



Department for Communities and Local Government

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Our Ref: APP/H1515/W/15/3134301

23 May 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY LIGHTSOURCE RENEWABLE ENERGY LTD:
HAVERING GROVE FARM, 552A RAYLEIGH ROAD, HUTTON, ESSEX, CM13 1SH**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI in relation to your client's appeal against the decision of Brentwood Borough Council ('the Council') to refuse planning permission for the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence, on land associated with Havering Grove Farm, 552A Rayleigh Road, Hutton, Essex in accordance with application ref 15/00161/FUL dated 11 February 2015.
2. The appeal was recovered for the Secretary of State's determination on 26 January 2016 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because it involves a proposal for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

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

Matters arising after the close of the Inquiry

4. During February and March 2016 the Secretary of State received 18 letters and emails and a petition with 100 signatures, all in support of the proposal. The Secretary of State has given careful consideration to all these representations, but as they do not raise new issues that would affect his decision he has not considered it necessary to circulate them to the Council and appellant for comment. Copies of all

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Policy considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan for the area comprises the saved policies of the Brentwood Replacement Local Plan (2005) (the BRLP). The Secretary of State considers that relevant development plan policies include those set out in IR 7–11.
6. The Council issued a pre-submission draft Local Development Plan for public consultation between 10 February 2016 and 23 March 2016. However, as this review is at an early stage of preparation and so is liable to change, the Secretary of State agrees with the Inspector that it would only merit limited weight. Like the Inspector, the Secretary of State has not taken it into account in his consideration of this appeal.
7. Other material considerations which the Secretary of State has taken into account include the 2012 National Planning Policy Framework (the Framework) and the associated planning practice guidance (PPG); the UK Solar PV Strategy (parts 1 and 2) and subsequent policy publications; the Written Ministerial Statement “Planning Update March 2015” (the WMS) which, amongst other matters, concerns solar energy and the protection of the local and global environment; and the Renewable Energy Study referred to at IR13-14.

Main issues

8. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR211.

Compliance with the development plan

9. For the reasons below, the Secretary of State considers that the proposal conflicts with BRLP Policy GB1 which provides, amongst other things, that planning permission will not be given except in very special circumstances for the construction of new buildings for the purposes other than those appropriate to a Green Belt; BRLP Policy GB2 which provides development criteria for development in the Green Belt including that it does not harm openness or conflict with the purposes of the green belt; and BRLP Policy IR6 which sets criteria for renewable energy schemes, including that they are to comply with policies GB1 and GB2. He also considers that it conflicts with part of BRLP Policy IR3 which seeks to protect the Best and Most Versatile (BMV) land. Consequently he considers that the proposal conflicts with the development plan as a whole.

Green Belt

10. The proposed Solar Park would constitute “inappropriate development” in the Green Belt and should not be approved except in very special circumstance (IR212). Like the Inspector, the Secretary of State takes the view that the loss of openness to the Green Belt would be experienced for a considerable time (30 years) and thus does represents additional harm to the Green Belt, albeit less than the enduring harm of a permanent development (IR213). The Secretary of State considers that the reversibility of the scheme should not be an influential factor in determining whether the scheme should go ahead.

11. For the reasons given in IR213-215 the Secretary of State agrees with the Inspector that the solar farm would harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside. He considers that this contravenes BRLP Policies GB1 and GB2.

Use of agricultural land

12. For the reasons given in IR220 the Secretary of State agrees with the Inspector that, given that there are no alternative previously developed land sites in Brentwood or within a 10km radius within Thurrock which could accommodate this development, it follows that the use of agricultural land is necessary to accommodate a development of this scale.

Use of Best and Most Versatile land

13. The Written Ministerial Statement of 25 March 2015 says that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. In this case, for the reasons at IR221-226, the Secretary of State agrees with the Inspector that compelling evidence has not been produced to demonstrate that there are no suitable poorer quality (3b) sites in the study area that could accommodate the development (IR227). He agrees that this contravenes relevant provisions of BRLP Policy IR3, Framework paragraph 112, the PPG and the WMS.

Visual amenity

14. The Secretary of State agrees with the Inspector that there will be limited adverse effects on visual amenity for relatively distant occupiers of dwellings and users of public rights of way (IR229). However, for the reasons given in IR229-230 he agrees with the Inspector's conclusion that residual harm to the perceived character of the wider landscape would be minor adverse rather than negligible as claimed in the Appraisal of Landscape and Visual Effects submitted by the appellant. He further agrees that there would be moderate to minor adverse effects on the visual amenity of rail users (IR230).

Benefits

15. The generation of 5MW of electricity per year, estimated to avoid 2.5mkg of CO₂ emissions each year, would contribute towards renewable energy and CO₂ emission reduction targets both locally and nationally (IR26 and IR232-243).
16. The Secretary of State agrees with the Inspector that there is evidence of net gains for biodiversity (IR244). However, for the reasons given in IR245 he further agrees with the Inspector that landscape benefits from new planting would only partially mitigate the greater adverse effects of the development as a whole. Neither is the long term retention of the planting assured.

Other matters

17. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR231. He does not consider that any of these matters adds weight either for or against the appeal proposal.

Conditions

18. The Secretary of State agrees with the Inspector's assessment at IR247 of the draft planning conditions. The Secretary of State is satisfied that the amended set of conditions recommended by the Inspector at IR pages 39 – 41 (Schedule of

Conditions) are reasonable and necessary, and would meet the tests in paragraph 206 of the Framework. However, the Secretary of State does not consider that the recommended conditions would overcome his reasons for dismissing the appeal.

The planning balance and conclusions

19. The Secretary of State agrees with the Inspector's planning balance and conclusions at IR249-252. Weighing in favour, the proposal would contribute towards targets for renewable energy generation and reducing greenhouse gas emissions, and the Secretary of State places substantial weight on these benefits. He also places moderate weight on benefits to biodiversity and limited weight on landscape benefits from new planting.
20. However the Secretary of State places substantial weight on the harm that would arise to the Green Belt by way of inappropriateness, loss of openness and encroachment into the countryside. He also considers that the loss (for the life of the development) of best and most versatile land adds moderate weight against the proposal. In addition he places moderate weight on the harm to visual amenity in those views from the railway which could not be screened.
21. The Framework states that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Overall, the Secretary of State considers that the benefits of the proposal do not clearly outweigh the harm to the Green Belt and the other harm identified. Accordingly, he concludes that very special circumstances necessary to justify the development do not exist.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence, in accordance with application ref 15/00161/FUL dated 11 February 2015.

Right to challenge the decision

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

Yours faithfully

Julian Pitt

JULIAN PITT

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Date: 29 March 2016

Town and Country Planning Act 1990
Brentwood Borough Council
Appeal by Lightsource Renewable Energy Ltd

Site visit made on 27 January 2016

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

File Refs: APP/H1515/W/15/3134301

File Ref: APP/H1515/W/15/3134301

Land at Havering Grove Farm, 552A Rayleigh Road, Hutton, Essex CM13 1SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Lightsource Renewable Energy Ltd against the decision of Brentwood Borough Council.
- The application Ref 15/00161/FUL, dated 11 February 2015, was refused by notice dated 26 June 2015.
- The development proposed is the installation and operation of a solar farm and associated infrastructure, including PV [photovoltaic] panels, mounting frames, inverter, transformer, pole mounted CCTV [close circuit television] cameras, substations, composting toilet and fence.

Summary of Recommendation: That the appeal be dismissed

Procedural Matters

1. Although under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, the appeal was to have been decided by an Inspector, the Secretary of State now considers that he should determine it himself because it involves proposals for significant development in the Green Belt. Accordingly, and in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 26 January 2016 the Secretary of State directed that he shall determine this appeal instead of an Inspector.

The Site and Surroundings

2. The Appellant's submitted Assessment of Landscape and Visual Impact includes useful photographs and maps of the appeal site and its surroundings¹. The appeal site is located between the towns of Brentwood and Billericay and to the south of the railway line that directly adjoins the site. The railway line connects those towns to the main line from Liverpool Street at Shenfield and continues east to Southend. The railway passes the site partly at grade and partly on an embankment. Views of the site from the railway would be partially filtered in summer when deciduous trees and hedges would be in leaf, but are more open in winter, especially from the embankment.
3. The site lies to the north of an isolated concentration of mainly residential development north of the A129 Rayleigh Road which also connects the towns. It is part of an agricultural landholding that also includes some adjoining fields as well as the original farm buildings. At least one building has been converted to a dwelling and the holding has been divorced from the Grade II listed Ellice's Farmhouse which stands to the west of the farmbuildings where it fronts a bypassed section of Rayleigh Road.
4. The application site comprises 18.3ha of arable farmland. The solar farm infrastructure would occupy 11ha within the site. The site constitutes three fields or parcels of land. Access to the site would be via a track from Rayleigh Road. The fields are enclosed in the main by overgrown hedgerows, with some hedgerow trees and some wire fencing. There are also areas of hedgerows,

¹ Document 8 of the Application Documents

shrubs and trees within the site, between the three fields. The site is agricultural in nature with is under arable cultivation. Land levels vary across the site with the fields having a gently undulating character.

5. There are no public rights of way within the appeal site but it is distantly visible from a bridleway to the west and from parts of a public footpath to the east.

Planning Policy

The Development Plan

6. The appeal is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the saved policies of the Brentwood Replacement Local Plan (2005) (the BRLP).
7. The BRLP was adopted on 25th August 2005 and the following saved BRLP policies are of relevance to the determination of this application:
 - GB1 – New Development in the Green Belt
 - GB2 – Development Criteria
 - CP1 - General Development Criteria
 - T2 – New Development and Highway Considerations
 - C5 - Retention and provision of landscaping and natural features in development
 - C16 – Development within the vicinity of a Listed Building.
 - IR3 – Protecting the Best and Most Versatile Agricultural Land.
 - IR6 – Renewable Energy Schemes

The policies of most relevance are as follows:

8. **BRLP Policy GB1** defines the Green Belt as including the appeal site and provides amongst other things that planning permission will not be given except in very special circumstances for the construction of new buildings for purposes other than those appropriate a green belt. It also provides that all proposals will additionally be judged against other BRLP policies.
9. **BRLP Policy GB2** provides development criteria for development in the Green Belt including that it does not harm openness or conflict with the purposes of the Green Belt. Account is also to be taken of the effect on public rights of way, the need to preserve or enhance existing landscape features, and that any building is satisfactorily located in respect of the surrounding landscape and adjoining buildings. The supporting text refers to former national policy in Planning Policy Guidance 2 (PPG2).
10. **BRLP Policy IR3** seeks to protect the Best and Most Versatile (BMV) agricultural land and will only permit its development where no alternative site exists within existing settlements or on previously developed land. Development should seek to use land of the least agricultural value unless sustainability or other considerations suggest otherwise.

11. **BRLP Policy IR6** is of the most direct relevance to the appeal proposal. It sets criteria for renewable energy schemes which are to have no unacceptable detrimental impact on stated features which include: the character and appearance of the area; visual amenity; the local highway network; and heritage assets; and which are also to comply with policies GB1 and GB2. The supporting text refers to former national policy for renewable energy in PPS22 including national targets to cut carbon dioxide emissions. IR6 is stated to be an interim policy pending analysis for the then emerging Regional Spatial Strategy. However that strategy has since been withdrawn, along with its regional targets for renewable energy.

Emerging Local Policy

12. The Council is preparing a new Local Plan to replace the BRLP. A Local Plan Preferred Options 2015-2030 document was issued for consultation in 2013 and is referred to by the parties. It included a proposed target to seek 15% of the Borough's energy from renewable energy sources by 2030. That would be 10 years later than the legally binding national 15% target and at a date in 2030 when the EU-wide target would have risen to 27%.
13. The Council has recently issued a pre-submission draft Local Development Plan for public consultation between 10 February 2016 and 23 March 2016. This postdates the written appeal submissions by the parties and has not been submitted in evidence. It is not yet part of the development plan and may change prior to adoption thus would only merit limited weight and has not been taken into account in this Report. However the evidence base for that emerging plan is material and it includes the *Renewable Energy Study for Brentwood Borough Council (April 2014)* to which the Appellant has referred in the appeal evidence. The Executive Summary from that document is included at Appendix 5 of the Appellant's appeal documents.
14. The Report concludes that the proposed use of low or zero carbon technologies could only equate to 8.7% of the total energy demand in the Borough by 2030 and that the greatest opportunity to significantly increase renewable energy would come from large scale wind or solar. 16 commercial scale turbines or their equivalent would be needed to bridge the gap from 8.7% to the Preferred Options draft 15% target for 2030. The report acknowledges that, because the Borough is mostly designated as Green Belt, any large scale renewable energy schemes such as commercial scale wind or solar PV would necessarily occur in the Green Belt but concluded that the impacts can be addressed by careful screening and siting.

National Policy and Guidance

15. Other important material considerations include: the National Planning Policy Framework (2012) (the Framework) which has replaced the former PPG2 and PPS22 and which also includes other national policy. Paragraph 215 provides that the weight to be accorded to policies in earlier development plans should have regard to their consistency with the Framework.
16. A core principle of the Framework at paragraph 17 is that: *'Every effort should be made to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.'* Business and other development needs would logically include energy demand

and supply. Another core principle is that planning should: *'encourage the use of renewable resources (for example, by the development of renewable energy)'*.

17. Framework Chapter 9 sets out current national policy on protecting green belt land. Paragraph 91 provides that: *'When located in the Green Belt, elements of renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.'*
18. At paragraph 93 the Framework describes renewable energy as *'... central to the social, economic and environmental dimensions of sustainable development'*. Paragraph 97 of the Framework also includes the provision that *'to help increase the use and supply of renewable and low carbon energy local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources'*. To this end authorities are enjoined (in summary) to:
 - have a positive strategy to promote such energy;
 - design policies to maximise such energy whilst ensuring adverse impacts are addressed satisfactorily;
 - consider identifying suitable areas for energy sources and supporting infrastructure; and
 - support community-led initiatives.Paragraph 98 seeks that an application is to be approved if its impacts are (or can be made) acceptable.
19. Paragraph 112 of the Framework seeks to take account of the economic and other benefits of the best and most versatile (BMV) agricultural land, where development of agricultural land is necessary to prefer the use of poorer quality land to that of higher quality. The Glossary classifies BMV land as land in Grades 1, 2 and 3a.
20. Also material is national Planning Practice Guidance (PPG) which expands on Government policy but is not itself policy. It acknowledges that the need for renewable energy does not *'automatically override'* environmental protections. It follows that it is necessary to weigh any environmental harm with the benefits, including the wider environmental benefits. The PPG advises that *'large scale'* solar farms are to be *'focussed'* on previously developed and non agricultural land but does not preclude such development on agricultural land.
21. The PPG advises at ID 5-013-20150327 that: *'The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'*. It also refers to: *'the potential to mitigate landscape and visual impacts through, for example, screening with native hedges'*.
22. The same paragraph echoes Framework paragraph 112 in relation to agricultural land quality. The Written Ministerial Statement of 25 March 2015 provides

amongst other things that the use of BMV land for solar farm development *'would need to be justified by the most compelling evidence'*.

Planning History

23. The only relevant history is an application for a screening opinion (ref. 14/01307/EIASO) in which the Council determined that the proposal was not development for which an Environmental Impact Assessment was required.
24. The appeal site is part of a larger holding which includes some other land and a group of the original farmbuildings. The holding has been split from the original farmhouse and some of the farmbuildings have been converted to residential use. Interested persons complain that land near the farmbuildings has been used in the past for non-agricultural vehicle storage which has now ceased. There a number of former shipping containers stored on the site near to the farmbuildings.

The Proposal

25. A full description of the proposal with illustrations and photographs is included in the Planning Design and Access Statement (Application Document 3).
26. The proposal is to erect a 5MW solar farm which it is claimed would generate enough electricity to power 1,460 typical households, albeit that output would vary with natural light conditions. This would be estimated to avoid 2.5mkg of carbon dioxide emissions each year. The solar farm infrastructure would occupy 11ha of the site's 18.3ha. The panels themselves would cover only 19% of the application area to avoid shading. The solar farm has also been designed to allow sheep grazing between the rows of panels.
27. Each panel would measure about 2m x 1m and would have a maximum height above ground level of 2.5m. They would be mounted on frames and angled at about 25-35 degrees towards the south and thus away from the adjacent railway to the north. There would be transformers, inverters and switchgear substations. The panels would be enclosed by a 2m timber and wire security fence with CCTV cameras at intervals on 2.5m poles. Other infrastructure would include a communications building, a storage shed and a composting toilet. Swales would be created for surface water drainage and the area outside the security fence would be managed as grassland. Landscaping is proposed to include the gapping up of hedgerows with native planting.

THE CASE FOR BRENTWOOD BOROUGH COUNCIL

28. It is considered that LP Policies GB1, GB2, CP1, C5, C14, C16, IR3, IR6 and T2 fully conform to the Framework.
29. There were three reasons for refusal as follows:
 1. *'The proposed solar farm constitutes inappropriate development within the Green Belt and would significantly and demonstrably decrease the openness of this part of the Green Belt and would conflict with the purposes of including land in the Green Belt contrary to Chapter 9 of the National Planning Policy Framework (Framework) and Policies GB1 and GB2 of the Brentwood Replacement Local Plan 2005.'*

2. *It has not been demonstrated that any previously developed land is available for the development within the wider area; outside the Borough of Brentwood and beyond 10km from the application site and it has not been demonstrated that there is no suitable sites of a lower agricultural quality within the Borough of Brentwood, or the surrounding area that would be more suitable for a solar farm, contrary to the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25th March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005.*
 3. *The benefits of the proposal in terms of environmental and biodiversity benefits would not clearly outweigh the harm by reason of inappropriateness and the other harm identified, to constitute the very special circumstances required to justify this development, contrary to Chapter 9 of the National Planning Policy Framework (Framework) and Policy GB1 of the Brentwood Replacement Local Plan 2005.'*
30. There are therefore three main considerations in the determination of this appeal:
1. Green Belt considerations.
 2. Whether there are any previously developed land sites available within the wider area or any suitable sites of a lower agricultural quality.
 3. Whether the benefits outweigh the harm identified to constitute the very special circumstances required to justify the development.

Green Belt Considerations

31. The proposed development constitutes inappropriate development in the Green Belt. This is confirmed by paragraph 91 of the Framework which states that when located in the Green Belt, elements of many renewable projects will comprise inappropriate development. The Appellant does not dispute that this would be inappropriate development and harmful to openness.
32. The Appellant argues that the harm to the openness of the Green Belt is mitigated by hedgerows and the lack of views into the site. However, harm to the openness of the Green Belt will occur regardless of whether a development is visible or not. Openness is about the lack of built form, rather than whether the built form is visible or not. The harm to the openness of this part of the Green Belt is contrary to National and Local Planning Policy.
33. In terms of the purposes of including land in the Green Belt, the proposal will result in encroachment into the countryside. The Appellant recognises that the proposal would result in a development which is not traditionally expected in the countryside. Screening of the development does not prevent the physical harm of having the built form proposed in the open, undeveloped countryside.
34. The Appellant suggests that harm to the Green Belt can be justified because the development is temporary in nature with the development having an operational period of 30 years 6 months. However that is a significant length of time, equivalent to an entire generation. The screening and time frame proposed do not justify the harm identified to the Green Belt in terms of inappropriateness, openness and encroachment into the countryside.

35. Substantial weight should be given to the Green Belt harm identified, as indicated by Paragraph 88 of the Framework.

Whether there are any previously developed land (PDL) sites available in the wider area or any suitable sites of a lower agricultural quality

36. The Appellant's *Sequential Analysis Study* (SAS) submitted with the application stated that neighbouring Thurrock has substantially more vacant or unused previously developed land (paragraph 3.9). At that stage, the Appellant therefore failed to consider if these sites were more appropriate for the development.
37. It is not the intention of the Council to transpose the energy needs of the Borough onto Thurrock but it is necessary for the Appellant to demonstrate that there is no previously developed land within the wider area that could be developed to provide a solar farm, before this greenfield, Green Belt, best and most versatile agricultural land is developed.
38. The Council concede that the additional information has demonstrated that there are no alternative previously developed land sites which could accommodate this development. However, this reason for refusal also raises concerns regarding the loss of the best and most versatile agricultural land which will be considered further below.
39. National and Local Planning Policy seeks to direct necessary development of agricultural land to that of the least value and quality first and is supported by the Written Ministerial Statement on solar energy which states that proposals for solar farms which involve the best and most versatile agricultural land would need to be justified by the most compelling evidence. 85% of the appeal site constitutes Grade 3a Best and Most Versatile Agricultural Land. Compelling evidence has not been submitted to justify the loss of this land.
40. Paragraph 3.7. of the SAS rebuttal statement suggests that if Brentwood Borough Council is to contribute to the energy targets through the deployment of renewable energy then given the lack of unconstrained Grade 4 and 5 agricultural land, some development of Grade 3 land will be necessary. However the Council is seeking to promote the use of renewable energies to coincide with other developments; both housing and employment developments rather than stand alone delivery.
41. When considering other land in the surrounding area the Appellant has failed to distinguish between Grade 3a and 3b land. It has still not been demonstrated that there are no alternative sites for this development of a lower agricultural quality. Within the grade 3 agricultural land within the Borough, there could be sites graded as 3b and therefore the development of these sites should be considered first as they would not result in the loss of the best and most versatile agricultural land. The development is sought for just over 30 years which is a significant length of time, with the high quality agricultural land lost for an entire generation.
42. The SAS rebuttal refers to another appeal (ref. APP/T3535/A/13/2193543) but in that appeal the majority of the site comprised grade 3b agricultural land. As such, this appeal decision is materially different to this proposal.

43. Finally, the SAS rebuttal comments that the site would be retained in agricultural use through the grazing of sheep. However, as outlined in the committee report, this would very much be an ancillary use to the solar farm, with the main function of the sheep to manage the grassland between the panels. This sheep grazing would not be all year around and would only be at a density of six sheep per hectare. The extract in the sequential analysis rebuttal statement from an appeal (ref. APP/T3535/A/13/2193543) also states that there is no certainty that sheep would graze the land after completion of the development.
44. The Appellant's statement of case comments that it would not be possible to determine whether the surrounding land is located within Grade 3a or 3b agricultural land. However, the guidance indicates that the most compelling evidence is required for solar farm developments on the best and most versatile agricultural land. The Appellant has failed to demonstrate that there is no land available for this development of a lesser agricultural quality, contrary to National and Local Planning policy and guidance.
45. The Appellant states at paragraph 7.6 that Policy IR6 of the Local Plan has a presumption in favour of renewable energy. However, the policy wording requires that there is to be no unacceptable detrimental impact on a number of criteria, and comments that where appropriate (i.e. where such proposals are located in the Green Belt) such scheme will need to comply with Policies GB1 and GB2 of the Local Plan. The proposal does not comply with policies GB1 and GB2.

Whether the benefits outweigh the harm identified to constitute the very special circumstances required to justify the development

46. Paragraph 98 of the Framework indicates that local planning authorities should approve applications unless material considerations indicate otherwise and if its impacts are (or can be) made acceptable. In this case, the Council contends that other material considerations indicate that this site is not the correct location for this development and the development cannot be made acceptable through planning conditions or amendments. Paragraph 98 does not therefore provide justification for the proposal. Planning policy and guidance make it clear that solar farm developments should be located in the most suitable sites and the Council has demonstrated that this site is not an appropriate site.
47. Paragraph 91 of the Framework states that inappropriate renewable energy projects will need to demonstrate very special circumstances if projects are to proceed and that such very special circumstances may include the environmental benefits associated with the increased production of energy from renewable sources. As such, the renewable energy production will not always outweigh the harm to the Green Belt, as in this case.
48. The Appellant claims that the move to increase renewable energy production to achieve the energy targets would necessitate development in the Green Belt. However, National Policy is moving away from the provision of large scale solar farms towards small scale proposals on roof tops, etc. The Council would similarly advocate the delivery of renewable alongside other development rather than being delivered on its own. As such, it may not be necessary to develop on the Green Belt to provide renewable energy in the Borough.
49. The renewable energy study undertaken for the Council does not carry weight and is not adopted policy. It is background evidence that may or may not shape

emerging local policy. As the Council will be encouraging renewable energy provision as part of other housing and employment developments it is not inevitable that renewable energy developments must occur in the Green Belt.

50. The Appellant also refers to Brentwood Council's lack of renewable schemes permitted in the past. However, the Council has not had a lot of renewable energy applications submitted to it for determination in the past. In any case each case should be considered on its own merits. Just because this is the first large solar farm proposal submitted in the Borough does not mean it should be automatically approved. National and Local Policy encourage renewable energy development, but not at any cost and the benefits and harm of such a proposal need to be properly considered. The Council has accurately weighed up the benefits and the harm as a result of this proposal and it is clear that the benefits, including the provision of renewable energy do not clearly outweigh the significant and demonstrable harm identified to the Green Belt and the best and most versatile agricultural land.
51. It is recognised by the Council that the proposal will result in some biodiversity benefits including the reinforcement of native hedges. However, a number of these benefits could be undertaken without the need for this development.
52. Whilst the Council raised no objection to the proposal based on the impact of the proposal on the character and appearance of the area, this was because it was considered that the proposal would not result in significant and demonstrable harm to the rural character and appearance of the area. However it is disputed by the Council that the proposal would enhance the local landscape, as the Appellant claims.
53. The main benefit of the proposal is the provision of renewable energy which would reduce carbon emissions, which is positive and the proposal would provide some ecology benefits, although these biodiversity benefits could largely be achieved without the harm caused by this development.
54. The Council has weighed these benefits with the harm identified. The Council concludes that the application site is the wrong place for a development of the size and nature proposed. As such, the benefits of the proposal in terms of environmental and biodiversity benefits would not clearly outweigh the harm by reason of inappropriateness and, other harm, to constitute the very special circumstances required to justify planning permission being granted. The proposal is therefore contrary to National and Local Planning Policy.
55. The Appellant refers to another appeal (ref. APP/B5480/A/14/2227508). However there appear to be some fundamental differences between these two appeals. It is not clear whether that site is located in an area of the best and most versatile agricultural land. The site is actually located within a golf course, not on agricultural land. It is also noted that site is almost half the size of the solar farm sought here at only 2.64MW whereas this appeal is for a 5MW solar farm. There are material differences between these two appeals and the appeal submitted with the Appellant's statement of case does not provide any justification for this proposal.
56. There are similarly a number of examples of appeals, including within the surrounding area and adjoining Boroughs, where the Inspector has concluded that the benefits of the proposal, including the renewable energy production do

not outweigh the harm identified (e.g. APP/J1535/A/12/2173989). Each case must be considered on its own merits and the Council does not consider any of the appeal decisions submitted by the Appellant in support of this appeal justify the proposal, especially considering the material differences between these appeals.

Other matters and rebuttals

57. The UK Solar PV Strategy Part 1 states that solar PV can be deployed in a variety of locations, including on the ground in greenfield sites. It includes statements such as; support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations and provide opportunities for local communities to influence decisions that affect them. This land is not simply a greenfield site; but it is also Green Belt and the majority of the site constitutes the best and most versatile agricultural land. The proposal does not comply with National or Local Planning Policy. The Council disagrees with the Appellant that this site is 'appropriately sited' as required.
58. There were a large number of neighbour objections to this proposal. The Council has concluded that the benefits do not outweigh the harm. The need for renewable energy does not automatically override the requirements for planners to properly scrutinise the effects of renewable energy.
59. The Appellant comments that because the Borough of Brentwood is largely located in the Green Belt any solar development would have to be located in the Green Belt. However, the Council would advocate an approach that sees renewable energy proposals delivered alongside other developments, both housing and employment developments, rather than being delivered on its own.
60. The Council is in the process of preparing a new Local Plan and this is the stance likely to be proposed, subject to public consultation. However, such a stance would be in accordance with Greg Barker's letter of the 22 April 2014 which confirmed that the Government is keen to focus growth of solar PV in the UK on domestic and commercial roof space and on previously developed land.

Conclusion

61. The impacts of large-scale solar projects have to be balanced properly against the benefits arising from the contribution towards the UK's renewable energy targets and other benefits. The Council has demonstrated within this statement of case and within the committee report that given that the site is located in the Green Belt and constitutes the Best and Most Versatile Agricultural Land, this site is not appropriately sited and the benefits of the proposal do not clearly outweigh the harm identified. The Inspector is therefore respectfully requested to recommend that this appeal is dismissed.

WRITTEN REPRESENTATIONS OBJECTING TO THE DEVELOPMENT

62. At the application stage 26 letters/emails and a petition with 230 names were received objecting to the development on a wide variety of grounds that are summarised in the Officer Report. As well as the reasons given by the Council these include: disturbance during construction; effect on property values; harm to the setting of the listed Ellice's Farmhouse; concerns about the efficiency of solar energy; landscape and visual impacts; health concerns; allegations of disturbance from previous unauthorised development; and a suggestion that the

development would make the land brownfield and thus eligible for housing development in the future.

63. At the appeal stage there were 75 letters/emails of objection including 55 which used a standard proforma letter and 20 which were individually written.
64. The standard letter claims support for renewable energy but doubts that the carbon savings from a solar farm outweigh the energy used in their manufacture and installation. The development would harm the Green Belt and set a precedent for other development that would turn Brentwood into an industrial town. There is an assertion of adverse health effects including cancer, headaches, fatigue and epilepsy. Construction traffic would create a dangerous environment. There are complaints that the farm has been used for industrial and commercial activities that have disturbed neighbours and which include the renting of hay barns for storage, and the open storage of vehicles and containers. The proposed development would not bring community benefits such as subsidised energy.
65. The individual letters support the Council's reasons for refusal and include some of the matters raised in the standard letter. Some writers would prefer nuclear or biomass energy. There are also claims of harm to the landscape and visual amenity.

THE CASE FOR LIGHTSOURCE RENEWABLE ENERGY LTD

66. The Appellant contends that:

- the proposal will not significantly and demonstrably decrease the openness of this part of the Green Belt,
- there are no available sites of either a previously developed or lower agricultural grade available; and
- very special circumstances exist for development in the Green Belt.

The Planning Balance

67. Given the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the assessment below firstly considers compliance with the Development Plan against the relevant matters to this proposal. Where the Development Plan is silent on a particular issue, consideration against national policy has been undertaken.
68. The assessment will demonstrate the acceptability of the Appeal Proposals firstly with regard to the development plan then secondly with regard to the location of the site within the designated Green Belt and the existence of Very Special Circumstances (VSC).

Principle of Development

69. The Framework provides strong support for renewable energy development, including the requirement for decision-taking to support the transition to a low carbon future, including by the development of renewable energy.
70. Locally, two key environmental objectives of the BRLP are: *'to conserve and protect natural resources'* and *'to minimise the consumption of energy'*. Policy

IR6 confirms BBC will have a presumption in favour of renewable energy schemes which by implication achieve these core plan objectives.

71. There is clear 'in-principle' support for renewable energy development where impacts are acceptable, or can be made acceptable through mitigation. This proposal meets the various requirements of the Planning Practice Guidance, and the impacts upon material considerations resulting from this development are assessed below together with consideration of compliance with Development Plan policies.

Assessment of impacts

Use of Agricultural Land

72. The proposal accords with the locational guidance contained in the PPG and represents the lowest grade of agricultural land available capable of accommodating the level of energy generation required.
73. The Sequential Analysis Study (SAS)² and the supplemental Rebuttal Statement indicate that the site has been selected following robust and comprehensive consideration of all other lower grade land and the necessary grid connection infrastructure.
74. The first clause of reason 2 of the Decision Notice stated that:
- "It has not been demonstrated that any previously developed land is available for the development within the wider area; outside the Borough of Brentwood and beyond 10km from the application site..."*
75. In Paragraph 2 on page 99 of the Committee Report, the Case Officer noted that *"There is no Policy indication that the location of a development should ne [sic] influenced by artificial administrative boundaries"*. Although this is correct, there is also no policy indication or guidance with regards to defining a study area for a SAS. This was acknowledged in a recent Appeal Decision for a proposed solar farm at Priors Byne Farm (APP/Z3825/A/14/2219843, 18 March 2015), in which the Inspector at Paragraph 49 summarised that: *"There is no explicit sequential test for the location of solar farms in local or national policy"*.³
76. The Appellant would highlight that pre-application advice was sought from Brentwood Borough Council in respect of the SAS methodology in January 2015, however the Council declined to provide any such guidance. In the absence of local or national policy guidance, both best practice and professional judgement have been applied when defining the study area for the Havering Grove SAS. The study area was selected based on SAS methodologies previously approved in other Local Authorities across England, such as Uttlesford District Council and East Cambridgeshire District Council.
77. Within the BRLP the written statement and Policy IR6 relating to the development of renewable energy schemes acknowledge Government targets to cut carbon dioxide emissions and increase generation of electricity from renewable sources.

² Document 9 of the Application Documents

³ That decision predates the 25 March 2015 Written Ministerial Statement and the revised Planning Practice Guidance dated 27 March 2015.

As such it was assumed that the Council is supportive of renewable energy schemes and given the availability of a point of connection into the National Grid within BBC's administrative area, the Local Authority's boundary was considered as an appropriate starting point when defining the SAS study area.

78. In order to provide a robust search area and take into consideration cross boundary potential with neighbouring Local Authorities, a 10km radius search area was applied to the Appeal Site.
79. The study area was further constrained to a 1km maximum distance from the 33/66kV grid line as proximity to a point of connection into the National Grid electricity distribution network is a vital consideration for the economic viability of a large scale solar farm.
80. Nevertheless, in Paragraph 2 on page 99 of the Committee Report, the Case Officer commented that:

"The details of the sequential analysis study submitted indicate that there could be appropriate brownfield land within the neighbouring authority of Thurrock and as such this opportunity should be considered in the first instance"
81. Indeed, the SAS did acknowledge the amount of vacant or unused PDL within the administrative area of Thurrock Council, however as only a small section of Thurrock's administrative area was included in the study area (as captured by the 10km radius of the Appeal Site) it was concluded that these PDL sites would not necessarily be within the study area, nor within a feasible distance from an available point of connection into the National Grid 33kV electricity distribution network.
82. Furthermore, the Framework at Paragraph 97 imposes a responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It was therefore not considered appropriate to seek to transpose the energy needs of Brentwood onto neighbouring Thurrock.
83. However, in order to address the first part of reason 2 for refusal and incorporate the Case Officer's comments from the Committee Report, a subsequent assessment of these PDL sites has been completed to provide clarification on the availability of PDL within the neighbouring district of Thurrock.
84. To complete this assessment, data from the Office of National Statistics' National Land Use Database (NLUD) has been used to assess the PDL sites. The most recent database (2012) contains 83 PDL sites within the Thurrock district, 75 of which are less than 8ha in area and are therefore significantly smaller than the Appeal Site (18.3ha). These sites would therefore not be capable of generating a comparable megawatt (MW) output and would therefore not be economically viable in terms of factors such as the cost of connecting into the electricity distribution network.
85. The remaining 8 sites that exceed 8ha were assessed for their potential deliverability.
86. It is concluded that although there is more vacant and unused PDL within the Thurrock administrative area, the majority of these sites would not offer a comparable site area to that of the Appeal Site. Sites that are of a comparable

size are either allocated for an alternative use or are more constrained than the Appeal Site in terms of their suitability for solar development.

Use of Best and Most Versatile Land

87. The second clause of reason 2 in the Decision Notice stated that:

"...it has not been demonstrated that there is [sic] no suitable sites of a lower agricultural quality within the Borough of Brentwood, or the surrounding area that would be more suitable for a solar farm, contrary to the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25th March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005".

88. Contrary to the statement above, an assessment of suitable alternative sites of a lower agricultural grade was completed within the SAS and returned no alternative sites.

89. The Appeal Site is classified on DEFRA's East Region 1:250,000 Series Agricultural Land Classification (ALC) map as Grade 3, the same as the majority of land within the study area which is also classified as Grade 3 (72%). The Case Officer stated in Paragraph 3 on page 99 of the Committee Report that the SAS *"does not distinguish whether this land is Grade 3a or Grade 3b"*. The Council have re-iterated in their SoC that before they can allow a development on Grade 3a land they need to establish that none of the other land within their district (which might be suitable for solar) is not Grade 3b. To soil test the whole of the study area in order to distinguish whether this is Grade 3a or 3b land is an unfeasible request.

90. To obtain this information soil survey work would need to be completed on every piece of land within the assessment area. This would require the landowners granting consent for the survey work to take place, multiple samples taken from each site and the cost of each site being tested. Such a cost would threaten the economic viability of the appeal proposals.

91. As such, only alternative sites on Grade 4 and 5 land were considered in the assessment of alternative lower Grade sites. After assessing the lower grade land, there is minimal land of lower grade than the Appeal Site in the study area (Grades 4 and 5), all of which is located within a Special Landscape Area (designated under Policy C8 of the Brentwood Replacement Local Plan). It is therefore concluded that this land would be considered less suitable for solar development than the Appeal Site given that the Appeal Site is not located within a Special Landscape Area, nor in close proximity to any sensitive ecological, heritage, recreational or residential receptors.

92. As stated in Paragraph 3.41 of the SAS:

"the only Grade 4 land within the study area (ie. land of poorer quality than the Application Site) is located to the southwest of Brentwood town, within a Special Landscape Area and is therefore considered to be more environmentally constrained than the Application Site. This Grade 4 land is also located more than 6km from the grid line, and therefore the cost of connecting to the grid would likely be prohibitive to a developer. There is no Grade 5 land within the study area."

93. In addition to maintaining this original conclusion, if BBC are to contribute to national, legally binding energy targets through the deployment of renewable energy then given the lack of unconstrained Grade 4 and 5 land within the Borough, some development of Grade 3 land will be necessary.
94. The Appellant's SoC confirms that the land will remain available for agricultural use and it is the firm intention of the Appellant to facilitate the grazing of sheep throughout the duration of the temporary period of operation of the proposals.
95. The Proposed Development is temporary. As recognised by a recent recovered Appeal Decision in March 2015, made by the Secretary of State in relation to consideration of agricultural land, it was recognised that solar development would not lead to the irreversible loss of agricultural land or soil degradation.
96. The recovered Appeal Decision made by the Secretary of State relates to land at Ellough Airfield, Suffolk for the installation of a 24MW solar farm and associated infrastructure (APP/T3535/A/13/2193543).
97. The Inspector's recommendation to the Secretary of State was that the appeal be allowed and planning permission granted. Paragraph 11 of the recommendation confirmed that the majority of the site is Grade 3b agricultural land, with about 11.6 hectares (of the 46 hectare site) comprising Grade 3a land.
98. The Secretary of State confirms at Paragraph 27 of his decision that:
- "The Secretary of State agrees with the Inspector that, though there is no certainty that sheep would graze the land after the completion of the development, there is no cogent evidence to demonstrate that the proposal would result in a significant or permanent loss of the best and most versatile agricultural land, or harm to the agricultural industry."* (Underlining Appellant's emphasis)
99. The Secretary of State's overall conclusion did not include the use of agricultural land for the primary purpose of a solar farm as a negative factor which weighs against permission being granted. Such comments are highly applicable to the current Appeal Proposals and confirm that solar proposals do not result in the permanent loss of best or most versatile agricultural land.
100. The Ellough Airfield development related to land which comprised some best and most versatile agricultural land, but the use of the land as a solar farm was not considered to result in its '*significant or permanent*' loss which weighed against the proposal. Given the comparable circumstances for the Havering Grove Appeal relating to agricultural land quality, this determination of the Secretary of State should also apply here.
101. Furthermore, it is inferred in Paragraph 97 of the Framework that all communities have a responsibility to contribute to energy generation from renewable or low carbon sources. It is therefore deemed reasonable that a Local Authority boundary be used as a basis for defining a SAS study area and arbitrary to seek to transpose the energy needs of BBC onto the neighbouring District of Thurrock when a confirmed point of connection into the electricity distribution network exists adjacent to the Appeal Site.
102. The Appeal Site would remain in agricultural use through grazing sheep on the land around and beneath the solar panels. Additionally, biodiversity

improvements proposed include substantial new planting of trees and wildlife friendly species and enhancement of existing habitat corridors throughout the site. New planting and landscaping would leave a lasting environmental legacy long beyond the life of the solar farm. The Proposed Development is therefore compliant with guidance in Paragraph 5-013-30150327 of the Planning Practice Guidance.

103. In demonstrating the acceptability of this methodology, the Appellant would respectfully draw the Inspector's attention to Appeal Decision APP/V2255/W/15/3017938 recently issued on the 7th December 2015; an appeal for which the Pegasus Group prepared the Sequential Analysis Study.
104. In allowing the appeal for a 11MW solar farm on 24.46 hectares of Grade 2 and 3a land, the Inspector commented at paragraph 11 in respect of the SAS, that:
- "Whilst the Council is critical of the methodology and extent of the search, it is clear that it is not possible to fully investigate every possible location for a solar farm within the search area. Indeed it is not incumbent upon any developer to demonstrate that there is no possible alternative to an application site, just that reasonable efforts have been made within practical constraints, such as cooperation of landowners."* [Para 11]
105. In further reiteration of the level of evidence required in respect of potential alternative sites outside of best or most versatile land, the Inspector concluded at paragraph 16 that:
- "...the Appellant has demonstrated reasonable steps to demonstrate that there are no alternative sites with poorer quality agricultural land within the study area. Conversely, the Council have not suggested any part of the District were a solar farm might be located on land that is not designated BMV agricultural land."* [Para 16]
106. The Appellant contends that such a conclusion is entirely relevant to the current Appeal Proposals.
107. In summary, it has been demonstrated that no previously developed land is available for the Proposed Development within the wider area; outside the Borough of Brentwood and beyond 10km from the Appeal Site. This point having now been accepted by the Council.
108. It has also been demonstrated that there are no suitable sites of a lower agricultural grade within the Borough of Brentwood or the surrounding area that would be more suitable for a solar farm. The Proposed Development is therefore compliant with the National Planning Policy Framework, particularly Paragraph 112, the Written Ministerial Statement of the 25 March 2015 and Policy IR3 of the Brentwood Replacement Local Plan 2005.
109. The SAS rebuttal statement has also shown that there is no PDL land suitable for large scale solar farm development
110. It has therefore been demonstrated that no alternative site exists within existing settlement boundaries or on other previously developed land and that the appeal site is the lowest grade of agricultural land available to meet the immovable physical limitations of the electricity grid.

Period of Development

111. The length of time for which temporary permission is sought is directly related to the financial regime affecting the provision of solar farms.
112. Solar farms are recognised to involve high development and construction costs and are reliant on subsidies to ensure their financial viability.
113. Although such development costs have decreased, the level of government subsidy has also decreased with the overall subsidy regime being subject to considerable uncertainty.
114. Whilst subsidy support is available through the Renewable Obligations Certificates and Contracts for Difference, these mechanisms are based on achieving suitable payback periods for the large investment required upfront to construct a solar farm, rather than the expected working life of a solar farm.
115. However the Solar Industry has now reached a point where the reductions in costs are now less significant yet the subsidies are still decreasing at the same, if not a greater rate, thus constraining the economic viability of solar farm developments. To counter this, the Appellant routinely applies for a minimum of 30 years of operation to Local Planning Authorities, and agree leases with landlords on the same basis.
116. The additional five years of revenue streams above a 25 year operational life, enhances the overall viability of the investment case to develop and construct a solar farm.
117. Therefore, in the current financial policy climate the Appellant stresses the critical requirement to be able to present a solar farm to an investor with at least a 30 year planning permission at the outset to ensure that the economics of proceeding with development stack up. To this end the Appeal Proposals utilise high grade 'Tier 1' panels capable of providing high levels of energy production throughout the life of the development.
118. It is only through such an approach that renewable energy schemes can be secured, thereby enabling the UK to reach its legally binding 2020 target of obtaining 15% of energy from renewable sources.

Conclusion

119. BRLP Policy IR6 seeks to permit renewable energy schemes provided that such schemes do not give rise to unacceptable detrimental impacts on a number of criteria which individually have been discussed above.
120. No harm to local site specific criteria has been identified.
121. The proposal has been shown to have minimal impacts on the relevant matters and to be in compliance with the relevant parts of the Development Plan and national planning policy.

Green Belt

122. Given the terms of the Framework, a further assessment of the suitability of this development in the Green Belt is also required.

123. The reason for refusal states that BBC considers the proposal constitutes inappropriate development in the Green Belt which has a significant impact upon its openness and represents an encroachment into the countryside. The reason accepts there are other considerations but states these are insufficient to outweigh the identified harm caused to the Green Belt such as to constitute very special circumstances.
124. BRLP Policy GB2 confirms that proposals within the Green Belt will be assessed against the purposes of including such land within the Green Belt. Compliance with the national policy in the Framework will also mean compliance with the Development Plan on this matter.
125. Paragraph 87 of the Framework sets out the terms of assessing development proposals in the Green Belt, and states:
- "As with previous Green Belt policy, inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances."*
126. Paragraph 91 indicates that *"many elements of renewable energy will comprise inappropriate development"*. While certain aspects of the proposed works could be considered an 'engineering operation', confirmed as not inappropriate in the Green Belt at paragraph 90, taken as a whole, the proposal could be taken as amounting to inappropriate development in the Green Belt.

Keeping land permanently open

127. The proposal would result in a development being located within an area which is currently open, and therefore an impact on openness is inevitable. However, the existing field boundary hedgerow around parts of the site and surrounding fields act to limit inter-visibility and the length of the majority of views in the local area. In certain locations where field boundary hedgerows are low or have gaps, limited views are available. However given the low lying and ground-hugging nature of the proposed development and the proposed hedgerow planting, there would be no significant effect on the openness of these views, or the inter-visibility within the local area.
128. Furthermore, this appeal seeks planning permission for a temporary operational period of 30 years 6 months. Following decommissioning the site would be returned to open agricultural land and, therefore, there would be no permanent effect on openness.
129. The Council's Statement of Case (SoC) states that the proposal by virtue of its effect on the openness of the Green Belt *'results in substantial harm to the Green Belt'*. However this harm must be considered in light of the fundamental purpose of Green Belt designation and its key characteristics outlined in Framework paragraphs 79 and 80.
130. The proposal would not conflict with the five purposes of Green Belt designation within Framework paragraph 80. Indeed no such assertion is made by the Council within its Statement with the sole identified conflict relating to the perceived impact on openness.
131. Framework paragraph 79 states that:

"The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."

132. The appeal proposals relate to a temporary form of development and will not therefore permanently affect the openness of the Green Belt. On termination of the development, all physical structures and works will be removed with no permanent residual impact on the openness of the Green Belt.
133. Taken together, it is submitted that these matters should reduce the overall weight to be given to the impact of the proposed development upon openness.

To assist in safeguarding the countryside from encroachment

134. This proposal would result in a development which is not usually or traditionally expected in the countryside. However, once operational, the development would be particularly benign and not result in a material increase in associated activity which would, in itself, be harmful to the countryside or increase encroachment of urbanising development. The visual screening of the site and the proposed development will serve to assist in further reducing any perception of encroachment into the countryside.

Other purposes of the Green Belt

135. It is considered that the proposal would not materially prejudice the other purposes of the Green Belt which are:
- To check unrestricted sprawl of large built up areas
 - To prevent neighbouring towns merging into one another
 - To preserve the setting and special character of historic towns
 - To assist in urban regeneration

Summary of Green Belt Harm

136. Therefore, "any other harm" to the Green Belt can be considered to only amount to the temporary loss of openness and encroachment, which would both not be readily perceptible during the period in which the development is in place.
137. Due to the low level nature of the development and time limited proposal, these impacts should be given moderate weight against the proposal in the balance of establishing VSC. This adverse impact must be weighed against the positive considerations, which are addressed below.

Other Matters Not Included in the Reasons for Refusal

Landscape and Visual Impact

138. An Appraisal of Landscape and Visual Effects (ALVE) was submitted with the proposals⁴

⁴ Document 8 of the Application Documents

139. In relation to landscape character this concludes that the site is of '*medium sensitivity*' to change and that there would be a '*high magnitude of change*' within the site but a '*negligible magnitude of change*' for the wider landscape because of the '*strong feeling of enclosure within the immediate site area with very limited opportunities for medium or long distance views.*' Overall it concludes that there would be a '*minor adverse effect*' on the local landscape character. There would be some minor long term benefits from the enhancements of existing landscape elements such as the filling of gaps in hedges.
140. In relation to visual effects the AVLE commented that the low lying landform, adjacent woodland and hedgerows restrict views from the majority of the surrounding landscape. Consideration was given to views from residential properties, public highways and public rights of way and a selection of representative viewpoints was included. At paragraph 8.82 the AVLE concludes that views towards the development are restricted to: limited locations along a bridleway to the west; limited locations along a public footpath to the east; and from the Shenfield to Southend Railway adjacent to the northern boundary of the appeal site⁵. Views from residential properties and roads are anticipated to be restricted by intervening vegetation (although there may be partial visibility). At paragraph 8.92 it is concluded that: '*From the limited number of viewpoints where the proposed development could be visible, the proposed development would not be visible in its entirety*'.
141. Overall the AVLE found that the development could be successfully accommodated within the existing landscape without causing unacceptable harm to visual amenity or to landscape character.
142. The case officer's report to Planning Committee concurs with this conclusion. The report at the penultimate paragraph on Page 102 states that:
- "...given that the countryside here is not located as a Special Landscape Area and given the findings of the ALVE and the fact that the solar farm would not be particularly visible in the area, it is not considered that the proposal would result in significant and demonstrable harm to the rural character of the area."*
143. The report goes on to state at the top of Page 103:
- "No objection is therefore raised on this basis of Chapter 7 (design) of the NPPF or Policies CP1 (visual amenity) or IR6(ii) (character and appearance of an area) of the Local Plan."*
144. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with the visual amenity and landscape character elements of Local Plan Policies CP1, C5 and IR6.

Ecology

145. A Biodiversity Management Plan and an Ecological Assessment were submitted with the proposals. These found that the site is not subject to any designation relating to its biodiversity value, nor would it adversely affect any such site. Furthermore, no material impacts on protected species are anticipated, with a net

⁵ The railway was not included in the representative viewpoints.

gain resulting following the introduction of management and enhancement measures.

146. The proposed enhancements include the creation of habitat corridors around the ponds on site as well as along the internal and external hedgerow boundaries to the site. These areas are supplemented by additional native tree and hedgerow planting alongside grassland seeding. Such measures will allow for a wide and diverse range of habitats to be created by the proposals and can be secured by a suitably worded condition.

147. This enhancement is acknowledged by Natural England in their response of the 10 March 2015 to the proposals, who in raising no objections comment that not only can such measures be achieved via condition but also that:

"Solar farm developments offer excellent opportunities to create new habitats, and especially "priority habitats" listed under s41 of the NERC Act 2006." [Natural England Response 10th March 2015. Officer Report Page 103]

148. In light of this situation the final paragraph on Page 103 of the officer report states that:

"Subject to such a condition it is considered that the proposal would not have any harm [sic] ecology and no objection is therefore raised on this basis."

149. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Local Plan Policies CP1 and C5.

150. It is further acknowledged by the statutory consultee that the Appeal Proposals can bring forward significant ecological benefits.

Heritage Assets

151. The Historic Environment Settings Assessment submitted with the proposal considered the impact of the proposals in respect of surrounding heritage assets and concluded that in no instances would there be substantial harm and that the overall impact would be no more than negligible.

152. This conclusion is shared by the Council's Historic Building Consultant, who having had particular regard to the proximity of the site access to the Grade II listed property of 'Ellices', raises no objection to the proposal on conservation grounds.

153. In relation to archaeological heritage assets, these were considered by way of an Archaeological Desk Based Assessment supplemented by a geophysical survey at the request of the Essex County Council Historic Environment Officer.

154. These combined assessments conclude that the overall impact of the proposals on archaeological heritage is low. This conclusion is shared by the Historic Environment Officer and culminates in no objection being raised to the proposals.

155. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Local Plan Policies CP1 and CP16.

Amenity of neighbours

156. The operational period of the development is particularly benign, with minimal movement, noise or reflection from the panels. Furthermore, no properties are at such proximity to the development to result in an overbearing impact on occupiers to the extent that the dwelling would become an undesirable place to live.
157. The Committee report concurs with this assessment finding the application to be acceptable in these regards, together with the impact of privacy from CCTV cameras which will be restricted so they face towards the development area only.
158. Therefore, the proposal is compliant with the relevant parts of Local Plan Policy CP1.

Flood Risk

159. The submitted Flood Risk Assessment concludes that the majority of the site lies within Flood Zone 1 with lesser parts of the site within Flood Zones 2 and 3.
160. In line with the hydrological sequential approach, the physical elements of the proposal are located entirely within Flood Zone 1, the area of lowest flooding probability. Swales are proposed throughout the site to provide betterment in terms of site drainage.
161. The Environment Agency offers no objection to the proposal and the case officer confirms that Essex County Council as the Lead Flood Authority also raise no objection.
162. There is therefore professional agreement and consensus that the proposal is acceptable in this regard and, as such, is compliant with Chapter 10 of the NPPF.

Highways and Access

163. It is confirmed in the '*Construction, Decommissioning and Traffic Management Method Statement*' submitted with the application, that visits by vehicles to the site would be very limited during the operational phase. However, for construction purposes deliveries would number approximately 150 vehicle loads over a 8-12 week period. The field access to the site would be upgraded by the use of permeable materials to safely accommodate construction traffic.
164. No objections are raised in terms of highway safety from the Highway Authority, subject to conditions relating to the construction phase, which the Appellant would accept. The Committee report confirms that no highway objection is raised to the proposals. The proposal is therefore acceptable in this regard and compliant with the relevant parts of Local Plan Policies CP1 and T2.

Benefits

165. Paragraph 91 of the Framework is clear that, in relation to renewable energy projects, VSC may include the wider environmental benefits associated with the increased production of renewable energy.
166. It is anticipated this proposal will have an installed electricity generating capacity of 5MW, produced from renewable sources. Given local solar irradiation levels, it is estimated this solar farm will produce electricity sufficient to power

1,460 average homes and to save approximately 2,502,280kg of CO2 emissions per annum, or the equivalent of removing 556 standard cars from the road per annum.

167. This proposal would therefore make a significant and valuable contribution to the following national policy objectives:

- Reduction in CO2 emissions;
- Increase in electricity generated from renewable sources, assisting in meeting the UK's binding renewable energy obligation;
- Mitigation against climate change;
- Increasing security of the United Kingdom energy supply.

168. This significant benefit is emphasised further when considered against the most recent under-performance of the United Kingdom against national targets in these regards:

- The *European Union Renewable Energy Sources Directive (2009)* includes a legally binding target for the UK to produce 15% of energy from renewable sources by 2020.
- *SI 2011 No 243 – The Promotion of the Use of Energy from Renewable Sources Regulations (2011)* translates that to a duty on the Secretary of State [for Energy and Climate Change] to ensure that the 15% target is met and includes a schedule of indicative targets for earlier years.
- The *UK Renewable Energy Roadmap Update 2013* confirmed that the initial indicative 4% target was not met (albeit by a small margin), and that only 2.4GW of solar PV had been installed to the end of June 2013 against the potential for deployment of 20GW by 2020⁶.
- The *2020 RES Scenarios for Europe* prepared for the European Union in 2014 concluded that the UK is not on track to meet its 2020 15% target.
- There is now a higher 27% EU wide target for 2030, compared to 1999.

The above documents show that there is an immediate and pressing need for deployment of renewable energy in the UK.

169. Current Government advice concerning solar PV development includes the following:

- The *UK Solar PV Strategy Part 1: Roadmap to a Brighter Future (2013)* included the Government's recognition of the central role and contribution that appropriately sited solar PV can play in helping meet the 15% target by 2020 and that it can be deployed at all scales and in a variety of locations including greenfield sites. Also that the need for renewable energy does not automatically override the requirement for planners to properly scrutinise the effects.

⁶ At December 2015 UK deployment stood at 8.4GW (Source DECC)

- The *UK Solar PV Strategy Part 2: Delivering a Brighter Future (2014)* provides amongst other things that solar PV is an important part of the UK's energy mix and that large scale ground mounted solar PV can have a negative effect on the rural environment if not well planned and well-screened. It needs to be appropriately sited with proper weight to environmental considerations.
- The letter by Greg Barker [in his then role as an Energy Minister] dated 22 April 2014 confirms that the Government is keen to focus growth of solar PV on domestic and commercial roofspace and previously-developed land but that there is still a place for larger scale field based solar if sensitively placed.
- The Written Ministerial Statement of 25 March 2015 by [the former Secretary of State] Eric Pickles states amongst other things that compelling evidence need to be provided to justify solar development on Best and Most Versatile land and that schemes should be directed to lower grade agricultural land in strong preference to the use of higher grade land.

The above documents confirm that solar PV is at the forefront of the drive to achieve the 2020 targets but the impacts of large scale development must be balanced properly against the benefits. The likely shortfall against meeting binding EU targets is a key factor. The appeal scheme is appropriately sited, will not have an unacceptable material adverse impact and will provide significant benefits of renewable energy and ecological enhancements.

170. It is also important to consider the benefits of the development locally which demonstrate the necessity for the development to the provided in the proposed location. These are outlined below.
171. The site is within the Green Belt. However, significant parts of Brentwood Borough outside of the urban areas are covered by the Green Belt designation.
172. One key objective of the BRLP is to increase the installed renewable energy capacity within the Borough. The emerging Local Plan document '*Local Plan Preferred Options 2015-2030*' sets out the Council's commitment to secure 15% of the Borough's energy requirements from renewable energy sources. Moreover the evidence base produced in support of the new local plan production clearly indicates that a move to increase energy production to achieve either a local or national target, will necessitate such development in the Green Belt. The *Renewable Energy Study* conducted for the Council by the University of Exeter, explicitly states that:
- 'Development would necessarily occur within the Green Belt, and may be constrained by proximity to suitable connection to the electricity grid.'*
173. Such a conclusion wholly accords with the evidence base put forward in support of the Appeal Proposals.
174. Whilst it is accepted that the new policy formulation is emerging and undoubtedly subject to change and evolution, the evidence base, as contained with the University of Exeter Study, will remain constant. The level of Green Belt designation is highly unlikely to reduce and the renewable energy target is a legal requirement stemming from the 2009 European Directive.
175. In connection with this commitment paragraph 7.22 of the Council's SoC states that as a Council they are *"seeking to promote the use of renewable*

energies to coincide with other developments; both housing and employment developments rather than standalone delivery.” However such a statement is in direct conflict with their own Renewable Energy Study, which was completed in April 2014 by the University of Exeter, and forms part of the established evidence base for the emerging local plan and the 15% target therein.

176. The Appellant would therefore reiterate the findings of The Executive Summary which state that:

“The potential for renewable energy in Brentwood was assessed using existing data sources and the Government’s SQW methodology where possible. The total technical potential was established, together with an indicative scenario for a potential energy mix in 2030. Following this scenario would result in about 9% of energy demand for the Borough in 2030 being met by renewable sources of energy. The technologies considered were classified into three groupings; standalone technologies, district schemes and building technologies.”

177. It is therefore clear that the potential target for generating 15% of the Borough’s energy from renewable energy by 2020 will not be possible solely without the use of stand-alone technologies. It is therefore inevitable that acceptable renewable energy development must occur in the Green Belt in the Borough.

178. However the policy approach advocated by the Council completely fails to recognise the evidential need for standalone technologies and refers to an intention to move away from standalone installations.

179. Not only is such an approach entirely contradictory to the Council’s own evidence basis as to how to achieve its 15% commitment, but also refers to an approach that is ‘likely’ to be proposed within the emerging Local Plan. At the time of preparing the Appellant’s statement no such policy exists and it cannot therefore be given any weight in the decision making process.

180. The Executive Summary goes on to state:

“The most significant standalone technologies are large scale wind turbines and photovoltaic (PV) arrays. Due to their scale, a relatively small number of these installations could result in significant generation of renewable energy within the Borough. However, development would necessarily occur within the Green Belt, and may be constrained by proximity to [a] suitable connection to the national electricity grid.”

181. The Renewable Energy Study clearly states that to reach their own target of 15% by 2020, the Council will need to allow some development of renewable energy within the Green Belt. The suite of environmental assessments that accompany this Appeal demonstrate that the design of the site and the associated mitigations will minimise any environmental impacts with the proposed screening planting further reducing the visual impact.

182. As can be seen from the location of the site within the SAS it is positioned next to the grid line therefore minimising the cable length to connect the solar farm to the National Grid and in turn minimise electrical losses.

183. The applicant therefore maintains its position that this site is suitable for a solar farm and its presence will enable the Council to remain on track in achieving their 15% by 2020 generation target.

Permitted Renewable Schemes in Brentwood Borough Council 1989-2015

184. No significant renewable energy schemes have been permitted in Brentwood Borough over the past 26 years. The largest solar scheme permitted is 250kW with the largest overall renewable scheme is a single 500kW wind turbine. Given a national target of achieving 15% of final energy consumption from renewable sources by 2020, the importance of the Appeal Proposals to BBC is clear. In this context, the national and local environmental benefits of the development must be given very substantial weight in favour of the development in establishing VSC.
185. Framework Paragraph 91 outlines that the environmental benefits of renewable energy generation can constitute VSC on their own. However, in this case it is also appropriate to consider the other site specific benefits of the scheme which indicate why it is necessary for the development to be sited within the Green Belt.

Biodiversity enhancements

186. Paragraph 81 of the Framework confirms that local authorities should plan positively to enhance the Green Belt, including retaining and enhancing biodiversity.
187. The proposals include a number of measures which will result in a net gain to biodiversity resulting from the development. Through the reinforcement of native hedgerows along with the filling of remnant hedgerows, this development will create an improved situation for wildlife as the planting will allow for foraging, provide shelter and provide habitats for a variety of species. These enhancements would continue beyond the lifetime of the proposed development, providing a long-term and continuing ecology benefit. Other ecological benefits associated with the proposal include planting of grassland across the site.
188. Taken together, these measures amount to a significant ecological benefit, which will assist in meeting a specific objective of Green Belt enhancement. Therefore, this matter should be given moderate weight in the consideration of VSC.

Landscape and visual enhancements

189. The strengthening of existing hedgerows and additional planting will also result in local enhancements to the landscape, through the provision of a greater physical continuity and bolstering of the field pattern of the site. Again, this benefit will remain in the long term and beyond the lifetime of the planning permission and assist in meeting an objective of Green Belt enhancement, outlined at Framework Paragraph 81. This matter should be given limited weight in the VSC consideration.

Third Party Representations:

190. Although the third party representations predominantly relate to the key issues already considered within the main proposal, the Appellant would highlight the

level of support expressed for the proposal and the stated opinions as to the overwhelming acceptability of the site in landscape and Green Belt terms.

Conclusions on Very Special Circumstances

191. Given the above considerations, it can be considered that this judgement comprises the following elements:

- The harm arising from the impact on the openness of the Green Belt and encroachment, to be given moderate weight in the consideration;
- The environmental benefits associated with renewable generation, to be given very substantial weight in the consideration;
- The biodiversity enhancements, to be given moderate weight in the consideration;
- The landscape enhancements, to be given limited weight in the consideration;

192. The environmental benefits on their own may constitute VSC and taken together with the other benefits can be considered to clearly outweigh the harm.

193. Given the above considerations, it is submitted that VSC have been demonstrated in this particular case.

Planning Balance

194. The proposal has been shown to be in compliance with Development Plan policies, the Framework, and also the specific criteria for large scale solar PV developments as detailed in the Planning Practice Guidance website in relation to Renewable and Low Carbon Energy.

195. The impacts of the proposal have been shown to be acceptable and, where harm has been identified, it has been demonstrated this is particularly limited and falls some way below a threshold which would warrant the dismissal of the appeal.

196. Furthermore, the significant benefits associated with this proposal, primarily through the generation of renewable energy to provide electricity for an estimated 1,460 homes (using average electricity consumption) and reductions to CO₂ emissions by 2,502,280kg per annum, will provide a significant and valuable contribution towards meeting the challenging obligations of the Government regarding renewable energy generation, and also in the form of ecological and landscape enhancements weigh heavily in favour of support for this development. The weight to be given to the local need for renewable energy schemes in BBC is also evidenced by the lack of any permitted schemes capable of making valuable contributions to national targets.

197. This statement therefore demonstrates that, upon considering the following matters, this proposal, on balance falls well within the scope of acceptability:

- Compliance with the Development Plan and national planning policy guidance;
- The significant benefits associated with the scheme; and
- The relatively benign impacts associated with the development.

198. The consideration of these factors, together with the limited harm to the purposes of the Green Belt, also demonstrates there are VSC which means that the approval of this development in the Green Belt is justified despite its inappropriateness.

199. Such a conclusion reflects that reached by an Appeal Inspector considering a proposal for a 2.6MW solar farm located approximately 20 miles to the south west of the current site in Surrey and within the same Metropolitan Green Belt. In allowing the appeal under Appeal Reference APP/B5480/A/14/2227508, the Inspector concluded in the planning balance stated at paragraphs 39-41 of her decision that:

'39. I have found that substantial weight must attach to the harm that the proposed development would cause to the Green Belt, by reason of its inappropriateness; its adverse impact on openness; and its conflict with one of the five purposes for designating Green Belt. However, that is the full extent of the harm that would be caused.'

40. On the other side of the balance, I have found that substantial weight should attach to the benefits associated with the proposed production of energy from a clean and renewable source, and considerable weight should attach to the ecological benefits that would be achieved by the development proposals.'

41. I conclude that the totality of the harm that would be caused by the proposed development is clearly outweighed by other considerations, such that the very special circumstances, necessary to justify a grant of planning permission for development in the Green Belt, exist in this case.'

Conclusions

200. The relevant policies of the Development Plan have been considered and the reasons for refusal rebutted.

201. The 'principle of development' has been demonstrated to be in accordance with the provisions of the Framework, which provides strong support for renewable schemes. The proposals are also consistent with the latest advice and best practice guidance contained in the Government's PPG relating to renewable and low carbon energy production.

202. Furthermore the site has been selected following a comprehensive and extensive search of all previously developed land available within both the Brentwood Borough and the surrounding authorities and represents the most deliverable site of the lowest available agricultural land grade capable of facilitating necessary grid connection infrastructure.

203. The development is likely to comprise inappropriate development in the Green Belt. However, Very Special Circumstances exist, primarily in the form of renewable generation but also biodiversity, landscape and public access enhancements which, in this case, outweigh the limited harm to the openness of the Green Belt and encroachment.

204. It has also been demonstrated that the proposal is acceptable (or can be made acceptable with the imposition of conditions) and compliant with national policy, the Development Plan and emerging policy in respect of the other material considerations. These considerations include:

- Landscape and Visual Impact;
- Ecology;
- Cultural Heritage;
- Residential amenity;
- Flood Risk;
- Access and Highway Safety.

205. Therefore, it is considered that the proposed solar farm would make a significant and valuable contribution to local objectives to increase renewable energy generation and the Government's sustainability objectives with impacts of the development particularly benign and in accordance with the relevant planning policy framework.

206. Taking account of the evidence provided within this Statement and the supporting Appeal documentation, the proposed development, on balance, falls well within the scope of acceptability and therefore, it is respectfully requested that the appeal be upheld and planning permission granted.

WRITTEN REPRESENTATIONS SUPPORTING THE DEVELOPMENT

207. At the application stage there were 127 letters of support for the development using a standard proforma letter, some of which included additional comments. There were a further 3 individual letters of support and 7 feedback forms that also indicated support.

208. At the appeal stage there were 34 letters/emails of support.

209. Most supporters cite the benefits of renewable energy and express concerns about climate change and energy security. They dispute that the development would be harmful to visual amenity including in views from public rights of way or the adjacent railway. They claim that misinformation has been circulated by opponents of the scheme on matters such as health effects.

CONDITIONS

210. In case the appeal is allowed the Council submitted draft planning conditions with their appeal statement. These are discussed below at paragraphs 246-248.

INSPECTOR'S CONCLUSIONS

[Figures in square brackets refer to paragraphs elsewhere in the report]

211. The main considerations are as follows:

- whether the proposed development is inappropriate in the Green Belt or harmful to its openness or purposes;
- whether the use of agricultural land is necessary;
- whether the use of best and most versatile land is appropriate;
- whether there are any other relevant considerations;
- whether any benefits of the development outweigh any identified harm to the Green Belt and any other harm

Green Belt

212. The appeal site is in the Metropolitan Green Belt [8] and the development plan's Green Belt policies defer to national policy to determine what development is not inappropriate [9-10]. With the possible (and qualified) exception of some engineering operations [126], the erection of solar arrays and the associated infrastructure including security fences, close circuit security cameras and other equipment is not included in the list of development that Framework paragraphs 89 and 90 define as not inappropriate. Paragraph 91 also advises that elements of many renewable energy projects will comprise inappropriate development [17]. In this case the main parties agree that the development would be inappropriate [31, 126] and paragraph 87 provides that such development should not be approved except in very special circumstances.

213. The main parties also do not dispute that the development would affect the openness of the Green Belt which paragraph 79 describes as one of its essential characteristics [30, 126]. The Appellant points out that the fundamental aim of Green Belt policy is to keep land '*permanently open*' [131]. As a temporary development which is intended to be removed after 30.5 years the loss of openness would not itself be permanent. Nevertheless it would be experienced for a considerable time and thus does represent additional harm to the Green Belt; albeit less than the enduring harm of a permanent development. The impact of the loss of openness would be mitigated to a degree by the low 2.5m height of the solar arrays compared to conventional buildings, by the distance from public rights of way and dwellings and by existing and proposed screening. However, it would cover an extensive area and the loss of openness would be experienced at close quarters by travellers on the adjacent railway with little scope for mitigation in views from the embankment [2, 228-229].

214. The Appellant suggests that the development would not conflict with the defined purposes of the Green Belt as set out at paragraph 80 of the Framework [134, 135]. However the Council claims conflict with the purpose of assisting in safeguarding the countryside from encroachment [32]. The Appellant acknowledges that this would be a development '*which is not usually or traditionally expected in the countryside*' whilst suggesting that this would be a '*benign*' development with little activity once operational and that a perception of encroachment would be reduced by the screening [134].

215. In my experience, because of their large scale, solar farms are found mainly in the countryside and they are not typically associated with urban development. Nevertheless they are a relatively novel form of development of an obviously manufactured nature and their layout and materials are not characteristic of more traditional rural development. Accordingly I consider that they do represent a relatively large scale encroachment of man made structures into the countryside, albeit not characteristically urban. In this case, whilst screening would mitigate the perception of that encroachment from some more distant viewpoints, especially in summer when deciduous vegetation is in leaf, the encroachment would be particularly obvious from the adjacent railway and views from trains could not be effectively screened having regard to the proximity and relative height of the tracks [228-229].
216. It is not disputed that there would be no harm to the other purposes of the Green Belt [135].
217. In summary there would be harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside.
218. The Appellant suggests that only 'moderate' weight should be attached to the harm to the Green Belt [137]. However paragraph 88 of the Framework is clear that: *'When considering any planning application, local planning authorities should ensure substantial weight is given to any harm to the Green Belt.'* [35] The same considerations should apply at the appeal stage. Moreover the Appellant has drawn attention to an appeal which was allowed for a solar farm in the Green Belt in Surrey on a golf course [199]. It is notable that the Inspector in that case did accord substantial weight to the harm to the Green Belt.

Use of Agricultural Land

219. The Framework at paragraph 111 encourages the effective use of land by re-using previously-developed (brownfield) land. It does not preclude development on agricultural land or set out a sequential test for the location of solar farms. However the Written Ministerial Statement of 25 March 2015 provides amongst other things that where a proposal for solar energy development involves agricultural land this includes being quite clear this is *'necessary'*. The PPG was revised 2 days later on 27 March 2015. At paragraph 5-013-20150327 it seeks to focus large scale solar farms on previously-developed and non agricultural land. It also similarly advises that the proposed use of agricultural land must be shown to be necessary. Thus, whereas the Appellant has drawn attention to my appeal decision at Priors Byne in West Sussex in which I concluded that there was then no explicit sequential test in national policy [75], it must be pointed out that that decision was issued on 18 March 2015 - 1 week before the ministerial statement - and could not have taken it or the revised PPG into account.
220. In any event the Appellant has submitted a Sequential Analysis Study which includes consideration of whether urban or previously developed land is available within Brentwood or within a 10km radius that includes land in adjoining local planning authority areas and especially in Thurrock [36-41, 72-86]. The Appellant submitted additional information which has demonstrated that whilst there is some previously developed land in Thurrock beyond that radius this is either significantly smaller and would not be economically viable, or is allocated for an alternative use, or is otherwise constrained and unsuitable. The Council now accepts that there are no alternative previously developed land sites

(including in Thurrock) which could accommodate this development [38]. It follows that the use of agricultural land is necessary to accommodate a development of this scale and would not contravene the first part of BRLP Policy IR3 or the necessity test of the WMS and the PPG. Neither would development of the appeal scheme prevent or make less likely the development of some smaller rooftop schemes elsewhere in Brentwood or nearby areas, subject to considerations such as financial viability and a willing landowner.

Use of Best and Most Versatile Land

221. Paragraph 112 of the Framework seeks that *'where significant development of agricultural land is demonstrated to be necessary'*, account is taken of the economic and other benefits of best and most versatile land. More generally it seeks that poorer quality land is used in preference to higher quality land. The paragraph applies to all forms of development and does not define what is meant by *'significant development'*. One indication is that Schedule 4 of the *Town and Country Planning (Development Management Procedure) (England) Order 2015* postdates the Framework and only seeks statutory consultation with Natural England where development involves the loss of at least 20ha of BMV land. Also, in the Ellough Airfield appeal cited by the Appellant and determined by the then Secretary of State the loss for the life of a solar farm of 11.3ha of Grade 3a BMV land was not regarded as *'significant or permanent'* [98, 100]. However in that case the majority (75%) of the 46 hectare site was Grade 3b and only 25% Grade 3a whereas in the present case 85% is Grade 3a and only 15% is Grade 3b.
222. There are similar relevant provisions relating to BMV land and a preference for the use of poorer quality land over higher quality land in the PPG guidance at 5-13-20150327 and in the WMS of 25 March 2015. The latter just postdates the Ellough Airfield decision (finally issued on 11 March 2015 following the quashing of the original decision by the Courts) and it includes an additional provision that: *'any proposal for a solar farm involving the best and most versatile land would need to be justified by the most compelling evidence.'* That does not refer to the 20ha threshold for consultation and suggests that any solar farm may now be considered to be *'significant development'* for the purposes of the BMV test. Also in this case the reason for recovery is that the proposal involves *'significant development'* albeit in relation to the Green Belt issue rather than BMV land. The WMS does not amplify what evidence may be considered to be *'compelling'*.
223. The proposal highlights a practical issue. The Framework defines best and most versatile (BMV) land as Grade 3a and above, however public registers of agricultural land quality do not distinguish between Grade 3a BMV land and Grade 3b land which is not BMV. Testing on the appeal site has established that it is 85% Grade 3a land and 15% Grade 3b [39]. However there is no evidence to establish whether, and how much of, the 72% of all the agricultural land in the study area that is Grade 3 is Grade 3a BMV land and how much is Grade 3b non-BMV land [89]. Instead the Appellant has relied upon consideration of the limited amount of Grade 4 and 5 land in the Borough and has only provided evidence as to why that land is unsuitable, mainly due to location and landscape reasons [91-93].
224. In support of their position the Appellant Company points to an appeal decision issued in December 2015 which permitted a solar farm on 24.46ha of Grade 2

and Grade 3a BMV land [103-106]. In that case the Inspector accepted that it was not possible to fully investigate every possible location for a solar farm within the search area. The Inspector also concluded that it is not incumbent on the developer to demonstrate that there is no possible alternative to an application site, just that reasonable efforts have been made within practical constraints, such as cooperation of landowners. Neither in that case had the Council suggested any part of the District that was not BMV land as a potential location.

225. The Appellant suggests that to satisfy the Council's requirements they would need to soil test the whole study area. They consider this to be unfeasible and, if not, that the cost of such testing would also make the development economically unviable [90]. I consider that to be overstating the case as it would not be necessary to test the quality of those sites which in any event would likely be less suitable for other reasons such as lack of a grid connection, location in a designated landscape, proximity to heritage assets, or, not least, an unwilling landowner. Moreover a willing agricultural landowner is likely to already have some awareness of which of his or her Grade 3 land is of poorer quality and to prefer its development to that of better quality land. The present use of the land would also provide some initial indication that it is of poorer quality and more likely to be Grade 3b. That would reduce the need to test all of the land.
226. Given the large amount of Grade 3 land in the study area it seems unlikely that this is all of even Grade 3a quality and likely that at least some is Grade 3b. The evidence would be thus more compelling was there any evidence that the Appellants had approached other landowners and, if they were willing to contemplate development, had tested at least a sample of likely sites that were not constrained by other factors.
227. In the absence of further evidence I therefore do not consider that compelling evidence has been produced to demonstrate that there are no suitable poorer quality (3b) sites in the study area that could accommodate the development. That contravenes relevant provisions of BRLP Policy IR3, NPPF paragraph 112, the PPG and the WMS and merits moderate weight.

Other Considerations

228. The PPG at paragraph 5-013-20150327 also cites a number of other planning considerations for solar farms. Where relevant these have generally been addressed in the Appellant's submissions at the application and appeal stages [138-164]. They do not form the basis for any additional reasons for refusal by the Council [29]. However some are relevant to matters raised by other interested persons [62-65] and also to what was seen on the site inspection.
229. In relation to the effect on landscape character and visual amenity, the Appellant has submitted an Appraisal of Landscape and Visual Effects (ALVE) [137-140]. From my site inspection I generally endorse its conclusions in respect of those views which were assessed in terms of the effect on visual amenity and the perception of landscape character. This includes the limited adverse effects on visual amenity for relatively distant occupiers of dwellings and for users of public rights of way. However I consider that the overall conclusions are undermined by the lack of recognition that the site would not be enclosed from the immediately adjacent and busy railway and the lack of assessment of the visual amenity of those using the trains.

230. I acknowledge that train passengers may be less sensitive visual receptors than either local residents (who may see the development for long periods every day) or recreational users of public rights of way (who move slowly along paths and public bridleways, and for whom views of the countryside are important to their recreational value). Train passengers would be moving faster and may not be looking out of the window in this direction when they pass the site. However for those who are, and who would include twice daily commuters on this busy line, much of the solar farm would be seen in a single view and it would adversely affect their perception of the rural character of the landscape and the openness of the Green Belt. Some mitigation would be provided by vegetation where the railway line is at grade, and especially in summer. Also the panels would be angled away from the railway and would be at a lower level than the embankment so they would not obstruct wider views beyond the solar farm. Nevertheless I conclude that the residual harm to the perceived character of the wider landscape would be minor adverse rather than negligible, as claimed. There would be moderate to minor adverse effects on the visual amenity of rail users. That should be included in the planning balance.

231. Of the other matters raised by interested persons [62-65]:

- traffic and disturbance during construction would be experienced for a brief period and is a factor of most forms of development – there are no objections from the highway authority and the effects could be mitigated by conditions;
- any effect on property values has not been substantiated by evidence and is not here a relevant planning consideration;
- the effect on the setting of the listed Ellice's Farmhouse has been included in a heritage assessment and I concur with its conclusions that the appeal site has a negligible contribution to its setting and that there would be a negligible effect on its heritage significance;
- it is both improbable, and unsubstantiated by submitted evidence, that the construction of a solar farm causes more carbon emissions than they save; the use of solar energy as a form of renewable energy has been endorsed by the Government;
- the health concerns are also unsubstantiated by submitted evidence; neither have the alleged health effects been compared with the adverse consequences for air quality and health of alternative means of energy production such as the burning of fossil fuels;
- complaints about previous development at the farm are not material to the consideration of this proposal which should be determined on its own merits;
- to grant permission for a temporary solar farm would not change the status of the land as either Green Belt or countryside or make the site eligible for housing development; any further proposals for solar energy developments on this or other sites would fall to be considered on their own merits at the time;
- whilst it is not a material consideration for inclusion in the planning balance for this appeal, the Planning Design and Access Statement explains that there would be benefits to the local community in the form of a community benefit fund; business rates from the development would also be retained by the Borough and County Councils to fund their services.

It is concluded that these concerns would not outweigh the main considerations in the overall planning balance.

Benefits

Renewable Energy

232. To assess the extent of the benefit of the development's provision of renewable energy it is relevant to consider the policy context and the record of delivery of renewable energy in Brentwood.
233. Core principles of the Framework include to identify and meet the business and other development needs of an area and to encourage the use of renewable resources (for example, by the development of renewable energy [16]. Business and other development needs would logically include renewable energy.
234. Paragraph 97 of the Framework also includes the provision that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources [18].
235. Locally the Brentwood Replacement Local Plan (BRLP) was adopted in 2005, 7 years before the Framework was published. Policy IR6 will permit proposals for renewable energy provided that there is no unacceptable detrimental impact against set criteria and that schemes comply where appropriate with the Green Belt policies [11]. Policy IR6 is described in the supporting text as an interim policy until the adoption of the Regional Spatial Strategy (since revoked along with regional targets). That text also refers to the then aspirational Government targets for renewable energy. Those have since been superseded by legally binding targets to include 15% of energy from renewable sources by 2020 and higher targets at later dates including an 80% reduction in carbon emissions by 2050 [168-169].
236. The BRLP does not include a local target for renewable energy. However the Local Plan Preferred Options document suggested a local target of 15% by 2030 [172]. That would be achieved 10 years later than the equivalent national target and at a time when the EU-wide target will have risen to 27% [168]. Neither will that 15% target necessarily be included in the Local Development Plan when it is adopted.
237. The Appellant points out that very little renewable energy infrastructure has been installed in Brentwood Borough in the 11 years since the BRLP was adopted with the largest scheme being for a single 500kW wind turbine and the largest solar scheme having a 250kW output [184]. It is likely that there have also been some rooftop installations across the Borough at a similar rate to those installed elsewhere but when more generous tariffs were available.
238. The Renewable Energy Study includes an objective assessment of the need for renewable energy provision in Brentwood that accords with a core principle of the Framework to make such assessments [13]. It concludes that, even if the other zero or low carbon measures referred to in the Report are implemented, to achieve even the Preferred Options target of 15% renewable energy by 2030 would still require 16 commercial scale wind turbines and that these developments would necessarily be located in the Green Belt [14]. There is no evidence that the Council is intending to identify suitable locations in the Borough for wind turbine development as would now required by national policy and

guidance before they may be permitted. This means that solar PV farms are more likely to be needed if there is to be a significant contribution to energy from renewable sources in Brentwood.

239. The 5MW appeal scheme would have an output similar to 2 commercial 2.5MW turbines. It follows that if no wind turbines are installed (as seems likely) then 8 5MW solar PV schemes of the scale of the appeal proposal would be needed to meet such a target.
240. The Council has suggested that it may not be necessary to develop renewable energy in the Green Belt on the basis that there could be small scale proposals on rooftops or that renewable energy can be delivered alongside other development [49]. However this directly contradicts the conclusions of the Council's own Renewable Energy Study and is not substantiated in terms of the quantity of energy which might be provided. In particular, whereas it may be feasible for new housing or commercial and industrial developments to meet some or even all of their own energy needs on site and even to export some surplus energy, it is unrealistic to expect that this would come close to providing 15% or more of all the Borough's energy needs, particularly in an area where the amount of new built development is itself likely to be constrained by the Green Belt.
241. Subject to the fiscal climate, the small scale rooftop provision that is favoured by the Council may continue to come forward elsewhere whatever the outcome of the appeal. However the financial incentives for such small scale development are proposed to be reduced by altering the feed in tariffs and some providers are currently leaving the industry. This makes their installation less likely. Moreover the appeal proposal is equivalent to 1250 x 4kW typical domestic installations. There is no evidence to suggest that these would come forward as additional installations in the event that the appeal is dismissed. Even if they do, having regard to the small amount of installed capacity indicated by the Renewable Energy Study, both forms of development are likely to be needed to make a significant contribution by this community towards the national targets.
242. There are now no national or regional targets for renewable energy deployment within individual planning authority areas. Neither does the adopted development plan currently include such a target. Nevertheless the deployment of renewable energy in Brentwood is likely to fall far short of a proportionate contribution to legally binding national and international targets unless solar farms similar to the appeal scheme are developed in the Green Belt. If they are not then the shortfall would need to be made up at other locations outside the Borough. If the national targets are to be met those other locations would need to produce renewable energy well in excess of that needed to cover their own energy requirements. That is unlikely in urban locations such as London with their own high intensity energy demands. If the Framework provision that the environmental benefits of renewable energy may constitute very special circumstances is not applied, then it would also be unlikely that other areas with extensive Green Belt, such as the Home Counties, would produce above the 15% national target. The current evidence is that the UK is likely to miss its 2020 target [169]. Future additional provision beyond that date also remains uncertain to meet higher international targets or the higher national target for 2050.

243. In these circumstances, substantial weight should be accorded to the appeal proposal's significant 5MW contribution to renewable energy production.

Other Benefits

244. There is evidence of net gains for bio-diversity, mainly from the filling of hedgerow gaps and from other new planting at the site perimeter [145-150, 186-188]. This merits moderate weight.
245. Whilst the Appellant also points to some landscape benefits from that new planting [189], these would only partially mitigate the greater adverse landscape effects of the development as a whole. Neither is the long term retention of the planting assured. This benefit thus merits only limited weight.

Conditions

246. A set of draft planning conditions was submitted by the Council for application in the event that the appeal is allowed.
247. The draft conditions are vague in some respects. For example they do not include a list of approved drawings and do not specify which provisions of which submitted reports should be complied with. Some reports only include draft proposals. The attached schedule of conditions therefore includes a number of changes which include a list of plans for approval and more specific conditions relating to the subjects covered by the Appellant's reports. These should not come as a surprise to the Appellant. Where the reports or other evidence only include draft proposals or lack necessary details (for example of landscaping) then some matters are reserved for subsequent approval. Other changes have been made in the interests of clarity and certainty and otherwise to accord with the test for conditions set out at paragraph 206 of the Framework.
248. The schedule includes a reason for each condition.

Planning Balance and Conclusions

249. The use of agricultural land has been shown to be necessary and is not precluded by national policy or guidance and should not count against the proposal. Also there would be mitigation in the continued (less intensive) use of the site for agriculture in the form of sheep grazing. Nevertheless there would be harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment into the countryside. To that harm to the Green Belt needs to be added firstly the loss (for the life of the development) of best and most versatile land (in the absence of compelling evidence that no poorer quality Grade 3b land is available and otherwise suitable). Secondly there would be some harm to visual amenity in those views from the railway which could not be screened and which have not been adequately assessed in the AVLE. The availability of these views would adversely affect perceptions of landscape character and the openness of the Green Belt. The harm to the Green Belt merits substantial weight and is supplemented by the other harm.
250. The combined harm needs to be weighed with the identified benefits of the development and especially the wider environmental benefits of significant production of renewable energy. This merits substantial weight, in part because little renewable capacity has so far been installed in Brentwood. But also because the evidence base for the Council's development plan clearly establishes

that significant production of renewable energy (and a proportionate contribution by the community towards legally binding national targets) could not be achieved without large scale wind or solar energy schemes in the Green Belt. Moreover there is no evidence that any wind energy schemes would accord with current national policy or are likely to come forward. The Appellant has also supplied evidence that the UK is not on track to meet its own 2020 target for renewable energy.

251. The Framework at paragraph 91 does clearly state that the wider environmental benefits of increased production of energy from renewable sources may qualify as the very special circumstances that are needed to justify development in the Green Belt. In this case those benefits would be supplemented by some modest benefits to biodiversity through new planting. Nevertheless, the same benefits are likely to be capable of realisation on poorer quality agricultural land in the Green Belt and there is a lack of compelling evidence that the use of Grade 3a BMV land is necessary when 72% of the study area is Grade 3 and is likely to include some 3b land which may be suitable. This tips the balance against the proposal and it is concluded that the other considerations do not here qualify as the very special circumstances necessary to clearly outweigh the harm to the Green Belt and the other harm.

252. The Appellant points out that a solar farm in Surrey was allowed in the Green Belt on appeal [199]. However, as the Council points out, that development apparently used golf course land which was not in agricultural use and there is no evidence that it would have qualified as BMV land even had it been in agricultural use. In any event it was not available for such use. Also that scheme was for a solar farm only half the size of that proposed here.

Recommendation

253. For the above reasons it is concluded that based on the submitted evidence in relation to BMV land it has not been shown that the development is in overall accordance with the development plan (in terms of Policies IR3, GB1 and GB2 and IR6) or with national policy and the appeal should therefore be dismissed.

254. In the event that the Secretary of State disagrees with this recommendation and allows the appeal it is recommended that the conditions set out in the attached schedule should be applied.

Robert Mellor

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings:
 - a) Site Location Plan (ref: HVG_01) which details the extent and location of the appeal site as outlined in red;
 - b) Proposed Layout Plan (ref: HVG_01_Rev E);
 - c) Road Cross Section;
 - d) CCTV Pole Details (Ref: CCTV_01);
 - e) Client Side Sub-station (Ref: CSR_01);
 - f) Communications Building (Ref: CB_01);
 - g) Deer Fence Details;
 - h) DNO Building Details (Ref: DNO_01);
 - i) GRP Cabinet (XXX_01_A);
 - j) Transformer Enclosures (Ref: TD_01);
 - k) Inverter Elevations (Ref: ID_01);
 - l) Toilet Cabinet (Ref: TC_01);
 - m) Storage Building (Ref: SB_01)
 - n) Auxiliary Transformer (Ref: AT_01)
 - o) Panel Elevations (Ref: TYP_P_A_3L)
 - p) Swept Path Analysis (Ref: L340/1)

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

3. The use of the land as a solar farm shall be for a period of 30 years 6 months only and shall be discontinued after such a period. All development associated with the use, including temporary buildings and other operations development (including fences and hardstandings) and all items placed on the land in connection with its use as solar farm shall be removed within 6 months of the end of that period or the discontinuation of the use (if earlier) and the land shall be restored to a condition which has previously been agreed in writing by the local planning authority.

Reason: In the interest of preserving the openness of the Green Belt, to prevent encroachment into the countryside and in the interests of safeguarding the best and most versatile agricultural land.

4. The development shall be constructed and decommissioned in accordance with provisions of the Construction, Decommissioning and Traffic Management Method Statement (Ref Havering Grove) dated 28 January 2015 and the Construction Traffic Management Plan (Ref Havering Grove) dated May 2015 with the latter document taking precedence in the case of any conflict.

Reason: In the interest of highway safety, residential amenity and the character and appearance of the area.

5. The development shall be constructed and maintained in accordance with the findings and recommendations contained in the Biodiversity Management Plan V2 Ref Light-068-425-02 dated 4 February 2015.

Reason: In the interests of ecology and biodiversity on the site.

6. No development shall commence until a Hedge and Tree Protection Plan along the lines of the Draft Tree Protection Plan Ref L.0325 dated 6 February 2015 has been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: In order to protect trees and hedges of importance to safeguard the character and appearance of the area.

7. The development hereby approved shall not be made operational until an acoustic report/scheme detailing the intended acoustic work to the transformer/switch gear sub stations and inverters has been submitted to and approved in writing by the local planning authority to include a programme for its implementation. The development shall only be carried out in accordance with the approved details

Reason: In the interest of the residential amenity of nearby residents.

8. Apart from that hereby approved, and notwithstanding the provisions of the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent re-enacting Acts or Orders) no floodlighting or any other form of external lighting shall be provided on the site.

Reason: To safeguard the living conditions of nearby residents and in the interests of the character and appearance of the area.

9. No development shall be commenced until details of a surface water drainage strategy along the lines recommended in the Flood Risk Assessment by PFA Consulting dated January 2015 have been submitted to and approved in writing by the Local Planning Authority to include arrangements for its future maintenance. Electricity shall not be exported from the site until the approved scheme has been implemented.

Reason: To reduce the risk of surface water flooding.

10. No development hereby permitted shall commence until a scheme of landscaping of the site has been submitted and approved in writing by the Local Planning Authority. This scheme shall include:

- a) the existing trees and shrubs which have been agreed to be retained;
- b) a specification for the proposed new planting along those hedgerows on the appeal site to mitigate the visual and landscape effects of the development (species, size, spacing and location);
- c) areas for hard surfacing and the materials to be used;
- d) other means of enclosure;
- e) location of trenches for cabling and depth/width of trenches; and
- f) a method and programme for its implementation and the means to provide for its future maintenance including the heights at which the hedgerows are to be maintained.

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

11. All planting, seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or hedge plants which during the life of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

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



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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