultation with Natural England. Even if it did not, the loss of Grade 3a land was a significant and adverse impact that had to be weighed in the balance. These matters affect the Secretary of State's ability to determine the appeal.
67. The LVIA submitted in support of the application did not conform to recognised guidelines and gave inadequate consideration to a number of matters including: the seasonal effects of vegetation; the cumulative impacts of development within the surrounding area; the impact upon existing trees and shrubs and; the effects of glare. There was no evidence to show the site had been selected following any process of site analysis as set out in advice issued by Natural England<sup>47</sup>.
68. Inadequate consideration had also been given to the impact upon the settings of: Warrens Farm, which is a 17<sup>th</sup> century farmhouse that should be regarded as an undesignated heritage asset; the Church of All Saints; Marsh Farm and; Valley Farm. The courts have held that the setting of listed buildings includes views out from the buildings as well as views of the buildings in their surroundings<sup>48</sup>. This is explained in more detail in guidance<sup>49</sup> issued by English Heritage.
69. The proposal would harm a valued landscape that is perceptually remote and peaceful. It was inappropriate for the appellant to describe the appeal site as 'urban fringe' and the development would conflict with the objectives of the HTLCA and be at odds with the provisions of DMP policy DM27. This policy is consistent with the criteria based approach set out in the Companion Guide to PPS22 and 'the Framework'. The proposal would seriously detract from the unspoilt countryside setting of designated and undesignated heritage assets and conflict with planning policies that are aimed at protecting their settings. The significant adverse landscape impacts of the scheme and its harm to the setting of heritage assets results in the proposal not meeting the environmental requirement of 'the Framework'. The development is not sustainable.
70. The proposal would have a substantial and permanently harmful impact on views from surrounding public vantage points and a substantial detrimental effect on

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<sup>46</sup> Based on the Statements (including Rebuttals) prepared by NWA Planning and Allen Pyke Associates.

<sup>47</sup> Natural England Technical Information Note TIN101 'Solar parks: maximising environmental benefits' (Appendix 11 to NWA Planning's Statement of 10 May 2013).

<sup>48</sup> Ryan v Secretary of State for the Environment, Transport and the Regions [2003] JPL 630.

<sup>49</sup> 'The Setting of Heritage Assets' English Heritage.

the character and quality of views for users of the public bridleway (BR2). It would reduce the utility of this bridleway for horse riders. There would be a residual adverse effect on the closest neighbouring properties and listed buildings, including an overwhelming adverse impact on the outlook<sup>50</sup> from Warrens Farm for substantial parts of the year. Whilst there is no right of outlook over private land there is a legitimate expectation that the rural amenities of the countryside will be protected from intrusive, large-scale development. The proposal would conflict with DMP policy DM02.

71. The landscape effects would be substantial or significant and conflict with the objectives of DMP policy DM03. The scheme would also conflict with CS policies CS01, CS02 and CS16. There are no material considerations to indicate that the development should be approved. The proposal would conflict with the provisions of 'the Framework'. There was no evidence of an overriding need for the development and alternative sites had not been considered. There are alternative sites available outside the HTLCA.
72. The proposal was different to previous appeal decisions<sup>51</sup> relating to solar farms elsewhere. The permission granted on the northern part of the site has only a limited bearing on this appeal as it relates to a significantly smaller site. Whilst there were benefits to be derived from the additional energy generated these are ill-defined and insignificant. There was also no management programme in place to enhance local landscape and wildlife features. In addition, the benefits to the local economy had not been explained. The planning balance did not justify granting permission. If permission was granted planning conditions should be attached requiring, amongst other things, the submission of a comprehensive landscaping scheme and arranging the solar arrays so as to protect the width of the bridleway and views of the church.

### **Planning Conditions and Obligations**

73. At the Inquiry a list of suggested planning conditions that had been agreed by the two main parties was submitted for consideration (Document 13). These were discussed at the Inquiry having regard, amongst other things, to the advice in Circular 11/95 'The Use of Conditions in Planning Permissions'. I deal with these as part of my conclusions below.
74. No obligation pursuant to section 106 of the 1990 Act has been submitted. At no stage has it been suggested or proposed that an obligation would be necessary.

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<sup>50</sup> View 14 in DA Appendix 9 of the Statement on behalf of SBF is taken from a top floor window in Warrens Farm. Photographs attached to DLP's letter dated 19 November 2012 (Supporting Documents 1 of 2) also show the outlook from the upper floor of this property.

<sup>51</sup> On behalf of the appellant, I was informed me that no reliance was placed on appeal decisions in respect of solar farms in Northamptonshire and Devon. Copies of these decisions were not supplied.

## Conclusions

75. The following conclusions are based on the evidence given at the Inquiry, the written representations 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. I deal first with issues arising from the Procedural Matters, before concluding on other planning and policy considerations, having particular regard to the above noted agreed main issue.

### *Procedural/Preliminary Matters*

76. The setting of a heritage asset is the surroundings in which it is experienced and the significance of an asset may be derived from its setting. The significance of the Grade I listed Church of All Saints and the Grade II listed Marsh Farm and Valley Farm lies primarily in their architectural and historic fabric. These listed buildings can be seen in some limited views from the appeal site. Parts of the site can also be seen in some views from these designated heritage assets. However, this does mean that the significance of these assets is experienced in these views. [6,15,46,68]
77. The site is a very considerable distance from the church and is barely discernible amongst the intervening vegetation. Whilst recognising that my visits were undertaken during the summer, I had difficulty locating this building when walking across the site. Moreover, I found that the church did not have anything like the prominence depicted within the photographs submitted on behalf of SBF. Whilst on the site I was unable to experience the significance of this medieval church. It is very doubtful that I would have found differently had I been able to view the site during the winter. When looking back from the church, the site forms part of a wide panorama. However, it is the intervening fields and the river valley below which are significant in contributing to the experience of this redundant ecclesiastical building. I concur with the Council and the appellant that the appeal site does not form part of its setting. As a consequence, there is no requirement to consult English Heritage. [6,15,36,46,68]
78. The appeal site is also a considerable distance from Marsh Farm and Valley Farm. Experiencing the significance of these farmhouses, which date from the 16<sup>th</sup> century, is confined to land much closer to these heritage assets and outwith the appeal site. I also agree with the Council and the appellant that the appeal site does not form part of the setting of these listed buildings. [15,36,46,68]
79. If the above conclusions are not accepted and instead, the arguments made on behalf of SBF are preferred, I set out below, as part of my consideration of 'other matters', the likely impact upon these designated heritage assets. In so doing, regard would also need to be given to the duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. [6,66,68]
80. There is no certainty that sheep would graze the land after the completion of the development. However, the loss of about 11.6ha of Grade 3a agricultural land would not trigger a requirement to consult Natural England. Furthermore, there is no cogent evidence to demonstrate that the proposal would result in a significant (or permanent) loss of the best and most versatile agricultural land or harm the agricultural industry. [6,11,44,47]
81. 'The Framework' is an important consideration which should be given considerable weight in determining this appeal. The proposed development gains

considerable support from 'the Framework' when read as a whole. I agree with the two main parties that the most relevant development plan policies to the determination of this appeal are DPM policies DM03 and DM27. Whilst DM03 is consistent with the provisions of 'the Framework' there is some tension between paragraph 113 of this national planning policy guidance and DMP policy DM27. The last paragraph of policy DM27 blurs the distinction between nationally and locally designated areas. As set out in paragraph 215 of 'the Framework' the closer the policies in the plan to the policies in 'the Framework', the greater the weight that may be given. I concur with the appellant that the WLCA should be given moderate weight in determining this appeal. [18,20,39,40,49,55,69]

### *Conclusions on the Main Issue*

#### Benefits of the Scheme

82. The proposed development would provide a clean, renewable and sustainable form of electricity. It would generate a considerable amount of electricity. The scheme would add to the Council's good progress in meeting its renewable energy target. It would also assist in meeting national targets. In addition, the proposal would make a valuable contribution to cutting greenhouse gas emission and help tackle climate change. These are important wider environmental benefits of the scheme that should be given significant weight in the overall planning balance. The scheme would accord with the broad thrust of DMP policy DM03, the sixth bullet point of paragraph 17 of 'the Framework' and the thrust of various Acts, Directives and Statements issued in respect of renewable energy. [18,20,26,36,43,44, 51,62,72]
83. The proposals would also provide a considerable amount of new hedgerow planting, including some 'gapping-up' of existing hedges within the site and a mix of wildflower seed would be used in parts of some of the fields. This would enhance the landscape qualities of the area and provide new and improved wildlife habitats which would be likely to benefit, amongst other things, local populations of birds and bats. It would not have any adverse effects on any CWS and would accord with the duty<sup>52</sup> to conserve biodiversity. There is nothing to support concerns that nature conservation interests would be harmed. These local environmental benefits are also important considerations that carry much weight in the planning balance. The scheme would be consistent with CS policies CS01, CS02, CS16 and DM29. [31,35,44,60,64,65]
84. Whilst no local employment would be created, the development would support the jobs of about 100 workers during the construction period. This would benefit the national economy. Some construction workers may also use local services and facilities. The scheme would also generate additional income for some local landowners, enhancing farm incomes and diversifying some farm businesses. This would be consistent with CS policy CS01 and would accord with the Government's objective of promoting a strong rural economy. In addition, the scheme would assist in increasing the security and diversity of electricity supply. The technical advantages of locating the substation closer to existing power lines would also secure the more efficient use of resources and limit electricity losses to the grid. These economic benefits are important considerations that also carry significant weight in this appeal. [17,21,26,33,44,51,58,61,64,72]

<sup>52</sup> Section 40 of the Natural Environment and Rural Communities Act 2006

85. There is nothing before me to substantiate the appellant's argument that the scheme would reduce long-term energy costs and, in so doing, help address fuel poverty and provide a social benefit. Whilst this does not weigh against granting permission it is not something that I have given weight to. [44]

#### Effect upon the Character and Appearance of the Countryside

86. Given the limited height of the various components of the proposed development, the topography of the area and the boundary vegetation, the landscape and visual impact of the scheme would be confined to a distance of about 1km from the boundaries of the site. The proposed new/strengthened planting, topography and the extent of separation from the Norfolk Broads and the AONB would ensure that there was no harmful impact upon these nationally important landscapes. [13,14,28,29,30,31,38,41]
87. I agree with both main parties that the greatest effects on landscape character would be on the character of the site itself. Having inspected the site, I also agree with the appellant that the small part which falls within the HTLCA is indistinguishable, on the ground, from the remainder of the site which forms part of the SPLCA. Other than having a slightly lower contour level, that part of the site to which the HTLCA relates would comfortably fit within the defined key characteristics of the SPLCA. Unlike the land on the southern side of Hulver Road, the appeal site has little in common with the sensitive riparian qualities of the HTLCA. Whilst the landscape character of the HTLCA is valued and of high sensitivity to the proposed development, the SPLCA is of much lower sensitivity. Although it may have been more appropriate for the WLCA to have incorporated all of the site within the SPLCA, the impact of the scheme upon the HTLCA must be assessed in accordance with DMP policy DM27. [13,24,38,40,41,55,69]
88. The proposal would introduce a new use on the appeal site. During the life-time of the scheme the arable character of the site would be replaced by a rather utilitarian form of development with very many arrays of solar panels and the associated infrastructure. This would considerably change the character of the site and detract from its largely unspoilt rural qualities. This would be at odds with aspects of DMP policy DM02. However, the topography of the site would be undisturbed and existing trees and hedgerows, which are important/key characteristics of the area, would be retained. New planting and the 'gapping-up' of hedgerows would be a more permanent addition to the character of the site. In time, this would reinforce the pattern of field boundaries and enhance the landscape structure of the site. This would accord with other aspects of DMP policy DM02 and assist in mitigating the impact of the development. [18,28,31,38,41,42,50,64,71]
89. The character of the northern part of the site is strongly influenced by the neighbouring industrial and business premises/uses, including the go-kart track and sizeable turkey farm. Within a distance of about 1km from the northern, eastern and western boundaries of the site the appeal scheme would have a very limited adverse effect upon the mixed and varied character of this part of the district. As I noted during my visits, the traffic moving along the B1127 and the noise and activity associated with neighbouring uses, including the go-kart track, all impact upon the tranquillity of this part of the SPLCA. The harm to the character of this part of the district would be no greater than that which has already been accepted by the Council when it approved a 14.1MW solar farm on this part of the site in April 2013. The proposal would not significantly harm the

landscape character of this part of the district and there would be no conflict with the strategic objectives of the SPLCA. [7,9,10,24,27,41,42]

90. There would be no harm to the riparian qualities of the HTLCA, such as wet meadows, woodland, grazing pasture or hedgerows or disruption to the network of tributaries. The solar panels would not significantly erode the textured qualities of the landscape or harm any other key characteristics of the HTLCA. Other than during the short-term construction and subsequent decommissioning phases, there would be little change to the tranquillity of the site. Overall, the scheme would have a limited adverse effect upon the character of the site and would not undermine the strategic objectives of the HTLCA. Nevertheless, the above noted harmful change in character of the site weighs against granting permission. [24,30,40,42,56,69]
91. Within 1km of the southern boundary of the site the low-level nature of the proposed development and the new and strengthened hedgerow planting would ensure that the strong rural character and network of fields was maintained. There would be no harmful disruption to the varied landscape mosaic of pasture and wet grassland juxtaposed with woodland and arable fields and no diminution of any important focal points. Other than short periods during the construction and decommissioning stages, the tranquillity of the SPLCA and HTLCA would be largely unaffected. [24,28,29,30,31,38,41,42,50,69]
92. The greatest visual impact of the development would be seen from BR2 and Jay's Hill Road. In the northern part of the site BR2 already runs alongside some security fencing and bunding which separates these neighbouring land uses from the arable fields. As I experienced during my first visit, this section of the route is not particularly attractive and, judging from the difficulties that I had in negotiating this part of the bridleway, it does not appear to be particularly well-used. From BR2 many of the arrays, inverter stations, transformers and much security fencing would be apparent. For most users of this public highway the proposal would be likely to erode their enjoyment of the unspoilt qualities of this part of the countryside. This also weighs against granting permission. However, the arrays, inverter stations and transformers would all be set back from the edge of the bridleway and there would be no interference with views across the surrounding countryside, including south towards the Hundred River valley. The extent of this harm would be limited and there is no policy requirement to protect the setting of the HTLCA which, in any event, is undefined. [30,38,40,45,64,70]
93. Parts of the development would also be visible from some sections of Jay's Hill Road. From this local road the solar panels, by virtue of their dark colour, smooth textured finish and the straight/regimented lines of the arrays, would contrast rather awkwardly with the vegetation and largely unspoilt appearance of this rural area. This harm to the appearance of the countryside also weighs against granting permission. However, the development would be in keeping with the vertical scale of existing features in and around the site. It would be much smaller than many existing elements of the landscape, including trees, wooden utility poles, floodlighting and some existing buildings, all of which are apparent in these views. The proposal would also be set back from the Hundred River valley and hedges and trees would filter views. It would not detract from an appreciation of the riparian qualities of the area. The visual impact of the scheme would also reduce during the summer months and after the new/strengthened hedgerow planting had established. The overall impression

would continue to be that of a pleasant rural scene. There would be no cumulative adverse effects upon the landscape. [38,41,53,56,57,70]

94. The harm to the character and appearance of the area that I have identified above would not, in the context of the most relevant development plan policies or 'the Framework', amount to significant adverse effects. [18]

#### Other Matters

95. Notwithstanding my conclusions above regarding the setting of listed buildings, the proposed development, by virtue of the limited height of the panels, security fencing, CCTV poles and the intervening vegetation, would not disrupt or mar any important views to or from the above noted heritage assets. These listed buildings would continue to be experienced within a countryside setting and the proposal would not harm their significance. There would be no conflict with the provisions of CS policy CS17 or DMP policy DM30. If any harm were to arise it would be very limited and, in the context of 'the Framework', less than substantial. There is also unlikely to be any harm to archaeological interests or conflict would DMP policy DM31. Furthermore, Warrens Farm is not a designated heritage asset and has not been identified within any published document or plan as a locally important building. The development would not harm any special architectural or historic qualities of this building. [15,18,28,29,30,36,46,60,66,68]
96. The proposal would change the outlook from parts of some neighbouring properties, including Warrens Farm and Marsh Farm. However, the solar panels would be set back a considerable distance from these properties with intervening vegetation. Whilst from some facing upper floor windows in these properties many of the arrays would be apparent, they would not be unduly dominant or overwhelming. Occupiers of neighbouring properties would continue to benefit from a pleasant outlook. There is no cogent evidence to demonstrate that the proposal would result in harmful glare or noise disturbance. [35,45,47,53,70]
97. The scheme would not give rise to any significant adverse effects or cumulative adverse effects upon historic features or the amenities of nearby residents. The appellant's highways and transport statements also strongly indicates that the proposal would be unlikely to compromise the safety of existing road users or inconvenience those living within the surrounding area. [32,33,34,35,45]

#### Planning Conditions and Obligations

98. A condition requiring the commencement of development would be necessary having regard to the provisions of section 91 of the Town and Country Planning Act 1990. For the avoidance of doubt and in the interests of proper planning, a condition specifying the approved plans would also be necessary. This condition should be worded to reflect those plans identified in paragraph 2 above. As these plans do not show the details of the associated ancillary infrastructure, a condition would be necessary requiring the submission of these details in order to safeguard the character and appearance of the area. Although a condition to this effect was not discussed at the Inquiry, it would not prejudice any party as it relates to matters that are included as part of the appeal proposals.
99. To safeguard the character and appearance of the area conditions would be necessary limiting a permission to the 'life-time' of the development and requiring a scheme of restoration at the end of the 25 year period. For the same reason, it would also be necessary to require the removal of the panels/arrays if

they cease to operate for a continuous twelve month period. This would be reasonable period of time rather than six months as suggested.

100. For the avoidance of doubt and to safeguard the character and appearance of the area, a condition would be necessary specifying the heights of the solar panels on the different parts of the site and specifying the height of the perimeter fencing and maximum height of other equipment/apparatus.
101. To safeguard the living conditions of neighbouring residents conditions would be necessary limiting the hours of construction and securing an appropriate route for construction traffic. For the same reason a condition would be necessary limiting noise emissions from the site and requiring the inverter cooling fans to be switched off at night.
102. To preserve and enhance nature conservation interests a condition would be necessary requiring the recommendations contained within the appellant's biodiversity report and the subsequent biodiversity details to be implemented. A condition requiring a scheme of landscape planting would also be necessary to enhance nature conservation interests and safeguard the character and appearance of the area. A separate condition would also be necessary to safeguard archaeological interests. This condition should be worded to reflect the documents/information submitted in support of the appeal<sup>53</sup>.
103. The conditions set out in the Schedule below are worded in the interests of precision and brevity and accord with the advice in Circular 11/95.
104. No planning obligation has been submitted and none is necessary. [35]

#### The Planning Balance/Overall Conclusion

105. I do not set aside lightly the concerns of those parish councils or local residents who have objected to the scheme. However, when all of the above matters are weighed, the significant benefits of the proposal outweigh the limited harm to the character and appearance of the countryside. The scheme would accord with the most relevant provisions of the development plan (DMP policies DM03 and DM27) and the provisions of 'the Framework'.
106. If the proposal is considered to form part of the setting of any of the above noted designated heritage assets and having special regard to the desirability of preserving the settings of listed buildings, the wider environmental and economic benefits of the scheme, which are of public benefit, would outweigh the less than substantial harm to the significance of these heritage assets.

#### Recommendation

107. It is recommended that planning permission be granted for the installation of a 24MW solar farm and associated infrastructure at land at and adjacent to Ellough Airfield, Benacre Road, Ellough, Suffolk, NR34 7UH, subject to the conditions set out in the attached Schedule.

*Neil Pope*  
Inspector

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<sup>53</sup> The Stratascan 2012 geophysical survey referred to in suggested condition 12 has not been supplied but another geophysical survey (Pre-Construct Geophysics Ltd) has been provided instead.



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Cannon of Counsel He called	Instructed by the Solicitor to the Council
Mr P Perkin BA, MRTPI	Principal Planning Officer
Mr N Newton BA (Hons), MSc	Arboricultural and Landscape Manager

### FOR THE APPELLANT:

Mr P Taylor He called	DLA Piper Solicitors
Mr P Brashaw BSc (Hons), BLD, CMLI	Associate, LDA Design
Mr N Osborn BA (Hons), MRTPI	DLP Planning Consultants

### INTERESTED PERSONS:

Cllr Mrs W Summerfield	Chairman, Worlingham Parish Council
Cllr T Knights	Worlingham Parish Council
Cllr J Coulson	Worlingham Parish Council
Cllr A Thwaites	Chairman of Planning, Beccles Town Council

### LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	Rebuttal Statement on behalf of Mr Basey-Fisher
Document 2	The appellant's Opening Submissions
Document 3	The Council's Opening Submissions
Document 4	Cllr Knights Statement
Document 5	Executive Summary from the WLCA
Document 6	List of Consultees for the WLCA
Document 7	Copy of listing description for Valley Farm
Document 8	Addendum to the SoCG – Heritage Assets
Document 9	Note agreed by the two main parties in respect of progress towards meeting the Council's renewable energy targets
Document 10	Biodiversity Enhancement Details
Document 11	Landscaping Details
Document 12	Drawing Ref. Ellough/DWG002-V15
Document 13	List of suggested planning conditions
Document 14	The Council's Closing Submissions
Document 15	The appellant's Closing Submissions
Document 16	The appellant's Costs Application

## SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: planning layout (1:4000 scale drawing No. Ver 15A), as amended by the solar panels details specified on the 1:20 scale drawing (Ref. Frame) for the northern part of the site ie, the arrays coloured blue on the planning layout and the solar panel details specified on the 1:20 and 1:40 scale drawings (No. Ellough/DWG002-V15) for the southern part of the site ie, the arrays coloured purple on the planning layout; temporary site access (drawing No. SF114T-002-01) and; permanent site access details (drawing No. SF114T-003-01).
- 3) No development shall commence until details of the associated inverter stations, transformers, substation, CCTV (including the pole mountings) and weldmesh security fencing have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 4) The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the date of commencement of the development hereby permitted. Written notification of the date of commencement shall be given to the Local Planning Authority no later than 14 days after the event.
- 5) No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.
- 6) If any of the individual solar panel(s) ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.
- 7) The solar panels shall not exceed 3 metres above ground level on the northern part of the site (ie, within the area coloured blue on the planning layout drawing) and shall not exceed 2 metres above ground level on the southern part of the site (ie, within the area coloured purple on the planning layout drawing). The security/perimeter fence shall not exceed 2.25 metres above ground level and no other equipment/apparatus shall exceed 4 metres above ground level.
- 8) In relation to the construction of the development hereby permitted, no machinery shall be operated, no process shall be carried out and no construction traffic shall enter or leave the site except between the hours of 08.00 hours and 18.00 hours Monday to Saturday, unless approved in writing in advance with the Local Planning Authority.

- 9) The construction phase of the development shall be undertaken in accordance with the details specified in the Deliveries Management Plan dated November 2012 and prepared by DLP Transportation Ltd, including the construction traffic route contained within Appendix C.
- 10) The development shall be undertaken in accordance with the recommendations contained within section 5.2 of the Delta-Simons Extended Phase 1 Habitat Survey dated September 2012, as amended/modified by the 'Biodiversity Enhancement Details' dated 10 December 2012.
- 11) No development shall take place until a landscaping scheme, including details of new hedgerows to be planted and the 'gapping-up' of existing hedgerows in and around the site, as well as a timetable for implementation/planting has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and timetable. Any trees/shrubs or plants which die, are removed or become diseased within 5 years of planting shall be replaced during the next planting season with trees/shrubs/plants of a similar size and species.
- 12) No development shall take place within areas F5 and F6 of the site (as shown on figure 2 of the Pre-Construct Geophysics Ltd Report dated December 2012) until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of investigation shall include an assessment of significance and research questions; and:
  - a. the programme and methodology of site investigation and recording;
  - b. the programme for post investigation assessment;
  - c. provision for analysis of the site investigation and recording;
  - d. provision for publication and dissemination of the analysis and records of the site investigation;
  - e. provision for archive deposition of the analysis and records of the site investigation;
  - f. nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
  - g. the site investigation shall be completed prior to the commencement of the use of areas F5 and F6, or in such other phased arrangement, as agreed in writing by the LPA.The solar panels in areas F5 and F6 shall not be used until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the LPA, in accordance with the programme set out in the Written Scheme of Investigation and provision made for analysis, publication and dissemination of results and archive deposition.
- 13) The rating level of the noise emitted from the site shall not exceed the existing daytime background noise level (determined to be 32 dB as a LA90 1 Hour) by more than +2dB between 07.00 hrs and 23.00 hrs Monday to Sunday. The noise levels shall be determined at the facade of the nearest noise sensitive receptor which is Warrens Farm. The measurements and assessment shall be made according to BS 4142:1997.
- 14) The inverter cooling fans shall not operate between the hours of 23.00 to 07.00.



## Department for Communities and Local Government

### **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 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**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.