STEPHENSON HALLIDAY

Planning, Landscape & Environment
an RSK company

POSTCOMBE AND LEWKNOR SOLAR FARM

Planning Statement
Postcombe and Lewknor Solar Farm Limited
May 2025

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Document history

Version	Date	Amendment	Author	Approved
1.0	March 2025	V.1	Caitlin Chang	Matthew Mortonson
2.0	May 2025	V.2	Caitlin Chang	Joanna Berlyn

1 INTRODUCTION

1.1 Purpose

1.1.1 This Planning Statement has been prepared by Stephenson Halliday Ltd to accompany a planning application submission (the 'Application') by Postcombe and Lewknor Solar Farm Limited (hereafter referred to as 'the Applicant'), to South Oxfordshire District Council ('the Council') to construct, install and operate solar farm with a capacity of up to 49.9MW on agricultural land located to the south of the village of Postcombe, Lewknor at British National Grid Reference (NGR) SU 70800 98800. The submitted Application seeks planning permission for the following:

"*Installation of a solar farm and cable corridor with associated infrastructure, access, security fencing and landscaping"*

1.1.2 Planning permission is sought for a temporary operational period of 40 years from the date of first exportation of electricity, following which the Site will be decommissioned and returned to its original use prior to development. A full description of the development is provided in **Chapter 4** and hereafter it is referred to as the 'Project Description'.

1.1.3 The purpose of this Planning Statement is to set out the planning case for the Proposed Development. This Planning Statement provides an overview of the Site, the Proposed Development, the planning and energy policy background and an assessment of the Proposed Development against policies within the Development Plan and other material considerations.

1.1.4 This Planning Statement is set out as follows:

- Chapter 1 – Introduction
- Chapter 2 – Carbon Reduction
- Chapter 3 – Site and Surroundings
- Chapter 4 – The Proposed Development
- Chapter 5 – Planning Policy Considerations
- Chapter 6 – Policy Assessment of the Proposed Development; and.
- Chapter 7 – Planning Balance and Conclusion.

1.2 Supporting Documentation

1.2.1 This Application is accompanied by the following supporting documentation submitted alongside this Planning Statement:

- Application Form and Certificates;
- Environmental Statement;

- Planning Drawings, including:
  - Site Location Plan
  - Site Layout
  - Panel Elevations [Figure 4.3]
  - Inverter Elevation [Figure 4.4]
  - Substation Elevation [Figure 4.5a and 4.5b]
  - Customer Station Elevations [Figure 4.6]
  - Spares Container Elevation [Figure 4.7]
  - Meteo Station Elevation [Figure 4.8]
  - Fence and Gate Elevation [Figure 4.9]
  - CCTV Pole Details [Figure 4.10]
  - Road Cross Sections [Figure 4.11]
  - Cable Trench Cross Section [Figure 4.13]

1.2.2 The following supporting information can be found within Volume 1 – Written Statement of the Environmental Statement:

- Landscape and Visual Impact Assessment (LVIA) (Prepared by Stephenson Halliday 2025);
- Heritage Impact Assessment (Prepared by AOC Archaeology Group, 2025);
- Ecological Impact Assessment (EcIA) (Prepared by SLR Consulting Limited, 2025);
- Solar Photovoltaic Glint and Glare Study (Prepared by SLR Consulting Limited, 2025);

1.2.3 The following supporting information can be found within Volume 2 – Figures of the Environmental Statement

- Figure 1.2a – 4.2 Introduction Figures
- Figure 3.1 – 3.3 Design Iteration Figures
- Figure 5.1 – 5.7 LVIA Figures
- Figures 6.1 – 6.11 Cultural Heritage Figures
- Figures 7.1 – 7.3 Ecology Figures

1.2.4 The following supporting information can be found within Volume 3 – Visuals of the Environmental Statement:

- Figure 5.8 – 5.11 – LVIA visuals

1.2.5 The following supporting information can be found within Volume 4 – Technical Appendices of the Environmental Statement:

- Biodiversity Net Gain (BNG) Assessment (Prepared by SLR Consulting Limited, 2025);
- Arboricultural Impact Assessment (AIA) (Prepared by Barton Hyett Associates, 2025);
- Flood Risk (FRA) and Drainage Assessment (Prepared by Ashfield Solutions Group, 2025);
- Transport Statement (TS) and Construction Traffic Management Plan (CTMP) (Prepared by Pell Frischmann, 2025);
- Agricultural Land Classification (ALC) Survey (Prepared by Soil Environment Services 2025); and,
- Soil Management Plan (SMP) (Prepared by Land Research Associated, 2025).

1.3 The Applicant

1.3.1 The Applicant, Postcombe and Lewknor Solar Farm Limited, is a jointly proposed by Solar2 and Recurrent Energy.

1.3.2 Solar2 is a specialist energy developer, founded in 2019 by Gerry and Paula Jewson, former owners of West Coast Energy. Solar2 has offices in Somerset and Wales and members of the team have experience of developing solar projects in Oxfordshire.

1.3.3 The Solar2 team has a substantial track record in the successful development of renewable projects throughout the UK, being responsible for the delivery of more than 1GW of renewable energy.

1.3.4 Recurrent Energy, a subsidiary of Canadian Solar Inc., is one of the world's largest and most geographically diversified utility – scale solar and energy storage project development, ownership and operations platforms. With an industry – leading team of in – house energy experts, Recurrent Energy serves as Canadian Solar's global development and power services business.

1.3.5 To date, Recurrent Energy has successfully developed, built and connected 11 GWp of solar projects and more than 3GWh of energy storage projects across six continents. As of December 31 2024, its global pipeline includes over 28 GWp of solar and 67 GWh of energy storage capacity.

1.4 Pre-Application Request

1.4.1 A formal request for pre-application advice was submitted to South Oxfordshire District Council on 10th January 2022 for a solar farm development up to 49.9 MW at Lewknor, the response was provided on 11th April 2022 (Reference **P22/S0152/PEJ**), and set out the principal matters that would be considered were pertaining to:

- Principle of development
- Best and Most Versatile Agricultural Land
- Landscape Impact
- Ecology
- Trees
- Drainage
- Heritage impact and archaeology
- Highways and access
- EIA development

1.4.2 The officer concluded that the main impact would be related to the landscape and the effect on the Chilterns National Landscape (formerly Area of Outstanding Natural Beauty (AONB)). Therefore in response to this, the Applicant submitted a follow up pre-application enquiry with a new Site boundary in September 2023 purely to discuss matters pertaining to landscape; the closure of a Public Right of Way (PRoW); and, access arrangements.

1.4.3 The Council provided advice on viewpoints for the LVIA and guidance with regards to access, PRoWs and ecology.

1.5 Environmental Impact Assessment (EIA) Screening

1.5.1 Under the Town and Country Planning (Environmental Impact Regulations) 2017, where development falls under Schedule 2, the need for EIA is determined based on a set of criteria as set out below:

"Development falls within one of the classes of development stated in Schedule 2; AND,

- *EITHER exceeds the size threshold for that class of development; OR is in a sensitive area as defined by the EIA Regulations; AND,*
- *It is likely to have significant environmental effects due to factors such as nature, size or location."*

1.5.2 Solar development is not specifically listed under Schedule 2 of the EIA Regulations, however, Schedule 2 refers to 'Energy Industry' categories. It is considered that the Proposed Development falls within the category of "*industrial installations for the production or electricity, steam and hot water (unless included in Schedule 1)"* and exceeds the 0.5ha threshold for EIA Screening. As such, the Regulations require an EIA if the Proposed Development is likely to have a significant impact on the environment, by virtue of factors such as its nature, size and location.

1.5.3 In June 2022 an EIA Screening Request was submitted to South Oxfordshire District Council (Application Reference: **P22/S2431/SCR**) under Regulation 6 (2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), to determine whether the Council considered the Proposed Development likely to give rise to any significant effects on the environment; and therefore, require an Environmental Impact Assessment.

1.5.4 In July 2022, the Council determined the Proposed Development required an EIA. In response to this, the Applicant sought a Scoping Opinion (Reference: **P23/S0203/SCO**) which deemed what was to be scoped in and out of the EIA. The Council deemed the following matters to be scoped in:

- Landscape, glint and glare, and visual impact
- Cultural heritage and archaeology
- Land take, soil quality and agricultural land
- Ecology

1.5.5 In accordance with the EIA Regulations, an Environmental Statement has been prepared. This Planning Statement should be read in conjunction with the Environmental Statement and all other supporting technical documentation which accompany the Application.

1.5.6 The full Screening Opinion is provided for reference in Appendix 2.1 of the Environmental Statement and the Scoping Opinion is provided at Appendix 2.2 of the Environmental Statement.

2 CARBON REDUCTION

2.1 International and National Energy Policy Targets

International

United Nations (UN) Conference of the Parties (COP) Climate Change Conferences

2.1.1 The UN Conference of the Parties (COP) has convened an annual meeting since 1995 to assess progress in dealing with climate change and negotiable global climate action. In 2015, the UN Climate Change Conference agreed that in order to limit significant impacts arising from global warming, a worldwide temperature increase would need to be limited to 1.5 °C.

2021 UN Climate Change Conference (COP 26)

2.1.2 The UK held the Presidency of the 26th United Nations Climate Change Conference (COP26) and its aim was to keep alive the hope of limiting global temperature rises to 1.5°C. This ambition could be realised with compliance with agreeing the Glasgow Climate Pact – this global agreement will accelerate action on climate this decade, and finally completes the Paris Rulebook.

2.1.3 The UK's work to prepare for COP26 focused on the following four goals:

- Mitigation – reducing emissions;
- Adaptation – helping those already impacted by climate change;
- Finance – enabling countries to deliver on their climate goals; and,
- Collaboration – working together to deliver even greater action.

2.1.4 One of the key messages highlighted at COP26 was the importance of moving away from coal power and the importance of scaling up clean power as an alternative including renewable energy generation.

2022 UN Climate Change Conference (COP27)

2.1.5 COP27 took place in Sharm el-Sheikh in November 2022 and was attended by over 35,000 participants including more than 100 Heads of States (HoS) and Governments. During the conference, governments were requested to revisit and strengthen 2030 targets for mitigating climate change in their national climate plans by the end of 2023.

2.1.6 The Sharm el-Sheikh Implementation Plan[1] emphasises there is an "*urgent need for immediate, deep, rapid and sustained reductions in global greenhouse gas emissions in order to limit global warming to 1.5°C.*"

[1] https://unfccc.int/sites/default/files/resource/cop27_auv_2_cover%20decision.pdf

2023 UN Climate Change Conference (COP 28)

2.1.7 COP28 took place in Dubai, United Arab Emirates, concluding on December 13th 2023, where negotiators from nearly 200 Parties came together with a decision on the world's first 'global stocktake' to rachet up climate action before the end of the decade. The global stocktake was considered to be the central outcome of the COP, as it contained every element that was under negotiation which now can be used by countries to develop stronger climate action plans due by 2025.

2.1.8 The stocktake recognised the science that indicates global greenhouse gas emissions need to be cut 43% by 2030, compared to 2019 levels, to limit global warming to 1.5°C, but noted that Parties are off track when it comes to meeting their Paris Agreement goals.

2.1.9 COP28 also emphasised the potential of energy storage to significantly shape a sustainable energy future. Initiatives such as the Supercharging Battery Storage Initiative, Battery Energy Storage (BESS) Consortium and Net Zero World all point in one direction, addressing energy poverty, promoting sustainability, and achieving clean energy goals.

UN Climate Change Conference (COP 29)

2.1.10 The 29th annual United Nations Climate Change Conference closed on November 24th 2024, following its commencement on November 11th 2024. The Conference, held in Baku, Azerbaijan, was attended by almost 200 countries, reaching breakthrough agreements, and committing to a new finance goal to help countries to protect their people and economies against climate disasters, and share in the vast benefits of clean, renewable energy. Discussions were underpinned by the overarching aim of keeping global temperature increases well within the 2°C goal and ideally the 1.5°C pre-industrial limit.

2.1.11 A cornerstone achievement of the Conference was the Global Energy Storage and Grids Pledge. The Pledge encourages investment in energy storage, sets a target to deploy 1,500 gigawatts of energy storage capacity and adding or refurbishing 25 million kilometres of grid infrastructure by 2030. The Conference highlighted that the cost of BESS solutions has decreased by 90% since 2009, now making BESS a viable option to help ensure stable and secure energy supply.

2.1.12 The financial goal set up at COP29 builds on action taken at COP27 which agreed a historic Loss and Damage Fund, and COP28, which delivered a global agreement to transition away from all fossil fuels in energy systems.

2.1.13 Simon Stiell, Executive Secretary of UN Climate Change set out that the new finance goal "*is an insurance policy for humanity, amid worsening climate impacts hitting every country […] It will keep the clean energy boom growing, helping all countries to share in its huge benefits: more jobs, stronger growth, cheaper and cleaner energy for all.*"

2.1.14 The finance agreement achieved follows a requirement for all countries to provide stronger national climate plans in 2025, which must cover all greenhouses gases and all sectors. Importantly, COP29 resulted in the UK setting out clear signals that they "*plan to ramp up climate action in their Nationally Determined Contributions (NDCS)".*

2.1.15 COP29 reached agreements on carbon markets – aiding countries to deliver climate plans with greater efficiency and make rapid progress in reducing net global carbon emissions this decade.

National

The UK Carbon Budget

2.1.16 The UK's commitment to the 2015 Paris Agreement, and its long-term objective of a 2050 decarbonised economy, makes the transition to a decarbonised energy system essential. In October 2017, the Government published a Clean Growth Strategy[2], focusing on growing national income whilst cutting greenhouse gas emissions. The strategy recognises that the way in which energy is generated in the UK is changing and that complementary mechanisms, including energy storage, will play a vital role.

2.1.17 In June 2019, the UK became the first major economy in the world to pass laws to end its contribution to global warming by 2050, through the Climate Change Act 2008 (2050 Target Amendment) Order 2019. The legally binding target will require the UK to bring all greenhouse gas emissions to Net Zero by 2050, compared with the previous target of at least 80% reduction from 1990 levels. The UK's 2050 Net Zero target, one of the most ambitious in the world, was recommended by the Committee on Climate Change, the UK's independent climate advisory body. Net Zero means any emissions would be balanced by schemes to offset an equivalent amount of greenhouse gases from the atmosphere, such as planting trees or using technology such as carbon capture and storage.

2.1.18 In April 2021, the UK Government announced that the UK's sixth Carbon Budget will enshrine in law a new target to reduce carbon emissions by 78% (compared to 1990 levels) by 2035, the world's most ambitious climate change target. The target has now been made a legal requirement.

2.1.19 On the 26th of February 2025, the UK Government announced the seventh Carbon Budget, this covers 2038 to 2040. Goal 1 – Energy sets out aims to ensure a reliable low-carbon energy supply through renewables, storable energy, batteries and interconnected markets. The Budget sets out how the cost of batteries have fallen substantially over the period of the first three carbon budgets.

British Energy Security

2.1.20 Energy Security has become a significant concern since the invasion of Ukraine and soaring energy prices. It is becoming increasingly evident that there is a desire within the Government to be as self-sufficient as possible without energy supply.

2.1.21 The British Energy Security Strategy policy paper (April 2022) focused on strategies to ensure long-term secure, clean and affordable energy for the UK. Within a section on '*Networks, storage, and flexibility'* the paper outlined the importance of storage in improving the efficiency of the UK energy system.

2.1.22 The policy paper set out the two priorities for the UK energy system: "*anticipating need because planning ahead minimises the cost and public disruption; and hyper-flexibility in matching supply and demand so that minimal energy is wasted".*

[2] https://www.gov.uk/government/publications/clean-growth-strategy

2024 Committee on Climate Change (CCC) Progress Report to Parliament

2.1.23 In July 2024, the Committee on Climate Change (CCC) published their latest report to the UK Parliament on the progress to date in reducing greenhouse gas emissions. The report recognises that the UK has met all carbon reduction targets so far, with a successful record of emissions reductions.

2.1.24 In relation to the nationwide commitment to reduce emissions by 68% in 2030, compared to 1990 levels, the report notes that urgent action must be taken. The report sets out that, despite significant progress in reducing carbon emissions in 2023, the country is not on track to achieve its Net-Zero 2030 target.

2.1.25 The Executive Summary outlines that there was a significant fall in emissions in 2023, but notes that this fall was not enough. The CCC go on to state:

"Our assessment is that only a third of emissions reductions required to achieve the 2030 target are currently covered by credible plans. Action is needed across all sectors of the economy, with low-carbon technologies like solar becoming the norm."

2.1.26 The Report also outlines ten priority actions, noting that the UK should be in a phase of rapid investment and delivery, however indicators for the delivery and development of low-carbon technologies are off-track. Priority actions by 2030 include, amongst others, to:

- "*Make electricity cheaper;*
- *Reverse recent policy rollbacks;*
- *Introduce a comprehensive programme for decarbonisation of public sector buildings;*
- *Effectively design and implement the upcoming renewable energy CfD auctions;*
- *Accelerate electrification of industrial heat;*
- *Ramp up tree planting and peatland restoration;*
- *Finalise business models for large-scale deployment of engineered removal;*
- *Publish a strategy to support skills; and*
- *Strengthen NAP3."*

2.1.27 The CCC note that following the election of the new Labour Government, there is an opportunity to reset the UK's direction. The report sets out that the Government *"must send long-term consistent messages on the importance of climate action to businesses and households, back that up with key policies to support investment and focus on removing barriers to deployment."*

Clean Power 2030 Action Plan

2.1.28 On 13th December 2024, the UK Government published the Clean Power 2030 Action Plan, which sets out a pathway to a clean power system by 2030. Building on advice published by the National Energy System Operator (NES) in November 2024, the goal is to reduce the

carbon intensity of the UK's energy generation from 171gCo2e/kWh in 2023 to well below 50gCO2e/kWh in 2030.

2.1.29 The government's ambitions for the 2030 capacities of key technologies are; 43-50 GW of offshore wind, 27-29 GW of onshore wind, 45-47 GW of solar power, 23-27 GW of battery capacity, 4-6 GW of long-duration energy storage, and 35 GW of unabated gas reserve capacity.

2.1.30 As of January 2025, the total installed capacity of Solar PV In the UK stands at c.17.8GW[3].

2.1.31 The Department for Energy Security and Net Zero (DESNZ) estimates that Clean Power 2030 could require around £40 billion of investment on average per year between 2025 to 2030. The Clean Power 2030 action plan sets out a range of actions that the government will take to accelerate delivery, focusing on electricity networks and connections, planning and consenting, renewable and nuclear project delivery, short-duration energy storage and flexibility, long-duration flexibility and supply chains and workforce.

2.2 Local Energy Policy

South Oxfordshire Climate Emergency

2.2.1 In April 2019 South Oxfordshire District Council declared a Climate Emergency, following which, in February 2021, the Council declared an Ecological Emergency, where they pledged to become a carbon neutral council by 2025 and a carbon neutral district by 2030. However, in October 2023, South Oxfordshire District Council revised their deadline to become carbon neutral from 2025 to 2030 for the Council, and from 2030 to 2045 for the district as a whole.

2.2.2 The latest local Annual Greenhouse Gas Emissions Report 2023/24[4] details that since the 2019/20 baseline data, gross emissions for the Council (not the district area) have fallen by only 18%. This demonstrates that the Council clearly still have work to do in order to mitigate and adapt to the impacts of climate change. [5]

Climate Action Plan for South Oxfordshire Council 2022-2024

2.2.3 South Oxfordshire District Council's Climate Action Plan (CAP) aims to achieve carbon neutrality by 2025 through comprehensive actions. The CAP is aligned with international, national, regional, and local climate policies and agreements, emphasising a commitment to the Paris Agreement and Sustainable Development Goals.

[3] https://www.gov.uk/government/statistics/solar-photovoltaics-deployment

[4] https://www.southandvale.gov.uk/app/uploads/sites/2/2024/11/South-Oxfordshire-greenhouse-gas-report-2023-24.pdf

[5] https://www.bbc.co.uk/news/articles/c99v9jzdy25o

2.2.4 Key actions in the CAP include developing a carbon offsetting scheme for developers, implementing local renewable energy projects, specifically solar farms, and collaborating on county-wide carbon reduction efforts.

2.2.5 Local declarations of a climate and ecological emergency centre the Council's commitment to be carbon neutral within its own operations by 2025 and a carbon-neutral District by 2030. (N.B. these targets have now been revised, as per paragraph 2.2.1).

2.2.6 Progress on the CAP's actions and outputs is reported quarterly as part of the council's Corporate Performance Management Framework, with the Quarter one report (July 2023) representing the second iteration, subject to continuous improvement based on feedback. Key actions as well as performance updates outlined in the CAP and Performance report (July 2023) are to:

- *"Produce an options paper for setting up a carbon offsetting scheme for developers as part of the new Joint Local Plan.*
    - *In Q1 initial discussions took place with Bioregional, the consultants appointed to provide the net zero evidence base for the forthcoming Joint Local Plan, on the role and weighting of offsetting policies in the Joint Local Plan in achieving net zero carbon status.*
- *Prepare a business case and, if approved, implement a local renewable energy project, such as a solar farm, to address unavoidable council emissions.*
    - *A final draft of a report from advisors APSE has now been received. The report provides commentary and a feasibility assessment of 1 site in South Oxfordshire on its suitability for use as a solar farm. Once the report has been fully reviewed, the intention is to seek council approval on the findings of the report and next steps to advance the project.*
- *Work with the Future Oxfordshire Partnership on a county-wide approach to reducing carbon emissions, building on the strategic vision and Pathways to Zero Carbon Oxfordshire.*
    - *In Q1, officers have been working to operationalise the five prioritised action areas of the Oxfordshire Net Zero Route Map and Action Plan. We continue to be a very active member of the Future Oxfordshire Partnership Environment Advisory Group officer group."*

Oxfordshire Energy Strategy

2.2.7 The Oxfordshire Local Enterprise Partnership published the 'Oxfordshire Energy Strategy' in 2019. Within the Strategy, key targets and objectives in relation to climate change have been identified:

> *"To reduce countywide emissions by 50% by 2030 (compared with 2008 levels) and set a pathway to achieve zero carbon growth by 2050".*

2.2.8 The Strategy outlines that:

> *"Our Energy Strategy will form part of a much wider picture of energy and the transition to a low carbon energy system in England, and create a foundation for project*

development and participation by industry, our research sector, regulatory bodies, local authorities and our communities"

2.2.9 It identifies a key vision as well as three actionable objectives. Each of these objectives support the development of low carbon energy generation, specifically including solar developments, within the County, working towards the Strategy's vision for Oxfordshire to be "*at the forefront of energy innovation to foster clean growth*."

2.2.10 The Strategy notes that Oxfordshire is entering a period of rapid planned growth. As such, it is essential the districts energy infrastructure is capable of supporting the increased growth and changing energy requirements (estimated to be more than 450 GWh). The Strategy highlights that *"a stable, clean energy supply will be a pre-requisite for continuing investment and growth."*

2.2.11 Paragraph 4.1.3 recognises that *"the majority of the low carbon energy needed in Oxfordshire is likely to be met by solar PV – delivered through household and community schemes and a number of larger scale developments".*

2.2.12 Published alongside the Oxfordshire Energy Strategy is the 'Oxfordshire Energy Strategy Delivery Plan 2019/20', which details specific targets relevant to solar PV developments. At section 4.1 Targets and Trajectory, stating:

> *"Emissions modelling carried out early in the development of the Energy Strategy informed the scale of actions needed to accommodate planned housing and employment growth and meet the countywide emission reduction target (Box 3). Using Scenario C set out in the influential Low Carbon Economy report published in 2014, the model assumed that by 2030, 56% of total electricity demand (and 40% of heat) would be met from low carbon sources, equivalent to approximately 2,050 GWh of electricity. Most of this demand is likely to be met by solar energy, requiring an increase in capacity from around 300 MW currently installed to about 1900 MW.*
>
> *Based on these assumptions we need to plan to:*
>
> - *increase solar capacity by more than six-fold*
> - *manage the solar capacity across the day and across the year through the development of a local energy market and significant new investment in storage technologies*
> - *transform a highly-constrained electricity grid into a lean, smart, fit-for-purpose support for local energy trading."*

3 SITE AND CONTEXT

3.1 Background and Site Description

3.1.1 The Proposed Development is located c.50m south of the village of Postcombe, c.450m north of the village of Lewknor and c.4.3km south of the town of Thame. The solar site consists of two land parcels which lie either side of the M40 motorway, with the A40 to the east, Weston Road to the west and Salt Lane to the north. The Site also includes a 'cable corridor' which extends for c.3km from the substation at the solar site to the substation at Harlesford Solar Farm (point of connection). The Site boundary can be seen below in **Plate 1**:

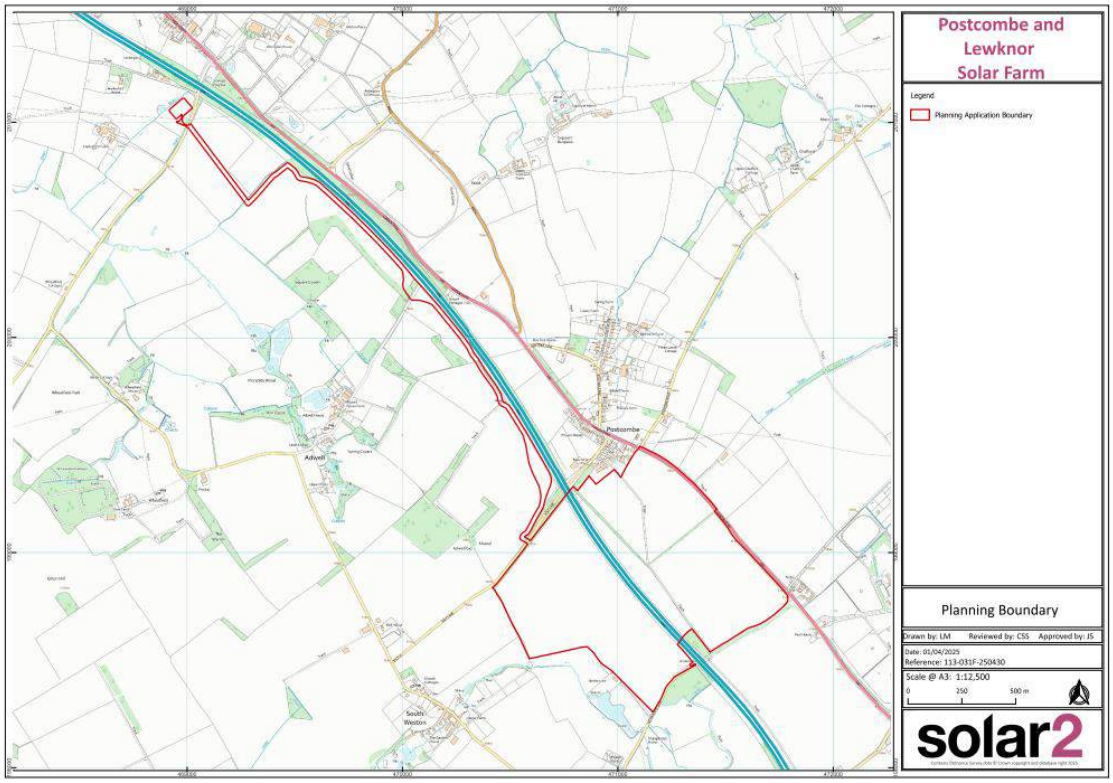

Plate 1: Site Boundary

3.1.2 The Site area is c. 97.5ha including the proposed cable corridor. The Site is currently predominantly used for arable agricultural purposes with small sections of woodland. The Site is largely enclosed by trees and hedgerows with more open sections to the north and north-east.

3.1.3 The closest residential property is located c.80m from the solar site within the village of Postcombe.

3.1.4 There is one watercourse within the cable corridor. The closest watercourse to the solar site is c.30m from the western boundary of the western area of the main solar Site. The whole of the Site is located in Flood Zone 1 according to the Environment Agency's online mapping.

3.1.5 There is a Public Right of Way (PRoW), PRoW code: 277/7/10, which traverses the eastern land parcel from the south-west corner to the north, with a bridleway bordering the southern Site boundary (PRoW Code: 277/33/30). The PRoW runs under a 11kV powerline and a 30m

setback has been put in place to allow access to the PRoW and powerline. PRoW 102/1/10 also runs parallel to the cable corridor in the first two fields.

3.1.6 The Agricultural Land Classification (ALC) across the main solar Site is Grade 3a (45.5%) and Grade 3b (53.2%).

3.2 Environmental Designations and Heritage Assets

3.2.1 The following national and international designations are present within 5km. A brief summary of these is provided below with full descriptions provided in the relevant technical chapters of the Environmental Statement, which this Planning Statement should be read in conjunction with.

3.2.2 The following national landscape designation is located within 2km of the Site:

- Chilterns National Landscape lies c.1.8km to the south-east of the Site

3.2.3 The following national and international ecological designations are located within 5km of the Site boundary:

- Aston Rowant and Chilterns Beechwoods Special Area of Conservation (SAC) is located c.1.3km south-east of the Site
- 8 Sites of Special Scientific Interest (SSSI) in the area to the south – east of the Site:
    - Aston Rowant SSSI – 2km
    - Aston Rowant Woods SSSI – 2.2km
    - Shirburn Hill SSSI – 2.3km
    - Aston Rowant Cutting SSSI – 2.4km
    - Wormsley Chalk Banks SSSI – 3.1km
    - Watlington and Pyrton Hills SSSI – 3.6km
    - Chinnor Chalk Pit SSSI – 4km
    - Chinnor Hill SSSI – 4.8km
- Two SSSIs located to the west and north – west of the Site
    - Knightbridge Lane SSSI – 2.7km
    - Spartum Fen SSSI – 3.4km
- Aston Rowant National Nature Reserve is located c.1.4km south-east of the Site
- 70 areas of Ancient Woodland of which the closest is c.260m west of the Site

3.2.4 The following heritage designations are located within 5km of the Site:

- Two Scheduled Monuments:
    - 'Three bowl barrows on Chinnor Hill, two 150m and one 600m south-west of Highlands' (SM 1016067) (c.4.9km to the north-east of the Site); and
    - Rycote Chapel (SM 1018823) (c.4.2km to the north-west of the Site)
- Two Registered Parks and Gardens:
    - Thame Park located c.3.3km to the north of the Site; and
    - Shirburn Castle located c.2km to the south of the Site
- One Registered Battlefield: Battle of Chalgrove 1643, located c.4.5km to the east of the Site
- 15 Conservation Areas (CA):
    - Lewknor CA c.400m south of the Site
    - Aston Rowant CA c.850m east of the Site
    - Shirburn CA c.1.9km south-west of the Site
    - Kingston Blount CA c.2 km east of Site
    - Sydenham CA c.2.5 km north-east of Site
    - Pyrton CA c.2.9 km south-west of Site
    - Oakley CA c.3.5 km east of Site
    - Moreton CA c.3.6 km north of Site
    - Watlington CA c.4.1 km south-west of Site
    - Little Haseley CA c.4.2 km west of Site
    - Chinnor CA c.4.5 km east of Site
    - Great Haseley CA c.4.6 km north-west of Site
    - Thame CA c.4.7 km north of Site
    - Stokenchurch CA c.4.7km south-east of Site
    - Cuxham CA c.4.9 km south-west of Site
- 421 Listed Buildings within 5km and 57 Listed Buildings within 1km of the Site boundary. The nearest is the '*Feathers public house'* (Grade II) located c.220m to the north-east of the Site.

3.2.5 These designations are discussed within the Environmental Statement and within Chapter 5 and 6 of this Planning Statement.

3.3 Planning History

3.3.1 Using the South Oxfordshire District Council's Public Access System, a planning history search was undertaken for the Site and the adjacent land, covering applications over a three-year period from January 2022, up to the submission of this Planning Application. The search revealed no applications (either granted or pending) within the Site itself. However, list below relates to applications for adjacent land that have either been approved or are still under consideration by Council.

- **Application reference: P22/S4318/MPO** – To modify an existing Section 106 Agreement associated with planning permission P03/E0563 to allow a person or persons other than those employed by the applicant to use the site for the rehabilitation and rehoming of dogs, granted on 20 January 2023.

- **Application reference: P23/SO162/FUL** – To install and operate an underground high voltage electrical cable and associated works, granted on 24 August 2023.

- **Application reference: P24/S3878/FUL** – To construct two approximately 28m high electricity masts, including associated infrastructure and access. This application is associated with permission P20/S3245/FUL (see Section 3.4.1 below) and is still being considered by Council.

- **Application reference**: **P24/S1717/S73** – application to vary condition 2 of permission P20/S3245/FUL (see Section 3.4.1 below) in order to increase the size of the proposed substation. This application is still being considered by Council.

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4 THE PROPOSED DEVELOPMENT

4.1 Overview

4.1.1 The Application seeks full planning permission for a Solar Farm with a capacity of up to 49.9MW on land located to the south of the village of Postcombe, Lewknor. The submitted planning application seeks permission for the following:

"*Installation of a solar farm and cable corridor with associated infrastructure, access, security fencing and landscaping.*"

4.1.2 The final Proposed Development layout is illustrated in **Figure 1.2** of the Environmental Statement, and is replicated below in **Plate 2**.

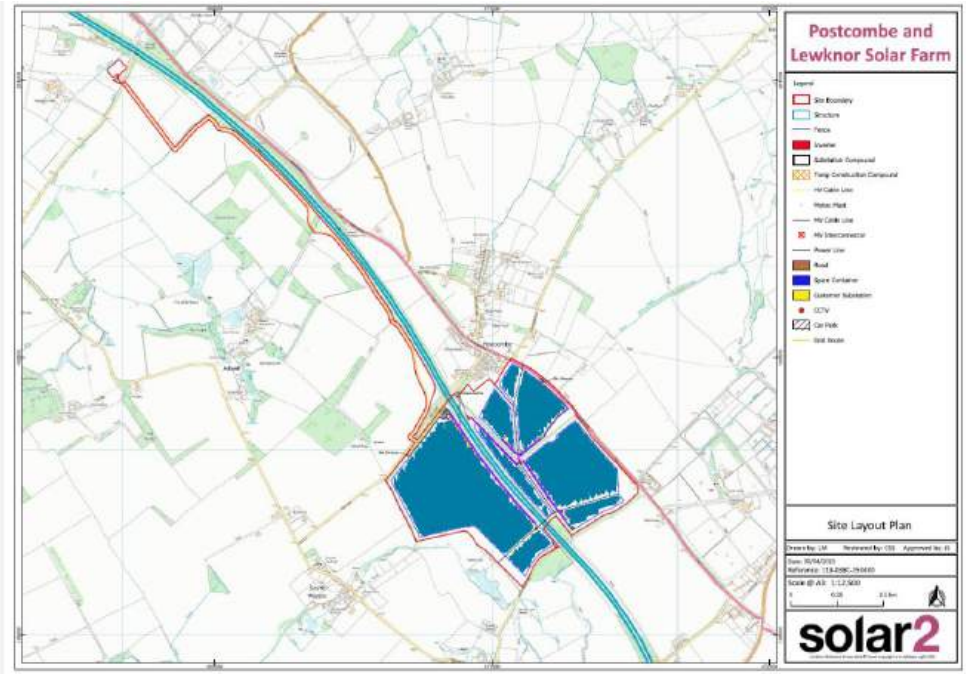

Plate 2 – Site Layout

4.1.3 The Proposed Development will comprise of solar photovoltaic modules arranged in rows with heights of up to 3.1 m. In addition to the modules, associated infrastructure will include:

- Solar PV Panels;
- Inverters;
- Transformers;
- High voltage (HV) switchgear and control equipment;
- Cabling and interconnector;
- Underground Cabling for grid route to connection at Harlesford Solar Farm substation ('cable corridor');

- On-site substation and control building;
- Customer station compound;
- Spares container;
- Meteo Mast;
- Site access and tracks;
- Car Parking;
- Security fencing and CCTV;
- Landscape Planting; and
- Temporary Construction Compound.

4.2 Main Components

Solar Photovoltaic Modules and Mounting Frames

4.2.1 The Proposed Development will consist of an array of solar photovoltaic (PV) modules with an export capacity of up to 49.9MW. The lowest point of the modules will stand c.1m Above Ground Level (AGL) and will be angled up to 60° to the horizontal and arranged in rows. The array will comprise tracking panels with a maximum panel height will be up to 3.1m AGL.

4.2.2 Each PV module will be fixed and mounted upon a prefabricated alloy metal frame. The frames will be anchored to the ground via steel piles that will be driven to c.1.5m into the ground. The framed mounting system would be pile driven, therefore no foundations would be required. The frames will be orientated to the south/south-east in a fixed tilt arrangement.

Inverter Stations

4.2.3 The Proposed Development will include approximately twelve inverter stations and field transformer units will be installed on-site in order to convert the Direct Current (DC) produced by the PV modules, into an Alternating Current (AC) which is compatible with the local electricity distribution network. The inverter stations have been shown on the Site layout plan and will be c.12.2m long and 2.44m wide and 3.04m high. The inverters will be situated adjacent to the access track and each will be placed on a concrete plinth.

On – site Cabling

4.2.4 A low voltage electrical cable is required to connect the PV modules to the inverters which are typically mounted to the underside of the PV modules. AC cable from the inverters will connect to the transformers and the on-site substation via underground trenches.

4.2.5 An interconnector cable that will connect the two land parcels will run underneath the motorway, consultations with the highways officer will been undertaken to discuss this further. Further details will be provided at detailed design stage.

On – site Substation and Control Building

4.2.6 The Proposed Development will require a Distribution Network Operator (DNO) substation compound located on the western area of the Site with a control room adjacent to the substation. The total area for the substation will be approximately 1650m^2. It will be approximately 66m in length by 25m wide with a maximum height of 8m for the transformer component. The substation will consist of electrical infrastructure required to facilitate the export of electricity from the Proposed Development to the National Grid via a cable connection.

4.2.7 The substation compound will also comprise a control building containing operational monitoring and maintenance equipment as well as provide office space. The control building will be approximately 20m^2 (5m wide and 4m in length).

4.2.8 The substation will be well screened by hedgerow and tree planting, as illustrated within the Landscape Mitigation Plan which accompanies the application.

Customer Substation

4.2.9 Two customer substation compounds will be located adjacent to the spares containers, measuring 12.72m long by 4.03m wide and reach a total height of 3m.

Spares Container

4.2.10 Two spares containers will be located to the east of the substation compound. These will measure 2.6m in height, 13.7m long and have a width of 2.4m.

4.2.11 A meteo mast that will be used to monitor the weather conditions and stands at 2.6m in height will be adjacent to the spare's container.

Temporary Construction Compound

4.2.12 A temporary construction compound will be required within each land parcel and will incorporate a temporary laydown area, welfare facilities for construction staff and vehicle parking area. A portable cabin controlling access to the main site with mandatory signing in and out procedures will be located at the entrance to the compound.

4.2.13 On completion of construction works, it is proposed that all temporary structures be removed, and the compound area be restored.

Security Fencing and CCTV

4.2.14 Fencing will be constructed around the Proposed Development for health and safety and security reasons. The fencing will incorporate a maximum height of 2.6m AGL and is proposed to comprise standard stock mesh interspersed with wooden fenceposts, similar to standard deer proof fencing.

4.2.15 The entrance of the Site will comprise of a 6m wide double leaf access gate. This will incorporate a maximum height of 2.6m AGL and is proposed to comprise a rectangular hollow section frame and weldmesh gates.

4.2.16 Inward Facing Closed Circuit Television (CCTV) will be deployed as a security measure. The CCTV will be mounted on wooden posts each measuring 2.4m in height. The wooden posts mounted CCTV camera's will be located at 50m intervals and will blend in with the fence,

having the appearance of a wooden fence post. The CCTV units will be installed inside and adjacent to the proposed security fencing with the exact locations to be confirmed prior to construction. They will be installed at discreet locations and will be oriented away from external landowners and dwellings.

Construction and Operational Access

4.2.17 The construction and operational access to the solar site will be taken from two points of access, one for each of the two land parcels located either side of the M40. Access to the eastern land parcel will be taken from a new access junction on the A40, to the south of Postcombe. Access to the western land parcel is to be taken from Salt Lane from a new access junction. Access between the two parcels will be taken using the A40 and Salt Lane.

4.2.18 A combined Transport Statement (TS) and Construction Traffic Management Plan (CTMP) (Appendix 2.4 of the ES) has been prepared in support of the planning application and provides detail on access routes to the Site for construction vehicles and provides an estimate of trip generation for the construction phase. The CTMP also includes a review of the proposed route and further detail on how traffic will be managed appropriately.

4.2.19 Prior to construction, any required works to public roads due to the cable corridor will be undertaken and appropriate highway safety measures will be agreed with the Council, with necessary signage or traffic control measures implemented throughout the construction phase on the agreed basis.

On – Site Tracks

4.2.20 Internal access tracks will be established to allow for construction and ongoing access/maintenance to the electrical infrastructure on - Site.

4.2.21 The on - site tracks will have a typical 5m running width, wider on bends and at junctions and will be surfaced with local compacted, permeable aggregates to match surrounding farm tracks.

Public Access

4.2.22 A PRoW footpath (PRoW code: 277/7/10) which traverses the eastern land parcel from the south-west corner to the north will be diverted along the south-eastern boundary of the Site during construction. The footpath (PRoW code: 102/1/10) which runs parallel to the cable corridor will also be diverted to a location parallel to its current position. No impact is expected to occur to the bridleway bordering the southern Site boundary (Bridleway Code 277/33/30).

4.2.23 Pedestrians would maintain rights of way during the operational period of the Proposed Development

Grid Connection

4.2.24 An underground cable will link the solar panels from the Applicant’s substation to the DNO substation at Harlesford Solar Farm.

4.2.25 The cable corridor will run for c.3km north-west to the substation at Harlesford Solar Farm which is the point of connection to the grid. To construct this route a trench will be excavated with its bed levelled. First, soft cables will be laid alongside bedding soil, next will be the laying of power and fibre optic cable ducts or cables into the trench. This will then be followed by backfilling with soft soils and the placing of cable covers and warning tape above laid cables. Finally, the rest of the trench will be backfilled and reinstated to pre-excavation conditions.

4.2.26 Initially the cable corridor was planned to be dealt with via a separate consenting process. However, the cable route was added into the planning application. Therefore, some of the assessments have separated out the assessment of the solar site and the proposed cable corridor.

4.3 Construction

4.3.1 The construction of the Proposed Development is expected to take place up to fourteen months and anticipated to commence in 2027 due to the secured grid connection date. Construction would include the principal activities listed below and is also anticipated to conclude in 2028:

- Laying of new access track;
- Erection of security fencing and construction of site entrance;
- Establishing a temporary construction compound, which will include temporary laydown and vehicle parking area;
- Erecting the fencing;
- Trenching and installation of electric cabling;
- Piling and erection of the module mounting frames;
- Installation of transformers, inverters and switchgears; and
- Constructing the substation and customer and control buildings.

4.3.2 Normal construction hours will be between 07:30 and 18:00 Monday to Friday and 08:00 and 13:00 on Saturdays. No works are proposed on a Sunday. These times have been chosen to minimise disturbance to local residents. It must, however, be noted that out of necessity due to weather conditions and health and safety requirements, some generally quiet activities may occur outside the specified hours stated. Any construction outwith these hours will be in line with agreed noise limits and advance warning of any works outwith the agreed working hours will be provided to the Council and local residents.

4.4 Environmental Management

Construction

4.4.1 As part of the construction contract, the contractor responsible for undertaking the construction works (the Contractor) shall sign up to produce, and adhere to a Construction Environmental Management Plan (CEMP), which is anticipated to be secured via planning condition.

4.4.2 The CEMP will be drafted and agreed with the Council prior to commencement of construction and shall describe how the Applicant will ensure suitable management of environmental issues during construction of the Proposed Development including, but not limited to:

- Noise;
- Dust and air pollution;
- Surface and groundwater;
- Ecology (including protection of habitats and species);
- Agriculture (including protection of livestock and land);
- Cultural heritage;
- Waste (construction and domestic);
- Pollution incidence response (for both land and water); and
- Site operations (including maintenance of the construction compounds, working hours and safety of the public).

4.4.3 The Applicant will provide the following for the above environmental issues:

- Details of all the environmental mitigation which is described within the Environmental Statement, required during construction of the Proposed Development, and of how the Applicant will implement this mitigation;
- Details of how the Applicant will abide by the local and national legislative requirements;
- Details of how the Applicant will implement and monitor the construction best practice techniques e.g. the control of noise, dust and pollution; and
- Details on how the Applicant will liaise with the public and local landowners and how they will respond to any queries and/or complaints.

Pollution Prevention & Health & Safety

4.4.4 Prior to commencement of construction activities a pollution prevention strategy, contained within the CEMP, will be agreed with the Council to ensure that appropriate measures are put in place to protect watercourses and the surrounding environment.

4.4.5 As with any development, during the construction stage there is the potential for threats to the quality of the water environment in waterbodies, watercourses and local ditches. These mostly arise from poor site practice, so careful attention will be paid to the appropriate guidance and policies to reduce the potential for these to occur.

4.4.6 Any fuel or oil held on-site will only be of an amount sufficient for the plant required. This will be stored in a bunded area to prevent pollution in the event of a spillage. There will be no long-term on–site storage of lubricants or petrochemical products.

4.4.7 High standards of health and safety will be established and maintained. At all times, all activities will be undertaken in a manner compliant with applicable health and safety legislation and with relevant good practice, as defined under applicable statutory approved codes of practice and guidance.

Traffic & Transportation

4.4.8 As previously mentioned, a Transport Statement and Construction Traffic Management Plan accompanies this Planning Application, which provides details regarding transport and access to the Site. Site access and routing strategies will be agreed with the Council as set out in the CTMP.

4.4.9 The Applicant will ensure that the vehicles will be routed as agreed with the Council to minimise disruption and disturbance to local residents and road users.

Pre–Construction Survey

4.4.10 Pre–construction surveys will be undertaken to update the ecological and ornithological baseline and to perform detailed geotechnical ground surveys, further details of these are provided in the relevant technical chapters of the Environmental Statement.

4.5 Operation & Maintenance

4.5.1 The operational life of the Proposed Development is proposed to be 40 years.

4.5.2 Once operational, the solar array will require occasional maintenance of the solar panels and associated infrastructure. This is expected to consist of a monthly routine Site inspection, with some additional Site visits occasionally required.

4.5.3 The solar PV modules will require periodical cleaning to ensure efficient running of the system, most likely using distilled water. Detergents are not used as they have the potential to damage the solar PV modules. The run-off from cleaning would therefore be clean water and would be dealt with in the same way as rainwater.

4.5.4 There will also be routine visits for the maintenance of the landscape planting proposed, this is expected to be minimal.

4.6 Decommissioning & Restoration

4.6.1 The Applicant is committed to decommissioning and restoring the Site to its previous agricultural use at the end of the Proposed Development’s lifespan of 40 years.

4.6.2 Decommissioning is a relatively straightforward process and similar to the construction process, with the majority of structures and equipment able to be dissembled and removed in a straightforward manner (the inverters etc. being containerised and simply able to be detached from the piles they are placed on and the solar arrays disassembled and piles pulled up).

4.6.3 The following will be required for decommissioning and removing the Proposed Development at the end of its operational lifespan:

- The substations, transformers, panels and frames will be dismantled and removed via the same access as will be used for construction.

- As much material as possible will be directed to recycling or salvage/re-use, likely to be dependent on demand, market conditions and recycling facilities available at the time.

- The area will be restored to agricultural use by infilling structural holes, repairing cable trenches, and landscaping/reseeding.

4.6.4 The limited physical infrastructure that is required on the ground area (around 5% of the entire site) for a solar farm allows for quick and easy restoration of land back to its existing agricultural land use and very little disturbance to the ground compared with traditional farming activities.

4.6.5 The Applicant is committed to providing a detailed decommissioning and restoration plan, costed by an independent advisor, to be secured through an appropriately worded planning condition.

4.7 Climate Change & Carbon Considerations

4.7.1 Increasing atmospheric concentrations of greenhouse gases (GHGs), including carbon dioxide (CO_2) (also referred to as carbon emissions) are resulting in climate change. A major contributor to this increase in GHG emissions is the burning of fossil fuels. With concern growing over climate change, reducing its cause is of utmost importance. The replacement of traditional fossil fuel power generation with renewable energy sources provides high potential for the reduction of GHG emissions. This is reflected in UK climate change and renewable energy policy and commitments. The relevant aspects of these polices are summarised earlier in this Statement, at **Chapter 2.**

Energy Generation

4.7.2 The combined electrical installed capacity from the Proposed Development is currently estimated to be up to 49.9MW. Based on the Proposed Development's location and estimated capacity factor, the annual indictive total electricity output for the Site would be an estimated 57,108 megawatt-hours (MWh), per annum. This is a minimum overall output for the Proposed Development.

4.7.3 Based on the average electricity consumption per household of 2.7MWh/year (Ofgem, 2024[6]) and assuming generation of 49.9MW, the Proposed Development would generate enough power to supply approximately 21,151 households.

4.7.4 The Site would be maintained throughout the lifetime to ensure minimal degradation of yield. If the Proposed Development continued to generate at this average load factor over its proposed 40 – year lifespan, it is expected that a total of approximately 728GWh of renewable energy could be generated.

[6] https://www.ofgem.gov.uk/information-consumers/energy-advice-households/average-gas-and-electricity-use-explained.

5 PLANNING POLICY

5.1 Introduction

5.1.1 This section of the Planning Statement identifies the key policies contained within the Development Plan and other material planning considerations pertinent to the Site and Proposed Development.

5.2 The Legislative Context

5.2.1 As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

5.2.2 These legislative provisions are reiterated within the National Planning Policy Framework February 2025 (NPPF) which states that:

"*Planning law requires that applications for planning permission be determined in accordance with the development plan unless material planning considerations indicate otherwise"*

5.2.3 The primacy of the Development Plan in the application decision making process is established in both planning guidance and statue. Section 70(2) of the Town and Country Planning Act 1990 requires that: *"…in dealing with an application for planning permission, the authority shall have regard to the provisions of the development plan, so far as material to the application".*

5.3 Development Plan

5.3.1 The Site is situated within the administrative boundary of South Oxfordshire District Council, within the Lewknor Parish. The large majority of the Site, and the entirety of the solar site is situated entirely within the Parish of Lewknor. The Lewknor Parish Neighbourhood Plan became part of the Development Plan in December 2023 and carries full weight in the determination of planning applications.

5.3.2 The northern extents of the cable corridor lies within Tetsworth civil Parish (c.0.62km of the cable route), which also has a 'made' Neighbourhood Plan. The Tetsworth Neighbourhood Plan was 'made' in May 2021, and carries full weight in the determination of planning applications.

5.3.3 The adopted Development Plan documents comprise:

- South Oxfordshire Local Plan 2011-2035 (adopted December 2020);
- South Oxfordshire Local Plan Policies Map (adopted December 2020);
- The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy (adopted September 2017);
- 'Saved' policies of the Oxfordshire Minerals and Waste Local Plan 1996
- Lewknor Parish Neighbourhood Plan (adopted December 2023); and,

- Tetsworth Neighbourhood Plan (adopted May 2021)

5.3.4 It should be noted that South Oxfordshire District Council and the Vale of White Horse District Council have prepared a Joint Local Plan (JLP) for South Oxfordshire and Vale of White Horse areas which, once adopted, will replace the existing local plans.

5.3.5 The JLP was submitted to the Secretary of State (SoS) on Monday 9th December 2024 for independent examination. In line with paragraph 49 of the NPPF, decision-makers may give weight to relevant policies in emerging plans depending on several factors: the stage of preparation, the extent of unresolved objections, and the degree of consistency with the NPPF. The starting point for decision taking remains with the policies in the current adopted plan(/s). However, the JLP is at an advanced stage of preparation, based on a more up-to-date evidence base, and therefore carries some weight in the decision making process. The Policies from the emerging JLP are discussed further in this chapter.

South Oxfordshire Local Plan 2011-2035

5.3.6 The South Oxfordshire Local Plan was adopted in December 2020. It sets out the objectives, vision, and strategy for development across the plan period up to 2035.

5.3.7 The adopted Local Plan includes strategies and policies for the scale and location of development and sets out seven strategic development areas in order to concentrate growth.

5.3.8 Within the Local Plan, **Objective 8 – Climate change** aims to:

> *"Minimise carbon emissions and other pollution such as water, air, noise and light, and increase our resilience to the likely impact of climate change, especially flooding. Lower energy use and support an increase in renewable energy use. Support growth in locations that help reduce the need to travel."*

5.3.9 Further, **Policy DES9: Renewable and Low Carbon Energy**, states that:

> *"The Council encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales including domestic schemes. It also encourages the incorporation of renewable and low carbon energy applications within all development. Planning applications for renewable and low carbon energy generation will be supported, provided that they do not cause a significantly adverse effect to:*
>
> *i. landscape, both designated AONB and locally valued, biodiversity, including protected habitats and species and Conservation Target Areas;*
>
> *ii. the historic environment, both designated and non-designated assets, including development within their settings;*
>
> *iii. openness of the Green Belt;*
>
> *iv. the safe movement of traffic and pedestrians; or*
>
> *v. residential amenity."*

5.3.10 There are no policies that specifically relate to the development of solar farms within the Local Plan, though it is clear from the supporting text of **Policy DES9: Renewable and Low Carbon**

Energy, that renewable energy development will be supported so long as the impacts from the development do not cause a '*significant adverse effect'* to the criteria set out above.

5.3.11 The Site is not designated in the Local Plan, nor allocated for Development. Other relevant policies from the Local Plan are listed below. Full Policy Text can be found at **Appendix 1**:

- Policy STRAT1 – The Overall Strategy
- Policy TRANS5 – Consideration of Development Proposals
- Policy INF4 – Water Resources
- Policy ENV1 – Landscape and Countryside
- Policy ENV2 – Biodiversity, Designated Sites, Priority Habitats and Species
- Policy ENV3 – Biodiversity
- Policy ENV5 – Green infrastructure in New Developments
- Policy ENV6 – Historic Environment
- Policy ENV7 – Listed Buildings
- Policy ENV8 – Conservation Areas
- Policy ENV9 – Archaeology and Scheduled Monuments
- Policy ENV10 – Historic Battlefields and Registered Parks and Gardens and Historic Landscapes
- Policy ENV12 – Pollution – impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution)
- Policy EP4 – Flood Risk
- Policy DES2 – Enhancing Local Character
- Policy DES3 – Design and Access Statements
- Policy DES6 – Residential Amenity
- Policy DES7 – Efficient Use of Resources
- Policy DES10 – Carbon Reduction

Lewknor Parish Neighbourhood Plan (2023)

5.3.12 The Lewknor Parish Neighbourhood Development Plan was made (adopted) on 14th December 2023 following a referendum in November 2023. The document sets out policies against which proposals for new development, or alterations and extensions, can be assessed,

seeking to maintain a balance in the Parish between housing, employment, health and well-being, community facilities, open spaces, agriculture, wildlife habitats and water courses.

5.3.13 The Neighbourhood Plan also outlines policies which define the overall spatial strategy and pattern of development, including definition of Settlement Boundaries for the villages, development locations and high-grade agricultural land.

5.3.14 The Neighbourhood Plan is supportive of renewable energy. At Chapter 14.4 – Green Energy, the Neighbourhood Plan states: "*It is recognised that the use of renewable energy is a key to future sustainable development*". It goes onto state that "*Proposals for new renewable energy structures requiring planning permission will, however be required to demonstrate that they do not have a harmful impact on the surrounding landscapes, and do not use the highest grades of agricultural land".*

5.3.15 Policy FI4: Green Energy sets out that proposals for individual and community scale renewable energy schemes will be supported subject to the following criteria:

i. the siting and scale of the proposed development does not detract from the setting and its position in the wider landscape

ii. the proposed development does not have an unacceptable impact on the amenities of local residents

iii. the proposed development does not have an unacceptable impact on a feature of natural and biodiversity importance

iv. Siting of green energy sites will not have an unacceptable impact to the views detailed in Policy CH4 "Protection of Views" [N.B Protection of Views is Policy CH3 and it is assumed this is a typo in the Neighbourhood Plan]

5.3.16 Policy CH3 – Protection of Views is also relevant to the Proposed Development. This Policy identifies important views in the Parish as being of special significance for the character and setting of the parish and setting of the parish and its villages. The following views are considered important:

1) St. Margaret's Church, Lewknor - from the north-west

2) Lewknor & Beacon Hill - from the west

3) Lewknor - from Salt Lane

4) Lewknor and South Weston - from Beacon Hill

5) Postcombe - from Beacon Hill

6) Lewknor - from Bald Hill

7) South Weston & Adwell Cop

8) Entrance to South Weston - in direction of Adwell

9) Towards Rectory Lane, South Weston - from junction of Salt Lane and Weston Road

10) Beacon Hill - from the London Road at Postcombe

11) Postcombe & Chiltern escarpment - from the west

12) Beacon Hill - from Beacon View, Lewknor

13) Beacon Hill - from Nethercote Lane, Lewknor

14) Bald Hill - from north-west of St Margaret's Church, Lewknor

5.3.17 The Policy stipulates that development proposals should preserve or where practicable enhance the local character of the landscape and respond positively to the identified important views.

5.3.18 The following policies in the Neighbourhood Plan are also considered relevant and full Policy text can be found at **Appendix 1:**

- Policy SS1 – Settlement boundaries – Lewknor and Postcombe;
- Policy CH1 - Conserving Heritage;
- Policy CH2 – Landscape Character;
- Policy CH4 – The Chilterns Area of Outstanding Natural Beauty;
- Policy DC2 - Design Principles;
- Policy EN1 - Wildlife and Biodiversity;
- Policy EN2 – Aston Rowant National Nature Reserve;
- Policy EN3 – High Grade Agricultural Land;
- Policy FI3 – Sustainable Movement;
- Policy TH1 – Sustainable Transport; and
- Policy TH2 – Vehicle Traffic.

Tetsworth Neighbourhood Development Plan 2035 (May 2021)

5.3.19 The Tetsworth Neighbourhood Plan became part of the Development Plan on 6th May 2021 and carries full weight in the determination of planning applications.

5.3.20 The vision statement for Tetsworth's future development reflects the broad wishes of the community to accept a modest rate of change and growth while preserving its essential character as a rural village settlement. Much of this can be delivered within the higher-level planning policies of the NPPF and the South Oxfordshire Local Plan, therefore Tetworth's objectives and its Policies to achieve them focus on the priorities of 'what makes Tetworth special'.

5.3.21 There are no policies pertaining to climate change within the Tetsworth Neighbourhood Plan, nor is there any relating to renewable or low carbon energy or its associated infrastructure. The relevant Policies are (Full Policy text can be found at **Appendix 1**):

- Policy TET1: Development within the Tetsworth Village Settlement and Surrounding Countryside;
- Policy TET2: Settlement Character Areas and Design Criteria;
- Policy TET3: Countryside Character Areas; and
- Policy TET8: Biodiversity and the Natural Environment.

Oxfordshire Minerals and Waste Local Plan (1996)

5.3.22 Oxfordshire's Minerals and Waste Local Plan (1996) was adopted in July 1996, and covered the period to 2006, where 46 of the policies were 'saved' to avoid a gap in policy while the Minerals and Waste Local Plan Core Strategy was being developed.

5.3.23 Following the adoption of the Minerals and Watse Local Plan Core Strategy in September 2017, 30 of these policies are no longer saved and therefore no longer apply. The other 16 policies remain 'saved' pending the adoption of the new Minerals and Waste Local Plan currently being prepared. However, none of the 'saved' policies are relevant to the Proposed Development.

Oxfordshire Minerals and Waste Local Plan Part 1 - Core Strategy

5.3.24 The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy was adopted in 2017 and sets out the Council's *"vision, objectives, spatial planning strategy and policies for meeting development requirements for the supply of minerals and the management of waste in Oxfordshire over the period to 2031."*

5.3.25 In December 2022, the County Council approved a new Minerals and Waste Development Scheme which sets out the anticipated timetable for the Minerals and Waste Local Plan – a document which will combine Parts 1 and 2 of the Minerals and Waste Plan. Following this decision, work ceased on the Oxfordshire Minerals and Waste Local Plan Part 2 (Site Allocations Document).

5.3.26 The Oxfordshire Minerals and Waste Local Plan Part 1 (Core Strategy) remains in place as part of the Development Plan until it is replaced by the emerging New Minerals and Waste Plan (anticipated for adoption in March 2026) and includes the adopted Core Strategy and accompanying Policies Map.

5.3.27 The Site does not sit within any designated area within the Minerals and Waste Local Plan Policies Map, and therefore the policies are not deemed relevant to the Proposed Development.

Emerging Joint Local Plan 2041

5.3.28 Paragraph 49 of the NPPF states that:

"Local planning authorities may give weight to relevant policies in emerging plans according to:

a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)"

5.3.29 In Q2 2022, South Oxfordshire District Council and the Vale of White Horse District Council commenced work on a Joint Local Plan (JLP) and the associated evidence base. When adopted, this document will supersede current adopted plans, and set out the overall development strategy and requirements for districts for the plan period up to 2041.

5.3.30 The Council have now submitted the JLP to the Secretary of State for Housing, Communities and Local Government for examination by an independent Planning Inspector. Hearings are scheduled for June 2025 and until such time that inspector comments are received, it is considered that very limited, if any, weight can be afforded to it in the decision making process.

5.3.31 The Emerging JLP is clearly committed to tacking climate change and is evidently supportive of renewable energy and low carbon schemes. Paragraph 4.36 states:

"The transition away from the use of fossil fuels and towards renewable energy sources is one of the key ways in which we can help tackle climate change and reduce our carbon emissions. To move towards becoming net zero districts, we will need to increase the amount of renewable energy in the districts. Therefore, Policy CE5 (Renewable Energy) encourages proposals for renewable energy schemes and community – led initiatives and sets out criteria detailing where these schemes and associated infrastructure will be supported"

5.3.32 Emerging Policy CE5 – Renewable Energy encourages schemes for renewable and low carbon energy generation and its associated infrastructure at all scales, including domestic schemes and innovative schemes. It also clearly sets out that proposals for the exploration or extraction of fossil fuels will not be supported.

5.3.33 The Policy states that:

"Planning applications for renewable and low carbon energy generation and their associated energy storage and distribution infrastructure will be supported, provided that they do not cause significant adverse impacts that cannot be mitigated and are reversible at the end of the life of the renewable energy installation, including cumulative and cross boundary impacts on:

a) Landscape, tranquillity and sensitive views;

b) Biodiversity, including protected habitats and species and ecological networks;

c) Water quality and flood risk;

d) The best and most versatile agricultural land (Grades 1, 2 and 3a) unless significant sustainability benefits are demonstrated to outweigh any loss;

e) The historic environment, both designated and non-designated assets, including development within their settings;

f) The openness of the Gren Belt;

g) The National Landscapes (formerly AONBs) and their settings;

h) Aviation and defence navigation systems/communications;

i) The safe movement of pedestrians, rail, traffic and the enjoyment of public rights of way; and; and

j) Residential amenity (including as a result of noise, vibrations, dust, odour, air quality and shadow flicker)"

5.3.34 There are also several evidence base documents that the Emerging Local Plan has utilised pertaining to Renewable Energy. These documents are material considerations. Of particular relevance is **CEQ Climate and Environmental Quality.** Within this Evidence Base is the South Oxfordshire and Vale of White Horse Joint Local Plan: Net Zero Carbon Study, which was prepared in September 2024. This study identified suitable broad locations for renewable energy developments, though was not intended to pinpoint specific locations for renewable energy sites at a granular level.

5.3.35 This document helped form Emerging Policy CE5 above, and continues in reference to solar development:

"*Planning applications for ground mounted solar energy and associated infrastructure meeting the requirements of part 3 of this policy, will be supported where they are located in an area identified as potentially suitable for ground mounted solar development as shown on the Policies Map or in a Neighbourhood Plan. Proposals for building mounted solar thermal or photovoltaic panel (and associated infrastructure) installations in an appropriate position to maximise solar gain building will be supported and encouraged wherever possible, provided they meet the requirements set out in part 3 of this policy"*

5.3.36 The Site is not located within an area identified as a 'suitable broad location for ground mounted solar development' however it is within an area identified as a 'suitable broad location for Battery Energy Storage (BESS)'. This is discussed further in Chapter 5 of this Planning Statement.

5.3.37 The Policy CE5 – Renewable Energy described above, is the most pertinent Policy within the emerging JLP and it shows clear support for the development of renewable energy.

5.3.38 The Policy does not specifically subscribe significant weight to renewable energy, but it does state "*The Council encourages schemes for renewable and low carbon energy generation*", and that "*Planning applications for renewable and low carbon energy generation and their associated energy storage and distribution infrastructure will be supported provided they do not cause significant adverse impacts that cannot be mitigated*…". This Policy can be considered in the main, consistent with the NPPF, and therefore would attract some weight in the decision-making process.

5.3.39 Other relevant policies from the Emerging Joint Local Plan include (full policy text can be found at **Appendix 1**) :

- Policy CE1 – Sustainable design and construction;
- Policy CE2 – Net Zero carbon buildings;
- Policy CE6 – Flood Risk;
- Policy CE8 – Water quality, wastewater infrastructure and drainage;
- Policy CE9 – Air Quality;
- Policy CE10 – Pollution sources and receptors;
- Policy CE11 – Light pollution and dark skies;
- Policy CE12 – Soils and contaminated land;
- Policy SP1 – Spatial Strategy;
- Policy DE1 – High Quality design;
- Policy DE2 – Local character and identity;
- Policy DE2 – Delivering well-designed new development;
- Policy DE5 – Neighbouring amenity;
- Policy DE7 – Waste collection and recycling;
- Policy HP1 – Healthy Place Shaping;
- Policy HP6 – Green Infrastructure on new developments;
- Policy HP10 – Watercourses;
- Policy NH1 – Biodiversity designations;
- Policy NH3 – Trees and hedgerows in the landscape;
- Policy NH4 – Chilterns and North Wessex Downs National Landscape;
- Policy NH5 – District Valued landscapes;
- Policy NH6 – Landscape;
- Policy NH7 – Tranquillity;
- Policy NH8 – The historic environment;
- Policy NH9 – Listed Buildings;
- Policy NH10 – Conservation Areas;

- Policy NH11 – Archaeology and Scheduled Monuments;
- Policy NH12 – Historic Battlefields, Registered Parks and Gardens and Historic Landscapes;
- Policy NH13 – Historic environment and climate change;
- Policy IN2 – Sustainable transport and accessibility; and,
- Policy IN6 – Deliveries and freight

Supplementary Planning Documents (SPDs)

5.3.40 Supplementary Planning Documents (SPDs) provide additional advice and guidance on policies contained within the adopted Local Plan. There are no adopted SPDs considered pertinent to the Proposed Development, however Design and Developer Contributions SPDs for the area provides additional guidance on design features.

5.4 Material Considerations

5.4.1 This section outlines other key material considerations considered relevant to the application. International, National and Local Renewable Energy Policy is also considered to be a material consideration, however this is discussed in **Chapter 2**, and not repeated here.

National Planning Policy Framework (NPPF)

5.4.2 Whilst planning law requires development to firstly accord with the Development Plan, the NPPF (February 2025) is an important material consideration when determining planning applications.

5.4.3 The NPPF established the overall direction of planning policy in England and confirms how decision – making should occur at the local level. Central to the Framework is the concept of sustainable development whereby the "*presumption in favour of sustainable development*" forms the overarching role. Paragraph 7 indicates that the purpose of the planning system is to achieve sustainable development and defines it as "*meeting the needs of the present without compromising the ability of future generations to meet their own needs*".

Presumption in Favour of the Development Plan

5.4.4 The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, for which it identifies three overarching objectives – economic, social, and environmental. These objectives jointly support the achievement of sustainable development, emphasising these strands are "*interdependent and need to be pursued in mutually supportive ways*"

5.4.5 At Paragraph 11, the NPPF includes a presumption in favour of sustainable development. For decision taking this means:

"c) Approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination".

5.4.6 Footnote 7 sets out that the policies Paragraph 11 refers to are those contained within the NPPF, rather than those in development plans, relating to: habitats sites (and those sites listed in paragraph 189) and/or designated sites such as Sites of Special Scientific Interest, Green Belt, Local Green Space, National Landscape, National Park, Heritage Coast, irreplaceable habitats, designated heritage assets, and areas at risk of flooding or coastal change.

5.4.7 NPPF Paragraph 39 affirms that Local Planning Authorities should use the full range of planning tools available, to enable developments that will improve the economic, social and environmental conditions of the area and that decisions should be made in favour of sustainable development.

5.4.8 Addressing climate change is one of the core land use planning principles which the NPPF expects to underpin both plan-making and decision-taking. The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. National planning policy and guidance is clear that effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, Local Planning Authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment.

Low Carbon and Renewable Energy

5.4.9 The NPPF is supportive of renewable energy, making it clear Local Planning Authorities (LPA) should approach renewable energy as part of a positive strategy for tackling climate change. Chapter 14 of the NPPF pertains to '*Meeting the challenge of climate change, flooding and coastal change*' and at Paragraph 161 states:

"The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure"

5.4.10 In order to increase the use and supply of renewable and low carbon energy and heat, Paragraph 162 stipulates that plans should "*take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating and drought from rising temperatures*".

5.4.11 Paragraph 165, notes that in order to increase both the use and supply of renewable and low carbon energy and heat, plans should:

"a) provide a positive strategy for energy from these sources that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers"

5.4.12 Paragraph 166 continues to set out that in determining planning applications, local planning authorities should expect new development to:

"a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption".

5.4.13 With regards to determining planning applications for all forms of renewable and low carbon energy developments, paragraph 168 sets out that Local Planning Authorities should:

"a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposals contribution to a net zero future;

b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site".

Other relevant considerations within the NPPF

5.4.14 Paragraph 170 of the NPPF addresses the approach to planning and flood risk, setting out that development should be directed away from areas at highest risk of flooding (whether existing or future) and that where development is necessary in areas at high risk, the development should be informed by a strategic flood risk assessment alongside advice from the Environment Agency to be made safe for its lifetime without increasing flood risk elsewhere.

5.4.15 It is noted that a sequential risk-based approach should also be taken to applications in areas known to be at risk from any form of flooding. This test aims to steer new development to areas with the lowest risk of flooding from any source.

5.4.16 It is noted that 'Annex 3: Flood risk vulnerability classification' of the NPPF sets out those developments considered to constitute 'essential infrastructure' when working in a flood zone

and notes essential utility infrastructure for electricity supply, including storage and distribution systems and solar farms to constitute essential infrastructure.

5.4.17 Chapter 15 of the NPPF pertains to '*Conserving and Enhancing the Natural Environment'*. Paragraph 187 states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils and minimising impacts on and providing net gains for biodiversity.

5.4.18 Chapter 16 of the NPPF is concerned with '*Conserving and enhancing the historic environment*'. Paragraph 202 recognises that heritage assets are:

"…an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for existing and future generations".

5.4.19 Paragraphs 212 and 213 explain that:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Any harm to, or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification"

National Planning Practice Guidance (NPPG)

5.4.20 The Government's National Planning Practice Guidance (NPPG) is a web-based tool, launched in March 2014 and provides guidance, which is periodically updated, on a range of planning matters. The NPPG should be read in conjunction with the NPPF and is a material consideration in the determination of planning applications.

Renewable and Low Carbon Energy Planning Practice Guidance (PPG)

5.4.21 The Renewable and Low Carbon Energy Planning Practice Guidance (PPG) was published in June 2015 with sections being periodically updated. The PPG was last updated in August 2023. It offers Local Planning Authorities guidance on the development of policy considerations for renewable and low carbon energy and highlights the importance of increasing the amount of energy from renewable and low carbon energy technologies to help make sure the UK has a secure energy supply.

5.4.22 The PPG recognises the significant role of planning in the delivery of new renewable and low carbon energy infrastructure and identifies the importance of increasing the amount of the UK's energy mix from renewable and low carbon technologies to ensure a secure energy supply.

5.4.23 Ground – mounted solar farms are directly referenced through the PPG; a list of factors LPA's should consider in the determination of planning applications are set out. This includes:

- *"Encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;*

- *Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued use of agricultural use where applicable and/or encourages biodiversity improvements around arrays;*

- *That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*

- *The proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;*

- *The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*

- *The need for, and impact of, security measures such as lights and fencing;*

- *Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*

- *The potential to mitigate landscape and visual impacts through, for example, screening with native hedges; and*

- *The energy generating potential, which can vary for a number of reasons including, latitude and aspect."*

Climate Change Planning Practice Guidance

5.4.24 The Climate Change PPG, published in June 2014 with subsequent updates March 2019, offers advice and guidance on the identification of mitigation and adaptation measures required in the planning process to address the impacts of climate change.

5.4.25 It outlines the importance of Planning in addressing and improving resilience to climate change. In order to be found sound, local plans must reflect this to enable delivery of sustainable development in line with the NPPF.

5.4.26 This PPG does not explicitly reference Solar developments, however does state "*local planning authorities should pay particular attention to integrating adaptation and mitigation approaches and looking for 'win-win' solutions that will support sustainable development*"

National Policy Statements (NPS)

EN:1 Overarching National Policy Statement for Energy (2024)

5.4.27 The Overarching NPS for Energy (EN-1) was first published in July 2011 and was revised in November 2023 before coming into force January 2024. EN – 1 is part of a suite of NPS's issued by the Secretary of State (SoS) for Energy and Climate Change. It sets out the Governments policy for delivery of major energy infrastructure.

5.4.28 The NPS recognises that since the publication of the first published EN – 1, overall, Greenhouse Gas emissions from the power sector have more than halved. The Statement attributes this to the proportion of renewable generation "*more than quadrupling from 10 percent to 43 percent between 2011 and 2020".*

5.4.29 EN – 1 stresses the importance of employing renewable technologies in reducing the UK's carbon footprint. Paragraph 2.3.5 states:

"The sources of energy we use are changing. Since the industrial revolution, our energy system has been dominated by fossil fuels. That remains the case today. Although representing a record low, fossil fuels still accounted for just over 76 per cent of energy supply in 2020. We need to dramatically increase the volume of energy supplied from low carbon sources".

5.4.30 Paragraph 2.3.6 goes on to state:

"We need to transform the energy system, tackling emissions while continuing to ensure a secure and reliable supply, and affordable bills for households and businesses. This includes increasing our supply of clean energy from renewables, nuclear, and hydrogen manufactured using low carbon processes (low carbon hydrogen) and, where we still emit carbon, developing the industry and infrastructure to capture, transport and store it."

5.4.31 Paragraph 3.3.4 to 3.3.6 describe the importance of storage for different types of electricity infrastructure, the flexibility storage provides in meeting demand and how it reduces the need for new network infrastructure. The role of solar is set out from paragraphs 3.3.20 – 3.3.24.

5.4.32 At Paragraph 3.3.20, the NPS states:

"Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar."

5.4.33 Paragraph 3.3.21 goes on to highlight the Energy White Paper's requirement for sustained growth in the capacity of both onshore wind and solar in the next decade, with Paragraph 3.3.22 continuing to recognise that:

"ensuring affordable system reliability, today and in the future, means wind and solar need to be complemented with technologies which supply electricity, or reduce demand, when the wind is not blowing, or the sun does not shine."

EN3: National Planning Policy Statement for Renewable Energy Infrastructure (2024)

5.4.34 The NPS for Renewable Energy Infrastructure (EN – 3) was also first published in July 2011 and revised in November 2023 (also came into force in January 2024). It sets out national guidance for renewable energy projects and infrastructure. EN – 3 should be read in conjunction with EN – 1 and reiterates the importance of renewable energy, stating at Paragraph 2.1.2:

"Electricity generation from renewable sources is an essential element of the transition to net zero and meeting our statutory targets for the sixth carbon budget (CB6). Our analysis suggests that demand for electricity is likely to increase significantly over the coming years and could more than double by 2050. This could require a fourfold increase in low carbon electricity generation, with most of this likely to come from renewables"

5.4.35 EN – 3 reflects the important role that renewables will play in developing a low carbon economy and meeting government's net zero targets, with the 2023 update incorporating a new section to provide guidance on solar PV. This sets out how the technology works as well as site selection factors; specific technical considerations; environment and biodiversity impacts (including the potential to make net gain); landscape and visual impacts; glint and glare; land use and heritage considerations.

5.4.36 Section 3.10 Solar Photovoltaic Generation highlights the importance of solar energy and states at paragraph 3.10.1 that:

"The government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. As such solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector."

5.4.37 Paragraph 3.10.2 continues:

"Solar also has an important role in delivering the government's goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in solar deployment by 2035 (up to 70GW). It sets out that government is supportive of solar that is co-located with other functions (for example, agriculture, onshore wind generation or storage) to maximise the efficiency of land use."

Summary

5.4.38 Recent revisions to the NPPF continue to present a clear support for the development of renewable energy technologies in the UK's targets to be net zero by 2050, setting out that Local Planning Authorities should consider identifying suitable areas for renewable and low carbon energy sources and associated infrastructure in their emerging plans.

5.4.39 The Renewable and Low Carbon Energy PPG further sets out that support for renewable energy technologies particular Solar and recognises the role it will play in working to provide decarbonisation of the energy system. This is further supported through the Climate Change PPG which recognises the important role of planning in addressing and improving resilience to climate change.

6 ASSESSMENT OF THE PROPOSED DEVELOPMENT

6.1 Introduction

6.1.1 This section of the Planning Statement provides an assessment of the Proposed Development against the Development Plan and Material Considerations.

6.2 Weight of Development Plan and the NPPF

Adopted Development Plan

6.2.1 Paragraph 2 of the NPPF states:

"*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.*"

6.2.2 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development and states:

"For decision – taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

6.2.3 Paragraph 34 of the NPPF states:

"Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changed in national policy."

6.2.4 The Local Plan was adopted in December 2020, which was after the first iteration of the initial NPPF, but before its current iteration. Given the Plan was adopted less than 5 years ago, it is

still within the current timeframe for review as set out by the NPPF. Therefore, the Local Plan can be given significant weight in the decision making process, except from where the policies within it are inconsistent with the current version of the NPPF.

6.2.5 Overall, the relevant policies within the Local Plan can be afforded weight in the determination of this planning application due to their support for the need to mitigate against climate change and the support to increase energy production from renewable sources. Other policies within the NPPF have been considered further in the sections of the Planning Statement where relevant.

6.3 Principle of Development

6.3.1 Local Plan Policy STRAT1: The Overall Strategy sets out that proposals for development in South Oxfordshire will be assessed using national policy and guidance and the whole of the Development Plan, and should be consistent with the Overall Strategy of the Local Plan which includes, amongst others, contributing to tackling climate change.

6.3.2 The most relevant policy in the Development Plan, is Policy DES9: Renewable and Low Carbon Energy which stipulates that the Council encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales.

6.3.3 The policy states that schemes for renewable and low carbon energy generation will be supported provided they do not have a significant adverse effect on the landscape; historic environment; openness of the Green Belt; the safe movement of traffic and pedestrians; or residential amenity.

6.3.4 Lewknor Neighbourhood Plan Policy FI4: Green Energy reiterates Policy DES9 in that it also is supportive of renewable energy development. The Policy states:

"Proposals for individual and community scale renewable energy schemes will be supported subject to the following criteria:

i. The siting and scale of the proposed development does not detract from the setting and its position in the wider landscape

ii. The proposed development does not have an unacceptable impact on the amenities of local residents

iii. The proposed development does not have an unacceptable impact on a feature of natural and biodiversity importance

iv. Siting of green energy sites will not have an unacceptable impact to the views detailed in Policy CH4 "Protection of Views"

6.3.5 In this case, the Application Site is located outside of a settlement boundary and is therefore located within the countryside. Nevertheless, the adopted policies of the Development Plan are supportive of renewable energy developments in such locations, subject to the various criteria of Policy DES9 and FI4 which are discussed in further detail in the later parts of this Statement but are deemed to be addressed.

6.3.6 As required by Local Plan Policy STRAT1, an assessment of national policy and guidance is also required. In this regard, Paragraph 165 of the NPPF states that local plans should provide

a positive strategy for energy that maximises the potential for suitable development and that plans should consider identifying suitable areas for renewable energy schemes. In this case, the adopted Development Plan does not provide for these proactive steps, meaning that it will be necessary for speculative schemes to come forward to meet this need.

6.3.7 It is therefore relevant to give consideration to what the NPPF says with regards to the determination of such planning applications. This is provided in Paragraph 168 of the NPPF which is strongly supportive of renewable energy development setting out that Local Planning Authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposals contribution to a net zero future.

6.3.8 The PPG is also strongly supportive of solar development; the PPG on Climate Change reiterates that responding to climate change is central to the economic, social and environmental aspects of sustainable development. On 'Renewable and Low Carbon Energy', the PPG emphasises the importance of renewable energy in ensuring that the UK has a secure energy supply, as well as also slowing down the negative impacts of climate change and stimulating investment in new jobs and businesses.

6.3.9 This need is recognised by the Council, who an April 2019 declared a Climate Emergency, following which, in February 2021, the Council declared an Ecological Emergency, where they pledged to become a carbon neutral council by 2025 and a carbon neutral district by 2030. The Council's own carbon neutral targets represent a significant material consideration in support of the Proposed Development.

6.3.10 This need is also reflected in numerous recent appeal and Secretary of State decisions, such as at **Appendix 3** which provides a relevant recent Appeal Decision for a solar farm in North Yorkshire, that was decided in February 2025 (**APP/Y2736/W/24/3342002**). In that decision the Secretary of State afforded **significant weight** to the generation of renewable energy in helping to combat climate change. This approach is reflective of numerous similar appeal decisions where the generation of renewable energy is noted as a significant benefit.

6.3.11 Given the above, it is clear that the principle of the Development is supported by Policies STRAT1 and DES9 of the South Oxfordshire Local Plan, and Policy FI4 of the Neighbourhood Plan. This support is strengthened by national policy and guidance, most notably Paragraph 168 of the NPPF, NPS EN – 1 and NPS EN – 3, and also the Council's own carbon neutral targets.

6.3.12 This planning policy support evidenced in a recent Planning permission which was granted by the Council in August 2023 for a solar farm development (49.9MW) with a site area of over 100 ha (reference P21/S3915/FUL) where the planning officer concluded there was "clear policy support for the principle of renewable energy generation". The officers report for this application can be found at **Appendix 2.**

6.3.13 With regard to the Tetsworth Neighbourhood Plan, there are no policies which preclude the development of the cable corridor.

Emerging Policy

6.3.14 Emerging Joint Local Plan Policy CE5 – Renewable Energy states that the Council "*encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales".* Part 3 of the Policy states:

"Planning applications for renewable and low carbon energy generation and their associated energy storage and distribution infrastructure will be supported, provided that they do not cause significant adverse impacts that cannot be mitigated and are reversible at the end of the life of the renewable energy installation, including cumulative and cross boundary impacts on:

a) Landscape, tranquillity and sensitive views

b) Biodiversity, including protected habitats and species and ecological networks

c) Water quality and flood risk

d) The best and most versatile agricultural land (Grades 1, 2 and 3a) unless significant sustainability benefits are demonstrated to outweigh any loss

e) The historic environment, both designated and non-designated assets, including development within their settings;

f) The openness of the Green Belt

g) The National Landscapes (formerly AONBs) and their settings;

h) Aviation and defence navigation systems/communications

i) The safe movement of pedestrians, rail, traffic and the enjoyment of public rights of way; and

j) Residential amenity (including as a result of noise, vibrations, dust, odour, air quality and shadow flicker)"

6.3.15 The Policy further states "*Planning applications for ground mounted solar energy and associated infrastructure meeting the requirements of part 3 of this policy, will be supported".*

6.3.16 Policy CE5 is supportive of renewable energy schemes and therefore, can be attracted some weight in the decision – making process due to its relative consistency with the NPPF. The Emerging Joint Local Plan is however still at Examination Stage therefore the Applicant reserves the right to make further comment on this matter as the JLP progresses.

Other Material Considerations

6.3.17 The urgency of the need for substantially greater quantities of renewable energy (including large scale solar) is self – evident given the dramatic step change in Government energy policy driven by its declared Climate Emergency to achieve 100% reduction in greenhouse gas emissions by 2050 (Net Zero). This is a legally binding target.

6.3.18 UK energy policy acknowledges renewable energy developments as key to the net-zero target. Solar is seen by the UK Government as one of the building blocks of the country's low cost, net zero consistent generation mix, with a further 64GW of solar required by 2035.

6.3.19 It is also clear that decentralised renewables contribute to national energy security. This is particularly important when consideration is given to the role that Solar PV plays in helping to accelerate the transition away from oil and gas, which depends critically on how quickly large scale renewables can be deployed.

Summary

6.3.20 In summary, the Development Plan is supportive of renewable and low carbon energy developments subject to the satisfaction of other material planning considerations and there are no policies within it that mean planning permission should be refused on the Site. Furthermore, the NPPF, NPPG, Emerging JLP all provide significant support for solar developments.

6.3.21 On this basis, it is clear that the principle of the Proposed Development is acceptable and in accordance with policies set out in the Development Plan and the NPPF, and, and should therefore be approved without delay.

6.4 Landscape and Visual

6.4.1 Chapter 5 of the Environmental Statement provides the Landscape and Visual Impact Assessment (LVIA). The LVIA provides an assessment of the landscape and visual impacts of the Proposed Development. The LVIA confirms the Site does not currently lie within any protected landscape, however the Site is located c.1.7km north of the boundary of the Chilterns National Landscape at its closest point.

6.4.2 Local Plan Policy DES9: Renewable and Low Carbon Energy encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales provided it does not cause a significant adverse effect to the landscape, both designated AONBs (now known as National Landscapes) and locally valued.

6.4.3 Policy ENV1: Landscape and Countryside of the adopted Local Plan states that the highest level of protection will be given to the landscape and scenic beauty of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs) (now known as National Landscapes). Whilst the Site is not within the National Landscape, the Policy sets out (wording taken directly from Policy ENV1) that development affecting the setting of an AONB will only be permitted where it conserves, and where possible enhances the character and natural beauty of the AONB. It states that development proposals that could affect the special qualities of the setting of an AONB should be accompanied by a proportionate Landscape and Visual Impact Assessment.

6.4.4 In consideration of the setting of the National Landscape, and the level of weight that can be afforded to Policy ENV1, it is relevant to refer to Paragraph 189 of the NPPF which states that:

"…The scale and extent of development within all these designated areas should be limited, while development within their setting (referring to the National Parks, the Broads and National Landscapes) *should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas."*

6.4.5 Importantly, the NPPF requires development to "*avoid"* or "*minimise"* adverse impacts in the setting of the National Landscape and does not provide a blanket restriction on development which does not conserve the setting. As such, this element of Policy ENV1 is not consistent with the NPPF and should be given limited weight.

6.4.6 Lewknor Neighbourhood Plan Policy CH2: Landscape Character requires development proposals to conserve and enhance the landscape character area in which it lies, having regard to the South Oxfordshire Landscape Character Assessment Document. Further, Lewknor Neighbourhood Plan Policy CH3: Protection of Views identifies important views within

the Parish as being of special significance for the character and setting of the parish and its villages, and stipulates that development proposals should preserve or where practicable enhance the local character of the landscape and respond positively to the identified important views.

6.4.7 Several viewpoints have been assessed as part of the LVIA that are classed as Important within the Lewknor Neighbourhood Plan including:

- Lewknor from Salt Lane
- Lewknor and South Weston - from Beacon Hill
- Postcombe - from Beacon Hill
- Lewknor - from Bald Hill

6.4.8 With regards to the Tetsworth Neighbourhood Plan, Policy TET4 – Key Views requires development to preserve or enhance the local character of the landscape, and ensure there is no adverse impact on important views. As the cable corridor is underground, landscape and visual impacts during construction, will only be temporary, and extremely minimal, and therefore it is considered this part of the development is fully in accordance with Policy TET4 of the Tetsworth Neighbourhood Plan.

6.4.9 With regards to landscape character, the LVIA sets out that the Site is located in Landscape Character Area (LCA) 6B Chiltern Chalk Escarpment Footslopes, an area which was previously described as LCA 5 Eastern Vale Fringes, with characteristics of both evident. To present a more balanced assessment of the effects on landscape character, LCA 6B was considered in two parts (North – west (NW) of the B4009 and south – east of the B4009 (SE)). Large scale changes would be largely limited to within the solar site itself, where there would be a fundamental change in character from arable fields to a solar farm, albeit with wildflower seeding underneath the PV panels. The residual effect upon landscape fabric is found to be neutral in the ES as the additional planting will contribute positively to landscape character, amenity and biodiversity. There would be no significant landscape effects on LCA6B NW or SE.

6.4.10 Within the Chilterns National Landscape, between approximately 1.7km and 2.8km to the south-east, the scale of landscape change would be medium, and pertaining to the impact upon the special qualities of the Chilterns National Landscape, indirect moderate effects are predicted on "*A rich tapestry*". By virtue of distance and intervening features, this impact is not significant, but is adverse. There would also be indirect effects on the defined tract of landscape character within the Chilterns National Landscape, which has assessed to be Significant.

6.4.11 In terms of visual effects, key visual receptors included those passing through and adjacent to the Site on the PRoW network and users of the major road network including the M40. For visual receptors within the Chilterns National Landscape the Proposed Development would be visible in the context of the M40, local road network, other existing electrical infrastructure such as pylons and overhead lines and other recently constructed solar schemes. The M40 is a noted visual and aural detractor within the landscape affecting both views and experience of landscape character in the Site and National Landscape, therefore reducing the tranquillity of the area.

6.4.12 Mitigation is proposed through the Site including new sections of native rich hedgerows, infill planting of existing hedgerows and linear tree belts. There will also be areas of wildflower seeding and creation of 1.11 ha native woodland. Once established this will create additional filtering of views (screening in summer) maturing over time and will increase the vegetative structure within the Site and create improvements on landscape character.

6.4.13 Effects on the PRoW network within and adjacent to the Site have been identified as moderate (Significant) however there will be a positive indirect effect (five – ten years) resulting from the screening of the M40 and A40 due to a combination of the proposed infrastructure and mitigation planting.

6.4.14 Visual effects for the Chilterns National Landscape have been assessed as moderate and major/moderate and both will be significant. Although the proposed mitigation planting within the Site will not create additional filtering of views given the change in levels, the expected continued growth of the existing intervening vegetation will, however, provide some additional filtering within a five to ten year period.

6.4.15 Therefore, whilst it has been concluded within the LVIA that there will be some significant adverse effects to the landscape, due to indirect effects on the defined tract of landscape character within the Chilterns National Landscape, these effects have been minimised through mitigation which once established will create improvements on landscape character. This accords with the requirements of Paragraph 189 of the NPPF. Furthermore, as previously noted, the Proposed Development would be visible in the context of the M40, local road network and other recently constructed solar schemes meaning that the overall impact of the proposals of the setting of the National Landscape and the wider landscape character would be reduced.

6.4.16 It also needs to be considered that much of the district in South Oxfordshire is rural in nature, with a significant proportion of land in agricultural use. The main exception to this is the south-east where the wooded Chiltern Hills rise sharply from the Thames Valley. Most of the southern end of the district sits in either the Chilterns or North Wessex Downs National Landscape, and the north - east of the district forms part of the Oxford Green Belt. In total, around 70%[7] of the district has a green belt or National Landscape designation, making the amount of land available to site large scale solar farms limited. The Site has been purposefully located outside of the Chilterns National Landscape Area and the Green Belt, but in an area that ensures sufficient capacity to export the power generated.

6.4.17 Further, it is noted that large scale solar farms have been allowed at Appeal within the setting of Protected landscapes. A recent example of a relevant appeal decision, is Appeal Ref. **APP/V3120/W/24/3356504** (**Appendix 4**) on Land at Manor Farm, to the East of Denchworth, Oxfordshire, OX12 0HP. In this case, the Planning Inspector allowed an appeal for a 49.9MW solar farm, despite finding that some level of harm to the landscape setting, including some attractive views obscured such as from the site towards a National Landscape, which would be contrary to a Core Policy of the Local Plan. In the overall planning balance, the Inspector concluded that:

[7] https://www.southoxon.gov.uk/south-oxfordshire-district-council/sports-and-activities/out-and-about/visiting-and-exploring-south-oxfordshire/about-south-oxfordshire/

"As already stated, against the development I give significant weight to the landscape harm and great weight against due to the less than substantial harm to the setting of heritage assets. However, the benefits are very great as the proposal would provide large quantities of renewable energy, enough to power many homes. In this case I conclude that due to these great benefits there are material considerations that make me conclude that this proposal should be allowed."

6.4.18 Similarly, Appeal Decision Reference **APP/U1105/W/23/3320714** (**Appendix 5**) was allowed in October 2023 for a Solar Farm at Marsh Green, East Devon. This was in close proximity to the East Devon National Landscape. In that Appeal, the Inspector found that there was material adverse harm to the local landscape (within a 'valued landscape') and resultant conflict with the relevant Development Plan policies which was afforded significant weight. The Inspector went on to conclude however that this (and other) harm was outweighed by the significant public benefits associated with renewable energy development.

6.4.19 To conclude, whilst it is not disputed there is some policy conflict with regard to the landscape, the level of weight that can be given to Policy ENV1 is considered to be limited due to previously identified inconsistencies with Paragraph 189 of the NPPF. Overall, it is considered that given the locational constraints pertaining to large proportions of the rest of the district, as discussed previously, and the significant benefits of the Proposed Development including the generation of clean renewable energy that would have enough power to supply approximately 21,151 households, these benefits would demonstrably outweigh the harm to the landscape.

6.4.20 Furthermore, the Proposed Development would be a temporary feature in the landscape, having a limited lifespan of 40 years, after which a decommissioning and restoration scheme will be implemented in accordance with relevant planning conditions. This will remove the panels and other electrical components of the proposal.

Emerging Policy

6.4.21 As mentioned earlier within this Planning Statement, the Council are in the process of preparing a new JLP, which is currently undergoing examination. The following Policies would be applicable to the Site and Proposed Development should they be adopted:

- Emerging JLP Policy CE5 – Renewable Energy: This policy is highly supportive of renewable and low carbon energy generation schemes, and supports them provided they do not cause significant adverse impacts (that cannot be reversed at the end of the life of the installation) to landscape, tranquillity and sensitive views.

- Emerging JLP Policy NH4 – Chilterns and North Wessex Downs National Landscapes: This policy states that great weight will be given to conserving and enhancing the landscape and scenic beauty of the Chilterns and North Wessex Downs National Landscapes. It further stipulates that development within the setting of a National Landscape must be sensitively located and designed to avoid or minimise adverse impacts on the National Landscape.

- Emerging JLP Policy NH5 – District Valued Landscapes: This policy designates nine district valued landscapes across the region. The Site lies within the '*Chiltern Chalk Escarpment Footslopes'.* The Policy stipulates that development within or affecting a district – valued landscape will be assessed based on its specific landscape and visual impact and that it should appropriately respond to the special characteristics and significance of the district – valued landscape and avoid loss of or harm to the special

characteristics and features that underpin the scenic quality and significance of the district – valued landscape.

- Emerging JLP Policy NH6 – Landscape: This Policy states that South Oxfordshire's landscapes, countryside and rural areas will be protected from harmful development and that development will only be permitted where it protects, and , where possible enhances the features and functions that contribute to the nature and quality of the landscape.

6.4.22 As part of the emerging JLP, the *Landscape Character Assessment for South Oxfordshire and Vale of White Horse (2024)* has been prepared as part of the evidence base. Appendix 5.6 of the LVIA reviews this document, and several other SPDs including:

- South Oxfordshire and Vale of White Horse Renewable Energy Study – Landscape Sensitivity Assessment;
- Tranquillity Assessment – Final Report; and
- Local Landscape Designation Review of South Oxfordshire and Vale of White Horse.

6.4.23 Due to the Tranquillity Assessment being of a high-level regional approach, the LVIA highlights that its application to the Site is not reflective of the significant influence that the M40, A40 and the adjacent road network has on the tranquillity of the Site at a local level. It also highlights that there are anomalies with how the naturalness of land cover has been addressed and how it concludes that a local watercourse contributes to tranquillity, when a watercourse cannot be seen from the Site. This Planning Statement should be read in conjunction with Chapter 5 of the Environmental Statement, and in particular Appendix 5.6 with regards to the tranquillity of the Site.

6.4.24 Therefore, it is considered that the Site is not as tranquil as set out in the Evidence Base, and therefore the Emerging Designation has not been further considered in the LVIA. Further, the Emerging JLP is yet to undergo formal examination and therefore it is considered that very limited weight can be afforded to these Policies at this time.

6.5 Ecology and Biodiversity

6.5.1 An Ecological Impact Assessment (EcIA) is provided at Chapter 7 of the Environmental Statement, including calculations for Biodiversity Net Gain (BNG), which can be found at Appendix 7.6.

6.5.2 The NPPF places a strong emphasis on the planning system being able to contribute to, and enhance, the natural and local environment. This should be achieved, in part, by minimising impacts on biodiversity and providing net gains in biodiversity.

6.5.3 Paragraph 7.13 of the adopted Local Plan sets out that adequate information must be provided, prior to planning decisions being made to assess the impact on biodiversity where reasonably likely to occur.

6.5.4 Local Plan Policy DES9: Renewable and Low Carbon Energy is supportive of renewable energy development provided it does not cause a significant adverse impact to biodiversity including protected habitats and species.

6.5.5 Local Plan Policy ENV2: Biodiversity – Designated Sites, Priority Habitats and Species stipulates that the highest level of protection will be given to sites of international nature conservation importance (Special Areas of Conservation) and that development that is likely to result in a significant effect, either alone or in combination, on such sites will need to satisfy the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).

6.5.6 The Policy further sets out that development that is likely to have an adverse effect on an SSSI will only be permitted in exceptional circumstances, where it can be demonstrated that the benefits of the development clearly outweigh any harm to the special interest features and SSSI's contribution to the local ecological network. The Policy goes on to state that development which is likely to result in the loss, deterioration or harm to local ecologically designated sites will only be permitted if: the need for, and benefits of, the development in the proposed location outweigh the adverse effect on the interests; it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the interests; and measures will be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate or, as a last resort, compensate for the adverse effects resulting from development.

6.5.7 Local Plan Policy ENV3: Biodiversity stipulates that development that conserves, restores and enhances biodiversity in the district will be supported, and that all development should provide a net gain in biodiversity. It further states that planning permission will only be granted if impacts on biodiversity can be avoided, mitigated or, as a last resort, compensated fully.

6.5.8 Lewknor Neighbourhood Plan Policy EN1: Wildlife and Biodiversity states that development should avoid the loss of mature trees, hedgerows or other forms of wildlife corridor, and where this is unavoidable, the proposals should make provision on-site for species appropriate to the sites growing conditions. The policy provides further biodiversity principles that proposals should comply with in order to be supported including incorporating landscape schemes using species appropriates to the sites growing conditions; on-site biodiversity enhancements such as new roosting features; fences, walls or hedges designed to incorporate features allowing for the safe dispersal of wildlife; and details of how the biodiversity and wildlife environment of the site would be enhanced.

6.5.9 Tetsworth Neighbourhood Plan Policy TET8 – Biodiversity and the Natural Environment stipulates that development proposals should ensure that existing wildlife habitats are not unacceptably affected and that green and blue infrastructure are preserved and where practicable enhanced.

6.5.10 The EcIA sets out the ecological baseline conditions and: identifies important ecological features present; identifies important ecological features that could be impacted by the project; identifies potential effects and their significance; and, provides details of propose mitigation or compensation measures and enhancements.

Statutory Sites

6.5.11 The nearest statutory ecologically designated sites are the Aston Rowant Special Area of Conservation (SAC) and Aston Rowant Special Site of Scientific Interest (SSSI) and the Aston Rowant National Nature Reserve (NNR). These are all located c.1.3km south-east. The EcIA sets out that no direct effects will occur to these statutory designated sites and there are no hydrological links between the SAC/SSSI/NNR and the Site. The potential for the Site to assist in supporting the qualifying interest of the designated sites has been considered, however the

Site supports none of the same woodland or scrub habitat types for which the SAC or SSSI are designated. The SAC and SSSI have no mobile designated features (such as bats or birds), and no significant effects are therefore predicted.

6.5.12 The Chilterns Beechwoods SAC lies c.2.1km south-east, and no direct effects will occur to this site. There also no hydrological links between the SAC and the Site. The EcIA sets out that the potential for the Site to assist in supporting the qualifying interest of the designated site has been considered, and although the Site supports none of the same woodland or grassland habitat types for which the SAC is designated, it does include some woodland and deadwood habitat, but as there would be no woodland or dead wood removal no likely significant effects are predicted for any interest features for which the SAC is designated.

6.5.13 As the ES predicts no significant effects upon any Statutory Sites, it is considered that the Proposed Development is in clear accordance with Policy ENV2 which stipulates that development will be supported where they protect, conserve or enhance designated sites. It is clear from the EcIA that the Proposed Development will protect and conserve the aforementioned designated sites and their qualifying features.

Assessment of Construction Effects

6.5.14 The following effects have been identified that have the potential to effect the important ecological features present onsite:

- Direct effects during construction on ecology:
  - Permanent and temporary loss of habitat
  - Permanent and temporary habitat fragmentation and isolation
  - Impacts upon protected or otherwise notable species or upon their resting or breeding sites, in particular Great Crested Newts, Breeding Birds, Bats, Badger, Dormice, Brown Hare, Hedgehog, Polecat, Common Lizard and/or Slow Worm
  - Spread of invasive non-native species; and
  - Accidental Pollution
- Indirect effects during construction on ecology:
  - Via light, noise, and human presence, impacts upon protected or otherwise notable species or upon their resting or breeding sites.

6.5.15 In order to mitigate these construction effects, full details of construction mitigation measures will be provided in a CEMP, which would form a planning condition. General good practice measures to protect important ecological features either known to be present, or with the potential to be present, will be implemented during the construction phase. These will include:

- Micro-siting of project elements will be used to avoid important ecological features where possible.

- Protective fencing will be installed around retained habitats of importance and retained trees located directly adjacent to working areas (in accordance with recommendations in BS 5837:2012).

- All working areas, including tracks, will be reinstated to their original condition in terms of vegetation cover, except where they are to be enhanced.

- All disturbed habitats that will not be permanently lost will be reinstated as soon as possible after construction.

- All substances or materials within the temporary construction compounds would be carefully stored to reduce accidental pollution risk and prevent them causing any harm to otters or other mammal species which may enter the compound at night.

- During construction, all excavations would either be temporarily covered at night or designed to include a ramp to allow animals a means of escape should they fall in.

- A speed limit of no greater than 15mph would be implemented on-site to reduce the risk of road traffic collisions with wildlife.

- Lighting for construction will be the minimised to the lowest safe level and designed such that there will be no significant increase in illumination levels above current levels outside of the working area.

6.5.16 A suitably qualified ECoW or ECoW team will be employed for the duration of the construction and reinstatement periods, to oversee the safeguarding of important habitats and species and the implementation of ecological mitigation, compensation or enhancement measures, although this may not necessarily be a full-time role throughout. The role of the ECoW will include the following tasks:

- Give toolbox talks to all staff on - site, so staff are aware of the ecological sensitivities on the Site and the legal implications of not complying with agreed working practices.

- Agree and monitor measures designed to minimise damage to retained habitats.

- Undertake pre-construction surveys and checks and advise on ecological issues where required.

- Undertake pre-construction inspections of areas which require protected species mitigation (such as for breeding birds) and carry out an appropriate level of supervision during vegetation clearance.

- Oversee vegetation and habitat reinstatement on areas subject to disturbance during construction.

6.5.17 Pre-construction surveys for protected species whose distribution could have changed since the baseline surveys would be undertaken to update the baseline and inform the implementation of any mitigation necessary.

6.5.18 Checks for the presence of protected or notable species will also be carried out by the ECoW immediately prior to vegetation clearance. In the unlikely event that protected species not recorded at the Site previously are identified during the pre-construction surveys and/or ECoW

checks, appropriate mitigation measures would be identified, agreed with Natural England (if licences are required) and implemented.

Operational effects

6.5.19 With regards to the assessment of operational effects, the following were identified which could affect bird or bat populations:

- Indirect loss of foraging habitat, as a result of the solar panel array adversely affecting behaviours of bids and bats.

6.5.20 As part of the embedded mitigation measures, a LEMP is proposed that will include how and where habitats are to be created or enhanced, aftercare, monitoring and maintenance. This will ensure that opportunities for biodiversity enhancement are integrated as part of the Proposed Development, such that operational impacts are considered unlikely to be significant, based on data and evidence to date.

6.5.21 With regards to general mitigation during the operational phase, as the substation will contain potential pollutants which could include cooling oils, lubricants, fuels, greases, etc. The design, maintenance and operation of the facility will follow good practice in line with the prevailing/ future guidance and legislation with regard to measures such as the storage and management of potentially polluting substances, emergency spill response procedures, clean up and control of any potentially contaminated surface water run-off and routine inspection to prevent or contain leaks of any pollutants. The operation of the Proposed Development will also follow good practice in line with the prevailing/ future guidance and legislation with regard to specific measures to avoid potential impacts to protected or notable species or sensitive habitats.

Residual Effects

6.5.22 With embedded design, applied mitigation and additional mitigation measures in place including a Skylark Compensation Plan, which is proposed to be conditioned, no significant residual construction or operational effects are predicted.

6.5.23 The approach to agree a Skylark Compensation Plan post determination for solar farm developments has been established in recent appeal decisions, including Appeal ref. **APP/P0240/W/24/3338483** at Brogborough Landfill Site, Woburn Road, Lidlington (**Appendix 6**). In this appeal, offsite mitigation was deemed to be acceptable subject to a condition for Skylark Mitigation Strategy to be submitted and approved by the Local Planning Authority. It is considered that the same approach would be acceptable for the Proposed Development.

Summary

6.5.24 Local Plan Policy DES9 supports renewable energy development provided it does not cause a significant adverse impact to biodiversity. Local Plan Policy ENV3 stipulates that if there are impacts on biodiversity, development will be supported where it can be '***compensated fully'.*** Therefore, the Proposed Development would be in accordance with Policy ENV3.

6.5.25 Lewknor Neighbourhood Plan Policy EN1: Wildlife and Biodiversity states that development should avoid the loss of wildlife corridors, and where this is unavoidable, the proposals should make provision on-site for species appropriate to the sites growing conditions; the. Proposed Development is also in accordance with this Policy.

6.5.26 Following implementation of the Skylark Compensation Plan, there would be no residual significant adverse impacts upon biodiversity. Therefore, the Proposed Development is in accordance with Local Planning Policy pertaining to ecology.

Enhancements

6.5.27 The proposed LEMP will describe a range of measures that will be employed for the benefit of biodiversity. In summary, those that are considered to be enhancement i.e. which go beyond the requirement to mitigate or compensate for impacts include:

- Retained hedgerows would be positively managed to increase the average height to 3m and to infill any gaps with native shrubs or hedgerow trees, and any non-native invasive plant species would be removed, as appropriate. Potential native shrubs and trees for enhancement and hedgerow infilling include blackthorn, hazel, dog rose, dogwood, spindle, holly Ilex aqufolium, English Oak and field maple.
- 3377m of new, native species rich hedgerow with trees planted
- 0.99ha of new native broadleaved woodland created
- 77.98ha of new species rich grassland created; and
- Creation of stag beetle log stumperies close to existing and new woodlands and hedgerows

Biodiversity Net Gain (BNG)

6.5.28 The results of the Proposed BNG assessment using the Statutory Metric is set out in detail in Appendix 7.6 of the EcIA. In summary, the on – site net change is as follows:

- There will be a 171.08% increase in habitat units
- 124.63% increase in hedgerow units
- There will be no change in watercourse units.

Summary

6.5.29 It is considered that the Proposed Development is largely in accordance with the Local Plan and accords with the requirements of Paragraph 187 of the NPPF which states that planning decisions should minimise impacts on biodiversity. It is clear that the Proposed Development has incorporated mitigation to ensure the majority of impacts on biodiversity are not significant.

6.5.30 There will be no significant effects on internationally, nationally, or locally designated sites and the Proposed Development can therefore be considered to comply with Policy ENV2: Biodiversity – Designated Sites, Priority Habitats and Species, with regards to designated sites.

6.5.31 Local Plan Policy ENV3: Biodiversity states that planning permission will only be granted if impacts on biodiversity can be avoided, mitigated or, as a last resort, compensated fully. It is considered that subject to the securing of a skylark compensation plan, the impacts to the

skylark habitat will be fully compensated for, and therefore the Proposed Development is in compliance with Local Plan Policy ENV3.

Emerging Policy

6.5.32 Emerging JLP Policy CE5 – Renewable Energy is supportive of renewable energy development provided the scheme does not cause significant adverse impacts that cannot be reversed on biodiversity, including protected habitats and species and ecological networks

6.5.33 Emerging JLP Policy NH1 – Biodiversity is extremely similar to that of the adopted plan aims to protect international, national and locally designated sites of ecological importance, and sets out measures proposed to mitigate adverse effects will be given weight proportionate to their likelihood of success.

6.5.34 It is considered as the emerging JLP policies are in essence the same as the adopted Local Plan, there are no further considerations that would preclude the grant of planning permission within the JLP.

6.6 Arboriculture

6.6.1 An Arboricultural Impact Assessment (AIA) was undertaken by Barton Hyett Associates and this can be found at Appendix 2.5 of the Environmental Statement.

6.6.2 The NPPF recognises the importance of trees, and there is a strong emphasis on the protection and enhancement of biodiversity. At paragraph 136 the NPPF states "*Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change*" and further states "…*opportunities are taken to incorporate trees elsewhere in development and that existing trees are retained where possible".*

6.6.3 NPPF Chapter 15. '*Conserving and Enhancing the Natural Environment'* further states at paragraph 187 that planning policies and decisions should contribute to and enhance the natural and local environment by "*recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystems including the benefits of trees and woodland".*

6.6.4 Further, paragraph 193 sets out that "*development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists."*

6.6.5 This emphasis on protecting trees is mirrored within the Local and Neighbourhood Plan. Paragraph 7.10 of the Local Plan states:

"Trees and hedgerows, individually and collectively, can make an important contribution to biodiversity and the landscape. They also absorb atmospheric pollution and have a beneficial influence on the climate. Development proposals should provide a net increase in tree canopy cover where this is possible, having regard to other considerations including site size, heritage protection, landscape character, habitat protection, residential amenity, and the need to make the best use of land."

6.6.6 Policy ENV1: Landscape and Countryside states "*Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes in particular trees (including individual trees, groups of trees and woodlands), hedgerows and field boundaries; irreplaceable habitats such as ancient woodland and aged or veteran trees found outside ancient woodland".*

6.6.7 Policy ENV2: Biodiversity – Designated Sites, Priority Habitats and Species stipulates that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) will be refused planning permission, unless there are wholly exceptional reasons justifying the grant of planning permission.

6.6.8 Lewknor Neighbourhood Plan Policy EN1: Wildlife and Biodiversity sets out that as appropriate to their scale, nature and location development proposals should comply with varying biodiversity principles including avoiding the loss of mature trees and hedgerows. It states that where the loss of a mature tree or hedgerow is unavoidable, the proposals should make provision on - site for species appropriate to the sites growing conditions and that development affecting trees and woodlands should where appropriate be supported by adequate tree survey information. It states that tree constraints should be identified by a qualified arboricultural consultant, based on a Tree Survey completed in accordance with British Standard 5837.

6.6.9 The Tree Survey recorded 79 arboricultural features, of which 5 were Category A (High Quality Trees whose retention is most desirable); 88 were Category B (Moderate quality trees whose retention is desirable); 11 were Category C (Low quality trees which could be retained but should not significantly constrain the proposal); and 0 Category U (Very poor quality trees). No Ancient or Veteran trees were identified in the survey, and there is no Ancient Woodland affecting the Site. There is a Tree Preservation Order (TPO) (02/1952 Chinnor Road. Rowant) that protects 6 tree belts and a small woodland within the Site.

Tree Removal

6.6.10 The AIA found that: one tree would be removed for the solar site access, and two hedgerows would be translocated further back into the Site, comprising a total of c.143m of hedgerow – these hawthorn and blackthorn hedgerows are of low woody species diversity, but their translocation would avoid any net loss and is likely to be successful. A working method statement for the preparation of the hedgerow sections translocation and aftercare will need to be devised and it is considered this can be secured via an appropriately worded planning condition. For the new access from the A40 London Road, an early-mature sycamore (Category B) would be removed to provide the requisite visibility splay.

6.6.11 Generally, the cable corridor from the solar site to the substation will be trenched underground within a trench 2m wide and 1-1.2m deep. Assuming a working space width of 4m, the cable corridor will require 4m width sections of moderate-quality hedgerows H17 and H18 (B2) to be removed. These removals will be replanted with appropriate species shortly after completion of the installation work.

6.6.12 Elsewhere, the cable will be installed beneath roads and adjacent trees/hedgerows using trenchless directional drilling, thereby avoiding any removals. This method will be utilised at protected tree group G4, woodland W3 and hedgerow H22. There is ample space to locate launch and receiver pits outside of the Root Protection Areas (RPAs) of the retained trees and hedgerows. The canopy of an eastern section of the semi-mature tree belt G4 is likely to need to be cut back to provide clearance from the new substation but would have a negligible impact on their health and longevity.

Retained Trees

6.6.13 The Proposed Development is a fairly non-invasive form of development. The panels sit above ground, with only minor below – ground disturbance and the layout of the solar PV areas has been designed to avoid the RPAs of any retained tree. Regular disturbance of the soil in the fields, by ploughing and tilling close to trees over many years, means that the field boundary trees will have limited root development in the surface soil layer, further reducing the likelihood that the Proposed Development would adversely affect them.

6.6.14 Overall, the cessation of agricultural cultivation of the fields would provide a significant longer-term ecological benefit for the Site's trees and hedgerows and the soil microbiome. The AIA concludes with regards to retained trees that the Proposed Development is feasible from an arboricultural perspective and if implemented carefully in accordance to on-site working methods and tree protection measures (which can be secured via planning condition), there would be no adverse impact on the retained trees.

Summary

6.6.15 The AIA concludes that overall, subject to the implementation of tree protection measures, a detailed Arboricultural Method Statement (AMS), and securing the Landscape and Ecological Mitigation Plan (LEMP) (all of which can be secured via an appropriately worded planning conditions), the Proposed Development is acceptable from an arboricultural perspective. The proposal for directional drilling of the cable corridor at the protected tree group, woodland and hedgerow, and the translocation of sections of hedgerows, means that only one tree and two sections of hedgerow are proposed to be removed. Pertinently, no trees protected by the TPO are proposed for removal, and no Ancient or Veteran Trees will be impacted.

6.6.16 The new perimeter security fencing can adequately serve as physical protection for the trees and hedgerows for much of the Site and additional temporary protection barriers can be provided in other sensitive locations.

6.6.17 Given that the Proposed Development would not lead to any significant adverse impacts from an arboricultural perspective, the new planting proposed, and that effort has clearly been made to reduce the number of trees that require removal, it is considered that the Proposed Development is in accordance with Local and Neighbourhood Planning Policies pertaining to arboriculture.

Emerging Policy

6.6.18 Emerging JLP Policy NH3 – Trees and hedgerows in the Landscape stipulates that development should make "*every effort to retain, protect and enhance existing trees, woodlands and hedgerows".* The Policy further requires that when retention is not possible, compensatory planting should provide a net gain in canopy cover.

6.6.19 As set out above, effort has clearly been made to retain, protect and enhance the existing tree, woodland and hedgerow network where possible. Substantial hedgerow and tree planting is proposed, with new hedgerow planting along the motorway boundaries and along the public footpaths. New planting along the southern, western and north-western boundaries will infill gaps and further strengthen screening. The new tree and hedgerow planting will deliver a significant net gain in tree canopy cover and hedgerow diversity at the Site, with an increase in future landscape contribution and enhanced connectivity. The Proposed Development is

therefore in accordance with Emerging JLP Policy NH3 – Trees and Hedgerows in the Landscape.

6.7 Heritage

6.7.1 A Historic Environment Assessment was undertaken by AOC Archaeology to accompany this planning submission.

6.7.2 The assessment considered the likely effects of the Proposed Development upon archaeological and cultural heritage assets. It includes direct effects resulting from the construction of the solar farm and associated infrastructure and effects upon the settings of heritage assets which may arise during operation of the Proposed Development.

6.7.3 Section 16 of the NPPF is concerned with conserving and enhancing the historic environment. Paragraph 202 recognises that heritage assets are an *"irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations".*

6.7.4 Local Plan Policy DES9: Renewable and Low Carbon Energy supports renewable energy development provided it does not cause a significant adverse effect to the historic environment, both designated and non-designated assets, including development within their settings.

6.7.5 Local Plan Policy ENV6: Historic Environment sets out that proposals for new development that may affect designated and non-designated heritage assets should take account of the desirability of sustaining and enhancing the significance of those assets and putting them to viable uses consistent with their conservation. The Policy stipulates proposals for new development should be sensitively designed and should not cause harm to the historic environment.

6.7.6 Local Plan Policies ENV7: Listed Buildings; Policy ENV8: Conservation Areas; Policy ENV9: Archaeology and Scheduled Monuments; and, Policy ENV10: Historic Battlefields, Registered Parks and Gardens and Historic Landscapes, build on Policy ENV6: Historic Environment, and all seek to conserve and enhance the aforementioned heritage assets and their settings.

6.7.7 Lewknor Neighbourhood Plan Policy CH1: Conserving Heritage identifies non–designated heritage assets in the area. The Policy requires that development proposals take into account the effect on the significance of the identified non-designated heritage assets, and that in weighing applications that directly or indirectly affect an identified non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset concerned.

Above Ground Heritage

6.7.8 Lewknor Conservation Area is located to the south of the solar site, and Aston Rowant Conservation Area is located to the east, as is Kingston Blount Conservation Area, which lies within 2km of the solar site. The eastern extent of the Grade II Listed Shirburn Castle Gardens Registered Park and Garden, and Conservation Area lie just within 2km of the solar site, to its south-west.

6.7.9 The remaining designated assets within 2km of the solar site and 200m of the proposed cable corridor, are a total of 63 Listed Buildings, with the majority being Grade II Listed and located within the above noted Conservation Areas or the villages of Adwell to the north-west, South

Weston to the south-west, and Postcombe to the north. The Grade II Listed Harlesford Farmhouse has also been included within the assessment due to its proximity to the end of the proposed cable corridor (c.300m south-west of the extant substation).

6.7.10 The assessment found there were some potential for temporary effects upon the setting of the designated heritage assets in the vicinity of the Site during the construction phase. However, these would be temporary.

6.7.11 Operational effects upon setting are discussed below and represent the worst-case scenario in terms of effect. On this basis, and to maintain proportionality and to avoid repetition, the discussion of setting effects is limited to the operational phase only.

Operational Effects

6.7.12 Figure 6.11 of the Heritage Assessment shows the predicted visibility of the Proposed Development as a worst-case scenario as mentioned above, with the highlighted areas denotated as 'maybe' having visibility with the solar array.

6.7.13 Table 6.11 of the Heritage Assessment details the predicted level of settings effects by the Proposed Development on each of the assets (which have been grouped within their respective Conservation Areas of Villages where appropriate). Out of the 67 assets assessed, 1 was deemed to have a 'minor effect'(Church of St Margaret), with the remaining deemed to have either a 'neutral effect' (9no.) or 'no effect' (57no.).

6.7.14 Given this, the Planning Statement therefore focuses on the Heritage Asset that was deemed to have a 'minor' level of effect (Church of St Margaret).

Church of St Margaret

6.7.15 The asset found to have a minor level of effect was the Grade I Listed Church of St Margaret, which is the parish church of Lewknor, and is considered to be of high importance by virtue of its designation. The church retains architectural features dating from the late 12th century with most of its earliest surviving elements dating from the 14th and 15th centuries. The church is documented as having originally been dedicated to St Mary and is the oldest surviving building in the village of Lewknor[8].

6.7.16 The importance of the church is assessed to lie primarily in its exceptional historic and evidential value (including its architectural interest), as well as its group value with other designated assets located within its churchyard. Given the scale of the church's tower, some significance is also derived from the landscape setting in which it is experienced. The Site visit confirmed however, that the churchyard of the Church of St Margaret is bound by large mature trees and vegetation that obscure most potential distant views of the church. Overall, it is considered that the church has a high sensitivity to changes in both its immediate setting and wider setting.

[8] https://historicengland.org.uk/listing/the-list/list-entry/1182190 and HER Id: 4022 - MOX625

6.7.17 There is, however, no potential for intervisibility with elements of the Proposed Development to and from the Church of St Margaret and the site visit confirmed that no part of the Site was visible from the churchyard due to the mass of intervening vegetation and mature trees. Occasional glimpses of the top of the church tower of the church were possible from the highest parts of the south-western field during the walkover survey.

6.7.18 The public footpath that runs through the Site (and would be retained by the Proposed Development) was the historic route to the church from the nearby hamlet of Postcombe. Although glimpses of the church tower were not possible from along its route during the walkover survey, it seems likely that during winter months with less vegetation cover, views from this route of its historic destination would be possible. This route has a documented historic relationship with the church and it is considered to be within the church's wider setting. The route currently passes through arable farmland, which has likely been the case for its entire existence. The Proposed Development would result in a material change along the course of this route to the church, with the area being bound by solar development rather than open arable farmland. Whilst the Proposed Development would be visible with the uppermost parts of it tower when experienced from the public footpath within the Site, these views would be very limited and the Proposed Development would not compete with the church as a landscape feature, nor would it impact upon its historical or evidential value.

6.7.19 Therefore, based on the above, the impact upon the setting of the Grade I Listed Church of St Margaret resulting from the Proposed Development is judged to be low. Alterations to the church's wider setting would be noticeable (especially from along the foot route between Postcombe and the church) but they should not affect the ability to understand, appreciate or experience the contribution that setting makes to the asset's overall significance. Given the building's high relative sensitivity to changes to its setting, the level of effect would be Minor which is not considered to be significant in EIA terms. Any harm would be '*less than substantial'* in terms of the NPPF, and therefore in accordance with Local Plan Policy ENV7 which aims to conserve and protect Listed Buildings.

Non – Designated Assets

6.7.20 With regards to non-designated heritage assets, there will be a neutral effect on the Church of St Lawerence, with some potential for visibility. Mature trees and vegetation lining the south-western boundary of the solar site and churchyard lined with dense vegetation including mature trees assist in filtering views towards the Proposed Development. The neutral effect acknowledges that there may be a perceptible change in the wider landscape setting of the church, but it would be very limited and would neither diminish nor enhance the elements of the asset that are considered to be making the greatest contribution to its importance.

Archaeology

6.7.21 The assessment established that the Proposed Development has the potential to directly impact upon known remains that have been identified in the form of geophysical anomalies (Asset 126), some of which are thought to likely be related to the course of a Roman Road and associated settlement as well as some having the potential to reflect earlier and later periods of activity. The assessment also identified the potential for other previously unidentified archaeological remains. The assessment considered this potential to be high for late Prehistoric and Roman remains and modern agricultural remains; Medium for early prehistoric remains, early medieval burials, medieval and post-medieval agricultural remains; and Low for other types of remains.

6.7.22 It should be possible to mitigate any potential direct impacts on known and unknown archaeological remains via a programme of archaeological mitigation. The exact scope of any programme of archaeological works would be defined within a Written Scheme of Investigation (WSI) and agreed with the Planning Archaeologist at Oxfordshire County Council.

6.7.23 Depending on the results of the evaluation it may be necessary to designate 'archaeologically sensitive areas' where solutions could allow for the preservation 'in situ' of important buried remains. Otherwise, any excavated remains recorded during the programme of archaeological works would be 'preserved by record'. Where avoidance of impacts is not possible the residual levels of effects would be unchanged from the assessed construction levels of impact, although excavation and recording of the assets would ensure that impacts are offset by ensuring preservation by record.

6.7.24 With regards to this intrusive archaeological fieldwork and mitigation, it is considered that a pre-commencement condition can secure this, which would be consistent with both the NPPF and the Local Plan policies. A Legal Opinion has been prepared pertaining to this, which can be found at **Appendix 7** of this Planning Statement.

6.7.25 Therefore, direct residual effects upon known and unknown heritage assets would be of Negligible level and not significant in EIA terms.

Summary

6.7.26 The assessment established that that the Proposed Development has the potential to directly impact upon known remains which have been identified in the form of geophysical anomalies. The assessment also found the potential for other previously unidentified remains to be discovered on the solar site. However, it is possible to mitigate any potential direct impacts on known or unknown archaeological remains via a planning condition for a programme of archaeological mitigation, which would be defined within a WSI agreed with the Council.

6.7.27 The assessment also established that in terms of above ground heritage, there would be no significant effects in EIA terms upon the settings of any of the designated heritage assets identified within the 2km Study Area, and that only 1 minor effect has been concluded upon the Church of St Margeret. Therefore, given there is no substantial harm to any above ground heritage assets, the Proposed Development is clearly in accordance with the Local Plan with regards to above ground heritage assets.

6.7.28 The Proposed Development is clearly in accordance with Local Plan Policies DES9: Renewable and Low Carbon Energy; ENV6: Historic Environment; ENV7: Listed Buildings; Policy ENV8: Conservation Areas and Policy ENV10: Historic Battlefields, Registered Parks and Gardens and Historic Landscapes, in respect of designated assets, as the settings of the heritage assets will be preserved and there will be no significant adverse impacts to any Listed Building, Conservation Area, Registered Park and Garden, Historic Battlefields or Historic Landscapes.

6.7.29 Subject to an appropriately worded planning condition, securing the implementation of archaeological investigation and appropriate mitigation, there would be no significant adverse impacts to any non-designated heritage assets and therefore the Proposed Development is in accordance with national, local and neighbourhood policies.

6.7.30 The NPPF states at paragraph 215 *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be*

weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use." The public benefits of the scheme clearly and demonstrably outweigh the less than substantial harm caused to any heritage assets, and no significant effects are envisaged in EIA terms.

6.7.31 Further, there would be no impact any heritage assets listed within the Tetsworth Neighbourhood Plan and therefore the Proposed Development is in accordance with Tetsworth Neighbourhood Plan Policy TET5: Local Heritage Assets.

Emerging Policy

6.7.32 Emerging JLP Policy NH8 – The Historic Environment is in essence the same as the adopted policy, and sets out that proposals that may affect designated and non-designated heritage assets should take account of the desirability of sustaining and enhancing the significance of those assets and putting them to viable uses consistent with their conversation. It further states that proposals for new development should be sensitively designed and not cause harm to the historic environment. Similarly, within the adopted Plan, Emerging JLP Policies NH9 – Listed Buildings; NH10 – Conservation Areas; NH11 – Archaeology and Scheduled Monuments; Policy NH12 – Historic Battlefields, Registered Parks and Gardens and Historic Landscapes, all build on the overarching policy pertaining to heritage, and seeks to protect and enhance the aforementioned assets and their settings.

6.7.33 It is considered there is nothing within the Emerging Policy that significantly differs from the adopted policy, and therefore there is nothing that would preclude the Proposed Development within the Emerging JLP with regards to heritage.

6.8 Flood Risk and Drainage

6.8.1 A Flood Risk (FRA) and Drainage Assessment was carried out by Ashfield Flood Risk Solutions to accompany this planning application, as required by NPPF footnote 63 which states:

"*A site – specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more […]"*

6.8.2 Section 14 of the NPPF details the overarching requirements relating to flood risk for any development. The key message is that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

6.8.3 The FRA assesses flooding from all potential sources with the aim to address the requirements of the NPPF, the Non – Statutory Technical Standards for Sustainable Drainage Systems and Local Standards and Guidance for Surface Water Drainage on Major Developments in Oxfordshire.

6.8.4 Local Plan Policy EP4: Flood Risk states that the risk and impact of flooding will be minimised through:

i. "Directing new development to areas with the lowest probability of flooding

ii. Ensuring that all new development addresses the effective management of all sources of flood risk

iii. Ensuring that development does not increase the risk of flooding elsewhere; and

iv. Ensuring wider environmental benefits of development in relation to flood risk"

6.8.5 The Policy reiterates the requirements of the NPPF and further states that a site-specific FRA should be provided in Flood Zone 1 for all sites of over 1ha.

6.8.6 Policy ENV4: Watercourses sets out that development of land that contains or is adjacent to a watercourse must protect and where possible enhance the function and setting of the watercourse and that development should include a minimum 10m buffer zone along both sides of the watercourse.

6.8.7 Lewknor Neighbourhood Plan Policy FI5: Utilities sets out that development proposals should demonstrate that they will not increase risk from fluvial flooding or any other source of flooding, including surface water flooding.

6.8.8 The FRA excludes the cable corridor as this is only a temporary disruption and is not expected to cause any interference to flood risks. The FRA sets out that the Environment Agency (EA) Flood Map for Planning shows that the whole solar site is located within Flood Zone 1, land as assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%), and is therefore deemed as an acceptable location in accordance with the NPPF and Local Policy. As can be seen within Table 3 of the Government Guidance on Flood Risk and Coastal Change, all developments located within Flood Zone 1 are deemed appropriate in a flood risk context.

6.8.9 With regards to surface water, the EA Risk of Flooding from Surface Water (RoFSW) extent mapping indicates that at the present day and future climate change scenarios, the majority of the eastern land parcel of the solar site (Area 1) (27 ha located to the east of the M40) and the western land parcel of the solar site (Area 2) (31 ha located to the west of the M40) are not identified to be at risk of surface water flooding. This means that each year, the solar site has less than 1 in 1000 (0.1%) chance of flooding from surface water. Area 1 shows small, isolated areas of High, Medium and Low probability onsite, with these areas identified to be slight topographic depressions. An isolated area of High, Medium and Low probability of surface water flooding is predicted within the south-east region of Area 2. The RoFSW depth mapping shows the projected depths to be less than 0.2m within Areas 1 and 2 at both the present – day and future Climate Change scenarios. These isolated areas are not considered to be significant in terms of potential risk to the Proposed Development at the solar site. Any substation/similar infrastructure is proposed to be located outside of the High, Medium and Low probability extents. Surface Water on the whole is considered to pose a Low Risk. **Appendix 3** includes a Secretary State decision whereby a Solar Farm has been considered appropriate within both Flood Zone 2 and 3, and in areas subject to surface water flooding.

6.8.10 From a review of all other potential flood sources, fluvial, groundwater and artificial sources are all considered to pose a low risk to the solar site, with both tidal and reservoir failure considered to pose a Negligible risk.

6.8.11 The FRA also demonstrates that there are no watercourses on the solar site, with the nearest ordinary watercourse located c.10m south of Area 2, flowing in a north-westerly direction, and the nearest Main River, Haseley Brook is located c.1.2km to the west.

6.8.12 With regards to drainage, an indicative surface water drainage strategy has been produced for the Proposed Development which shows that the solar site can accommodate surface water attenuation for events, up to and including 1 in 100 year storm +40% allowance for Climate Change. This is based on utilising swales with an overall length of approximately 1305m along the eastern extent of Area 1 and the southern/western extent of Area 2. The overall capacity of the swales amounts to approximately 196m3. On this basis, the Proposed Development would not increase flood risk on-site or elsewhere and would preserve the Sites natural drainage regime.

6.8.13 The FRA and Drainage Assessment concludes that the Proposed Development:

- Is suitable in the location proposed.
- Is unlikely to place additional persons at risk of flooding.
- Is unlikely to increase flood risk elsewhere as a result of the Proposed Development through the loss of floodplain storage, impedance of flood flows or increase in surface water run - off.

6.8.14 Given the above, it is clear that the Proposed Development is in accordance with Local Plan Policy EP4: Flood Risk and Lewknor Neighbourhood Plan Policy FI5: Utilities.

Emerging Policy

6.8.15 Emerging JLP Plan Policy CE5 – Renewable Energy sets out that development should not have a significant irreversible impact on water quality and flood risk. It is noted this is not considered in the adopted Local Plan Policy DES9: Renewable and Low Carbon Energy.

6.8.16 Emerging JLP Policy CE6 – Flood Risk also reemphasises the NPPF, and is similar in essence to the adopted Policy.

6.8.17 Whilst there is a slight change in Policy pertaining to Renewable Enerrgy and the consideration of Flood Risk, it has clearly been demonstrated that the Proposed Development would not have a significant irreversible impact on water quality and flood risk. There are no further considerations within the Emerging Local Plan which preclude the development on flood risk grounds.

6.9 Noise

6.9.1 NPPF paragraph 187 e) stipulates that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

6.9.2 Further, Paragraph 198 a) requires planning policies and decisions to ensure that new development mitigates and reduces to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

6.9.3 Local Plan Policy DES9: Renewable Energy stipulates that renewable energy development will be supported provided it does not cause a significant adverse effect to residential amenity.

6.9.4 Local Plan Policy SRAT4: Strategic Development stipulates that each development is expected to provide a Noise Assessment including noise during construction and noise insulation of development.

6.9.5 Local Plan Policy DES6: Residential Amenity stipulates that development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses when considering both individual and cumulative impacts in relation to (amongst others) noise or vibration.

6.9.6 Lewknor Neighbourhood Plan Policy TH2: Vehicle Traffic stipulates that development should incorporate land for natural screening including tree planting and hedgerows and design their layouts to reduce the impact of noise from the M40 motorway and other main roads.

6.9.7 The Site is in close proximity to the M40 (lying less than 10m from the solar site, running in the middle of the two land parcels. There is also existing noise from other directions of the solar site including Salt Lane (located adjacent to the solar site on the north-west) and the A40 (located adjacent to the solar site on the north-east).

6.9.8 The Council's Scoping Opinion (P22/S3476/SCO) confirms that background noise levels in the area are likely to be elevated due to the influence from the M40 during both daytime and nighttime and that the noise generated from the operational phase of the Proposed Development is not expected to be significant; electrical infrastructure associated with such facilities are located at a distance which would not impact upon the closest sensitive receptors. Noise levels will be further minimised at the detailed design stage and engineering to ensure the appropriate noise standards are met.

6.9.9 The construction activities have the potential to increase noise levels within the vicinity of the Site. The construction impacts are likely to be intermittent, localised and temporary in nature. Construction of such a facility is unlikely to involve significant ground works or use of heavy plant. Construction noise generated would be controlled through the production of a CEMP. The Proposed Development will not result in any unacceptable impacts on the surrounding area or any identified receptors. The main impacts in relation to noise will be associated with the construction, which is a temporary impact.

6.9.10 The Council conclude in their Scoping Opinion (provided at Appendix 2.2 of the Environmental Statement) that "*there is no potential for likely significant environmental effects arising from noise. The LPA agrees that any construction noise generated would be satisfactorily controlled through a Construction Environment Management Plan (CEMP)".* As such, given it is clear there would be no significant noise impacts, and construction impacts can be controlled via a CEMP, a noise assessment has been scoped out of the planning application.

6.9.11 As there would be no significant effects related to noise the Proposed Development therefore complies with local and national policy pertaining to noise.

Emerging Policy

6.9.12 Emerging JLP Policy CE5 – Renewable Energy sets out that development for renewable energy schemes will be supported where they do not cause significant adverse impacts, that cannot be mitigated, to residential amenity (including as a result of noise, vibrations, dust, odour, air quality and shadow flicker).

6.9.13 Emerging JLP Policy CE10 – Pollution Sources and Receptors stipulates that development proposals must be designed to ensure that they will not result in significant adverse impacts on human health, the natural or historic environment and/or the amenity of neighbouring uses. The Policy states that the merits of development proposals will be balanced against the adverse impact on human health, the natural and historic environment and/or local amenity including noise or vibration.

6.9.14 There is nothing within the Emerging JLP which would preclude the Proposed Development on noise grounds.

6.10 Soil and Agricultural Land Quality

6.10.1 An Agricultural Land Classification (ALC) Survey was prepared by Soil Environment Services and accompanies the Planning Application. The survey found that 53.2% of the solar site (41ha) comprised of Grade 3b ALC and that 45.5% (35ha) of the solar site comprised of Grade 3a ALC. 1.3% of the solar site comprised of Woodland and is non-agricultural.

6.10.2 Additionally, a Soil Resources and Management Plan (SMP) has been prepared by Land Research Associates and accompanies the Planning Application. The report provides information on soil management and is based on the detailed ALC Survey that was prepared and discussed above. The management plan details measures and working practices to prevent damage to soil resources which may cause effects during and after the lifetime of the solar installation.

6.10.3 Best and Most Versatile (BMV) land constitutes of Grade 1, Grade 2 and Grade 3b. There is no Grade 1 or Grade 2 ALC on the Site; less than half of the Site consists of Grade 3a (45.5%), with the remainder consisting of Grade 3b or non-agricultural. It should be noted that whilst there are areas of Grade 3a within the Site, this is alongside areas of Grade 3b and therefore the land would be farmed suitable to the lower grade, which is not classed as BMV land. .

6.10.4 Chapter 15, Paragraph 187 of the NPPF outlines that planning policies and decisions should contribute to and enhance the natural and local environment by:

"b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land […]"

6.10.5 Local Plan Policy DES7: Efficient Use of Resources requires new development to make provision for the effective use and protection of natural resources where applicable including avoiding the development of the best and most versatile agricultural land, unless it is demonstrated to be the most sustainable choice from reasonable alternatives, by first using areas of poorer quality land in preference to that of a higher quality.

6.10.6 Whilst the NPPF and Local Policy directs developments towards areas of poorer quality agricultural land where this is available, National Guidance clearly sets out that ALC grade should not be a predominating factor in the determination of the suitability of sites. National Policy does not prohibit the use of BMV agricultural land for development, but instead requires planning decisions to recognises the economic and other benefits of agricultural land. Further, there have been several large scale solar farms that have been approved elsewhere in the UK on BMV land, either allowed at Appeal or approved by the Secretary of State (SoS); these decisions consider that the significant benefits that renewable energy bring outweigh taking BMV Agricultural land out of production on a temporary basis.

6.10.7 A key decision was that of Sheepwash Solar Farm which was allowed at Appeal by the Planning Inspectorate in February 2024 (Reference **APP/U2235/W/23/3321094**). This solar farm comprised 47% BMV agricultural land and the Inspector considered that there was no policy reason to restrict development of the site and that the proposed development would actually safeguard the land from any permanent loss of any BMV land. The Inspector stated:

"Furthermore, I have found no persuasive evidence to suggest that BMV land should be precluded from the proposed use. The presence of BMV at the quantities identified here is not in my judgement, a predominating factor in determining whether the land is suitable for the proposed use. Rather the opposite is true, and there is compelling evidence that is use would be acceptable, especially in light of the opportunity to reverse the impacts of development in due course"

6.10.8 The full appeal decision can be found at **Appendix 8.**

6.10.9 Permission is sought for a temporary period of 40 years. At the end of the Proposed Development's operational phase, the solar farm, and all associated ancillary equipment would be removed, and the Site decommissioned and restored to its original use. It is therefore considered there will be no permanent loss of BMV agricultural land as a result of the Proposed Development, and any effects would be temporary, this having no material impact on the UK's food security. The Proposed Development is considered to comply with Paragraph 187 of the NPPF which does not restrict the use of BMV land for renewable energy, and as highlighted by the appeal decision referred to above.

Emerging Policy

6.10.10 Emerging JLP Policy CE5 – Renewable Energy sets out that renewable energy development will be supported provided it does not have a significant irreversible impact on the best and most versatile agricultural land unless significant sustainability benefits are demonstrated to outweigh any loss.

6.10.11 Emerging JLP Policy CE12 – Soils and Contaminated Land requires a Soil Handling Plan and Sustainable Soil Management Strategy to accompany planning applications whereby Proposed Developments are using BMV agricultural land .

6.10.12 Whilst an SMP has been prepared in accordance with Emerging Local Plan Policy CE12 – Soils and Contaminated Land, it is noted that the NPPF does not restrict the use of BMV land for renewable energy. Emerging Policy CE5 – Renewable Energy stipulates that renewable energy development will be supported provided it does not have a significant irreversible impact on the Best and Most Versatile Agricultural Land unless the applicant demonstrates that the sustainability benefits are demonstrated to outweigh any loss. The NPPF also does not require applicants to demonstrate these benefits outweigh the perceived 'loss' of BMV Agricultural Land, instead only requiring applicant's to 'recognise' the benefits of BMV land. It is clear from recent appeal decisions and decisions made by the Secretary of State that the use of BMV land for solar development is acceptable and does not lead to an 'irreversible loss', and therefore it is questioned how much weight can be given to these emerging policies.

6.10.13 Notwithstanding the amount of weight that can be applied to these Policies, it is considered that there would be no 'significant irreversible impact' and in any case the benefits of the development clearly outweigh the temporary loss of BMV land. Therefore, the Proposed Development would still be in accordance with the Emerging Policy.

6.11 Glint and Glare

6.11.1 A Glint and Glare Assessment has been undertaken by SLR to assess the potential effects from glint and glare from the Proposed Development.

6.11.2 The NPPF does not outline guidance with regard to glint and glare of developments, however this is set out in the NPPG on Renewable and Low Carbon Energy, with Paragraph 013 (Reference ID: 5 – 013 – 20150327) setting out planning considerations related to large scale ground – mounted solar developments. It notes that Local Planning Authorities should consider:

"the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;

The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun"

6.11.3 Glint and Glare is not specifically mentioned in the adopted Plan, however Policy DES9: Renewable Energy sets out renewable energy development will be supported provided it does not have a significant adverse effect to the safe movement of traffic and pedestrians or residential amenity.

6.11.4 Local Plan Policy EN11: Pollution – Impact from Existing and/or Previous Land Uses on New Development (Potential Receptors of Pollution) further sets out that development should be designed to ensure it does not lead to adverse effects of pollution including relating to light and any other relevant types of pollution.

6.11.5 The study area of the Glint and Glare Assessment utilised a 1km radius from the solar site for all ground – based receptors (buildings and roads); and 5km for aviation receptors.

6.11.6 The study identified a total of 40 building receptors and three road receptors that are within the study area that could have the potential for Glint and Glare from the solar PV array.

6.11.7 With regard to the three road receptors, due to the momentary nature of glint and glare effects on road receptors, as vehicles approach or move away from the PV array, and the existing hedgerows, the overall impact is deemed to be minimal to none particularly in a real–life setting.

6.11.8 Of the 40 building receptors in the study area, only one is subject to a small magnitude of glint and glare in the simulation and is only affected by a very small proportion of the eastern part of the solar site. The impact occurs for up to 5 minutes in the afternoon of December and January. The total duration and magnitude of these impacts is significantly lower than comparable fixed–mounted systems. It is important to note that the simulation did not account for the presence of hedgerows and trees around some of these receptors. Consequently, in real-life conditions, the Glint and Glare Assessment indicates that the Proposed Development will have no impact on the receptors identified.

6.11.9 The Landscape Mitigation Plan for the Proposed Development includes hedgerow planting or reinforcing around essentially the entire solar site perimeter, this further acts as mitigation from a glint and glare perspective.

6.11.10 In summary, no significant effects are predicted to arise due to glint and glare from the Proposed Development, and the proposal is therefore in accordance with Policy EN11 of the Local Plan and DES9 pertaining to light pollution.

Emerging Policy

6.11.11 Emerging JLP Policy CE5 – Renewable Energy stipulates that renewable energy development will be supported where it does not have a significant irreversible impact on aviation and defence navigation systems/communications; and, the safe movement of pedestrians, rail and traffic.

6.11.12 Emerging JLP Policy CE10 – Pollution Sources and Receptors requires development not to have a significant adverse impact from artificial light and any other relevant sources of pollution.

6.11.13 Emerging JLP Policy CE11 – Light Pollution and Dark Skies sets out that all proposals for development should be designed to minimise light pollution and that they minimise light glare.

6.11.14 There are no airfields within 5km of the solar site. With the nearest being Chalgrove Airfield, located c.6km west of the Proposed Development. However, this is a former Second World War airfield and is not currently in use. Therefore, in accordance with Emerging JLP Policy CE5 – Renewable Energy, there are no significant irreversible impacts on aviation.

6.11.15 As already established, there will be no significant impacts with regards to glint and glare, and therefore the Proposed Development is in accordance with the Emerging Local Plan Policies in this regard.

6.12 Transport

6.12.1 A Transport Statement (TS) including Construction Traffic Management Plan (CTMP) has been carried out by Pell Frischmann to accompany this Planning Application.

6.12.2 Section 9 of the NPPF relates to the promotion of sustainable transport. Paragraph 109 outlines that transport issues should be considered from the earliest stages of development, identifying transport solutions that deliver well - designed places, which should involve "*understanding and addressing the potential impacts of development on transport networks*".

6.12.3 Further, paragraph 115 requires that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision – led approach.

6.12.4 Paragraph 116 further states that development should only be refused or prevented on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, following mitigation.

6.12.5 Local Plan Policy DES9: Renewable and Low Carbon Energy is supportive of renewable energy development where it does not cause a significant adverse impact to the safe movement of traffic and pedestrians.

6.12.6 Local Plan Policy TRANS4: Transport Assessments, Transport Statements and Travel Plans require proposals for new developments which have significant transport implications to submit a Transport Assessment or Transport Statement, and where relevant a Travel Plan.

6.12.7 Local Plan Policy TRANS5: Consideration of Development Proposals requires all development to (amongst others) provide a safe and convenient access for all users to the highway network; provide safe and convenient routes for cyclists and pedestrians; provide appropriate parking; and to be served by an adequate road network which can accommodate traffic without creating traffic hazards or damage to the environment.

6.12.8 Lewknor Neighbourhood Plan Policy TH1: Sustainable Transport stipulates that development proposals which would have an unacceptable impact on the capacity and/or the safety of the local highways network will not be supported and Policy TH2: Vehicle Traffic sets out that as appropriate to their scale, nature and location, development proposals should mitigate the impact of vehicular traffic.

Site Access Strategy

6.12.9 Access to the solar site will be taken from two points on the public road network. An existing access along the A40 will provide access to the solar site. This will involve upgrading the existing field gate. The junction is designed to provide access to the eastern land parcel and will allow access for Car, Light Goods Vehicles (LGV) and Heavy Goods Vehicle (HGV) used during the construction and operational phase of the Proposed Development.

6.12.10 Access to the western land parcel is provided from Salt Lane to the north of the solar site.

6.12.11 The junctions would be constructed to allow two vehicles to pass when turning in and out of the junctions. The edge vegetation along the existing road will be trimmed back to create compliant visibility splays. Temporary access gates will be set back by 15m during construction works so that HGV traffic do not back onto the public road when the gate is closed. These would be relocated back by 6m when the solar site is operational. The locations of the access junctions are illustrated in Figure 2 of the TS and replicated below at **Plate 3.**

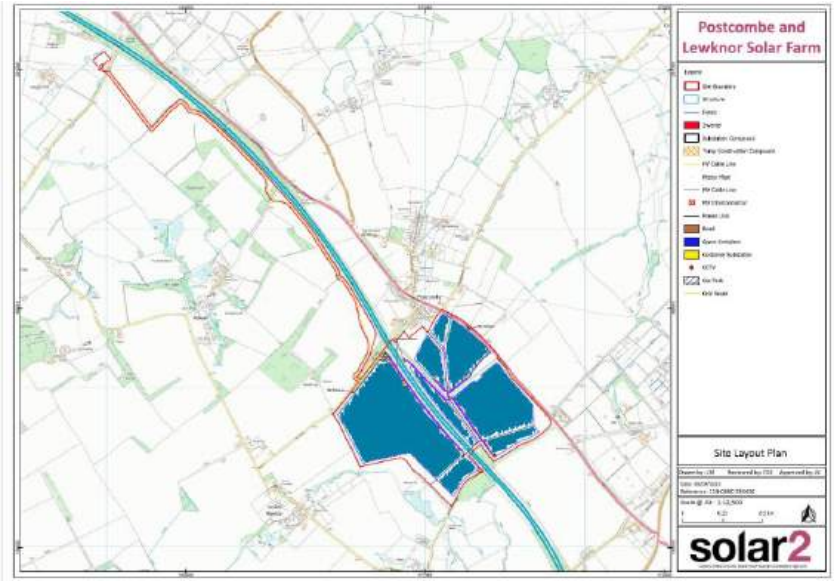

Plate 3: Site Access

Potential Traffic Impact

Operational Phase Traffic

6.12.12 Traffic flows associated with this phase will be a maximum of 4 LGV trips every month to monitor and review the operation of the solar panels; thus, there would be no significant impacts with regards to traffic during the operational phase of the Proposed Development.

6.12.13 The largest impact would be associated with the construction phase of the Proposed Development and this has been considered below.

Trip Generation

6.12.14 The proposed construction phase is estimated to take up to 14 months in total and would commence in 2027 if planning permission is granted. The programme has been divided into its component sections and estimates the likely traffic generation from the material quantities, staff requirements and component deliveries required.

6.12.15 The traffic generation during the construction phase has used first principles to establish the volume and tonnage of construction materials. This has then been converted to two way vehicle movements to create the construction programme which can be seen in Table 2: Construction Traffic, within the TS. The peak of construction activity would occur in Month 3 of the construction programme with a total of 90 construction movements (45 inbound and 45 outbound trips per day). In this peak, it is anticipated that 32 two-way HGV movements will occur per day. After the peak, the total number of vehicles per day decreases, with there being only 39 expected in Month 12.

6.12.16 The potential total traffic impact associated with the construction phase is 15.3% on Salt Lane. Whist this increase is statistically high, the average number of construction vehicles is approximately six per hour (three inbound and three outbound) and is insufficient to have a significant impact on the operation of the road during the short-lived construction period.

6.12.17 The impact on the highway network is temporary, and not significant. Therefore, the Proposed Development is in accordance with the Local Plan with regards to transport impacts.

Construction Traffic Management Proposals

6.12.18 Traffic Management procedures have been proposed within the TS and CTMP, which would ensure the safe operation of the approach route to the Proposed Development during construction. Determination of the final details of these traffic management measures will occur once the contractor has been appointed and can be secured via an appropriately worded planning condition.

Summary

6.12.19 In accordance with the NPPF which states at paragraph 116 that development should only be refused or prevented on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, following mitigation. As the Proposed Development will not be manned, operational traffic is expected to be minimal and would be conducted by smaller vehicles, and the impact of this on the wider road work would be negligible. Construction impacts are temporary in nature and will generate approximately 90 movements per day at the peak of construction. It is considered that traffic management procedures would ensure the safe operation of the approach route to the Proposed Development during construction, and these details can be secured via an appropriately worded planning condition. Therefore, it is considered there are no unacceptable highways grounds that should preclude the grant of planning permission. As such the Proposed Development is in accordance with the adopted Local Development Plan Policies pertaining to Transport.

Emerging Policy

6.12.20 Emerging JLP Policy CE5 – Renewable Energy is supportive of renewable energy development so long as it does not cause significant adverse impacts to the safe movement of pedestrians, rail, traffic and the enjoyment of public rights of way.

6.12.21 Emerging JLP Policy IN2 – Sustainable transport and accessibility supports the improvement of transport infrastructure, prioritising active and sustainable travel, and aims to improve access for all, health benefits and place making. It further states that development proposals will need to adhere to the transport user hierarchy and assess future transport needs using the Decide and Provide (or 'Vision and Validate') approach. This considers the needs of all users, for an entirely inclusive transport network. This prioritises reducing the need to travel, then the requirements to shift travel mode to walking and wheeling, then cycling, then public transport, and then motorised vehicle travel

6.12.22 Emerging JLP Policy IN3 Transport infrastructure and Safeguarding identifies the Council's approach to existing transport infrastructure, sets out their approach to safeguarding land for future transport projects, and addresses the requirements for potential future infrastructure schemes. The transport infrastructure set out in this policy seeks to improve the existing transport network and provide for future travel demands.

6.12.23 There are no Emerging JLP policies which preclude the grant of planning permission.

7 PLANNING BALANCE AND CONCLUSION

7.1 Planning Balance

7.1.1 This Section discusses the planning benefits of the Proposed Development and assesses the impacts in the overall planning balance.

7.1.2 Paragraph 168 of NPPF states that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, Local Planning Authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.

7.1.3 This is confirmed in recent appeal decisions including Appeal Decision for a solar farm in North Yorkshire, decided in February 2025 (**APP/Y2736/W/24/3342002**) in which the Secretary of State amounted **significant weight** to the generation of renewable energy in helping to combat climate change. Further, another at a hearing for an Appeal Decision (**APP/V3120/W/24/3356504**) for a Solar Farm, decided in March 2025, the Inspector set out that despite the significant weight given to the landscape harm, they concluded that the benefits of large quantities of renewable energy were 'very great', and these great benefits led to the inspector allowing the appeal.

7.1.4 The strong need for renewable energy is further set out in both NPS for Renewable energy infrastructure (EN – 3) and the Overarching NPS for Energy (EN – 1)

7.1.5 Paragraph 1.1.1 of NPS for Renewable Energy Infrastructure (EN – 3) states that "*There is an urgent need for new electricity generating capacity to meet our energy objectives*" and continues to state at Paragraph 1.1.2:

"*Electricity generation from renewable sources is an essential element of the transition to net zero and meeting our statutory targets for the sixth carbon budget. Our analysis suggests that demand for electricity is likely to increase significantly over the coming years and could more than double by 2050. This could require a fourfold increase in low carbon electricity generation, with most of this likely to come from renewables*"

7.1.6 The Overarching NPS for energy (EN – 1) stresses the importance of employing renewable technologies in reducing the UK's carbon footprint. Paragraph 2.3.5 states:

"The sources of energy we use are changing. Since the industrial revolution, our energy system has been dominated by fossil fuels. That remains the case today. Although representing a record low, fossil fuels still accounted for just over 76 per cent of energy supply in 2020. We need to dramatically increase the volume of energy supplied from low carbon sources".

7.1.7 Paragraph 2.3.6 goes on to state:

"We need to transform the energy system, tackling emissions while continuing to ensure a secure and reliable supply, and affordable bills for households and businesses. This includes increasing our supply of clean energy from renewables, nuclear, and hydrogen manufactured using low carbon processes (low carbon hydrogen) and, where we still emit carbon, developing the industry and infrastructure to capture, transport and store it."

7.1.8 The Development Plan is also supportive of renewable and low carbon energy developments. In particular Policy DES9: Renewable and Low Carbon sets out evident support for these types of schemes. The Policy states "*The Council encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales"* and stipulates that planning applications for renewable and low carbon energy generation will be supported provided they do not cause significant adverse effects.

7.1.9 Further the Lewknor Neighbourhood Plan encourages renewable energy development and their plan seeks for the Parish to build 'resilience to climate change'.

7.1.10 It is also clear from the Emerging JLP, that the Council supports renewable energy developments. The Emerging Plan evidently recognises the urgency of adapting and mitigating the impacts of climate change, states at the start of their vision statement "*Our vision is for carbon neutral districts*". It further states that they aim for all people to be safe from the "e*ffects of climate change".*

7.1.11 Further, the Council state there is a "*need to respond to the Climate Emergency*", and set out support for Renewable Energy in Emerging JLP Policy CE5 – Renewable Energy which: "*encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales".*

7.1.12 With regards to technical matters, the following impacts have been identified as a result of the Proposed Development:

- Some landscape impacts including:
  - Moderate/minor adverse impacts on LCA 6B (NW and SE) upon the defined tract of the landscape character prior to the establishment of mitigation planting and management. Large scale changes would be largely limited to within the solar site itself, where there would be a fundamental change in character from arable fields to a solar farm, albeit with wildflower seed planting (species rich grass) underneath the PV panels. The residual effect upon landscape fabric will be neutral as the additional planting will contribute positively to landscape character, amenity and biodiversity. There would be no significant landscape effects on LCA 6B NW or SE.
  - Indirect effects on the defined tract of landscape character on LCA 2A which is within the Chilterns National Landscape. This effect is Significant adverse.
  - Indirect effects on "*A Rich Tapestry*" upon the Special Qualities of the Chilterns National Landscape. This effect is Moderate/Slight adverse. The effect is Not Significant.
- Some visual impacts including (N.B these are visual effects rather than landscape effects):
  - Significant adverse effects on the receptor group following the establishment of mitigation planting and management (five to ten years) from the Chilterns National Landscape (west of M40).

- Significant adverse effects on the receptor group following the establishment of mitigation planting and management (five to ten years) from the Chilterns National Landscape (east of M40).
- Some moderate visual effects for the setting of the Chilterns National Landscape, including indirect effects on "Blocking or interference of views of the AONB from public viewpoints or rights of way outside the AONB". These effects are Not Significant.
- Effects on the PRoW network within and adjacent to the solar site have been identified as Moderate (Significant) however there will be a positive indirect effect (five – ten years) resulting from the screening of the M40 and A40 due to a combination of the proposed infrastructure and mitigation planting.

- Potential impacts to above ground heritage:
  - Minor level of effect to the setting of the Church of St Margaret.

7.1.13 In consideration of the benefits, there is a very clear and consistent approach from the Secretary of State in determining solar farm appeals in recent decisions that 'substantial' weight should be given to generation of renewable energy. This approach accords with Paragraph 168 of the NPPF and the documentation identified in Section 2 of this Planning Statement stressing the urgency and significant need for additional renewable energy generation.

7.1.14 Further, South Oxfordshire District Council has declared a Climate Emergency where they pledged to become a carbon neutral council by 2030 and a carbon neutral district by 2045.

7.1.15 In response to this Climate Emergency, the Council published the 'Oxfordshire Energy Strategy Delivery Plan 2019/20', which details specific targets relevant to solar PV developments. At section 4.1 'Targets and Trajectory' it states:

> *"Emissions modelling carried out early in the development of the Energy Strategy informed the scale of actions needed to accommodate planned housing and employment growth and meet the countywide emission reduction target (Box 3). Using Scenario C set out in the influential Low Carbon Economy report published in 2014, the model assumed that by 2030, 56% of total electricity demand (and 40% of heat) would be met from low carbon sources, equivalent to approximately 2,050 GWh of electricity. Most of this demand is likely to be met by solar energy, requiring an increase in capacity from around 300 MW currently installed to about 1900 MW.*
>
> *Based on these assumptions we need to plan to:*
>
> - *increase solar capacity by more than six-fold"*

7.1.16 Given most of the District is covered by either a National Landscape Designation or Green Belt, this Proposed Development provides an opportunity to site a solar farm, with a grid connection secured, outside these designations. Thus, significant weight to be attributed to the fact it will assist the Council in meeting their carbon neutrality goals by 2045.

7.1.17 The Council monitor their progress on their carbon emissions, and in the most recent Greenhouse Gas Emissions Report (2023/2024) states:

"*The carbon factor for electricity has increased by 7.1 per cent in the last year (due to a rise in natural gas use in electricity generation and a decrease in renewable generation).*"

7.1.18 This demonstrates there clearly is work still to be done in order to meet their goal of becoming a carbon neutral district by 2030.

7.1.19 The benefits arising from the Proposed Development is provided below:

- This Site has an identified and secured grid connection at the Harlesford Solar Farm. Currently grid connections are constrained across the UK therefore and therefore this is a significant benefit of this particular Site because it is demonstrates that the Proposed Development is deliverable. The SoS decision at **Appendix 3** confirms this and states "*…the Secretary of State agrees with the Inspector's conclusion at IR14.17 that easy and readily available grid connectivity is an important consideration which holds significant weight.*"

- Climate Change – Renewable energy generation helps to alleviate climate change and the social issues associated with this.

- Clean Renewable Energy – Potential to offset the average annual UK electricity consumption of approximately 21,151 households per annum.

- Energy Security - Will contribute towards an independent, secure energy supply in the UK (which is particularly necessary in the current geopolitical climate).

- Employment creation – The creation of long and short-term job opportunities within both the local area and the regional/national green employment sector.

- Biodiversity Enhancements – Provision of an increase of 175.57% increase in habitat units and an increase of 124.63% in hedgerow units

- Diversification of Farm Business – The Proposed Development would allow for more effective utilisation of agricultural land ensure the landowner has a secure supply of income to reinvest in their agricultural business.

Summary of Planning Balance

7.1.20 The benefits of the Proposed Development have been set out above, including: the significant contribution that the scheme would make to energy security and achieving national and local climate targets in a context of a national and local climate change emergency; a deliverable scheme with a secured and viable grid connection; and, biodiversity enhancements including a significant increase in habitat and hedgerow units. These are material considerations which should be attributed substantial weight in the determination of the planning application. There is also moderate weight given to the employment creation. Limited weight is given to the diversification of the existing farm business.

7.1.21 On balance, the benefits of the Proposed Development are considered to demonstrably outweigh the concluded impacts.

7.1.22 The Proposed Development is, in the main, policy compliant and whilst the development will have some landscape and visual impacts, and minor heritage impacts (to the setting of the Church of St Margaret), these impacts have been minimised through the iterative design

process, and mitigation proposed. It is considered that the benefits of the Proposed Development clearly and demonstrably outweigh these concluded impacts and therefore under the provisions of the NPPF, planning permission should be granted.

7.2 Conclusion

7.2.1 This Application seeks planning permission on land located to the south of the village of Postcombe, Lewknor at British National Grid Reference (NGR) SU 70800 98800, for the following description of development:

"*Installation of a solar farm and cable corridor with associated infrastructure, access, security fencing and landscaping"*

7.2.2 There is a UK Climate Emergency and South Oxfordshire District Council passed a motion to declare a Climate Emergency in February 2021, committing to identifying steps to achieve carbon – neutrality as soon as possible.

7.2.3 As confirmed in the NPPF, a material planning consideration in the determination of the Application, substantial weight should be given to the benefits associated with renewable and low carbon energy generation and the Proposed Development's contribution to a net zero future.

7.2.4 The Proposed Development would assist in providing energy security and would facilitate the increase in the production of renewable energy in the UK; this is a material consideration which weights substantially in favour of the Proposed Development. This level of weight has been confirmed in recent Appeal and Secretary of State decisions, as shown in **Appendix 3** and **4** of this Planning Statement.

7.2.5 Whilst some minor landscape and heritage impacts has been identified, as demonstrated in Chapter 6, the Proposed Development in the main complies with the Development Plan when read as a whole, and the benefits clearly and demonstrably outweigh the impacts.

7.2.6 As set out in this Planning Statement, c.70% of the South Oxfordshire District is protected by National Landscape or Green Belt designation, therefore limiting the availability of land to site large scale solar farms. Therefore, the opportunity to provide a solar farm on a site outside of one of these designated areas, with a secured and viable grid connection, should weigh substantially in favour of the application.

7.2.7 Given the significant benefits that the Proposed Development bring, and the urgency to mitigate and adapt to the local and national climate emergency, in accordance with Paragraph 11 of the NPPF, it is respectfully requested that planning permission be granted.

Appendices

Appendix 1 – Local Planning Policy Wording

Appendix 1

South Oxfordshire Local Plan 2011-2035	
Policy	**Policy Text**
Policy STRAT1 The Overall Strategy	*1. Proposals for development in South Oxfordshire will be assessed using national policy and guidance and the whole of the Development Plan* and should be consistent with the overall strategy of:* *i) focusing major new development in Science Vale including sustainable growth at Didcot Garden Town and Culham so that this area can play an enhanced role in providing homes, jobs and services with improved transport connectivity;* *ii) providing strategic allocations at Chalgrove, Culham, Berinsfield, Grenoble Road, Northfield, North of Bayswater Brook and Wheatley including necessary infrastructure and community facilities;* *iii) close working with partner agencies, neighbouring local authorities, communities and other stakeholders to ensure the timely delivery of our strategy, which will deliver a significant amount of growth beyond the end of the plan period;* *iv) supporting and enhancing the economic and social dependencies between our towns and villages;* *v) supporting the roles of Henley-on-Thames, Thame and Wallingford by maintaining and improving the attractiveness of their town centres through measures that include environmental improvements and mixed-use developments and by providing new homes, jobs, services and infrastructure;* *vi) meeting unmet housing needs of Oxford City on strategic allocations adjacent to the boundary of Oxford near to where that need arises;* *vii) supporting and enhancing the roles of the Larger Villages of Benson, Berinsfield, Chalgrove, Chinnor, Cholsey, Crowmarsh Gifford, Goring-on-Thames, Nettlebed, Sonning Common, South Oxfordshire District Council Local Plan 2035 DECEMBER 2020 23 Watlington, Wheatley and Woodcote as local service centres;* *viii) supporting Smaller and Other Villages by allowing for limited amounts of housing and employment to help secure the provision and retention of services;* *ix) protecting and enhancing the countryside and particularly those areas within the two AONBs and Oxford Green Belt by ensuring that outside of the towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment;* *x) supporting and enhancing our historic environment; and* *xi) contributing to tackling climate change.*
Policy TRANS5 Consideration of Development Proposals	*1. Proposals for all types of development will, where appropriate:* *i) provide for a safe and convenient access for all users to the highway network;* *ii) provide safe and convenient routes for cyclists and pedestrians, both within the development, and including links to rights of way and other off-site walking and cycling routes where relevant;*

	iii) provide for covered, secure and safe cycle parking, complemented by other facilities to support cycling where relevant; *iv) be designed to facilitate access to high quality public transport routes, including safe walking routes to nearby bus stops or new bus stops;* *v) provide for appropriate public transport infrastructure;* *vi) be served by an adequate road network which can accommodate traffic without creating traffic hazards or damage to the environment;* *vii) where new roads, pedestrian routes, cycleways and street lighting are to be constructed as part of the development, they should be constructed to adoptable standards and be completed as soon as they are required to serve the development;* *viii) make adequate provision for those whose mobility is impaired;* *ix) be designed to enable charging of plug-in and other low emission vehicles in safe, accessible and convenient locations;* *x) provide for loading, unloading, circulation and turning space;* *xi) be designed to enable the servicing of properties by refuse collection vehicles;* *xii) provide for parking for disabled people;* *xiii) provide for the parking of vehicles in accordance with Oxfordshire County Council parking standards, unless specific evidence is provided to justify otherwise; and* *xiv) provide facilities to support the take up of electric and/or low emission vehicles.*
Policy INF4 Water Resources	*1. All development proposals must demonstrate that there is or will be adequate water supply, surface water, foul drainage and sewerage treatment capacity to serve the whole development. Applicants will be required to demonstrate that there is adequate capacity both on and off site to serve the development and that it would not lead to problems for existing users. When there is a capacity constraint and improvements to off-site infrastructure are not programmed, the developer should set out how the infrastructure improvements will be completed prior to occupation of the development. For phased development proposals, each phase must demonstrate sufficient water supply and water treatment capacity.* *2. New developments are required to be designed to a water efficiency standard of 110 litres/head/day (l/h/d) for new homes.* *3. Proposals that increase the requirement for water will only be permitted where adequate water resources either already exist or can be provided without detriment to existing abstraction, river flows, groundwater flow to and from springs, water quality, biodiversity or other land uses.*
Policy ENV1 Landscape and Countryside	*1. The highest level of protection will be given to the landscape and scenic beauty of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs):* *• Development in an AONB or affecting the setting of an AONB will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB;* *• Development in an AONB will only be permitted where it is appropriate to the economic and environmental wellbeing of the area or promotes understanding or enjoyment of the AONB;*

	• Major development in an AONB will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest; and *• Development proposals that could affect the special qualities of an AONB (including the setting of an AONB) either individually or in combination with other developments, should be accompanied by a proportionate Landscape and Visual Impact Assessment. AONB Management Plans will be a material consideration in decision making.* *2. South Oxfordshire's landscape, countryside and rural areas will be protected against harmful development. Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes, in particular:* *i) trees (including individual trees, groups of trees and woodlands), hedgerows and field boundaries;* *ii) irreplaceable habitats such as ancient woodland and aged or veteran trees found outside ancient woodland;* *iii) the landscapes, waterscapes, cultural heritage and user enjoyment of the River Thames, its tributaries and flood plains;* *iv) other watercourse and water bodies;* *v) the landscape setting of settlements or the special character and landscape setting of Oxford;* *vi) topographical features;* *vii) areas or features of cultural and historic value;* *viii) important views and visually sensitive skylines; and* *ix) aesthetic and perceptual factors such as tranquillity, wildness, intactness, rarity and enclosure.* *3. Development which supports economic growth in rural areas will be supported provided it conserves and enhances the landscape, countryside and rural areas.* *4. The Council will seek the retention of important hedgerows. Where retention is not possible and a proposal seeks the removal of a hedgerow, the Council will require compensatory planting with a mixture of native hedgerow species.*
Policy ENV2 Biodiversity - Designated Sites, Priority Habitats and Species	*1. The highest level of protection will be given to sites of international nature conservation importance (Special Areas of Conservation).Development that is likely to result in a significant effect, either alone or in combination, on such sites will need to satisfy the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).* *2. Sites of Special Scientific Interest (SSSI) are of national importance. Development that is likely to have an adverse effect on a SSSI (either on its own or in combination with other developments) will only be permitted in exceptional circumstances, where it can be demonstrated that the benefits of the development in the location proposed clearly outweigh any harm to the special interest features and the SSSI's contribution to the local ecological network. In such circumstances, measures should be provided (and secured through planning conditions or legal agreements) that would mitigate or, as a last resort, compensate for the adverse effects resulting from development.* *3. Development likely to result, either directly or indirectly to the loss, deterioration or harm to:* *• Local Wildlife Sites*

	• Local Nature Reserves *• Priority Habitats and Species* *• Legally Protected Species* *• Local Geological Sites* *• Ecological Networks (Conservation Target Areas)* *• Important or ancient hedges or hedgerows* *• Ancient woodland and veteran trees* *will only be permitted if:* *i) the need for, and benefits of the development in the proposed location outweigh the adverse effect on the interests;* *ii) it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the interests; and* *iii) measures will be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate or as a last resort, compensate for the adverse effects resulting from development.* *4. Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) will be refused planning permission, unless there are wholly exceptional reasons justifying the granting of planning permission.* *5. Where development has the potential to affect a proposed wildlife site the developer must undertake surveys and assessments to determine whether the site meets the criteria for Local Wildlife Site status.*
Policy ENV3 Biodiversity	*1. Development that will conserve, restore and enhance biodiversity in the district will be supported. All development should provide a net gain in biodiversity where possible. As a minimum, there should be no net loss of biodiversity. All proposals should be supported by evidence to demonstrate a biodiversity net gain using a recognised biodiversity accounting metric.* *2. Development proposals which would result in a net loss of biodiversity will only be considered if it can be demonstrated that alternatives which avoid impacts on biodiversity have been fully explored in accordance with the mitigation hierarchy*. In the absence of alternative sites or layouts, development proposals must include adequate mitigation measures to achieve a net gain of biodiversity. Where harm cannot be prevented or adequately mitigated, appropriate compensation measures will be sought, as a last resort, through planning conditions or planning obligations (depending on the circumstances of each application) to offset the loss by contributing to appropriate biodiversity projects to achieve an overall net gain for biodiversity.* *3. Planning permission will only be granted if impacts on biodiversity can be avoided, mitigated or, as a last resort, compensated fully.*
Policy ENV5 Green Infrastructure in New Developments	*1. Development will be expected to contribute towards the provision of additional Green Infrastructure and protect or enhance existing Green Infrastructure.* *2. Proposals should:* *i) protect, conserve or enhance the district's Green Infrastructure;*

	ii) provide an appropriate level of Green Infrastructure with regard to requirements set out in the Green Infrastructure Strategy, AONB Management Plan or the Habitats Regulations Assessment; *iii) avoid the loss, fragmentation, severance or other negative impact on the function of Green Infrastructure;* *iv) provide appropriate mitigation where there would be an adverse impact on Green Infrastructure; and* *v) provide an appropriate replacement where it is necessary for development to take place on areas of Green Infrastructure.* *3. All Green Infrastructure provision should be designed with regard to the quality standards set out within the Green Infrastructure Strategy, or where relevant the Didcot Garden Town Delivery Plan. Consideration should also be given to inclusive access and contributing to gains in biodiversity, particularly through the use of appropriate planting which takes account of changing weather patterns. Where new Green Infrastructure is provided, applicants should ensure that appropriate arrangements are in place to ensure its ongoing management and maintenance.*
Policy ENV6 Historic Environment	*1. Proposals for new development that may affect designated and non-designated heritage assets should take account of the desirability of sustaining and enhancing the significance of those assets and putting them to viable uses consistent with their conservation. Heritage assets include statutorily designated Scheduled Monuments, Listed Buildings or structures, Conservation Areas, Registered Parks and Gardens, Registered Battlefields, archaeology of national and local interest and non-designated buildings, structures or historic landscapes that contribute to local historic and architectural interest of the district's historic environment, and also includes those heritage assets listed by the Oxfordshire Historic Environmental Record.* *2. Proposals for new development should be sensitively designed and should not cause harm to the historic environment. Proposals that have an impact on heritage assets (designated and non-designated) will be supported particularly where they:* *i) conserve or enhance the significance of the heritage asset and settings. The more important the heritage asset, the greater the weight that will be given to its conservation;* *ii) make a positive contribution to local character and distinctiveness (through high standards of design, reflecting its significance, including through the use of appropriate materials and construction techniques);* *iii) make a positive contribution towards wider public benefits;* *iv) provide a viable future use for a heritage asset that is consistent with the conservation of its significance; and/or* *v) protect a heritage asset that is currently at risk.* *3. Non-designated heritage assets, where identified through local or neighbourhood plan-making, Conservation Area Appraisal or review or through the planning application process, will be recognised as heritage assets in accordance with national guidance and any local criteria. Development proposals that directly or indirectly affect the significance of a non-designated heritage asset will be determined with regard to the scale of any harm or loss and the significance of the asset.* *4. Applicants will be required to describe, in line with best practice and relevant national guidance, the significance of any heritage assets affected including any contribution made by their setting. The level of detail should be proportionate to the asset's importance. In some circumstances further survey, analysis and/or recording will be made a condition of consent.*

	5. Particular encouragement will be given to schemes that will help secure the long term conservation of vacant and under-used buildings and bring them back into appropriate use. *6. Alterations to historic buildings, for example to improve energy efficiency, should respect the integrity of the historic environment and the character and significance of the building.*
Policy ENV7 Listed Buildings	*1. Proposals for development, including change of use, that involve any alteration of, addition to or partial demolition of a listed building or within the curtilage of, or affecting the setting of a listed building will be expected to:* *i) conserve, enhance or better reveal those elements which contribute to the heritage significance and/or its setting;* *ii) respect any features of special architectural or historic interest, including, where relevant, the historic curtilage or context, such as burgage plots, or its value within a group and/or its setting, such as the importance of a street frontage or traditional shopfronts; and* *iii) be sympathetic to the listed building and its setting in terms of its siting, size, scale, height, alignment, materials and finishes (including colour and texture), design and form, in order to retain the special interest that justifies its designation through appropriate design, with regard to the South Oxfordshire Design Guide.* *2. Development proposals affecting the significance of a listed building or its setting that will lead to substantial harm or total loss of significance will be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that demonstrably outweigh that harm or loss or where the applicant can demonstrate that:* *i) the nature of the heritage asset prevents all reasonable uses of the site; and* *ii) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and* *iii) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and* *iv) the harm or loss is outweighed by the benefit of bringing the site back into use.* *3. Development proposals that would result in less than substantial harm to the significance of a listed building will be expected to:* *i) minimise harm and avoid adverse impacts, and provide justification for any adverse impacts, harm or loss of significance;* *ii) identify any demonstrable public benefits or exceptional circumstances in relation to the development proposed; and* *iii) investigate and record changes or loss of fabric, features, objects or remains, both known and unknown, in a manner proportionate to the importance of the change or loss, and to make this information publicly accessible.* *4. Changes of use will be supported where it can be demonstrated that the new use can be accommodated without any adverse effect on the significance of the building and its setting.*
Policy ENV8 Conservation Areas	*1. Proposals for development within or affecting the setting of a Conservation Area must conserve or enhance its special interest, character, setting and appearance. Development will be expected to:*

	i) contribute to the Conservation Area's special interest and its relationship within its setting. The special characteristics of the Conservation Area (such as existing walls, buildings, trees, hedges, burgage plots, traditional shopfronts and signs, farm groups, medieval townscapes, archaeological features, historic routes etc.) should be preserved; *ii) take into account important views within, into or out of the Conservation Area and show that these would be retained and unharmed;* *iii) respect the local character and distinctiveness of the Conservation Area in terms of the development's: siting; size; scale; height; alignment; materials and finishes (including colour and texture); proportions; design; and form and should have regard to the South Oxfordshire Design Guide and any relevant Conservation Area Character Appraisal;* *iv) be sympathetic to the original curtilage of buildings and pattern of development that forms part of the historic interest of the Conservation Area;* *v) be sympathetic to important spaces such as paddocks, greens, gardens and other gaps or spaces between buildings which make a positive contribution to the pattern of development in the Conservation Area;* *vi) ensure the wider social and environmental effects generated by the development are compatible with the existing character and appearance of the Conservation Area; and/or* *vii) ensure no loss of, or harm to any building or feature that makes a positive contribution to the special interest, character or appearance of the Conservation Area.* *2. Where a proposed development will lead to substantial harm to or total loss of significance of a Conservation Area, consent will only be granted where it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss.* *3. Where a development proposal will lead to less than substantial harm to the significance of a Conservation Area, this harm will be weighed against the public benefits of the proposal.* *4. Wherever possible the sympathetic restoration and re-use of structures which make a positive contribution to the special interest, character or appearance of the Conservation Area will be encouraged to prevent harm through the cumulative loss of features which are an asset to the Conservation Area.*
Policy ENV9 Archaeology and Scheduled Monuments	*1. Development must protect the site and setting of Scheduled Monuments or nationally important designated or undesignated archaeological remains.* *2. Applicants will be expected to undertake an assessment of appropriate detail to determine whether the development site is known to, or is likely to, contain archaeological remains. Proposals must show the development proposals have had regard to any such remains.* *3. Where the assessment indicates archaeological remains on site, and development could disturb or adversely affect archaeological remains and/or their setting, applicants will be expected to:* *i) submit an appropriate archaeological desk-based assessment; or* *ii) undertake a field evaluation (conducted by a suitably qualified archaeological organisation), where necessary.*

	4. Nationally important archaeological remains (whether scheduled or demonstrably of equivalent significance) should be preserved in situ. Non-designated archaeological sites or deposits of significance equal to that of a nationally important monument will be assessed as though those sites or deposits are designated. *5. Where a proposed development will lead to substantial harm to or total loss of significance of such remains consent will only be permitted where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.* *6. Where a development proposal will lead to less than substantial harm to the significance of such remains, this harm will be weighed against the public benefits of the proposal.* *7. For other archaeological remains, the effect of a development proposal on the significance of the remains, either directly or indirectly, will be taken into account in determining the application.* *8. In exceptional cases, where harm to or loss of significance to the asset is considered to be justified, the harm should be minimised, and mitigated by a programme of archaeological investigation, including excavation, recording and analysis. Planning permission will not be granted until this programme has been submitted to, and approved by, the Council and development should not commence until these works have been satisfactorily undertaken by an appropriately qualified organisation. The results and analysis of findings subsequent to the investigation should be published and made available to the relevant local and county authorities.*
Policy ENV10 Historic Battlefields, Registered Parks and Gardens and Historic Landscapes	*1. Proposals should conserve or enhance the special historic interest, character or setting of a battlefield, or park or garden on the Historic England Registers of Historic Battlefields or Register of Historic Parks and Gardens of Special Historic Interest in England.* *2. Any harm to or loss of significance of any heritage asset requires clear and convincing justification. Substantial harm to or loss of these assets should be wholly exceptional in the case of Registered Historic Battlefields and Grade I and Grade II* Registered Historic Parks and Gardens and exceptional in the case of Grade II Registered Historic Parks and Gardens.* *3. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, consent will only be granted where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. All other options for their conservation or use must have been explored.* *4. A balanced judgment, having regard to the scale of any harm or loss and the significance of the heritage asset, will be required in assessing proposals affecting non-designated historic battlefields, parks and historic landscapes including historic routes.* *5. Applicants will be required to describe, in line with best practice and relevant national guidance, the significance of any heritage assets affected including any contribution made by their setting. The level of detail should be proportionate to the asset's importance. In some circumstances, further survey, analysis and recording will be made a condition of consent.*
Policy ENV12 Pollution - Impact of Development on Human Health, the Natural Environment	*1. Development proposals should be located in sustainable locations and should be designed to ensure that they will not result in significant adverse impacts on human health, the natural environment and/or the amenity of neighbouring uses.* *2. The individual and cumulative impacts of development on human health, the natural environment and/or local amenity will be considered when assessing development proposals.*

and/or Local Amenity (Potential Sources of Pollution)	*3. The consideration of the merits of development proposals will be balanced against the adverse impact on human health, the natural environment and/or local amenity, including the following factors:* *• noise or vibration;* *• smell, dust, odour, artificial light, gases and other emissions;* *• air pollution, contamination of the site or its surroundings and hazardous substances nearby;* *• land instability; and* *• any other relevant types of pollution.*
Policy EP4 Flood Risk	*1. The risk and impact of flooding will be minimised through:* *i) directing new development to areas with the lowest probability of flooding;* *ii) ensuring that all new development addresses the effective management of all sources of flood risk;* *iii) ensuring that development does not increase the risk of flooding elsewhere; and* *iv) ensuring wider environmental benefits of development in relation to flood risk.* *2. The suitability of development proposed in Flood Zones will be strictly assessed using the 'Sequential Test' and where necessary the 'Exceptions Test'. A sequential approach should be used at site level.* *3. A site-specific Flood Risk Assessment (FRA) should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1 a FRA should accompany all proposals involving:* *• sites of 1 hectare or more;* *• land which has been identified by the Environment Agency as having critical drainage problems;* *• land identified in the Strategic Flood Risk Assessment as being at increased flood risk in future; or* *• land that may be subject to other sources of flooding, where development would introduce a more vulnerable use.* *4. All development proposals must be assessed against the current South Oxfordshire Strategic Flood Risk Assessment or any updates and the Oxfordshire Local Flood Risk Management Strategy to address locally significant flooding. Appropriate mitigation and management measures must be implemented and maintained.* *5. All development will be required to provide a Drainage Strategy. Development will be expected to incorporate Sustainable Drainage Systems and ensure that run-off rates are attenuated to greenfield run-off rates. Higher rates would need to be justified and the risks quantified. Development should strive to reduce run-off rates for existing developed sites.* *6. Sustainable Drainage Systems should seek to enhance water quality and biodiversity in line with the Water Framework Directive.*
Policy DES2 Enhancing Local Character	*1. All new development must be designed to reflect the positive features that make up the character of the local area and should both physically and visually enhance and complement the surroundings.*

	2. All proposals for new development should be informed by a contextual analysis that demonstrates how the design: *i) has been informed by and responds positively to the site and its surroundings; and* *ii) reinforces place-identity by enhancing local character.* *3. Where a Character Assessment has been prepared as part of a made Neighbourhood Development Plan, a proposal must demonstrate that the positive features identified in the Assessment have been incorporated into the design of the development.* *4. Where there is no local Character Assessment a comprehensive contextual analysis of the local character should be prepared as part of an application. This should identify the positive features that make up the character of the area. The proposal must demonstrate that these positive features have been incorporated into the design of the development.* *5. Proposals that have the potential to impact upon a Conservation Area or the setting of a Conservation Area should also take account of the relevant Conservation Character Appraisal.*
Policy DES3 Design and Access Statements	*1. Where an application is required to be supported by a Design and Access Statement, this must demonstrate how the development proposal meets the design objectives and principles set out in the South Oxfordshire Design Guide.* *2. The Design and Access Statement should be proportional to the scale and complexity of the proposal. It should include:* *i) a clear drawing trail that shows how the design of the proposal and the rationale behind it has evolved and clearly demonstrates that the design objectives and principles set out in the South Oxfordshire Design Guide have been considered at the outset and throughout the process and have been met by the final design;* *ii) a constraints and opportunities plan that clearly informs the design process and final design;* *iii) the delivery implementation phases and strategies to be put in place to ensure the timely delivery of infrastructure and services when they are needed by new residents; and* *iv) how consultation with the existing community and communities in the surrounding area has informed the design of the development.*
Policy DES6 Residential Amenity	*1. Development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, when considering both individual and cumulative impacts, in relation to the following factors:* *i) loss of privacy, daylight or sunlight;* *ii) dominance or visual intrusion;* *iii) noise or vibration;* *iv) smell, dust, heat, odour, gases or other emissions;* *v) pollution, contamination or the use of/or storage of hazardous substances; and* *vi) external lighting.*
Policy DES7 Efficient Use of Resources	*1. New development is required to make provision for the effective use and protection of natural resources where applicable, including:*

	i) the efficient use of land, with densities in accordance with Policy STRAT5 Residential Densities. Proposals which seek to deliver higher quality and higher density development which minimises land take will be encouraged; *ii) minimising waste and making adequate provision for the recycling, composting and recovery of waste on site using recycled and energy efficient materials;* *iii) maximising passive solar heating, lighting, natural ventilation, energy and water efficiency and the re-use of materials;* *iv) making efficient use of water, for example through rainwater harvesting and grey water recycling, and causing no deterioration in, and where possible, achieving improvements in water quality (including groundwater quality);* *v) taking account of, and if located within an AQMA, is consistent with, the Council's Air Quality Action Plan;* *vi) ensuring that the land is of a suitable quality for development and that remediation of contaminated land is undertaken where necessary;* *vii) avoiding the development of the best and most versatile agricultural land, unless it is demonstrated to be the most sustainable choice from reasonable alternatives, by first using areas of poorer quality land in preference to that of a higher quality; and* *viii) re-using vacant buildings and redeveloping previously developed land, provided the land is not of a high environmental value.*
Policy DES10 Carbon Reduction	*1. Planning permission will only be granted where development proposals for:* *i) new build residential dwelling houses; or* *ii) developments including 1,000sqm or more of C2 use (including student accommodation); or* *iii) Houses in Multiple Occupation (C4 use or Sui Generis floorspace) achieve at least a 40% reduction in carbon emissions compared with a code 2013 Building Regulations compliant base case. This reduction is to be secured through renewable energy and other low carbon technologies and/ or energy efficiency measures. The requirement will increase from 31 March 2026 to at least a 50% reduction in carbon emissions and again from 31 March 2030 to a 100% reduction in carbon emissions (zero carbon). These targets will be reviewed in the light of any future legislation and national guidance.* *2. Non-residential development proposals are required:* *i) to meet the BREEAM excellent standard (or a recognised equivalent assessment methodology)* *ii) in addition development proposals of 1,000sqm or more are required to achieve at least a 40% reduction in the carbon emissions compared with a 2013 Building Regulations compliant base case. This reduction is to be secured through renewable energy and other low carbon technologies and/ or energy efficiency measures. The requirement will increase from 31 March 2026 to at least a 50% reduction in carbon emissions.* *3. An Energy Statement will be submitted to demonstrate compliance with this policy for all new build residential developments (other than householder applications) and new-build non-residential schemes over 1,000sqm. The Energy Statement will include details as to how the policy will be complied with and monitored.*
Lewknor Neighbourhood Plan	

Policy SS1 Settlement boundaries - Lewknor and Postcombe	*i. "The Neighbourhood Plan defines settlement boundaries at Lewknor and Postcombe, as shown on Policies Maps 2 & 3 which distinguish between the built-up areas of the Parish and the surrounding countryside.* *ii. Within the settlement boundaries housing infill development will be supported where it contributes positively to local character and reflects the scale of the village.* *iii. Within the Conservation Areas infill development should conserve or enhance the special architectural and historic character of these areas.* *iv. Development within settlement boundaries will be supported subject to other Neighbourhood Plan policies provided that the development, individually or cumulatively, would not result in an extended linear form of development along a geographical feature, such as a road or watercourse, which would be out of keeping with the historic nucleated development form of the relevant village.* *Proposals for development outside the boundaries will only be supported if they accord with policies of the Local Plan that manage development in the countryside"*
Policy CH1 Conserving Heritage	*The Plan identifies non-designated heritage assets (as shown on Maps 5 to 8). The effect of a development proposal on the significance of the identified non-designated heritage asset should be taken into account in determining planning applications. In weighing applications that directly or indirectly affect an identified non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset concerned.*
Policy CH2 Landscape Character	*Development proposals should conserve and enhance the landscape character area in which it lies having regard to the South Oxfordshire Landscape Character Assessment document.* *As appropriate to their scale, nature and location, development proposals should respect:* *i. The location of the Parish as a constituent part of the setting of the Chilterns National Landscape. Any planning proposal should not detract from this relationship in which the Parish contributes to the wider setting of the Chilterns* *ii. the Chilterns National Landscape as an Intrinsically Dark Landscape* *1. the geodiversity of the Parish*
Policy CH3 Protection of views	*The Plan identifies important views in the Parish (as shown on Map 9) as being of special significance for the character and setting of the parish and its villages as follows:* *1) St. Margaret's Church, Lewknor - from the north-west* *2) Lewknor & Beacon Hill - from the west* *3) Lewknor - from Salt Lane* *4) Lewknor and South Weston - from Beacon Hill* *5) Postcombe - from Beacon Hill*

	6) Lewknor - from Bald Hill *7) South Weston & Adwell Cop* *8) Entrance to South Weston - in direction of Adwell* *9) Towards Rectory Lane, South Weston - from junction of Salt Lane and Weston Road* *10) Beacon Hill - from the London Road at Postcombe* *11) Postcombe & Chiltern escarpment - from the west* *12) Beacon Hill - from Beacon View, Lewknor* *13) Beacon Hill - from Nethercote Lane, Lewknor* *14) Bald Hill - from north-west of St Margaret's Church, Lewknor* *Development proposals should preserve or where practicable enhance the local character of the landscape and respond positively to the identified important views*
Policy CH4 The Chilterns Area of Outstanding Natural Beauty	*Proposals for major developments in the Chilterns National Landscape will not be supported other than in exceptional circumstances and where it can be demonstrated that development is in the public interest, as defined by national planning policy.* *Development proposals within the Chilterns National Landscape, or affecting the setting of the Chilterns National Landscape, will only be supported where they:* *i. conserve and enhance the Chilterns National Landscape's special qualities, distinctive character, tranquillity and remoteness in accordance with national planning policy and the overall purpose of the National Landscape designation* *ii. are appropriate to the economic, social and environmental wellbeing of the area or is desirable for its understanding and enjoyment* *iii. has regard to the Chilterns National Landscape Management Plan, making practical and financial contributions towards management plan delivery as appropriate* *iv. comply with the Chilterns Building Design Guide and technical notes by being of a high-quality design which respects the natural beauty of the Chilterns, its traditional built character and reinforces the sense of place and local character* *are designed to avoid unacceptable impacts (including cumulative effects), unless any harm can be satisfactorily mitigated.*
Policy DC2 Design Principles	*As appropriate to their scale, nature and location, development proposals should incorporate designs and layouts that respond positively to the local character of the area and address the following principles:* *i. provision of a high-quality design* *ii. have regard to how their landscape schemes, layouts, access and public open space provision and other amenity requirements may contribute to the maintenance and improvement of the surrounding area*

iii. *Existing arboricultural features should be incorporated into design schemes wherever possible so that they are set off as an attractive asset to the development*

iv. *boundary treatments to highways and village lanes should comprise, where practicable, native hedgerow (or species appropriate to the site's growing conditions), or stone, brick or flint boundary walls as appropriate to the immediate context of the site*

v. *treatments to the front of properties should be soft (lawn, low hedges, trees, planting) and/or low stone/brick walls/picket fencing*

vi. *lighting should conserve and enhance relative tranquillity, in relation to light pollution and dark night skies, and comply with other relevant policies. All new lighting should demonstrate that it meets or exceeds the Institute of Lighting Professionals guidance and other relevant standards or guidance (CIE 150:2017 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations) for lighting within environmental zones, and have regard to the following hierarchy:*

   a. *The installation of outside lighting is avoided*

   b. *If lighting is installed it is necessary for its intended purpose or use and any adverse impacts are avoided, and*

   c. *If it is demonstrated that (a) or (b) is not achievable, then adverse impacts are appropriately mitigated*

vii. *proposed lighting for development proposals should ensure all of the following:*

   a. *The measured and observed sky quality in the surrounding area is not reduced*

   b. *Lighting is not unnecessarily visible in nearby designated and key habitats*

   c. *visibility of lighting from the surrounding landscape is avoided*

   d. *Building design that results in increased light spill from internal lighting is avoided, unless suitable mitigation measures are implemented*

viii. *proposed parking arrangements for residents and their visitors incorporate solutions that avoid large expanses of communal parking or the loss of vegetation along the roadsides and do not necessitate parking on village lanes and have a minimal impact on the street scene. All new residential developments should provide for the parking of vehicles in accordance with Oxfordshire County Council's parking standards, unless specific evidence is provided to justify a departure from those standards*

ix. *unless impracticable, garages must be built in direct association with the houses whose inhabitants may be expected to use them. They must be spacious enough to accommodate modern cars and bicycles. Proposals for separate parking areas would not be supported unless alternative provision is impracticable. In such instances they should be small, discreet and located out of view of the road*

x. *provision must be made for adequate storage space for bins and this should not detract from the street scene*

xi. *any new road is in keeping with the form of existing roads and lanes within its village*

xii. *roads and footpaths should not feature street and/or path lighting unless it is a requirement of a statutory body, in which case renewable energy solutions (such as solar lighting) are encouraged*

	xiii. it should avoid the installation of kerbs to new or existing village lanes or roads. Where such an approach is impracticable, the use of more sympathetic materials / construction design, as identified in Oxfordshire County Council's Residential Road Design Guide, should be used in preference to the installation of precast concrete kerbs *developments should contribute to the provision of cleaner air and reduce pollution by adopting techniques which minimise or avoid carbon emissions and dust.*
Policy EN1 Wildlife and Biodiversity	*As appropriate to their scale, nature and location development proposals should comply with the following biodiversity principles:* *i. Loss of mature trees, hedgerows or other form of wildlife corridor should be avoided, either as part of a landscape scheme and layout or as part of the construction works of a development scheme. Where the loss of a mature tree or hedgerow is unavoidable, the proposals should make provision on site for species appropriate to the site's growing conditions. Development proposals affecting trees and woodlands should, where appropriate, be supported by adequate tree survey information; tree constraints should be identified by a qualified arboricultural consultant, based on a Tree Survey completed in accordance with the current edition of British Standard 5837. Development proposals are encouraged to replace trees which are not being retained as a result of the development at a ratio of at least 2:1 or in an approved alternative location in accordance with a compensation scheme provided as a condition of planning permission* *ii. Where appropriate, incorporate landscape schemes which use species appropriate to the site's growing conditions* *iii. On-site biodiversity enhancements such as new roosting features for bats or nesting features for birds (including for use by swifts, swallows and house martins) should be incorporated into the fabric of the development* *iv. Fences, walls or hedges should be designed to incorporate features which allow safe dispersal of wildlife through areas of green space and gardens* *v. Development proposals should be planned so as to avoid deterioration in the ecological status of the Parish's chalk streams* *vi. Development should retain or provide a buffer adjacent to the watercourse of natural or semi-natural habitat, free from built development and parking areas* *vii. Wherever possible, piped water courses shall be re-opened and existing open water courses retained* *viii. Any flood attenuation ponds and new areas of recreational green space required as part of any new development shall be designed to encourage nature conservation and biodiversity* *ix. Proposals for new development must include details of how the biodiversity and wildlife environment of the site would be enhanced* *x. Development on land within or adjacent to the Sites of Special Scientific Interest in the Parish, the areas of Ancient Woodland and the Special Area of Conservation, and which is likely to have an adverse effect on it any of them (either individually or in combination with other developments), will not be supported. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest*

	Note: Biodiversity net gain should be assessed using a recognised assessment method, such as the DEFRA biodiversity offsetting metric.
Policy EN2 Aston Rowant National Nature Reserve	*Development proposals at the Aston Rowant National Nature Reserve should conserve and where practicable enhance its status as a Site of Special Scientific Interest/Special Area of Conservation. In addition, any development proposals within the Reserve should result in a biodiversity net gain of at least 10% through the incorporation of measures including land management approaches such as grazing regimes, restoring hedgerows, reinstating ponds, reverting arable land to chalk grassland, and joining up islands of ancient woodland or chalk grassland.*
Policy EN3 High Grade Agricultural Land	*Proposals for development on land outside the built-up part of the Plan area in the areas shown as Excellent and Very Good Agricultural Land will not be supported, unless the development is necessary and suitable for that specific countryside location.*
Policy FI3 Sustainable Movement	*i. Proposals for development adjoining a public footpath or bridleway should maintain their rural character* *ii. Proposals which improve disabled access to the villages including the provision of dropped kerbs in existing kerbs where needed will be supported* *iii. Support will be given to proposals which deliver good pedestrian and cycle connections by creating new, improved or extended footpaths, bridleways and cycle paths* *Proposals which provide safe pedestrian routes to the village school and pre-school avoiding areas of the villages where no pavement exists will be supported*
Policy FI4 Green Energy	*Proposals for individual and community scale renewable energy schemes will be supported subject to the following criteria:* *i. the siting and scale of the proposed development does not detract from the setting and its position in the wider landscape* *ii. the proposed development does not create a negative impact on the amenities of local residents* *iii. the proposed development does not have an adverse impact on a feature of natural and biodiversity importance* *iv. Siting of green energy sites will not cause detrimental impact to the views detailed in Policy CH4 "Protection of Views*
Policy TH1 Sustainable Transport	*Development proposals should seek to maximise the use of sustainable modes of transport and minimise the additional traffic within the neighbourhood area. Development proposals which would have an unacceptable impact on the capacity and/or the safety of the local highways network will not be supported.*
Policy TH2: Vehicle Traffic	*As appropriate to their scale, nature and location, development proposals should mitigate the impact of vehicular traffic by incorporating land for natural screening including tree planting and hedgerows, and designing their layouts to reduce the impact of noise from the M40 motorway and other main roads*
Tetsworth Neighbourhood Plan	
Policy TET1: Development within the Tetsworth Village Settlement and Surrounding Countryside	*Proposals for small scale, infill development within the village settlement will be supported, provided they accord with the design and development management policies of the South Oxfordshire Local Plan 2035 and any other relevant policies of this Neighbourhood Plan.*

	Proposals for development outside the village settlement will only be supported if they are appropriate to a countryside location and are consistent with South Oxfordshire Local Plan 2035 and any other relevant policies of this Neighbourhood Plan.
Policy TET2: Settlement Character Areas and Design Criteria	*The village of Tetsworth is the single nucleated settlement within the Neighbourhood Area, and the Neighbourhood Plan defines Settlement Character Areas on the Policies Map.* *Development proposals in a Settlement Character Area will be supported if they demonstrate that the positive features identified relating to that Area in the Neighbourhood Plan Character Assessment and guidance in the South Oxfordshire Design Guide have been incorporated into the design of the development. As appropriate to their scale, nature and location, development proposals should:* *• Demonstrate that the size, location and character of gardens and outdoor amenity spaces have been considered as an integral part of the design;* *• Seek to satisfy technical space standards for commercial property converted for domestic use;* *• Promote environmental sustainability design features, to conserve and enhance natural resources and to prevent environmental pollution;* *• Encourage building techniques and methodologies, selecting sustainably sourced materials to promote the sustainability of the dwelling;* *• Respect and enhance the character of identified heritage assets and their setting;* *• Encourage use of traditional and vernacular building materials which respect the character and setting of the development;* *• Ensure the proposed development does not result in unacceptable adverse impact on the amenities of adjacent residential properties;* *• Require the design of on-plot residential parking spaces to reflect the local character and not detract from the street scene;* *• Ensure, where possible, the proposed development does not adversely affect the free and safe flow of traffic on the local highway network and is in accordance with Para 109 of the NPPF;*
Policy TET3: Countryside Character Sectors	*The Neighbourhood Plan defines Countryside Character Sectors on the Policies Map. Development proposals in a Countryside Character Sector should preserve or enhance the character and appearance in accordance with the positive features identified within that Sector in the Neighbourhood Plan Character Assessment and guidance in the South Oxfordshire Design Guide.* *Any proposed development in a Countryside Character Area should also satisfy the design criteria set out in policy TET2.*
Policy TET8: Biodiversity and the Natural Environment	*Development proposals should ensure that existing wildlife habitats are not unacceptably affected, and that existing green and blue infrastructure are preserved and where practicable enhanced (including providing net gains in biodiversity).* *As appropriate to their scale, nature and location development proposals should take account of the relevant geographic area of the Tetsworth Parish Character Assessment*
Emerging Local Plan	

Policy CE1 – Sustainable design and construction;	*1) All new development should seek to minimise the carbon and energy impacts of their design and construction. Proposals must demonstrate that they are seeking to limit greenhouse emissions through location, building orientation, design, landscape and planting, adopting a "fabric first" approach and taking into account any nationally adopted standards.* *2) All new development should be designed to improve resilience to the anticipated effects of climate change. Proposals should incorporate measures that address issues of adaptation to climate change taking account of best practice. These include resilience to extreme weather, including increasing temperatures and wind speeds, droughts, heavy rainfall and snowfall events and the need for water conservation and storage. All new developments must:* *A. reduce the risk of flooding and conserve and store water in accordance with Policy CE6 (Flood risk and drainage) and Policy CE7 (Water efficiency);* *B. reduce the "heat island" effect through the use of cool materials and green infrastructure, such as utilising planting, i.e. providing trees for shade and cooling;* *C. complete the following overheating assessment:* *I. all new housing development must complete CIBSE TM59 (or future equivalent assessment methodology)as route to compliance with Building Regulations Part O (or future equivalent legislation).* *ii) all new non-domestic buildings must complete CIBSE TM52 (or future equivalent assessment methodology).* *D. be designed in accordance with the cooling hierarchy to reduce risk of overheating associated with increasing temperatures using the following sequential approach:* *I. Passive design: minimise internal heat generation through energy efficient design and reduce the amount of heat entering a building by consideration of measures such as orientation, shading, fenestration, albedo, thermal mass and insulation.* *II. Passive/natural cooling: using outside air to ventilate and cool a building without the use of a powered system. For example, maximising cross ventilation, passive stack and wind-driven ventilation, night purging ventilation and designing windows and/or ventilation panels to allow effective and secure ventilation. Single aspect developments are discouraged.* *III. Mixed mode cooling: with local mechanical ventilation/cooling provided where required in order to supplement the above measures using (in order of preference):* *a. Low energy mechanical cooling (such as fan-powered ventilation with/without evaporative cooling).* *b. Air conditioning (not a preferred approach as these systems are energy intensive)* *IV. Full mechanical ventilation/cooling system: using (in order of preference): a. Low energy mechanical cooling. b. As a last resort, air conditioning.* *3) A completed Sustainable Design and Construction checklist is to be submitted as part of all planning applications, demonstrating how a development will incorporate the above requirements into relevant aspects of design, construction, and operation processes*
Policy CE2 – Net Zero carbon buildings	*Space Heating* *1) All housing and non-domestic buildings must demonstrate through an energy statement that they achieve a specific space heating demand (set out in per metre squared per year), as follows:*

A. All new dwellings must have a space heating demand of < 20 kWh/m2 /year for bungalows only).

B. All new non-domestic buildings must achieve a space heating demand of <15 kWh/m2 /year.

2) No new buildings are to be connected to the gas grid or use fossil fuel heating systems/technologies.

Total Energy Use Intensity (EUI)

3) EUI requirements are achieved as per building type (set out in kWh per metre squared per year), as follows:

A. All new dwellings must demonstrate through an energy statement that they achieve an EUI of no more than 35 kWh/m2 /year.

B. All new non-domestic buildings must demonstrate through an energy statement that they achieve an EUI of no more than the following, where technically feasible, by building type:

I. Offices: 55 kWh/m2/year

II. Schools: 55 kWh/m2/year.

III. Warehouses: 35 kWh/m2/year.

IV. Retail: 35 kWh/m2 /year.

V. Where unregulated energy loads for the specific use of a non-residential building may result in a total energy use that exceeds the limits set out above, and this is accepted by the council, applicants are required to demonstrate that regulated energy is limited to 30 kWh/m2/year. Unregulated loads must be justified in an energy statement demonstrating they are as efficient as is reasonable for the use.

VI. Other building types not listed above are required to achieve a regulated total energy use cap of 40kWh/m 2 /year. Unregulated loads must be justified in an energy statement demonstrating they are as efficient as is reasonable for the use

Energy performance

4) All new housing and non-domestic building proposals must generate at least the same amount of renewable energy (preferably on-plot) as the energy they demand over the course of a year, demonstrated through an energy statement. This must include all energy use (regulated and unregulated), calculated using a methodology proven to accurately predict a building's actual energy performance. Where an on site net zero energy balance is not possible, proposals must demonstrate that the amount of on site renewable energy generation equates to at least 120 kWh/m2 building footprint/year. Where this cannot be achieved, it must be demonstrated to the satisfaction of the council that this is due to unavoidable design issues such as natural lighting and utility space.

5) Where a development of multiple buildings is concerned, the renewable energy generation requirement must be calculated and demonstrated across the whole development so that buildings that are able to exceed the requirements do so in order to compensate for any buildings on site that cannot meet the requirements, prior to energy offsetting being considered

Energy offsetting

6) Only in exceptional circumstances and as a last resort where it is demonstrated and accepted by the council that it is unfeasible to achieve an on site net zero energy balance, any annual on site energy use not matched by on site annual renewable energy generation is to be offset. Where these exceptional circumstances arise, applicants must meet the following requirements:

	a. Energy offsetting is primarily to be delivered via developer contributions to a fund which would be ring-fenced for use only to deliver local projects that save the same amount of carbon or deliver the required shortfall in renewable energy, with a preference to invest in additional renewable energy generation to ensure net zero carbon buildings are delivered. *b. In select cases it may be accepted that the developer conducts direct delivery of these local energy offsetting projects rather than provide financial contributions, subject to council approval of the proposed projects based on meeting criteria around their effectiveness, suitability and guaranteed delivery timescale.* *c. Where a proposal cannot meet the policy requirements set out in paragraphs 1, 2 and 3 in full, in addition to offsetting, the development must be futureproofed to enable future occupiers to easily retrofit or upgrade buildings and/or infrastructure in the future to enable achievement of net zero carbon development.* *Reduced performance gap* *7) Energy performance calculations of all new housing and non-residential units must be completed using Passivhaus Planning Package, CIBSE TM54, or other method demonstrably proven to produce accurate predictions in total in-use energy (subject to the council's approval of the method).* *8) The energy performance of all units is to be calculated individually and must demonstrate compliance with the space heating demand and EUI requirements of this policy.* *9) In exceptional circumstances (such as limited roof space available), it may be considered acceptable to achieve a sitewide average that complies with the space heat demand and EUI requirements of this policy. For all new housing proposals, this is subject to no individual dwelling exceeding a space heating demand of 20kWh/m2 /year and an EUI of 45 kWh/m2 /year.* *10) All new housing and non-residential buildings must demonstrate use of an assured performance method (approved by the council) throughout all stages of construction in order to ensure that the buildings' operational energy performance reflects design intentions and addresses the performance gap.* *Energy Demand Management* *11) Proposals for new housing and non-residential buildings should demonstrate through an energy statement how they have considered the difference (in scale and time) of renewable energy generation and the on site energy demand, with a view to maximising on site consumption (for example via energy storage and smart energy systems, such as demand side response (DSR)) of energy generated on site and minimising the need for wider grid infrastructure reinforcement* *12) Where the on site renewable energy generation peak is not expected to coincide with sufficient energy demand (resulting in a need to export or waste significant amounts of energy), proposals should demonstrate through an energy statement how they have explored scope for energy storage and/or smart energy systems to optimise on site or local consumption of the renewable energy (or waste energy) generated by the site. Where appropriate, these should optimise carbon and energy-saving benefits and minimise the need for grid reinforcements*
Policy CE6 – Flood Risk	*1) The risk and impact of flooding must be minimised by:* *a. directing development to areas with the lowest risk of flooding from any source, taking into account current and future impacts of climate change;*

b. ensuring development does not increase the risk of flooding elsewhere;

c. ensuring development is safe for its lifetime; and

d. taking opportunities provided by development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, making as much use as possible of natural flood management techniques that also deliver wider environmental benefits

2) Development in areas at risk of flooding must pass the Sequential Test and where necessary the Exception Test, where they are required by national planning policy and guidance. Regard should be had to the Joint Local Plan Strategic Flood Risk Assessment (or any future update) in applying the tests.

3) A site-specific Flood Risk Assessment (FRA) must be provided for all development in Flood Zones 2 and 3. In Flood Zone 1 a FRA must accompany all proposals involving:

a. sites of 1 hectare or more;

b. land identified in the Strategic Flood Risk Assessment as being at increased flood risk in future; or

c. land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use. FRAs must consider all sources of flood risk and the impacts of climate change. FRAs must also consider the cumulative impact of development on flood risk as set out in the Joint Local Plan Strategic Flood Risk Assessment (or any future update). It should be demonstrated that flood risk downstream will not be made worse by development. Measures that contribute to a reduction in flood risk downstream are encouraged)

4) Where flood risk is a consideration and relevant tests have been passed, development must:

a. firstly, seek to minimise flood risk through design, with site layouts that locate the most vulnerable elements of development in areas of lowest flood risk (or on upper storeys) as far as possible and by raising finished floor and/or ground levels where appropriate.

b. then, where appropriate, investigate opportunities to control the risk of flooding in discussion with the council, Environment Agency and Oxfordshire County Council (as Lead Local Flood Authority). Consideration should be given to natural flood management techniques.

c. then use flood resistance and resilience measures to address any residual risk. Passive measures should be prioritised over active measures.

d. then consider any further flood management measures required. Safe access and escape routes must be provided. Consideration must also be given to whether adequate flood warning will be available to people using the development.

5) Planning permission will not be granted for development in the functional flood plain (Flood Zone 3b) except where it is for water-compatible uses or essential infrastructure (as defined in national planning policy and guidance) or where it is on brownfield land and includes a high standard of flood resistance and resilience measures designed to decrease risk compared with the existing situation. All of the following criteria must also be met:

a. development will not lead to a net increase in the built footprint and where possible will reduce the built footprint;

b. development will not result in a reduction in flood storage and where possible will increase flood storage;

	c. development will not increase the risk of flooding elsewhere; and *d. any future occupants of the development will not be put at risk and safe access and escape routes will be provided.*
Policy CE8 – Water quality, wastewater infrastructure and drainage	*Protecting and enhancing water quality* *1) Development must protect and enhance water quality, including through:* *a. the use of green infrastructure, including sustainable drainage systems (SuDS);* *b. utilising natural means of water quality improvements where possible, with mechanical water quality improvement devices only being used in situations where insufficient water quality improvement can be achieved through natural means;* *c. maximising water efficiency; and* *d. d) identifying and implementing opportunities to remedy historical water contamination issues, where appropriate.* *2) Where a development includes the creation or extension of roads, the potential water quality issues associated with road runoff must be considered and appropriate mitigation provided to address impacts.* *3) Where development may have an adverse impact on water quality, evidence must be provided that identifies potential impacts (including for human health, the natural environment and amenity) and suitable mitigation. Engagement should be undertaken with the Environment Agency to agree the scope and content of the evidence required. Mitigation must be in place before any environmental effects occur. Where appropriate, water quality monitoring should be undertaken and submitted to the council to ensure that mitigation is effective.* *Meeting legal requirements* *4) Development, individually or cumulatively, must not prevent the future attainment of "good" status under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017a .* *5) Where there are impact pathways on habitats of national or international importance, development must not prevent a protected waterbody achieving the objectives set out in the Common Standards Monitoring Guidance (or any future standards/guidance that may supersede this).* *Wastewater infrastructure* *6) There must be adequate wastewater treatment capacity to serve development.* *7) Applications for major development must be supported by a Sewage Capacity Assessment.* *8) Where wastewater infrastructure capacity constraints are identified, development must not commence until the delivery of sufficient new and/or upgraded wastewater infrastructure has been agreed and programmed (between the developer and Thames Water or other utility provider). Development must not be occupied until the necessary wastewater treatment infrastructure upgrades have been completed. A phased approach may be required to ensure alignment between development and infrastructure delivery. The council will apply Grampian conditions, where appropriate, to ensure that adequate sewerage capacity is in place before new homes are occupied in order to protect water quality.* *Drainage*

	9) All development will be required to provide a Drainage Strategy. *10) Development will be expected to incorporate sustainable drainage systems (SuDS) that:* *a. are well designed;* *b. are appropriate to their location (for example, infiltration SuDS are unlikely to be appropriate in areas of contamination, even following remediation);* *c. are multifunctional, providing a range of benefits for people and nature, including protecting and enhancing water quality (including groundwater quality), managing flood risk and supporting biodiversity;* *d. attenuate run-off rates to greenfield run-off rates. Higher rates would need to be justified and the risks quantified. Development on brownfield land should reduce run-off rates to as close to greenfield rates as possible; and* *e. reduce the amount of water discharging to the wider wastewater infrastructure network at source, with opportunities taken to disconnect flows where possible. (For example, by using features such as water butts, swales and rain gardens, rather than direct network connections from gullies and rainwater pipes.)* *11) Major development must comply with the latest local standards and guidance for surface water drainage produced by the Lead Local Flood Authority (Oxfordshire County Council) .* *12) No new surface water connections are to be connected to a foul sewer. For brownfield sites, where existing connections are proven, the drainage strategy should seek to either remove these if feasible or attenuate existing flows to as close to the QBar greenfield rate as feasible or to a rate acceptable to Thames Water whichever is the lower.* *13) In the case of extensions to buildings, changes of use and refurbishments, developments are encouraged to take the opportunity to upgrade the drainage of the existing building as well as the extension, by disconnecting roof drainage from the surface water sewer network and incorporating soakaways, water butts and greywater recycling schemes.* *14) All development will be required to demonstrate suitable arrangements for future maintenance and management of drainage schemes. All below ground drainage serving more than one property should be designed to adoptable standards and offered to an OFWAT approved statutory water authority for adoption.* *15) In areas where high groundwater could potentially affect the drainage system, specific measures should be incorporated in any new network provided to reduce the risk of groundwater affecting the drainage system.*
Policy CE9 – Air Quality	*Protecting and enhancing air quality* *1) Development must protect and enhance air quality through:* *a. design that seeks to avoid negative impacts on air quality and/or exposure to poor air quality, both during construction and over the lifetime of development;* *b. where it is not possible to entirely avoid negative impacts on air quality and/or exposure to poor air quality, design measures should be used to minimise negative impacts/exposure as far as possible, both during construction and over the lifetime of development;* *c. provision of appropriate green infrastructure; and*

	d. regard to the councils' latest air quality developer guidance *2) Development, on its own or cumulatively, should not result in the creation of any new areas that exceed national air quality objective levels or delay the date at which compliance will be achieved in areas that are currently in exceedance of national air quality objective levels .* *3) Development in or affecting an Air Quality Management Area must be consistent with the latest Air Quality Action Plan.* *Assessing air quality impacts* *4) Where development would introduce sensitive receptors in areas of existing poor air quality and/or where major development is proposed an Air Quality Assessment will be required.* *5) Development that involves significant demolition, construction or earthworks or that could result in significant dust impacts will be required to submit a dust assessment as part of the Air Quality Assessment.* *Addressing air quality impacts* *6) If, after using design to avoid and minimise negative impacts on air quality and/or exposure to poor air quality, an Air Quality Assessment indicates that risks remain, proportionate mitigation will be required to reduce impacts/exposure to an acceptable level.* *7) Where mitigation cannot fully eliminate risks and it can be demonstrated that the development is in the public interest,* *as a last resort, compensation in the form of contributions towards the delivery of measures identified in the Air Quality Action Plan will be secured via a planning obligation.* *8) Where specific measures are required to manage dust, these will be secured either as part of a Construction Management Plan (if related to major development) or by condition (if related to minor development).*
Policy CE10 – Pollution sources and receptors	*Impact of existing pollution on new development* *1) Development proposals should be appropriate to their location and should be designed to ensure that the occupiers of a new development will not be subject to individual and/or cumulative adverse affect(s) of pollution.* *2) Proposals will need to avoid or provide details of proposed mitigation methods to protect occupiers of a new development from the adverse impact(s) of pollution.* *3) Unless there is a realistic potential for appropriate mitigation, development will not be permitted if it is likely to be adversely affected by pollution. Factors can include, but are not limited to:* *a. noise or vibration;* *b. smell, dust, odour, gases and other emissions;* *c. air pollution, contamination of the site or its surroundings (see Policy CE12 (Soils and contaminated land)) and hazardous substances nearby;* *d. artificial light (see Policy CE11 (Light pollution and dark skies));* *e. land instability; and* *f. any other relevant types of pollution.*

Impact of new development on health, nature and neighbouring environments

4) Development proposals must be designed to ensure that they will not result in significant adverse impacts on human health, the natural or historic environment and/or the amenity of neighbouring uses. Both individual and cumulative impacts of development will be considered when assessing development proposals. The merits of development proposals will be balanced against the adverse impact on human health, the natural and historic environment and/or local amenity, including the following sources of pollution:

a. *noise or vibration;*
b. *smell, dust, odour, gases and other emissions;*
c. *air pollution, contamination of the site or its surroundings (see Policy CE12 (Soils and contaminated land)) and hazardous substances nearby;*
d. *artificial light (see Policy CE11 (Light pollution and dark skies));*
e. *land instability; and*
f. *any other relevant types of pollution*

Agent of Change

5) Planning proposals must acknowledge the agent of change principle and ensure new development is designed to mitigate any potential adverse impacts from established noise and other nuisance-generating uses. Proposals must ensure these uses are able to continue to operate and grow without restriction.

Hazardous Substances

6) Proposals for development which involves the use, movement or storage of hazardous substances will be referred to the Health and Safety Executive and/or the Environment Agency.

7) Proposals for development within the vicinity of an installation or pipeline involving hazardous substances or activities will be referred to the Health and Safety Executive and/or the Environment Agency.

8) In the case of either 6 or 7, development will only be permitted if the impact on health and safety of occupants of that development is acceptable

9) The council will seek to reduce the potential for conflicting land uses and promote safety of people and protection of the environment.

Nuclear Restoration Services (NRS) Harwell

10) All development proposals within the boundary of the NRS Harwell nuclear licensed site will be referred to the Office for Nuclear Regulation (ONR). The following proposals for development within the Outer Consultation Zone (OCZ) for NRS Harwell (as shown on the Policies Map) will also be referred to ONR:

a. *any new residential development of 200 dwellings or greater;*
b. *any re-use or re-classification of an existing development that will lead to a material increase in the size of an existing development (greater than 500 persons);*
c. *any new non-residential development that could introduce vulnerable groups to the OCZ; and*

	d. any new development, re-use or re-classification of an existing development that could pose an external hazard to the site.
Policy CE11 – Light pollution and dark skies	*1) All proposals for development should be designed to minimise light pollution, both external lighting and as a consequence of light leakage from the interior of buildings. Proposals should be accompanied by a lighting design proportionate to the scale of the development.* *2) Proposals for external lighting schemes will be permitted if they meet the following criteria:* *a. the lighting shows a clear need and justification;* *b. the lighting proposed is the minimum appropriate for its purpose;* *c. they satisfy requirements set out in the South Oxfordshire and Vale of White Horse Lighting Design Guidance. This should be in accordance with their Environmental Zone (where relevant) as shown on the Policies Map or equivalent up to date document);* *d. where appropriate, that the lowest possible illuminance is achieved for the task and it has considered appropriate professional standards;* *e. it is demonstrated that the number, luminous flux, intensity and height and timing of lighting is necessary to achieve its locationally appropriate purpose is proposed;* *f. suitable timing and control systems are in place to ensure light is only on when needed;* *g. it has been designed to minimise light glare, light trespass and spillage into neighbouring properties and would not dazzle or distract drivers or pedestrians using nearby highways;* *h. it has been designed to minimise sky glow by the appropriate use of luminaires with zero upward light;* *i. the lighting uses the best available technology and solutions to minimise light pollution and conserve energy;* *j. the lighting achieves the lowest appropriate colour temperature for its location and biodiversity;* *k. the lighting scheme would not be visually detrimental to its immediate or wider setting or to landscape character, particularly intrinsically dark landscapes;* *l. it is not a nuisance and does not adversely impact living conditions;* *m. it does not have an adverse impact on attractive and/or sensitive views or from vantage points;* *n. it is designed to minimise disturbance to wildlife, biodiversity and their food sources; and* *o. any development affecting protected species or habitats or in close proximity, follows relevant specific guidance on lighting.* *3) Proposals for external lighting within areas of the dark light environmental zone (E1) will only be permitted where they adhere to the above requirements and where they can demonstrate that there will be no significant adverse effects on the visibility of the night sky or its intrinsically dark landscapes.* *4) Within National Landscapes (formerly AONBs), proposals for development should reflect the guidance set out in the North Wessex Downs Position Statement on Dark Skies and Artificial Light and supporting guidance found in Dark Skies of North Wessex Downs AONB: A Guide to Good External Lighting , as well as lighting guidance set out in the Chilterns AONB Management Plan (or any future equivalent guidance of those listed).*

	5) In addition to other requirements set out in this policy, proposals within areas of the dark light environmental zone (E1) will be required to meet the following principles to reduce internal light spill through glazing: *a. glazing should not exceed 25% of the wall area;* *b. avoid single continuous areas of glazing such as multi-floor to eaves glazing;* *c. glazing should not be on roofs or ceilings without sufficient mitigation;* *d. a maximum target upper visible light transmission (VLT) limit of 0.65 +/-0.05 should be applied in all glazing applications; and* *e. high impact commercial greenhouses or equivalent buildings or structures should be avoided.* *6) Where possible, development proposals are encouraged to support the restoration and improvement of areas to enhance and or extend dark skies, and/or upgrade existing sources of light pollution on, and/or in, the vicinity of the development to reduce light pollution in the area.*
Policy CE12 – Soils and contaminated land	*Protecting and enhancing soils* *1) Development should be directed to suitable brownfield land wherever possible. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land (Agricultural Land Classification grades 3b, 4 and 5) should be preferred to those of a higher quality (grades 1, 2 and 3a). Proposals for development on the best and most versatile agricultural landa must include a soil handling plan and sustainable soil management strategy based on detailed soil surveys.* *2) Development must recognise and seek to protect the many benefits provided by soils (including for ecological connectivity, carbon storage and drainage). Harm to soils of high environmental value (such as wetland and peatland) must be avoided.* *3) Development in South Oxfordshire and Vale of White Horse must protect and enhance soils and the ecosystem services they provide by: a) minimising soil disturbance; b) taking opportunities to remediate despoiled, degraded, derelict or contaminated land; c) taking opportunities to reuse soil on site wherever possible, to avoid the need to manage waste off site; d) maximising permeable surfaces that allow water to infiltrate and soil to respire; e) minimising soil compaction, the addition of low-quality fill dirt, burying waste on site and the erosion of unprotected topsoil, particularly on areas identified for the provision of green infrastructure; and f) protecting, separating, and preserving the topsoil during construction by avoiding mixing, inverting or burying it, and where topsoil is to be stored, the size of the bunds should be limited to avoid anoxic conditions in the centre of large bunds which degrade soils.* *Assessing land contamination* *4) Where land is known or suspected of being contaminated, any planning application will require at least a Phase One Contaminated Land Preliminary Risk Assessment prepared in accordance with the councils' latest guidance.* *5) Where there is currently no information to suggest that contaminated land may be present, any planning application proposing uses that are particularly vulnerable to contamination must be accompanied by a Contaminated Land Questionnaire .* *6) Development should be designed to ensure that it will not contribute to land contamination. The individual and cumulative impacts of development on human health, groundwater and surface water, and the wider natural environment will be considered when assessing development proposal* *Addressing land contamination*

	7) If a proposal would otherwise result in an unacceptable level of risk to human health, groundwater and surface water and/or the wider natural environment from land contamination, applicants must provide proportionate remediation or mitigation to reduce risk to an acceptable level. Land Stability 8) Development should not contribute to, or be put at unacceptable risk from, land instability. Where it applies, consideration should be given to South Oxfordshire District Council's Karst Susceptibility Hazard Map, available to view as part of the Policies Map.
Policy SP1 – Spatial Strategy	*1)We will conserve and enhance the special qualities of our nationally protected landscapes, the Chilterns and North Wessex Downs National Landscapes.* *2) We will maintain the openness of the Oxford Green Belt. Development in the Green Belt will be considered in accordance with the National Planning Policy Framework. Development on Green Belt land will be restricted to ensure it continues to fulfil the five purposes of the Green Belt. Substantial weight will be given to any harm to the Green Belt when assessing planning applications.* *3) Within Science Vale, we will continue to deliver development, through housing at the sites allocated in this plan and sustainable economic development at Culham Campus, Harwell Campus and Milton Park.* *4) At the Garden Communities of Didcot, Berinsfield and Dalton Barracks we will support housing and some economic development to achieve holistically planned new or regenerated settlements which enhance the natural environment, tackles climate change and provide high quality affordable housing and locally accessible jobs in beautiful, healthy and sociable communities.* *5) We will support new development on well-located brownfield sites, and identify a new brownfield site allocation at Dalton Barracks.* *6) For windfall housing developments, we will support sustainable locations that maximise brownfield land redevelopment opportunities and are appropriate to the site's location within the settlement hierarchy defined in Policy SP2 (Settlement hierarchy). Development of the types described in Policy SP2 will be supported within the built-up area of highest tiered settlements of Tiers 1, 2, 3, with Tier 4 limited to brownfield sites, replacement dwellings or subdivision.* *7) On brownfield land at Tiers 1 to 4 of the settlement hierarchy we will encourage employment proposals where they will secure the redevelopment of existing employment sites.* *8) Development in the countryside, including areas outside of existing built-up areas, will not be appropriate unless specifically supported by other relevant policies as set out in the development plan or national policy, for example we will support rural exceptions site housing and rural workers' dwellings to come forward.* *9) We will support the delivery of viable and developable existing site allocations and commitments in the local plans and neighbourhood plans that haven't been completed yet. All housing and employment sites are listed within chapter 8 and Policy JT1 (Meeting employment needs).* *10) We will allocate sufficient sites to meet the existing agreed unmet housing needs of Oxford.* *11) We will support our communities with the preparation of neighbourhood plans that will reinforce the achievement of this spatial strategy, and we will support ambitious neighbourhood plans that may want to achieve something specific. Thame has an outstanding identified housing requirement of at least 143 homes . All other designated neighbourhood areas have a zero outstanding requirement, although communities can choose to exceed this when preparing neighbourhood development plans and neighbourhood development orders.*

	12) We will take a positive approach when considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework.
Policy DE1 – High Quality design	*Place and setting* *1) All development must achieve high quality design that:* *a. responds positively to the site and its surroundings, and reinforces local identity or establishes a distinct identity whilst not preventing innovative responses to context, demonstrated by a constraints and opportunities plan;* *b. responds positively to the history of a site and its surroundings, and conserves and enhances historic character;* *c. creates a distinctive sense of place through high quality townscape and landscaping that physically connects and visually integrates with its surroundings whilst avoiding coalescence with neighbouring settlements;* *d. retain or create any attractive and/or sensitive views and skyline (both of and from built and natural features) into, out of and within the site; and* *e. is designed to ensure that it would have no impact on the operation or capability of defence sites or assets.* *Natural environment* *2) All development must achieve high quality design that:* *a) is landscape led, by retaining and strengthening the site's landscape features and character;* *b) retains and enhances biodiversity and delivers biodiversity net gain in accordance with Policy NH2 (Nature recovery);* *c) incorporates a well-defined network of green infrastructure and links to and improves access to existing green infrastructure in and within the vicinity of the development, in accordance with Policy HP6 (Green infrastructure on new developments);* *d) provides a range of high-quality green open spaces (providing for a variety of wildlife rich natural and designed landscapes and functions) that meet the needs of all users, and are safe, attractive, and accessible;* *e) avoids the use of artificial grass in residential development;* *f) uses planting to help development integrate into the landscape and to develop character and sense of place;* *g) takes opportunities to incorporate new trees in development, ensuring that new streets are tree lined and that the right trees are planted in the right places; and* *h) uses trees and soft landscaping to create character and distinction between street types and to provide traffic calming. Movement and connectivity* *3) All development must achieve high quality design that:* *a) has a network of streets, paths and integrated cycleways that are safe, direct and legible, and connect with each other and the surrounding area (including to existing streets and cycle and walking paths); creating an attractive choice of routes for all users, with priority given to active travel and sustainable modes of transport utilising filtered permeability where appropriate;* *b) provides direct pedestrian and cycle links to local services and facilities that are convenient, legible, visually attractive and follow natural desire lines;*

c) limits the impacts of car use and encourages movement by active travel by prioritising the needs of pedestrians, cyclists and public transport users (especially those with disabilities), over the needs of motorists within the design of streets, utilising traffic calming measures where car use is present (except on roads that function as bus corridors where traffic calming measures are not suitable);

d) provides a clear and permeable hierarchy of streets, routes and spaces to create safe and convenient ease of movement by all users;

e) includes accessible wayfinding / signposting to be installed to promote movement by pedestrians, cyclists and other active travel; and f) co-locates local services and facilities as appropriate within higher tier settlements (Tier 1 and 2) as set out in the settlement hierarchy, with good access to public transport and pedestrian and cycle links.

Space and layout

4) All development must achieve high quality design that:

a) secures a high-quality public realm that is interesting and aesthetically pleasing, and designed to support an active life for everyone with well managed and maintained public areas;

b) creates cohesive and walkable communities with incorporated and designed social spaces within the public realm, providing places for people to shade and shelter, rest, gather, interact, and spectate;

c) ensures that streets and spaces are well overlooked, incorporate active frontages and create a positive relationship between the fronts and backs of buildings;

d) has streets where buildings and landscaping are more visually prominent than the highway (including parking);

e) provides a wide range of house types and tenures that meet local and district needs;

f) clearly defines public and private spaces;

g) ensures a sufficient level of well-integrated, innovative and contemporary solutions for street furniture, car and bicycle parking (including EV charging) and external storage, including bins;

h) creates safe and secure communities and reduces the likelihood of crime and antisocial behaviour as well as the fear of crime itself, ensuring sufficient natural surveillance; and i) incorporates public art into, and/or within the vicinity of, major developments or sites of 0.5ha or more to enhance their visual quality of the scheme and/or character of the area, and to help create or enhance a sense of identity.

Built form

5) All development must achieve high quality design that:

a) respects the local context working with and complementing the scale, height, density, grain, massing and detailing of the surrounding area;

b) chooses materials and detailing for the development inspired by the local context and local vernacular;

c) uses land efficiently while respecting the existing landscape and/or townscape character;

d) ensures the building line maintains or establishes a good street scene;

e) does not differentiate between the design quality of market and affordable housing or the adjacent public realm;

f) is designed to take account of possible future development in the local area, including providing links to neighbouring land where they may be needed in future;

	g) understands and addresses the needs of all potential users by ensuring that buildings and their surroundings can be accessed and used by everyone through universally accessible and inclusive design; *h) ensures that shopfronts are in keeping with the character of the building and street scene, reflect the scale and proportion of the building in which it is set, and preserve and restore surviving historic shopfronts in a sensitive manner; and* *i) ensures that any advertisements are safe, attractive and well designed, by ensuring their location is suitable, they complement local character, use appropriate high quality materials, and avoid flashing internal or external illumination.* *Climate and sustainability* *6) All development must achieve high quality design that* *a) is sustainable and resilient to climate change impacts (including increasing temperatures, wind speeds, droughts, heavy rainfall and snowfall events) in accordance with Policy CE1 (Sustainable design and construction), taking into account location, building orientation, landscaping and planting;* *b) minimises energy consumption and carbon emissions (utilising a "fabric first" design approach in accordance with Policy CE1 (Sustainable design and construction)), and achieves an on site net zero energy balance for new buildings in accordance with Policy CE2 (Net zero carbon buildings);* *c) demonstrates design choices have been made to reduce embodied carbon emissions in accordance with Policy CE3 (Reducing embodied carbon), including using sustainable, locally and/or ethically sourced and accredited low embodied carbon materials and/or carbon negative materials that are robust and weather well;* *d) minimises vulnerability and improves resilience to flood risk from all sources, in accordance with Policy CE6 (Flood risk) and Policy HP6 (Green infrastructure on new developments); and* *7) Development must also satisfy requirements of the Joint Design Guide as well as any adopted local design guides or codes (such as those within neighbourhood plans) where relevant.*
Policy DE2 – Local character and identity	*1) All new development must be designed to reflect the positive features that make up the character and identity of the local area and should both physically and visually enhance and complement the surroundings. Contemporary and innovative proposals that will make a positive contribution to the future character of an area will be supported in appropriate locations.* *2) All proposals for new development should be informed by a contextual analysis that demonstrates how the design:* *a) has been informed by and responds positively to the site and its surroundings; and* *b) reinforces place-identity by enhancing local character.* *3) In the Chilterns National Landscape (formerly AONB), proposals for development should reflect the advice in the Chilterns Buildings Design Guidea and associated technical notes on brick, flint and roofing materials.* *4) In the North Wessex Downs National Landscape (formerly AONB), proposals for development should reflect the advice in the North Wessex Downs Colour Guide .*

	5) Development within or affecting a valued landscape must have regard to the Joint Local Plan Valued Landscape Assessment (or subsequent update) in accordance with Policy NH5 (District-valued landscapes); *6) Where a Character Assessment has been prepared as part of a made neighbourhood plan, a proposal must demonstrate that the positive features identified in the Assessment have been incorporated into the design of the development.* *7) Proposals that have the potential to impact upon a Conservation Area or the setting of a Conservation Area should also take account of the relevant Conservation Area Appraisal and Management Plan or Character Study and demonstrate that the important features identified have been incorporated into the design of the development.*
Policy DE3 – Delivering well-designed new development	*Masterplans* *1)Proposals for sites allocated in the Development Plan, including sites allocated within neighbourhood plans, and major development must be accompanied by a masterplan. For outline applications, an illustrative masterplan should be submitted. In all cases, the masterplan should:* *Land use* *a) identify the vision for the development, setting out a clear description of the type of place that could be created whilst building on the overall aims for the district;* *b) clearly set out the character areas and land uses proposed including the amount, scale, height and density of development, the movement and access arrangements and green infrastructure provision (including amount and position of open space), demonstrated with parameter plans;* *c) illustrate how the proposal integrates with the surrounding built, historic and natural environments, in particular maximising existing and potential movement connections and accessibility to prioritise walking, cycling and use of public transport;* *d) define a hierarchy of routes and the integration of suitable infrastructure, including for example sustainable drainage systems (SuDS), within the public realm;* *e) demonstrate a legible structure and identify key elements of townscape such as main frontages, edges, landmark buildings, key building groups and character areas;* *f) set out the landscape strategy, taking account of existing natural features of the site and wider area, and biodiversity; Design* *g) provide a framework plan for a design code;* *h) show how the design requirements of the scheme work within the masterplan vision and demonstrate how the masterplan vision will be achieved;* *i) demonstrates a clear link to the criteria set out in Policy DE1 (High quality design), the Design and Access Statement and the Joint Design Guide;* *j) be based on a full understanding of the significance or special interest of the related historic environment, including above and below ground archaeological remains and other heritage assets within the site or its setting, and the conservation and enhancement of those remains or assets of significance or special interest;* *k) be based on the principles of natural surveillance and active street frontages by demonstrating that streets and spaces are well overlooked and fronted by the main entrances of buildings, providing direct access to the street or space; and Community Facilities*

l) demonstrate as appropriate the careful siting of, and access to, community facilities and other amenities, to meet the needs of the existing and future community. Consideration should also be given to the potential colocation of these facilities and amenities.

Design Codes

2) Proposals for sites allocated in the Development Plan, including sites allocated within neighbourhood plans, and largescale major development must be accompanied by a design code. The design code should:

a) set out specific, detailed parameters for the physical development of a site;
b) avoid detailed policy wording, instead presenting information in a graphical format; and
c) where relevant, build upon details set out in the masterplan providing more specific, detailed design requirements.

Design and Access Statements

3) Where an application is required to be supported by a Design and Access Statement, it should be proportional to the scale and complexity of the proposal. It should include:

a) a constraints and opportunities plan that clearly informs the design process and final design;
b) a clear concept that shows how the design of the proposal and the rationale behind it has evolved, and clearly demonstrates that the criteria set out in Policy DE1 (High quality design), as well as the Joint Design Guide, have been considered; and
c) the delivery implementation phases and strategies to ensure the timely delivery of infrastructure and services.

Community Engagement

4) Masterplans and design codes must demonstrate that they have been prepared with the involvement of the local community and other stakeholders (including neighbouring authorities and Design Review Panel where applicable) and in consultation with the Local Planning Authority.

5) Engagement and collaboration with the local community and other stakeholders on planning applications should take place at an early stage, and throughout the planning process.

6) Innovative engagement methods should be utilised where possible to engage the community in the planning process.

Design Review

7) The following development proposals will likely be subject to assessment by a Design Review Panel prior to its determination by the council:

a) major residential and non-residential development that have been nominated for Design Review by council officers or the applicant;
b) the site is particularly sensitive in terms of heritage, landscape, design, public interest, or local impact, irrespective of their scale, size and use; and
c) significant public realm schemes that involve creation of new or alterations to existing public spaces and streets such as pedestrianisation schemes or proposals to enhance public squares and civic open spaces.
d) this design review should take place as early on in the planning application stage as possible, preferably prior to submission at the pre-application stage.

Policy DE5 – Neighbouring amenity	*1) Development proposals must demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, when considering both individual and cumulative impacts, in relation to the following factors:* *a) loss of privacy, daylight or sunlight;* *b) dominance or visual intrusion;* *c) noise or vibration;* *d) smell, dust, heat, odour, gases or other emissions;* *e) pollution, contamination or the use / storage of hazardous substances; and* *f) external lighting.* *2) Development should also have regard to the advice within the Joint Design Guide on neighbouring amenity.*
Policy DE7 – Waste collection and recycling	*1) Development proposals for residential use must ensure:* *a) adequate facilities are provided for the sorting, storage and collection of recycling and waste;* *b) sufficient space is provided for the storage and collection of individual or communal recycling and refuse containers;* *c) access is provided that is safe for existing users / residents and for refuse and recycling collection vehicles;* *d) the location and design of recycling and refuse provision should be integral to the design of the proposed development; and* *e) all refuse and recycling storage and collection facilities comply with the councils' waste collection and recycling guidance for planning applications.* *2) Development proposals for non-residential use must ensure:* *a) sufficient space is provided for the storage of communal recycling and refuse containers;* *b) provision is made that is adequate for the proposed use;* *c) the location and design of recycling and refuse provision should be integral to the design of the proposed development; and* *d) all refuse and recycling storage and collection facilities comply with the councils' waste collection and recycling guidance for planning applications.* *3) The following factors will be material in assessing whether adequate recycling and refuse provision has been provided:* *a) the level and type of provision, having regard to the above requirements and relevant space standards;* *b) the location of the provision, having regard to the need to provide and maintain safe and convenient access for occupants, while also providing satisfactory access for collection vehicles;* *c) the impact of the provision on visual amenity, having regard to the need to minimise the prominence of the facilities and screen any external provision;* *d) the impact of the provision on health and amenity of neighbouring development and the proposed development; and* *e) the security of the provision against scavenging pests, vandalism and unauthorised use.* *4) Recycling and refuse storage should be separate from cycle storage, car parking and key circulation areas.*

	5) Innovative new ways to collect and manage household recycling and waste are encouraged. Any innovative recycling and waste collection and management proposals must be agreed in consultation with the councils' waste team and Oxfordshire County Council's waste and circular economy team at an early stage. *6) Development will not be permitted if recycling and refuse provision that meets the above requirements cannot feasibly or practicably be provided*
Policy HP1 – Healthy Place Shaping	*1) Major development proposals will be required to submit a health impact assessment (HIA) demonstrating how the health and wellbeing impacts (benefits and harm) of new major development will be assessed and mitigated, and how the conclusions of the HIA have been taken into account in the design of the scheme. Development proposals should explicitly address the existing and projected local health and wellbeing needs identified by the HIA, including the needs of an ageing population. The HIA must follow the methodology set out in the Oxfordshire Health Impact Assessment Toolkit (or equivalent future document) and should be undertaken at a scale that is proportionate to a proposed development.*
Policy HP6 – Green Infrastructure on new developments	*1) Development will be expected to contribute towards the provision of additional green infrastructure and protect or enhance existing green infrastructure, in accordance with the councils' latest published evidence.* *2) Development proposals should ensure that existing and new green infrastructure is considered and integrated into the scheme design from the outset. 3) Proposals should protect existing green infrastructure by:* *a) avoiding the loss, fragmentation, severance or other negative impact on the function of green infrastructure;* *b) providing appropriate mitigation where there would be an adverse impact on green infrastructure; and* *c) providing an appropriate replacement where it is necessary for development to take place on areas of green infrastructure.* *4) Existing green infrastructure should be enhanced where appropriate and practicable, through measure such as the greening of Public Rights of Way and other active travel routes and the protection and strengthening of existing hedgerows and tree belts.* *5) All new green infrastructure should:* *a) meet needs identified in relevant council plans and strategies including the Green Infrastructure Strategy and Open Space Study, Didcot Garden Town Delivery Plana , AONB Management Plan, Habitats Regulations Assessment , the leisure studies and neighbourhood plans;* *b) maximise opportunities to create a network of new and existing multifunctional green spaces which are capable of delivering a wide range of environmental and quality of life benefits for local communities;* *c) incorporate multifunctional, landscape-led sustainable drainage systems (SuDS) to deliver wider benefits including biodiversity improvements and amenity use and manage surface water, flood risks and significant changes in rainfall;* *d) be provided on site where possible;* *e) be of an appropriate scale to support its functions;* *f) be of high quality design;* *g) maximise biodiversity benefits;* *h) adequately take account of and address site specific constraints, particularly flood risk; and*

	i) be publicly accessible and usable, where possible. *6) Where green infrastructure is provided, applicants should ensure that appropriate arrangements are in place to ensure its ongoing management and maintenance.* *7) All major applications must be accompanied by a green infrastructure statement (can be part of the design and access statement) demonstrating that the proposal meets the above criteria, taking into account the relationship of the proposed development to existing green infrastructure and how this will be retained and enhanced*
Policy HP10 – Watercourses	*1) Development of land that contains, is adjacent to, or has hydrological links with, a watercourse must protect and, where possible, enhance the function and setting of the watercourse and its biodiversity. As a last resort development should provide mitigation for any unavoidable impacts.* *2) Development should include a minimum 10m buffer zone along both sides of the watercourse to create a corridor favourable to the enhancement of biodiversity. Where a 10m wide buffer zone is not considered possible by the Local Planning Authority (for example, in dense urban areas where existing development comes closer to the watercourse), a smaller buffer zone may be allowed but should still be accompanied by detailed plans to show how the land will be used to promote biodiversity and how maintenance access to the watercourse will be created. Wherever possible within settlements a minimum 10m buffer should be maintained.* *3) Proposals should avoid the culverting of any watercourse. Opportunities taken to remove culverts will be supported.* *4) Outside settlements, proposals for mooring stages will not be permitted. Proposals for posts, earthworks or facing riverbanks with piles and planking will not be permitted except under exceptional circumstances and in agreement with the Environment Agency. Where it is necessary to protect a riverbank from erosion, the protective measures must be designed to maintain and enhance the special character of the river and its environment, including its biodiversity.* *5) Major development proposals which are located within 20m of a watercourse will require a Construction Management Plan to be agreed with the council before commencement of work to ensure that the watercourse will be satisfactorily protected from damage, disturbance or pollution.* *6) Sites for new development with existing culverts will be expected to investigate the feasibility of de-culverting the watercourse. Where bridges are proposed as an alternative to culverting, the construction method should take into account the importance of maintaining an obstruction-free bank for wildlife*
Policy NH1 – Biodiversity designations	*1) The highest level of protection will be given to sites of international nature conservation importance (Special Areas of Conservation (SAC)). Development that is likely to result in a significant effect, either alone or in combination, on such sites will need to satisfy the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) .* *2) Development within the River Lambourn SAC nutrient neutrality catchment area that would result in additional overnight accommodation , and any other development that could result in the input of additional nutrients within the identified catchment, must demonstrate nutrient neutrality in relation to phosphorus.*

	3) Sites of Special Scientific Interest (SSSI) are of national importance. Development that is likely to have an adverse effect on a SSSI (either on its own or in combination with other developments) will not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSI. In such circumstances, measures must be provided (and secured through planning conditions or legal agreements) that would fully mitigate or, as a last resort, fully compensate for the adverse effects resulting from development. *4) The approach to sites of international and/or national importance should be applied in line with any future changes to those designations that may be introduced.* *5) Development likely to result directly or indirectly in the loss, deterioration or harm of Important or Ancient Hedgerows, Legally Protected Species, Local Geological Sites, Local Nature Reserves, Local Wildlife Sites, or Priority Habitats and Species will only be permitted if:* *a) the need for and benefits of the development in the proposed location outweigh the adverse effect on the interests;* *b) the applicant effectively demonstrates that the development could not reasonably be located on an alternative site that would result in less or no harm to the interests;* *c) the applicant effectively demonstrates that there is no alternative design that would result in less or no harm to the interests; and* *d) measures will be provided (and secured through planning conditions or legal agreements) that would avoid, mitigate or, as a last resort, compensate for the adverse effects resulting from development.* *6) Development resulting in the loss or deterioration of Irreplaceable Habitats (such as ancient woodland, ancient or veteran trees and lowland fen) will be refused planning permission unless there are wholly exceptional reasons justifying the granting of planning permission and a suitable compensation strategy exists. Where development is proposed within the mapped hydrological catchment of a lowland fen (as identified in the Joint Local Plan Lowland Fen Evidence) the applicant must effectively demonstrate that it will not result in harmful changes to the water quality, water chemistry or supporting hydrological regime.* *7) Where development has the potential to affect a proposed Local Wildlife Site , the developer must undertake surveys and assessments to determine whether the site likely meets the criteria for Local Wildlife Site status. Where likely, the development shall be determined on the basis that the site is a designated Local Wildlife Site.* *8) Measures proposed to mitigate adverse ecological affects (to meet requirements 1 - 7 above) will be given weight proportionate to their likelihood of success. Where reasonable doubt exists as to the effectiveness of any such measures, weight afforded to those measures must be significantly reduced.*
Policy NH3 – Trees and hedgerows in the landscape	*1) Development should make every effort to retain, protect and enhance existing trees, woodlands and hedgerows. Where retention is not possible, and a proposal seeks their removal; compensatory planting should provide a net gain in canopy cover. The planting must include a wide variety of tree species, suited to the sites growing conditions and include long lived, large canopied species. New hedgerow planting must be suited to the sites growing conditions and include a mixture of locally native hedgerow species when suitable.* *2) Developments must secure the long-term maintenance of landscaping elements on site, including trees and hedgerows, through a management and maintenance plan.*

	3) The design of developments must allow sufficient space for the future growth of all proposed trees and all retained existing trees, taking into consideration the tree species growth habits and characteristics. Developments must prevent poor relationships with retained or new trees by allowing sufficient space for their long-term retention without residents finding the tree overbearing, or a cause of nuisance, such as shading or leaf litter
Policy NH4 – Chilterns and North Wessex Downs National Landscape	*1) Great weight will be given to conserving and enhancing the landscape and scenic beauty of the Chilterns and North Wessex Downs National Landscapes.* *2) Major development will only be permitted in the National Landscapes in exceptional circumstances, and where it can be demonstrated that the development is in the public interest, that alternative locations (outside of the National Landscape) have been considered and excluded, and that any detrimental effect on the environment, the landscape and recreational opportunities will be minimised and mitigated.* *3) Development within the Chilterns and North Wessex Downs National Landscapes will only be permitted where it meets all of the following criteria:* *a) conserves and enhances the National Landscape's natural beauty, special qualities, distinctive character, cultural heritage, tranquillity and remoteness;* *b) is appropriate to the economic, social and environmental wellbeing of the area and/or supports the public understanding and enjoyment of the area;* *c) meets the aims of the relevant National Landscape Management Plan;* *d) is of high-quality design and scale which conforms with relevant National Landscape design guides and technical notes, respects the natural beauty of the National Landscapes, their traditional built character, sense of place and local character; and* *e) avoids adverse impacts (including cumulative impacts) unless these can be satisfactorily mitigated.* *4) Development within the setting of a National Landscape must be sensitively located and designed to avoid or minimise adverse impacts on the National Landscape.* *5) Development proposals that could affect the natural beauty of a National Landscape (including the setting of a National Landscape) either individually or in combination with other developments, should be accompanied by a proportionate Landscape and Visual Impact Assessment*
Policy NH5 – District Valued landscapes	*South Oxfordshire and Vale of White Horse's district-valued landscapes (as shown on the Policies Mapa) are:* • *Chilterns Chalk Escarpment Footslopes* • *Chilterns Dipslope* • *Appleford to Long Wittenham* • *East Oxford Hills* • *Faringdon and Buscot* • *Henley to Sonning Eye Thames Floodplain* • *Northern Thames Valley* • *West Oxford Hills*

	• *West of Wantage* *2) Development within or affecting a district-valued landscape will be assessed based on its specific landscape and visual impact.* *3) Development which protects and enhances the districts' valued landscapes will be supported.* *4) Development within a district-valued landscape must have regard to the Joint Local Plan Valued Landscapes Assessment (or subsequent update) and:* *a) appropriately respond to the special characteristics and significance of the district-valued landscape;* *b) avoid loss of or harm to the special characteristics and features that underpin the scenic quality and significance of the district-valued landscape; and* *c) appropriately respond to the recommendations for managing the district-valued landscape.*
Policy NH6 – Landscape	*1) South Oxfordshire and Vale of White Horse's landscapes, countryside and rural areas will be protected from harmful development. Proposals should be accompanied by a Landscape and Visual Impact Assessment or a Landscape and Visual Appraisal which is proportionate to the level of landscape sensitivity and scale of development.* *2) Development must appropriately respond to its setting by:* *a) responding to landscape character (as defined in a Joint South Oxfordshire and Vale of White Horse Landscape Character Assessment, National Character Areas and associated profiles and other relevant Landscape Character Assessments in neighbourhood plans);* *b) being physically sensitive to and visually integrated into the landscape;* *c) preserving settlement character and setting; and* *d) maintaining the physical and visual separation between settlements, with consideration given to cumulative impacts with other existing or proposed development.* *3) Development will only be permitted where it protects and, where possible, enhances the features and functions that contribute to the nature and quality of the landscape, in particular:* *a) trees (including individual trees, groups of trees and woodlands), hedgerows and field boundaries;* *b) irreplaceable habitats such as ancient woodland and aged or veteran trees found outside ancient woodland;* *c) the landscapes, waterscapes, cultural heritage and user enjoyment of the River Thames, its tributaries and flood plains* *d) other watercourses and waterbodies, including globally rare chalk streams;* *e) topographical features;* *f) areas or features of cultural and historic value, including historic landscape patterns;* *g) good quality views and visually sensitive skylines, including the Oxford View Conesa and their backdrops / settings; and* *h) aesthetic and perceptual factors such as tranquillity, wildness, intactness, rarity and enclosure.* *4) Where appropriate, development should consider opportunities to enhance and restore damaged and/or poor-quality landscapes, features and functions.*

Policy NH7 – Tranquillity	*1) Development proposals should conserve and enhance tranquillity, protecting areas which are prized as relatively most tranquil (zone 1 in the Tranquillity Assessment), through demonstrating consideration of impacts on tranquillity as appropriate to the zone. Development proposals within all tranquillity zones should protect and enhance features which are referenced as contributing positively to tranquillity at their location, as well as incorporating features to reduce negative factors; as shown within the Tranquillity Assessment.* *2) In determining planning applications, the following factors will be considered:* *a) visual and aural impacts;* *b) direct and indirect impacts; and* *c) impacts on users of the Public Right of Way network and other publicly accessible locations.* *3) Proposals that are likely to negatively impact on tranquillity, with reference to the factors that increase or detract from tranquillity, should demonstrate the ways in which tranquillity has been designed into the development by seeking to (a) avoid and (b) minimise impacts through appropriate mitigation.* *4) Development in areas with lower levels of relative tranquillity should take opportunities to enhance tranquillity where these exist (for example through high quality design and the provision of green infrastructure).*
Policy NH8 – The historic environment	*1)Proposals for new development that may affect designated and non-designated heritage assets should take account of the desirability of sustaining and enhancing the significance of those assets and putting them to viable uses consistent with their conservation.* *2) Proposals for new development should be sensitively designed and should not cause harm to the historic environment. Applicants will be required to demonstrate that they have considered this through a heritage assessment. Proposals that have an impact on heritage assets (designated and non-designated) will be supported particularly where they:* *a) conserve and enhance the significance of the heritage asset and its setting. The more important the heritage asset, the greater the weight that will be given to its conservation;* *b) make a positive contribution to local character and distinctiveness (through high standards of design, reflecting its significance, including through the use of appropriate materials and construction techniques);* *c) make a positive contribution towards wider public benefits;* *d) provide a viable future use for a heritage asset that is consistent with the conservation of its significance; and* *e) protect a heritage asset that is currently at risk:* *3) When considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be given to the asset's conservation (and the more important the asset, the greater the weight that will be given). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset will require clear and convincing justification.* *4) Non-designated heritage assets, where identified through local or neighbourhood plan-making or contained within the Historic Environment Record (HER)a , Conservation Area Appraisal, or review or through the planning application process, will be recognised as heritage assets in*

	accordance with national guidance and any local criteria. Development proposals that directly or indirectly affect the significance of a non-designated heritage asset will be determined with regard to the scale of any harm or loss and the significance of the asset. *5) In support of planning applications, applicants will be required to describe, in line with best practice and relevant national guidance, the significance of any heritage assets affected including any contribution made by their setting. The level of detail should be proportionate to the asset's importance. It should be demonstrated that, where relevant, surveys and field work have been carried out prior to submission and that the results have informed the heritage assessment. In some circumstances further survey, analysis and/or recording will be made a condition of consent.* *6) Encouragement will be given to schemes that will help secure the long-term conservation of vacant and under-used historic buildings to prevent deterioration of condition and bring them back into appropriate use.* *7) Encouragement will be given to alterations to historic buildings to improve energy efficiency and the delivery of renewable energy measures, providing that they are technically appropriate for the building and respect the character and significance of the affected heritage assets and their settings. 8) Developers will also be expected to report, publish, and deposit the results of any investigations into heritage assets with the HER and the relevant local and county authorities.*
Policy NH9 – Listed Buildings	*1) Proposals for development, including change of use, that involve any alteration of, addition to, or partial demolition of a Listed Building, or within the curtilage of, or affecting the setting of a Listed Building will be expected to:* *a) conserve, enhance or better reveal those elements which contribute to the heritage significance and/or its setting;* *b) respect any features of special architectural or historic interest, including, where relevant, the historic curtilage or context, such as burgage plots, parklands or fields, or its value within a group and/or its setting, such as the importance of a street frontage or traditional shopfronts, designed landscapes or historic farmyards; and* *c) be sympathetic to the Listed Building and its setting in terms of its siting, size, scale, height, alignment, materials, and finishes (including colour and texture), design and form, in order to retain the special interest that justifies its designation through appropriate design, with regard to the Joint Design Guide.* *2) Development proposals affecting the significance of a Listed Building (including its setting) that will lead to substantial harm or total loss of significance will be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that demonstrably outweigh that harm or loss or where the applicant can demonstrate that:* *a) the nature of the heritage asset prevents all reasonable uses of the site;* *b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;* *c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and* *d) the harm or loss is outweighed by the benefit of bringing the site back into use.* *3) Development proposals that would result in less than substantial harm to the significance of a Listed Building will be* *expected to:* *a) minimise harm and avoid adverse impacts, and provide justification for any adverse impacts, harm, or loss of significance;*

	b) identify any demonstrable public benefits or exceptional circumstances in relation to the development proposed including, where appropriate, securing its optimum viable use as supported by relevant evidence; and *c) investigate and record changes or loss of fabric, features, objects, or remains, both known and unknown, in a manner proportionate to the importance of the change or loss, and to make this information publicly accessible.* *4) Changes of use will be supported where it can be demonstrated that the new use can be accommodated in a manner appropriate to its significance and historic character without any adverse effect on the special architectural or historic interest of the building and its appearance, character, and setting.*
Policy NH10 – Conservation Areas	*1) Proposals for development within or affecting the setting of a Conservation Area must conserve or enhance its special interest, character, setting and appearance and comply with any additional restrictions . Development will be expected to:* *a) contribute to the Conservation Area's special interest and its relationship within its setting. The special characteristics of the Conservation Area (such as existing walls, buildings, trees, hedges, burgage plots, traditional shopfronts and signs, farm groups, medieval townscapes, archaeological features, historic routes etc.) should be preserved;* *b) take into account important views within, into or out of the Conservation Area and show that these would be retained and unharmed;* *c) respect the local character and distinctiveness of the Conservation Area in terms of the development's siting, size, scale, height, alignment, materials and finishes (including colour and texture), proportions, design, and form, and should have regard to the Joint Design Guide and any relevant Conservation Area Character Appraisal;* *d) be sympathetic to the original curtilage of buildings and pattern of development that forms part of the historic interest of the Conservation Area;* *e) be sympathetic to important spaces such as paddocks, greens, gardens and other gaps or spaces between buildings which make a positive contribution to the pattern of development in the Conservation Area;* *f) ensure the wider social and environmental effects generated by the development are compatible with the existing character and appearance of the Conservation Area; and* *g) ensure no loss of, or harm to, any building or feature that makes a positive contribution to the special interest, character or appearance of the Conservation Area.* *2) Where a development proposal within a Conservation Area would enhance or better reveal the significance of the Conservation Area and its setting, this will be encouraged. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) will be supported.* *3) Where a proposed development will lead to substantial harm to or total loss of significance of a Conservation Area, consent will only be granted where it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss.* *4) Where a development proposal will lead to less than substantial harm to the significance of a Conservation Area, this harm will be weighed against the public benefits of the proposal.*

	5) Wherever possible the sympathetic restoration and re-use of structures which make a positive contribution to the special interest, character or appearance of the Conservation Area will be encouraged to prevent harm through the cumulative loss of features which are an asset to the Conservation Area.
Policy NH11 – Archaeology and Scheduled Monuments	*1) Development must protect the site and setting of Scheduled Monuments and nationally important non-designated archaeological remains.* *2) Applicants will be expected to undertake an assessment of appropriate detail to determine whether the development site is known to, or is likely to, contain archaeological remains. Proposals must show the development proposals have had regard to any such remains and that they have consulted the Historic Environment Record (HER).* *3) Where the assessment indicates archaeological remains on site, or the potential for such remains to be present, and development could disturb or adversely affect archaeological remains and/or their setting, applicants will be expected to:* *a) submit an appropriate archaeological desk-based assessment; and b) to undertake a field evaluation (conducted by a suitably qualified archaeological organisation), where necessary.* *4) Applicants must agree the scope of assessment and field evaluation with Oxfordshire County Council or Historic England in the case of Scheduled Monuments, through a written scheme of investigation and in advance of any assessment or trial trenching / groundworks.* *5) Nationally important archaeological remains (whether scheduled or demonstrably of equivalent significance) should be preserved in situ. Non-designated archaeological sites or deposits of significance equal to that of a nationally important monument will be assessed as though those sites or deposits are designated.* *6) Where a proposed development will lead to substantial harm to or total loss of significance of such remains, consent will only be permitted where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.* *7) Where a development proposal will lead to less than substantial harm to the significance of such remains, this harm will be weighed against the public benefits of the proposal.* *8) For other non-designated heritage assets of archaeological interest, the effect of a development proposal on the significance of the remains, either directly or indirectly, will be taken into account in determining the application. As such assets are irreplaceable, the presumption will be in favour of the avoidance of harm. The scale of the harm or loss will be weighed against this presumption and the significance of the heritage asset.* *9) In exceptional cases, where harm to or loss of significance to the asset is considered to be justified, the harm should be minimised, and mitigated by a programme of archaeological investigation, including excavation, recording and analysis. The aim of mitigation should be where possible to preserve archaeological remains in situ, to promote public enjoyment of heritage and to record and advance knowledge. Planning permission will not be granted until this programme has been submitted to, and approved by, the council and development must not commence until these works have been satisfactorily undertaken by an appropriately qualified organisation. The results and analysis of findings subsequent to the investigation must be published and made available to the relevant local and county authorities. The full archive generated from any*

	archaeological assessment or investigation will need to be deposited with the Oxfordshire County Museums Service. Applicants will be required to adequately protect archaeological remains from impacts arising from climate change mitigation measures such as tree planting.
Policy NH12 – Historic Battlefields, Registered Parks and Gardens and Historic Landscapes	*1) Proposals should conserve and enhance the special historic interest, character or setting of a battlefield, or park or garden on the Historic England Register of Historic Battlefields or Register of Historic Parks and Gardens of Special Historic Interest in England.* *2) Any harm to or loss of significance of any heritage asset requires clear and convincing justification. Substantial harm to or loss of these assets should be wholly exceptional in the case of Registered Historic Battlefields and Grade I and Grade II* Registered Historic Parks and Gardens and exceptional in the case of Grade II Registered Historic Parks and Gardens.* *3) Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, consent will only be granted where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Applicants must demonstrate that all other options for their conservation or use have been explored.* *4) Where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal.* *5) Development proposals that directly or indirectly affect the significance of non-designated historic battlefields, parks and historic landscapes, including historic routes, will be determined with regard to the scale of any harm or loss and the significance of the asset.* *6) Applicants will be required to describe, in line with best practice and relevant national guidance, the significance of any heritage assets affected including any contribution made by their setting. It should be demonstrated that, where relevant, surveys and field work have been carried out prior to submission and that the results have informed the heritage assessment. The level of detail should be proportionate to the asset's importance. In some circumstances, further survey, analysis, and recording will be made a condition of consent*
Policy NH13 – Historic environment and climate change	*1) Proposals for small-scale renewable and low carbon energy generation affecting the historic environment will be assessed on a case-by-case basis and supported provided that they are designed to avoid or minimise harm to the significance of designated and non-designated assets, including their settings, and would not unacceptably harm that significance.* *2) Where proposals requiring planning permission and/or Listed Building Consent involve improving the energy efficiency of historic buildings, applicants should demonstrate that traditional and/or reversible methods have been fully explored before proposing irreversible and potentially harmful interventions to historic fabric of traditional construction.* *3) The retention and re-use of historic buildings, buildings of traditional construction and other heritage assets will be encouraged as a sustainable resource and for their value as part of the historic environment. The retention and re-use of historic buildings and historic fabric will also be encouraged where the embodied carbon within the existing structure would lower the carbon footprint of the proposed development*
Policy IN2 – Sustainable transport and accessibility;	*1) Development proposals must demonstrate that:* *a) the location and proposed layout will maximise active and sustainable travel opportunities, minimising the need to travel by car, with sustainable travel opportunities integrated into the design;*

b) viable active and sustainable travel choices have been assessed for suitability where currently available or will be delivered where levels are insufficient for users of the development to access day-to-day amenities. Any identified improvements to active and sustainable travel choices required by a development (on and off site) must be delivered ahead of occupation; and

c) access to the development is safe and convenient for all highway users, and in line with Oxfordshire County Council's Transport User Hierarchy

2) All major development proposals must demonstrate that:

a) the application is consistent with the guiding principles of the Oxfordshire's Local Transport and Connectivity Plan and supporting documents, Planning Practice Guidance on Travel Plans, Transport Assessments and Statements and guidance from National Highways ;

b) the Active Travel England Planning Application Assessment Toolkite has been used, where appropriate,

c) provision of infrastructure and services has been prioritised in accordance with Oxfordshire County Council's Transport User Hierarchy, as set out in Policy 1 of the Local Transport and Connectivity Plan;

d) they address any road safety issues in accordance with Oxfordshire County Council's Vision Zero Approach;

e) they do not worsen air quality issues and provide air quality mitigation measures where suitable;

f) they contribute to and enhance the provision of active and sustainable transport infrastructure (both on and off site) and, where feasible, implement new travel and transportation technology and services necessary to support that development, either through direct delivery or developer contributions;

g) the methodology in Oxfordshire County Council's Implementing Decide and Provide: Requirements for Transport Assessments document has been used to assess the need for infrastructure and provision of transport services;

h) they have made reasonable provision of car club and lift sharing opportunities for users of the development. Provision of community transport and innovative transport projects, as well as projects that develop the use of new technologies, will be encouraged to promote greater travel choice; and

i) they align with and help to deliver planned transport infrastructure (as set out in Policy IN3 (Transport infrastructure and safeguarding)) where future users of the development are likely to utilise the infrastructure.

Transport documents to support planning applications

3) Transport Statements, Transport Assessments and Travel Plans must be provided to support planning applications in accordance with Oxfordshire County Council's thresholds for developments of different sizes / types. These should apply the principles set out in county guidance documents and should also follow the latest relevant national guidance.

4) Travel Plans, where required, must set out measures that seek to promote and support modal shift to walking, cycling and wheeling, and public transport use for a range of trip purposes through agreed targets and monitoring arrangements. Travel Plan initiatives must seek to reduce demand for travel by private cars. Initiatives and infrastructure provision should facilitate electric, or other fuelled vehicle use, in line with Oxfordshire County Council's Parking Standards for New Developments . Mitigation strategies will be used to address anticipated impacts, these should initially relate to active and sustainable travel. Mitigation strategies must be monitored to ensure the anticipated outcomes are achieved, if they are not achieved, further mitigation measures may be required.

Policy IN6 – Deliveries and freight	*1)Access and loading arrangements suitable for cargo bikes must be considered for all developments (for current and future operations).* *2) Suitable vehicle turning and circulation for a large refuse vehicle and emergency services must be provided and demonstrated through swept path analysis for major developments, and this will also be required for minor developments subject to highway access arrangements.* *3) Developments that require dedicated loading and unloading facilities (such as supermarkets and retail shops) must be provided with convenient access arrangements, such as dropped kerbs in suitable locations for transfer of goods on trollies.* *4) Design of new development, particularly employment sites and any related transport infrastructure, needs to consider ongoing freight / delivery so that these can function well, with appropriate freight access to and from the strategic transport network without adverse impacts on local communities, other road users and the environment.* *5) Development that includes industrial or commercial elements that are estimated to generate freight movements should be assessed in accordance with Oxfordshire County Council's Transport for New Developments: Transport Assessments and Travel Plans documenta . Suitable highway and environmental mitigations must be provided. Wherever possible, such development should be located on or near the strategic road network, major road network, or other suitable A roads.* *6) Major development identified by the Highways Authority as being located by sensitive receptors and/or via a public highway that is unsuitable for large vehicle traffic must provide a Construction Traffic Management Plan to support the management of construction vehicles, and a Delivery and Servicing Management Plan to support ongoing servicing by larger vehicles for the life of the development.* *7) Opportunities to achieve and improve rail freight capability in the districts in appropriate locations to de-carbonise the delivery network and reduce air pollution will be supported, particularly where the transfer of goods is between rail and electric vehicles or cargo bikes* *8) Provision of roadside services including refilling, fast electric charging and other sustainable fuelling (such as hydrogen), car and lorry parking, toilets, refreshments and picnic areas will be supported in appropriate locations. The councils will work with National Highways and Oxfordshire County Council to support provision of additional roadside facilities at Milton Interchange, the location of which is shown on the Policies Map.*
Policy CE5 – Renewable Energy	*1) The council encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales, including domestic schemes and innovative schemes.* *2) Proposals for the exploration or extraction of fossil fuels will not be supported.* *Renewable and low carbon energy schemes* *3) Planning applications for renewable and low carbon energy generation and their associated energy storage and distribution infrastructure will be supported, provided that they do not cause significant adverse impacts that cannot be mitigated and are reversible at the end of the life of the renewable energy installation, including cumulative and crossboundary impacts on:* *a) landscape, tranquillity and sensitive views;* *b) biodiversity, including protected habitats and species and ecological networks;* *c) water quality and flood risk;* *d) the best and most versatile agricultural land (Grades 1, 2, and 3a) unless significant sustainability benefits are demonstrated to outweigh any loss;*

e) the historic environment, both designated and non-designated assets, including development within their settings;
f) the openness of the Green Belt;
g) the National Landscapes (formerly AONBs) and their settings;
h) aviation and defence navigation systems/communications;
i) the safe movement of pedestrians, rail, traffic, and the enjoyment of public rights of way; and
j) residential amenity (including as a result of noise, vibrations, dust, odour, air quality and shadow flicker).

Wind Energy

4) Planning applications for wind energy development meeting the requirements of part 3 of this policy, will be supported where they are located in an area identified as potentially suitable for wind energy development as shown on the Policies Map or in a neighbourhood plan.

Solar Energy Proposals

5) Planning applications for ground mounted solar energy and associated infrastructure meeting the requirements of part 3 of this policy, will be supported where they are located in an area identified as potentially suitable for ground mounted solar development as shown on the Policies Map or in a neighbourhood plan.

6) Proposals for building mounted solar thermal or photovoltaics panel (and associated infrastructure) installations in an appropriate position to maximise solar gain building will be supported and encouraged wherever possible, provided they meet the requirements set out in part 3 of this policy,

Energy storage and grid reinforcement

7) Proposals for battery energy storage systems (BESS) and associated infrastructure meeting the requirements of part 3 of this policy, will be supported where they are located in an area identified as potentially suitable for BESS as shown on the Policies Map or in a neighbourhood plan. Proposals for energy storage facilities other than BESS (such as thermal storage) will be supported where they meet the requirements set out in part 3 of this policy.

8) Proposals for standalone grid capacity upgrades and local smart grids will be supported where they meet the requirements set out in part 3 of this policy.

9) Proposals for standalone renewable and low carbon energy generation are encouraged to provide at least an additional 10% of energy storage (e.g. battery storage) of the overall energy generation.

10) Proposals for, or developments which include, renewable energy and low carbon energy generation, should demonstrate how options for energy storage, smart grids, and energy sharing networks have been explored to reduce the need for grid capacity upgrades.

Community led renewable and low carbon initiatives

11) Community led renewable and low carbon energy initiatives are encouraged and will be given positive weight in decision making. Evidence of community support should be demonstrated, with administrative and financial structures in place to deliver/manage the project and any income from it. 12) Community led renewable and low carbon energy schemes that provide a community benefit in terms of profit sharing, or proportion

of community ownership and delivery of local social and community benefits will also be encouraged and will be given positive weight in decision making.

13) Commercial led renewable energy schemes with a capacity over 10MW shall provide an option to communities to own at least 5% of the scheme subject to viability.

Decommissioning renewable energy infrastructure

14) Planning permission for renewable energy and low carbon schemes will be subject to a condition requiring appropriate plans and mechanisms are in place for the decommissioning of renewable energy infrastructure at the end of its life, including the removal of the technology and restoration of the site to its original or accepted use and condition (within one year of the scheme becoming non-operational), and that materials removed will be re-used and recycled where practical. Any biodiversity net gain that has been achieved on site should also be retained in the decommissioning process at least long enough to meet the required minimum 30-year lifespan for mandatory biodiversity net gain laid out in national guidance.

Protection of existing renewable energy infrastructure

15)New development should not result in adverse impacts to renewable energy infrastructure that cannot be mitigated, including:

a) the technical performance of any existing or approved renewable energy generation facility;
b) the potential for optimisation of strategic renewable energy installations; and
c) the availability of the resource, where the operation is dependent on uninterrupted flow of energy (such as sunlight, wind speeds or water flows) to the installation

Appendix 2 – Officers Report for application P21/S3915/FUL

APPLICATION NO.	P21/S3915/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	23.09.2021
PARISH	GREAT HASELEY
WARD MEMBER(S)	GEORGINA HERITAGE
APPLICANT	Opdenergy UK 5 Limited
SITE	Dodwells Solar Farm Land north of the A40 near Milton Common
PROPOSAL	Installation and operation of a Solar Farm together with all associated works, equipment and necessary infrastructure (as amended & amplified by information received 8 July 2022 and 21 December 2022).
CASE OFFICER	William Sparling

1.0 **INTRODUCTION AND PROPOSAL**

1.1 The proposed development is for the installation and operation of solar arrays with a generation capacity of up to 49.9MW on land north of the A40 with a site area of 112.8 hectares, near Milton Common and Tetsworth. Permission is sought to construct and operate the proposed solar arrays and associated infrastructure for a period of 40 years. A site location plan is provided in **Appendix 1 and** a site layout plan is provided in **Appendix 2.**

1.2 The proposals are brought to committee for determination due to parish council objections and an officer recommendation of approval. There are two planning applications under consideration at this planning committee, which are linked. The application references are as follows:

- P21/S3915/FUL – Dodwells Solar Farm
- P22/S2220/FUL – Cable Route Connection

1.3 The determination of the cable route connection is subject to a decision on the main solar farm itself. The cable route is a standalone full planning application which will provide the applicant with permission to carry out engineering works to allow construction of a necessary connection to the grid at Cowley substation. This report is for the main solar farm.

1.4 The main solar array proposal is in Great Haseley Parish. It is located approximately 1km from a cluster of buildings comprising the settlement of Milton Common to the north and west of the A329. It is located close to some properties that form part of Milton Common along the A40 London Road. The site is located between 2-3km north-west of Tetsworth and near to the M40, with the closest distances from the site to the motorway between 250m and 300m.

1.5 The proposed solar farm is part of a wider agricultural land holding of 894 hectares. As summarised below, the proposed solar panels and sheep grazing

will comprise 61 hectares, which is 6% of the total land holding. The area of land chosen for the solar arrays comprises heavy clay that is now hard to crop viably. Increasingly, being so wet attracts more slugs and weeds which affects crops and yields, even when considering a range of different options and control methods. Moreover, the applicant has confirmed during a site visit that the land is also difficult to access with even modest machinery and 4 x 4 type vehicles. When access is possible it is challenging to avoid causing damage to the soil conditions. The most affected area is the lower ground where the solar panels will be located. The higher ground (which is drier and better quality – and where the 3a agricultural land has been identified) is still being retained for farming use. A suitable alternative use with considerable public benefits, whilst ensuring long-term viability of the land holding is increasingly necessary.

1.6 The solar array proposal (P21/S3915/FUL) can be summarised as follows:

- Construction of the proposed solar arrays and associated infrastructure, including inverters and cabinets, to operate for a period of 40 years.
- Solar arrays with a generating capacity of up to 49.9MW, sufficient to supply approximately 13,750 homes. The power will be supplied to the national grid for domestic and commercial consumption.

<u>Current and Proposed Land Use</u>

- A total site area of 112.8 hectares.
- The existing agricultural land classification of the site is as follows: Grade 3a = 4.9 hectares, Grade 3b = 107 hectares, other land, tracks, gateways and hard standing = 0.9 hectares.
- No Grade 3a land will be affected by the proposal. It will continue to be available for agriculture. In total 77 hectares of Grade 3b non-BMV agricultural land will be put to a different use – either sheep grazing and solar panels or biodiversity enhancements, tree and hedge planting.
- The solar panels (within the boundary fence) where sheep grazing will be allowed is 61 hectares. The biodiversity enhancements, hedge and tree planting total 16 hectares.
- The land can continue to be used for grazing and/or planting of species rich grasses and wildflowers. Potentially the land can be available for use by local apiarists (beekeeping) subject to local agreement.

<u>Technical Specification</u>

The proposal involves the installation of fixed panels mounted on steel frames arranged in rows extending east-west across the site, fixed at an optimum angle of about 25-30 degrees to the horizontal.

- The solar panels will be at a maximum height of 3m with the lowest edge 0.7-0.9m from the ground. The panels and frame can be completely removed from the site at the end of its operation.
- It also includes boundary deer fencing (weld-mesh), landscaping and tree planting, fixed CCTV and some limited plant equipment in cabinets being installed on the site. Two substations in pre-fabricated cabins at L5.9m x W2.9m x H3.5m and L5m x W4.5m x H4m. A small plant control room of L12.2m x W4.1M x H2.9M.

Carbon Reduction and Grid Connection

- The applicant indicates the renewable power supplied to the grid over 40 years would equate to a CO_2 emissions reduction of 2,340,000 tonnes.
- The Independent Electricity Distribution Network Operator (DNO) has provided an option for and agreed with the applicant a connection to the grid at Cowley substation. This connection has been secured in full by the applicant. This sits outside the control of the planning system.
- Internal access tracks and pathways will be incorporated for access.

Summary of Amendments to the Proposed Development

1.7 This section of the report provides a summary of the amendments made to the application. Paragraph 38 of the National Planning Policy Framework requires Local Planning Authorities to approach decisions on proposed development in a positive and creative way. There is a need to work proactively with applicants to secure sustainable development that will improve the economic, social and environmental conditions of the area.

1.8 The amendments to the application are summarised in the tables below.

Table 1: P21/S3915/FUL – Dodwells Solar Farm – Amendments

Date of amended plans and information	**Summary of reasons for the amendments**	**Summary of amendments**
01 October 2021	*Original consultation*	*Consultation on original planning application*
08 July 2022	To provide archaeology information	Details of trial trenching and archaeological evaluation was provided. A geophysical survey was provided. These surveys indicate the presence of some limited prehistoric and post-medieval archaeology in the ground. This is considered by the County Archaeologist to be not of a significance to prohibit development. Further investigations and recording of finds can be secured by planning condition prior to the commencement of development.
	To provide a biodiversity metric assessment	A biodiversity metric was provided which demonstrates the proposal would result in a net-gain for biodiversity arising from the proposal. An amended layout was provided which demonstrates no development

		within 10m of either bank of a watercourse. District or local licensing for protected species will be required.
	To avoid solar panels being located within potential flood waters	Revised drainage proposals were provided to demonstrate avoidance of flood waters arising from surface water and fluvial flooding due to restricted flows under the M40. A revised layout plan was provided to demonstrate flood attenuation in the south-east of the site will be provided in accordance with SuDs principles. It was demonstrated that the solar panels will be elevated to 0.7m, out of any flood water, avoiding creating further flood risk down-stream.
	To address landscape harm	A revised layout plan was provided seeking to demonstrate the level of landscape harm was not of a significant level. The applicant sought to address officer comments that there would be harm to a) the character of the landscape and b) key public views from including solar panels in elevated parts of the site. Solar panels were revised to not include the western-most field of the proposal, closest to Milton Common and the A40. This is part of the site where the land is most elevated. Photomontages of the proposal from key views were provided.
21 December 2022	To address landscape harm	A further amended layout plan was provided to demonstrate solar panels were no longer proposed in an elevated section of the northern-most two fields, where the site is particularly elevated. The plans reintroduced development into some of the lower parts of the western-most field. In summary, the applicant explained they were seeking to balance the benefits of the

		proposals providing renewable energy against the landscape harm. It was indicated additional woodland planting within the site would be included.
28 February 2023	To clarify locations of best and most versatile agricultural land	Provided a plan overlaying the proposed layout over the BMV agricultural land on the site
28 March 2023	To avoid tree impacts	Amended the layout to avoid tracks, fences and other development impacting trees and RPAs.
28 April 2023	To provide ecology information	Provide the details of the District Licensing scheme which is used to address the potential for Great Crested Newts
27 June 2023	To address comments from National Gas	Provided a covering letter and layout plan to address the issues raised by National Gas. Confirmed subsequently there are no issues subject to conditions.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

2.1 Having regard to the development proposal, its amendments and various revised plans, the representations are summarised in the table below. The revised proposals on 08 July 2022 and 21 December 2022 amendments underwent full re-consultation with neighbours and all stakeholders.

Table 2 - P21/S3915/FUL – Dodwells Solar Farm – Consultation Responses

Consultee or Stakeholder	Consultation Date	Summary of Consultation Response
Great Haseley Parish Council	1 October 2021	Objected to the proposal in the grounds of overdevelopment due to the cumulative effect of proposed solar farms in the area, scale of the proposed solar farm, adverse impact on the character of the area, adverse impact on the countryside and close-proximity to neighbouring properties.
	21 December 2022	**Object** to the proposal for the reasons set out in its original letter and commented that there is no need for the development due to other solar farms in the area.
Tetsworth Parish Council	1 October 2021	Objected to the proposal due it being too large, cumulative impact on the countryside, whilst the climate emergency makes sources of renewable energy essential there is a negative impact on and loss of agricultural land, the proposal could help bring forward a

		residential proposal leading to negative cumulative impacts.
	8 July 2022	Objected to the proposal for the same reasons as previously, plus added that it is too much of a concentration of solar farms in the area, the applicant fails to demonstrate how the additional information resolves the outstanding queries, the grazing of sheep would be a tantamount to promoting widespread monoculture, the biodiversity net gain could not be achieved, SODC should scrutinise changes to hard surfacing and flood risk, landscape harm is unacceptable including from key viewpoints.
	21 December 2022	**Object** to the proposal. Some concerns have been addressed but the number of solar farm applications in the area remains a concern.
Great Milton Parish Council	1 October 2021	Objected to the proposal. Although appreciative of the climate emergency and ambition for a net zero district, object due to the size of the proposal, its effect on the countryside and rural views and its proximity to nearby properties, unsightly fencing, represents a green light for residential development and concerns about additional noise from operation.
	08 July 2022	Objected to the proposed development in line with the ward councillor's recommendation and the parish council's previous objection. It was observed in the meeting by the ward councillor that the additional information was only background information and did not result in changes to the proposal. Members of the public suggested local support comments may have local interests behind it and the visual impact had not been properly assessed and screening could take 10 years to develop.
	21 December 2022	**Object** to the proposal for the original reasons and raises further concerns over the inclusion of field 9 in the proposed area of solar panels.
Chilterns Conservation Board	21 December 2022	No comment on the application.
SODC Heritage / Conservation Officer	01 October 2021	No objection – all heritage assets in the vicinity have been properly considered and there is no heritage objection. There will be no great impact on the significance of any buildings or above ground heritage assets.

	08 July 2022	No objection
	21 December 2022	**No objection.** Clarification provided that the proposal will result in a very small amount of harm to the significance of Grade II Listed Moles End Cowbarn at the very lowest end of less than significant scale.
SODC Biodiversity / Countryside Officer	01 October 2021	Holding objection due to a lack of information, including biodiversity calculator and licensing details for great crested newts. Site layout changes are required to avoid impacts on ordinary watercourse (10m buffer of development). Conditions will be required to secure a construction environmental management plan, biodiversity enhancement plan and landscape and ecology management plan.
	08 July 2022	The main issues have been resolved. However, the district licensing scheme should be entered into, and a Habitat Impact Plan and report/certificate should be obtained from Nature Space.
	21 December 2022	**No objection.** The amended layout does not compromise the 10m watercourse buffer. Parcels of land identified for PV arrays have been omitted and it is assumed these will be subject to arable reversion/habitat creation which will further metric calculations. The district licensing scheme paperwork should be provided.
Highways England	01 October 2021	No objection subject to a planning condition for a Construction Traffic Management Plan.
	08 July 2022	No objection subject to the above condition and no additional comments.
	21 December 2022	**No objection** subject to the above condition and no additional comments.
SODC Drainage Engineer	01 October 2021	Holding objection due to inadequate flood mitigation measures and a lack of a 10m watercourse buffer zone. Opportunity should be taken to reduce the flood risk elsewhere through mitigating run off.
	08 July 2022	No objection subject to a condition for a detailed surface water drainage scheme for the site. The requested amendments have been made.
	21 December 2022	**No objection** subject to a condition for a detailed surface water drainage scheme for the site.
SODC Trees / Forestry Officer	01 October 2021	Holding objection due to impacts on existing veteran trees, other trees of value and hedgerows from roads, CCTV and fencing.

		The route for underground utilities should be provided to avoid the root protection areas of retained trees and hedgerows.
	08 July 2022	Holding objection due to some impacts remaining on trees T46 (oak), T42 and T43, which are of value.
	21 December 2022	Holding objection due to impacts on valuable trees. As above, plus impacts on group G27, trees H12, T22 and T23 and G11. H11 and T13 are also impacted. H3 is impacted. A planning condition should be attached to secure tree and hedge protection during construction if permission is to be granted.
	28 March 2023	**No objection** subject to planning conditions for tree and hedge protection measures.
Health and Safety Executive	01 October 2021	No objection to the proposal. Comments provided.
	21 December 2022	**No objection** to the proposal. Advice provided.
SODC Landscape Architect	01 October 2021	Objection to the proposal due to inadequate information being submitted to assess the impacts of the proposals. It is anticipated that solar panels proposed in the most elevated parts of the site would result in harm to the countryside. There would be landscape effects and visual effects. Solar panels should be accommodated on lower parts of the site. More information is also required. Detailed planting plans and an existing and proposed landscaping maintenance and management plan should be secured by condition.
	08 July 2022	Objection maintained. The amendments to the layout have not resolved concerns about the impact of the solar panels, in particular in the most elevated parts of the site. Solar panels on the highest parts of the site should be omitted, land to the eastern side to reduce the extent of solar panels.
	21 December 2022	**No objection** to the proposal. But concerns remain with the most elevated parts of the site being proposed for solar panel development and the associated impact on the landscape character. Previous comments requested removal of solar panels and the subdivision of the site by hedgerows to provide screening have not been done. It is acknowledged that public views towards the site are largely distant or from the motorway bridge or motorway with limited public viewpoints due to intervening vegetation.

Environment Agency	01 October 2021	**No objection** to the proposal.
National Gas (Plant Protection)	01 October 2021	Holding objection as the proposal is in close proximity to a high-pressure gas pipeline. Further information is required from the applicant.
	12-July-2023	**No objection** subject to a condition to protect the gas pipeline and allow access for maintenance.
		No objection subject to conditions to secure an easement to the pipeline, deed of consent/indemnity agreement, and protection measures. An earthing report is also required to protect the cathodic protection system used on the pipeline and to secure a right of access for maintenance.
Oxfordshire County Council Highways Authority	01 October 2021	**No objection** subject to conditions for vision splays, construction traffic routing, wheel wash facilities and construction traffic management plan. The main impact on the highway will be during the construction of the development.
Oxfordshire County Council Local Lead Flood Authority	01 October 2021	**No objection** subject to conditions for a detailed surface water drainage strategy.
Oxfordshire County Council County Archaeologist	01 October 2021	Object due to an absence of archaeology evaluation and recording.
	08 July 2022	**No objection** subject to conditions for a Written Scheme of Investigation and a programme of archaeological work.
SGN Plant Protection	01 October 2021	Advice provided.
SODC Insight and Policy	01 October 2021	**Supports** the proposal and provided advice solely with regards to meeting South Oxfordshire District Council targets to be a carbon neutral district through a local renewable energy supply. Achieving a net zero carbon target will require the removal of virtually all fossil fuels from the energy mix. As we decarbonise transport, by moving to electric vehicles, and decarbonise the heating of buildings, through technologies such as heat pumps, the demand for electricity from renewable sources will increase. The Oxfordshire Energy Strategy also has an aim to make Oxfordshire as a county energy self-sufficient and to keep energy spend in the

		county. The Pathways to a Zero Carbon Oxfordshire report, Oxford University Environmental Change Institute 2021, states that all net-zero pathways will involve the expansion of solar generating capacity in Oxfordshire.
South Oxfordshire CPRE	01 October 2021	Object to the proposal because CPRE do not consider the benefit of this type of solar arrays development offers outweighs their harm.
	08 July 2022	Object to the proposal because it is inefficient to transmit electricity over such as long distance to the grid, loss of agricultural land and South Oxfordshire is on the way to meeting its carbon neutral targets.
	21 December 2022	**Object** to the proposal having regard to previous comments.
Oxford Preservation Trust	01 October 2021	Commented that there should be a strategy for dealing with solar farms in the district and it should be supported by a masterplan document.
Nature Space Partnership	18 April 2023	The applicant has entered into the district licensing scheme for Great Crested Newts which the applicant is required to comply with.
Neighbours and Local Residents	There are **13 comments supporting** and **18 comments objecting** to the proposal. All comments have been considered in full. The details of those who submitted comments can be found online. The comments supporting the application can be summarised as follows: • There is a need for solar arrays development proposals. • The country is in desperate need and the long-term benefits outweigh the short-term inconvenience. • We have to look to the future for our energy needs. • We need to take action now to develop renewable energy supplies and protect the future for generations to come. • We need to adopt alternatives to fossil fuels. Solar farms can be complemented by additional planting of hedges and trees to mitigate some impacts. • There is an energy crisis, and we need to lead the way to a more environmentally friendly energy source. Solar panels are a good solution. Our children need a safer and readily available solution. • Greener energy is good. • It won't be that visible locally.	

	• It is a low impact sustainable energy for the future. The comments objecting to the application can be summarised as follows: • There is a need for this but development like this should only be permitted in other locations where the benefit outweighs the environmental and other harms. • There needs to be a strategy to deal with solar farms. • The landscape harm is significant. • There will be glint and glare. • The development will have a significant effect on views from various locations. • The proposed development should be focussed on brownfield land. • The proposal would impact the gas pipeline. • Additional noise would be generated. • There are inconsistencies with how long the solar farm will operate for. • Solar panels should be on roofs not in this location. • The proposal is a deliberate tactic to further the cause of residential development. • The proposal will be an eyesore. • It will cause disruption. • It is industrialisation in the countryside. • It will affect property values. • The construction will impact mental health. • The proposed connection to the grid is not clear. • The impact on wildlife will be significant. • We are angry that we are required to respond to this travesty of a plan for our area. • It is a vast facility so close to residential properties. • Our property values have already been affected by noise from the M40 and this will make it worse. • A distributed generation network is close in time and is preferred to this approach. • No one has discussed the proposal with us. There would be noise and pollution and damage to wildlife. • This is another attempt to urbanise a rural area. • It is inappropriate and intrusive. • It is a waste of precious land. • It will have a harmful impact on heritage assets.

3.0 **RELEVANT PLANNING HISTORY**

3.1 The relevant planning history for the site is summarised below. The full relevant planning history for the two proposals can be found online on the council's website.

P19/S2685/FUL - Refused (06/05/2020)

The proposed development is for a Gas Fired Electricity Generating Facility with the ability to generate up to 49.99 MW of electricity. A low carbon flexible generating facility using gas reciprocating engines. The facility will generate electricity principally for the regional distribution network in times of generation shortfall and/or high demand.

P19/S2619/PEJ - Advice provided (20/11/2019). Proposed solar farm at Rycote Lane Farm.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 The full extent of the proposal under consideration is deemed to be Environmental Impact Assessment development by the Local Planning Authority. The description of development falls within Schedule 2, Category 3 a development – installations for the production of electricity. It exceeds the 0.5 hectare applicable threshold in column 2. Environmental Impact Assessment has been undertaken in accordance with the Town and Country Planning (EIA) Regulations 2017. The likely significant environmental effects of the proposal have been considered in the assessment of the proposal. The planning application is accompanied by an Environmental Statement. The statement and the representations on it have been considered when assessing the proposal.

5.0 **POLICY & GUIDANCE**

5.1 **Development Plan Policies**

South Oxfordshire Local Plan 2035 (SOLP)

STRAT1 The Overall Strategy
STRAT6 Green Belt
TRANS4 Transport Assessments, Transport Statements and Travel Plans
TRANS5 Consideration of Development Proposals
INF1 Infrastructure Provision
INF4 Water Resources
ENV1 Landscape and Countryside
ENV2 Biodiversity – Designated Sites, Priority Habitats and Species
ENV3 Biodiversity
ENV4 Watercourses
ENV6 Historic Environment
ENV7 Listed Buildings
ENV8 Conservation Areas
ENV9 Archaeology and Scheduled Monuments
ENV12 Pollution - Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Sources)
EP1 Air Quality
EP2 Hazardous Substances
EP4 Flood Risk
DES1 Delivering High Quality Development
DES2 Enhancing Local Character
DES3 Design and Access Statements
DES4 Masterplans for Allocated Sites and Major Development

DES6 Residential Amenity
DES7 Efficient Use of Resources
DES8 Promoting Sustainable Design
DES9 Renewable Energy
DES10 Carbon Reduction

5.2 **Neighbourhood Plans**

Tetsworth Neighbourhood Plan (part of the application site)

TET1 Development within Tetsworth Village Settlement and Surrounding Countryside
TET2 Settlement Character Areas and Design Criteria
TET3 Countryside Character Sectors
TET8 Biodiversity

5.3 **Supplementary Planning Guidance/Material Planning Considerations**

- South Oxfordshire District Council Corporate Plan
- South Oxfordshire and Vale of White Horse Joint Design Guide 2022
- Pathways to a Zero Carbon Oxfordshire (PazCo)
- National Policy Statement for Overarching Energy (EN-1)
- National Policy Statement for Renewable Energy Infrastructure (EN-3)
- National Policy Statement for Electricity Networks (EN-5)
- UK Solar PV Strategy Part 1 – Roadmap to a Brighter Future
- UK Solar PV Strategy Part 2 – Delivering a Brighter Future
- National Infrastructure Commission – Net Zero – Opportunities for the Power Sector
- BREs Planning Guidance for Large Scale Ground Mounted Solar PV Systems
- The Solar Trade Associations Solar Farm 10 Commitments

5.4 **National Planning Policy Framework (2021) and National Planning Practice Guidance**

5.5 **Other Relevant Legislation**

5.51 Human Rights Act 1998
The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application, the consideration of the application and the preparation of this report. The effects of the proposal, having regard to the relevant material planning considerations, policies, case law and legislation, do not give rise to a breach of any person's human rights. The significant public benefits to the proposal outweigh any impacts.

5.52 Equality Act 2010
In determining this planning application, the Council has regard to its equality act obligations including its obligations under Section 149 of the Equality Act 2010. The proposed development will not disproportionately affect any person with protected characteristics. The proposed development will cause temporary

impacts during construction, for example from additional noise or temporary access restrictions. These impacts can be adequately addressed and mitigated through normal planning and highways management processes. The significant public benefits of the proposal outweigh any harms.

6.0 **PLANNING CONSIDERATIONS**

6.1 **The relevant planning considerations are the following:**

- **Principle of development**
- **Agricultural land use**
- **Historic environment**
- **Landscape and visual impact**
- **Ecology and trees**
- **Residential amenity**
- **Access and parking**
- **Flood risk and drainage**
- **Gas Pipeline**
- **Carbon Emissions Reductions and Net Zero Transition**

Principle of Development

6.2 National planning policy on renewable energy development is set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance: Renewable and Low Carbon Energy (PPG). Proposals for renewable energy generation should be supported where the impacts are acceptable. An objective of the planning system is to support sustainable development in support of meeting environmental objectives, including supporting the transition to a low carbon future.

6.3 The NPPF, at paragraph 158, states: *"When determining applications for renewable and low carbon development, local planning authorities should:*

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and b) approve the application if the impacts are (or can be made) acceptable. Once suitable areas for renewable or low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside of these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas."

6.4 The PPG further explains that: *"The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them."* The views of local communities have been considered in full as part of the current planning application.

6.5 The PPG continues to state: *"The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them."* The views of local communities have been considered in full as part of the current planning application.

6.6 The PPG states that "*renewable energy developments should be acceptable for their location".* The PPG provides a list of suggested matters which a local planning authority will need to consider in determining planning applications for large-scale solar arrays. These include the following:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value; where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

6.7 The criteria above have been considered as part of the assessment of the current applications, where relevant. The proposed development has met the above requirements. A site layout plan is provided in **Appendix 2.**

6.8 The South Oxfordshire Local Plan 2035 (SOLP 2035) does not identify suitable broad areas or specific sites for renewable or low carbon energy projects. The

local plan does, however, have a spatial influence on where solar farms are found to be appropriate through other designations and policies. It is also important to consider other factors such as a need for renewable energy sources where there are suitable and achievable grid connections can be secured. The ability to secure a grid connection is dependent on the Electricity Distribution Network operator identifying a suitable connection option and location. This then requires an agreement being secured between the parties, separate to the planning system.

6.9 The South Oxfordshire Local Plan Policy DES9 (Renewable Energy) states *"The council encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales, including domestic schemes. It also encourages the incorporation or renewable or low carbon energy applications within all development. Planning applications for renewable and low carbon energy generation will be supported, provided that they do not cause a* <u>*significant adverse*</u> *effect to:*

- *i) landscape, both designated AONB and locally valued, biodiversity, including protected habitats and species and Conservation Target Areas.*
- *ii) The historic environment, both designated and non-designated heritage assets, including development within their setting.*
- *iii) Openness of the Green Belt.*
- *iv) The safe movement of traffic or pedestrians.*
- *v) Or residential amenity.*

6.10 Subject to key environmental and amenity considerations, there is clear policy support for the principle of renewable energy generation development on this site. The proposal will support the aims of local plan objectives and corporate priorities of the council. Indeed, the principle of development is acceptable, in accordance with Policy STRAT1 (Overall Strategy) and Policy DES9 (Renewable Energy). This is subject to there being no <u>significant adverse</u> effects as identified above, which are considered in further detail below.

Agricultural Land Use

6.11 Policy DES7 (Efficient Use of Resources), requires development proposals to make provision for the effective use and protection of natural resources through several means, including "*avoiding the development of Best and Most Versatile Agricultural Land, unless it has been demonstrated to be the most sustainable choice from reasonable alternatives, by first using areas of poorer quality of land in preference to that of a higher quality*". Best and Most Versatile (BMV) Agricultural Land is defined as that in agricultural grades 1, 2, and 3a. Grades 3b, 4 and 5 or of lesser quality, but are still considered to be useful agricultural land. Grade 3b land is not defined as BMV land. It is capable of producing moderate yields of a narrow range of crops (cereals and grass) and lower yields of a wider range of crops, or higher yields of grass for direct grazing or harvesting for animal food.

6.12 An agricultural land quality assessment has been submitted in support of the proposal. A **map of the agricultural classification** has been overlaid on the

application site, which is including for reference in **Appendix 3.** The existing agricultural land classification of the site is as follows: Grade 3a = 4.9 hectares, Grade 3b = 107 hectares, other land, tracks, gateways and hard standing = 0.9 hectares.

6.13 No Grade 3a land will be affected by the proposal. It will continue to be available for agriculture. In total 77 hectares of Grade 3b non-BMV agricultural land will be put to a different use – either sheep grazing and solar panels or biodiversity enhancements, tree and hedge planting. The solar panels (within the boundary fence) where sheep grazing will be allowed is 61 hectares. The biodiversity enhancements, hedge and tree planting total 16 hectares.

6.14 The table below provides details of the existing agricultural land classification and the proposed land use, with reference to the loss of agricultural land.

Table 3 – Existing Agricultural Land Classification and Proposed Land Uses

Agricultural Land Class	**Current Area (Hectares)**	**Proposed Solar Panels and Grazing (hectares)**	**Proposed Ecology, Trees and Hedge Planting (hectares)**	**Proposed Retained for Farming (hectares)**
3a	4.9	0	0	4.9
3b	107	61	16	30
Other	0.9	N/A	N/A	N/A
TOTAL	**112.8**	61	16	34.9

6.15 A careful balance has been struck between to ensuring agricultural use of the site can be viably retained in the most productive parts of the site. The Grade 3b land can continue to be used for agriculture, such as grazing under and between the panels. However, this should be balanced against other uses such as biodiversity enhancement. The proposals demonstrate the land can continue to be used for a mix of grazing and planting of species rich grasses and wildflowers. The land can be available for use by local apiarists subject to local agreement.

6.16 Therefore, the proposal will not result in the loss of any Best and Most Versatile Agricultural Land (Grade 3a and above), with the temporary partial change of 61 hectares of non BMV Grade 3b land for a period of 40 years. This will allow the land to replenish and regenerate whilst also being managed for biodiversity. Moreover, the use of the land will be limited to a period of 40 years to cover the lifespan of the equipment, which can be secured by a time limit condition. A further condition is recommended to require the removal of the panels and associated equipment at the end of this period, and this will include a requirement to reinstate the land to its previous condition. Subject to the imposition of these conditions it is acceptable to locate the proposed solar farm on Grade 3b agricultural land.

6.17 To conclude with regards the loss of agricultural land, the proposal will not result in the loss of Best and Most Versatile (BMV) Land (Grades 3a and

above). The land can also continue to be used for agricultural purposes. As such, the proposal is in accordance with Policy DES7 (Efficient Use of Resources) and the NPPF. In addition, the applicant indicates improvements to the land for agriculture when operations cease has been secured as part of the contract to operate the solar farm. This will ensure the land can return to a productive agricultural use in a changing climate.

Historic Environment

6.18 The proposed development is in the vicinity of a range of heritage assets, including Rycote Lane Farm and Moles Barn (Cowhouse) in close proximity to the north, Rycote Park (non-designated) and Rycote House further north and east of the site, Lobb Farm and Farmhouse adjacent to the M40 to the west. A plan showing the nearby heritage assets (Listed buildings) is included at **Appendix 4.**

6.19 The SODC Conservation Officer concludes that there will be no impact on the significance of most of the heritage assets. The same applies to Rycote Park where there is a good set-back from the site area to the entrance gates to the park which includes mature planting, effectively screening the majority of views into the site. However, there will be a very low impact on the significance of the Grade II Listed Moles Barn Cowhouse, which sits 300m to the south of Rycote Lane Farmhouse.

6.20 The SODC Conservation Officer advises the most important part of the setting of the Cowhouse is its relationship with the other farm buildings within the farmstead, however, the open agricultural fields in its wider surroundings do contribute to a degree to the context and setting of this building. The applicant's heritage statement para 5.19 notes that the Cowhouse is best appreciated from the agricultural fields to the south-east (the application site), and it is agreed that this is the most unspoilt aspect given the modern additions to the farm.

6.21 Whilst the landscape further to the south of the barn would be altered by the introduction of modern solar panel equipment. The impacts have been appropriately mitigated by the preserving a substantial buffer zone between the listed building and the solar development in these key viewpoints. The area of solar panels also avoids the topographically higher area of land immediately adjacent to the listed Cowbarn. As a result, the Conservation Officer advises the proposal will have a low level of less than substantial harm to the significance of the Listed building. I agree with that assessment.

6.22 Having regard to paragraph 199 of the NPPF, great weight is attached to the significance of the Grade II Listed Cowhouse and its protection. In accordance with paragraph 200 of the NPPF, there is a very low level of less than substantial harm arising to the significance of the Cowshed. However, the public benefits outweigh this level of harm, which include generating renewable energy and assisting a transition to low carbon energy generation, providing a stable and local energy supply, enhancing energy security, provision of some opportunities for employment and the proposal's significant contribution to net-

zero targets set by national government and mitigating the climate emergency set by the council.

6.23 As such, the design of the proposal has taken account of the historic environment, the assessment of the application has taken account of the desirability of sustaining and enhancing the heritage asset in accordance with Policy ENV6 (Historic Environment). The Conservation Officer has confirmed the proposal has minimised the harm to the significance of the Listed buildings to a very low level of just 1 (Grade II Listed Cowshed) and has demonstrable public benefits that outweigh the less than substantial harm, in accordance with Policy ENV7 (Listed buildings). The proposal is in accordance with the development plan for the district.

6.24 Policy ENV9 (Archaeology and Scheduled Monuments), requires proposals to protect below-ground archaeology. The applicant has submitted the results of trial trenching, which indicates the presence of some archaeological remains. The County Council archaeologist has confirmed that these recorded archaeological remains are not considered to be of a significance that would preclude/constrain the proposed development. However, the development will result in impacts upon the recorded archaeological features and as such they will require further investigation and record in advance of development. Subject to suitable conditions to secure these investigations, the proposed development is in accordance with Policy ENV9. There is no significant adverse effect on heritage assets, in accordance with Policy DES9 (Renewable Energy).

Landscape and Visual Impact

6.25 Policy DES9 (Renewable Energy) encourages schemes for renewable and low carbon energy generation and associated infrastructure at all scales, including domestic schemes. Proposals will be supported provided that they do not cause a significant adverse effect to the landscape, both designated AONB and locally valued. Moreover, Policy ENV1 (Landscape and Countryside) seeks to protect South Oxfordshire's landscape, countryside and rural areas against harmful development. It states that "*Development will only be permitted where it protects and where possible enhances features that contribute to the nature and quality of South Oxfordshire's landscape".* An Ordnance Survey map of the area is included in **Appendix 1** for reference.

6.26 The proposed development is not located within a designated landscape, such as an Area of Outstanding Natural Beauty or its setting. Notwithstanding this, the application site is in open countryside, which demonstrates characteristics which are considered to be worthwhile by the local community. However, although the proposal is located in the open countryside, the area is not considered to be a 'valued landscape' in accordance with paragraph 174 of the NPPF. It does not demonstrate a particular definable character or key attribute that elevates it in status or importance above the surrounding open countryside.

6.27 The proposed development is located within a wider open countryside setting known as the Landscape Character Area 3, The Clay Vale, and largely within Landscape Character Type 19, Undulating open vale. A small part of the site,

one field in the south-eastern corner, is within Character Type 20, Undulating Semi-enclosed Vale. Key characteristics of character type 19 include:

- Low-lying, undulating or gently rolling landform.
- Large-scale farmland, mostly under intensive arable cultivation.
- Typically large fields, with rectilinear pattern of field boundaries.
- Weak structure of tightly clipped or gappy hedgerows, with few hedgerow trees.
- Open, denuded and exposed character, with high intervisibility.
- Distinctive elevated and expansive character on higher ground, with dominant sky and long views.
- Predominantly rural character but some localised intrusion of main roads (including M40/A40), overhead power lines and built development

6.28 In summary, the site demonstrates most of these characteristics. Key characteristics for the semi-enclosed vale (type 20) are similar but with a stronger hedgerow structure and moderate intervisibility.

6.29 The site is located in open countryside on the north side of the A40 between Milton Common and Tetsworth. It comprises ten arable fields divided by hedges and occasional hedgerow trees, and a block of woodland. It adjoins the A40 to the south and a section of Rycote Lane (A329) to the north. The M40 runs parallel with the A40 close to the southern boundary. Surrounding land use is largely arable. The settlement of Milton Common extends to the south-west corner of the site along the A40. The land rises across the site from around 70m AOD in the south-eastern corner to over 100m at the western side. Moreover, to the east of the site is an extensive amenity landscape associated with Oxford Golf Club. The proposed solar panels will be at a maximum height of 3m (9ft9in) from the ground.

6.30 The application is supported by a Landscape and Visual Impact Assessment (LVIA) which is generally in accordance with technical guidance. The LVIA identifies that landscape mitigation would be provided as part of the proposal, including hedge and tree planting throughout the site. There are no proposals to remove trees, woodland or hedgerow as part of the proposals. Associated infrastructure and fencing will avoid trees and their root protection areas. The LVIA acknowledges that there will be some visibility of the proposals from the surrounding landscape, and the SODC landscape officer confirms this will be the case where panels are located in the most elevated parts of the site.

6.31 The aspects of the proposed development located on the lower parts of the site will lead to a limited perceived change to the pattern of the landscape. The site's landscape and boundary features would be retained and protected. Areas of concern raised by the council's landscape officer were the western-most field, parts of the north of the site and a small parcel to the east. In response, the applicant proposed to enhance tree planting and remove parts of the north field at the highest elevation to reduce visibility. The highest parts of the western-most field will also be visible but this area has been retained in the proposal, as has a corner to the south east of the site. The panels have been moved back from the northern boundary.

6.32 Having regard to the type of wider landscape described above, which is relatively undulating and low lying. The proposal is most noticeably visible from public rights of way on motorway bridges crossing the M40 approximately 1.5-2km in distance from the site. There are also very short sections of views of the proposal from a public right of way to the south-west of the site on the opposite side of the motorway. The northern and western parts of the site will also be visible on the ridgeline from sensitive viewpoints in the wider surrounding area, however, these are long distance views of 1-1.5km +.

6.33 Closer views from the public rights of way to the east of and south of the site will be affected, but these views will be restricted and filtered by topography and vegetation. The introduction of landscape planting and mitigation into the proposal would limit the impact of the proposals on the public rights of way. The experience of users of the public rights of way would change, but this would not be significantly adverse on the landscape experience. The overall enjoyment of the countryside would be retained. It should also be noted that this experience for users of rights of way would be aligned to other parts of the district where solar farms have been constructed.

6.34 The LVIA concludes there would be no cumulative visual effects between the site and other permitted solar farm proposals at Cornwell and Harlesford. In the Council's view there is likely to be some visual cumulative effect arising from the proposals when viewed from travelling along the motorway and the public rights of way network around the proposal. Limited assessment of this has been provided by the applicant, however, officers have assessed the proposals and it is considered there will be a degree of cumulative effect on change to the area arising from cumulative impacts. Having regard to visual and landscape impact, the proposal is in accordance with Policy DES9 and Policy ENV1.

6.35 In conclusion with respect to landscape impact, the proposed development is not located in a landscape designation, and it is not within a valued landscape. It is located in the open countryside within undulating open vale and undulating semi-enclosed vale, to which there will be a small degree of negative impact to the landscape character and a visual impact. The context of the site is such that the proposal will not lead to significant adverse effects on the landscape, either individually or cumulatively.

6.36 The proposal is in accordance with Policy DES9 (Renewable Energy) and Policy ENV1 (Landscape and Countryside). The degree of change to the landscape will not be dissimilar from other solar arrays development permitted elsewhere in the district. Conditions are recommended to ensure that landscape mitigation is implemented, properly managed and maintained. There is no significant adverse effect on the landscape, in accordance with Policy DES9 (Renewable Energy).

Ecology and Trees

6.37 Policy ENV2 (Biodiversity – designated sites, habitats and species) and Policy ENV3 (Biodiversity) seek to protect legally protected species through measures

that avoid, mitigate or compensate for the adverse effects resulting from development. The policies also seek to conserve, restore and enhance biodiversity and to provide new biodiversity features.

6.38 The Environmental Statement reports that the habitat on site to be primarily impacted by the proposed development is cultivated arable field. This habitat is of lower ecological value. There are other habits on the site of greater value, including watercourses, woodland and hedgerows. Some loss of hedgerow is required for access and a small amount of hedgerow will be removed to install the cable connection.

6.39 In accordance with district-wide mapping, there are likely to be Great Crested Newts on the site, to which the applicant has secured a licence from the Great Crested Newts District Licensing Scheme. Mitigation measures will be used to safeguard individual newts, but some impacts are likely which will be mitigated through the district licensing scheme. The biodiversity metric associated with the proposal indicates a 37% net gain in biodiversity, with features to be retained and enhanced. Planning conditions are required to secure appropriate district licensing and protection of biodiversity.

6.40 Policy ENV1 (Landscape and Countryside) and Policy ENV2 (Biodiversity), protect important trees on the site. Most trees on the site are mature trees found in hedgerows. Trees have been identified within this report as having veteran features. These are shown in the notes section of the report as T5, T13, T20, T21, T36 and T38. There are many other trees on the site that have significant arboricultural and landscape value. Some of them are mature high quality oak trees. These are retained as part of the proposals with development, including CCTV, fencing, hard surfacing and solar panels avoiding root protection areas.

6.41 The site comprises several ordinary watercourses, to which a 10m buffer either side is to be protected from development, in accordance with Policy ENV4 (Watercourses). As considered above, the proposals avoid impacts on trees and hedgerows, retaining key mature trees. The district licensing scheme has been entered into and can be secured by condition. As such, the proposal is in accordance with Policy ENV1 (Landscape and Countryside) and Policies ENV2 and 3 (Biodiversity). Details of the biodiversity conditions are provided at the end of this report. There is no significant adverse effect on biodiversity, in accordance with Policy DES9 (Renewable Energy).

Residential Amenity

6.42 Policy DES6 (Residential Amenity), requires that development proposals demonstrate that they will not result in any adverse impacts on the amenity of neighbouring uses. Most of the land surrounding the site is in agricultural use and the proposal would not result in any conflict with this use. There are residential properties adjacent to the application site in the west corner along London Road (A40), to the south on the opposite side of the A40 and to the north along Rycote Lane (A329).

6.43 The closest dwellings to the application site are Heath House (adjacent to the north-west on London Road), Radford House to the north, and Lobbersdown Farm to the north and east. Lower Lobbersdown Farm is also relevant, which is located approximately 100m to the south and east. With regards to Heath House, the proposed layout indicates the panels will be approximately 220m from Heath House itself at their closest point, and around 100m from land associated with it, which aerial images indicate has been a paddock in open countryside use since around 1999/2000.

6.44 With regards to reflections and visibility of the solar panels, a desk-based assessment has indicated there may be some theoretical impacts arising from glint and glare to two properties. Geometrically impacts are possible to Heath House to the north and west of the site, and Lower Lobbersdown Farm to the south and east of the site. These could arise when the weather conditions create clear and sunny skies, and the angle of the sun aligns against the panels with a clear view between the receptor and solar panels. The proposal is supported by evidence in an Environmental Statement, including an assessment of visibility and reflections.

6.45 The potential impact to Heath House arising from the original proposal could be possible for up to 10 minutes on any given day when a solar reflection is geometrically possible on a clear and sunny day. This event of up to 10 minutes could possibly occur between 05:55 and 06:52 from mid-March to September. The occurrence would also be seen from the general direction of the sun, with the sun considerably brighter, reducing the actual visibility of the reflection.

6.46 The potential impact to Lower Lobbersdown Farm arising from the original proposal could be possible for up to 10 minutes on any given day when a solar reflection is geometrically possible on a clear and sunny day. This event of up to 10 minutes could occur between 17:39 and 18:13 from mid-March to the end of September. The occurrence would also be seen from the general direction of the sun, with the sun considerably brighter, reducing the actual visibility of the reflection. Existing vegetation will filter and screen views.

6.47 In both cases, the geometrically possible impact is predicted to be low, having regard to the circumstances above, with no material impact on residential amenity arising. However, whilst the potential impacts are considered not to be materially harmful, the applicant has proposed further mitigation in the form of additional tree planting as part of the biodiversity enhancements and also removed additional solar panels from the proposed development to the west.

6.48 As such, visibility from the ground floor of Heath House would not be possible and with tree planting in-between the receptor and panels any intervisibility would be obstructed and filtered. On that basis it would be possible to conclude no theoretical potential impacts towards Heath House. With regards to Lower Lobbersdown Farm, the applicant is proposing tree and hedge planting which will further reduce the impact by obstructing and filtering views, in addition to the existing vegetation and buildings. It is possible to conclude the impact is low, which is not materially harmful to residential amenity. Adequate tree

planting mitigation, timing and specification details can be secured by planning condition, supported by appropriate evidence.

6.49 With regards to the other properties, the panels will be set back away from Radford House (north of the site adjacent to Rycote Lane) by approximately 50m, Lobbersdown Farm (north-east of the site) by approximately 70m and Lower Lobbersdown Farm (to the south of the site) by approximately 100m. Lobb Cottage (south-west) is set back from the London Road and panels are set back from the property. There will be no impacts arising to residential amenity of these properties.

6.50 Indeed, the landscaping strategy plans indicate additional planting to address areas of visual intrusion on the wider landscape and to assist in mitigating the impact on private views. This level of mitigation, including woodland blocks in the north-east corner and additional tree planting along the western boundary with Heath House would result in no unacceptable impacts on residential amenity. The level of visual change would be further mitigated over time as the planting establishes. The visibility of the panels would considerably reduce.

6.51 To conclude with regards to residential amenity, there would be no material harm arising from any reflections, which would be further mitigated by tree planting. The proposal incorporates screening adjacent to the boundaries of the site and within the site itself, including retained and enhance areas of woodland and hedgerow. No impacts on roads or aviation have been identified. Impacts from construction will be limited given the type of development proposed, however, impacts will be controlled by normal planning conditions for construction. As such, the proposal will not give rise to any unacceptable noise, visual or other amenity impacts, and the proposal is in accordance with Policy DES6 (Residential Amenity). There is no significant adverse effect on residential amenity, in accordance with Policy DES9 (Renewable Energy).

Access and Parking

6.52 Policy TRANS5 (Transport) is the most relevant transport policy and, amongst other matters, this requires developments to provide a safe and convenient access. The site is approximately 112.8 hectares in size and comprises open fields used for agricultural purposes. It has three existing accesses in the form of simple field gates, of which one is located to the north along the A329 Rycote Lane and two are located to the south along the A40. No public rights of way run either through or immediately adjacent to the site.

6.53 As confirmed in paragraph 3.3 of the 'Transport Statement', vehicular access into the solar photovoltaic farm for both construction and operational traffic would be taken from along the A40 using one of the three existing field gates. This would be widened slightly to 6.0m to allow safe access. Suitable visibility splays are achievable. The County Council highways officer has reviewed the proposal and is satisfied that this access arrangement is suitable for the construction and operational phases of the development.

6.54 The application documents traffic movements during construction will equate to 8 two-way HGV movements on average per day in the context of a 6-day working week. There would be 20 two-way car movements to and from the site. During the operational phase of the development, the applicant confirms in paragraph 4.12 of the 'Transport Statement' that there would be one trip made per month by van or 4x4 type vehicle for monitoring and maintenance of the solar photovoltaic farm, if required.

6.55 The County Council highways officer has considered the impact of these trips and has concluded that they would not result in development HGV traffic causing a severe impact to the local highway network. The effective management of these trips during the limited construction phase can be achieved through a Construction Traffic Management Plan (CTMP), which is a recommended condition. Subject to this condition, the proposal is in accordance with Policy TRANS5 (Transport). There is no significant adverse effect on highways, in accordance with Policy DES9 (Renewable Energy).

Flood Risk and Drainage

6.56 Policy EP4 (Flood Risk) seeks to protect the district from the risk of flooding, including the proposed development and the existing land and buildings elsewhere. The site is crossed by several ordinary watercourses, which require a 10m buffer either side to be protected from development for ecology purposes, in accordance with Policy ENV4 (Watercourses).

6.57 The primary risk of flooding on the site is from surface water and the existing risk of fluvial flooding arising from restricted flows off site through a culvert under the M40. The site is within Flood Zone 1 which has the least probability of flooding. There are small areas of high, medium and low risk of surface water flooding.

6.58 These risks can be adequately mitigated through an appropriate drainage strategy, including attenuation on the south boundary. As such, the council's drainage officer and the County Council as Lead Local Flood Authority have no objection to the proposal subject to a condition requiring details of a sustainable drainage scheme.

Gas Pipeline

6.59 A high-pressure gas pipeline extends north-south to the east of the application site. It is proposed to retain a 15m buffer either side of the pipeline keeping it clear of development. Policy EP2 (Hazardous Substances) requires proposals in the vicinity of hazardous substances to ensure the health and safety of people. The council will seek to reduce the potential for conflicting land uses and promote safety and protection of the environment.

6.60 As the pipeline is a National Gas asset, they have been consulted on the application. They have confirmed in writing that there is no risk to the pipeline or proposed development if the 15m buffer is retained. Conditions can be used to secure a suitable construction method in the vicinity of the pipeline.

6.61 National Gas have confirmed they have no objection to the proposals subject to planning conditions to secure an easement to the pipeline, a deed of consent/indemnity agreement and associated protection measures. An earthing report is also required to protect the cathodic protection system used on the pipeline and to secure a right of access for maintenance. As such, the proposal is in accordance with Policy EP2 (Hazardous Substances).

Carbon Emissions Reductions and Net Zero Transition

6.62 There is a recognised urgent need to transfer to renewable energy sources globally, including within Oxfordshire and South and Vale of White Horse Districts. This should be balanced with protection of the environment and landscape. The proposal makes a significant contribution towards achieving energy from renewables and whilst avoiding substantial harm on the landscape.

5.63 The proposed solar farm will help to meet national and district-level objectives for reducing carbon emissions and reducing reliance on fossil fuels. The UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050. South Oxfordshire District Council has also declared a climate emergency with a target to be a carbon neutral district by 2030. The proposal will make a contribution towards achieving those targets.

6.64 The low carbon technology sector in Oxfordshire is advanced, utilising high quality technologies. With the Pathways to Net Zero Oxfordshire report indicating a clear route to net zero will include the expansion of solar generating capacity in Oxfordshire, whilst protecting and restoring ecosystems, the proposed development meets those aims. The proposal indicates a retention of agriculture on the site in addition to biodiversity enhancements on the land.

7.0 CONCLUSION

7.1 The proposed development is for the installation and operation of solar arrays with a generation capacity of up to 49.9MW, together with all associated works, equipment and necessary infrastructure, on a 112.8 hectares site north of the A40 near Milton Common and Tetsworth. Permission is sought to construct and operate the proposed solar arrays and associated infrastructure for a period of 40 years.

7.2 Having regard to the policies of the Development Plan, the principle of development is supported and acceptable in accordance with Policy STRAT1 (Overall Strategy) and Policy DES9 (Renewable Energy), subject to there being no significant adverse effects on the landscape, biodiversity, heritage assets, traffic or residential amenity. These matters have been assessed throughout the report, where it is demonstrated the proposed development will be discernible change within proximity of the site, but this will not give rise to significant adverse effects.

7.3 Furthermore, the proposal will not result in the loss of Best and Most Versatile (BMV) Land (Grades 3a and above). Whilst 4.9 hectares of Grade 3a land

exists within the site, it will not be developed. Most of the remainder of the land, which is in 107 hectares in Grade 3b and not BMV land can also continue to be used for agricultural purposes such as grazing. As such, the proposal is in accordance with Policy DES7 (Efficient Use of Resources) and the NPPF. In addition, the applicant indicates improvements to the land for agriculture when operations cease has been secured as part of the contract to operate the solar farm.

7.4 In accordance with paragraph 199 of the NPPF, great weight is attached to the significance of the Grade II Listed Cowhouse and its protection. In accordance with paragraph 200 of the NPPF, the very low level of less than substantial harm to the significance is justified by the important public benefits arising from the proposal. The public benefits outweigh this level of harm, which include generating renewable energy and assisting a shift to low carbon energy generation, providing a stable and local energy supply, enhancing energy security, provision of some opportunities for employment, and the proposal's significant contribution to net-zero targets set by national government and mitigating the climate emergency set by the council.

7.5 With regards to heritage and archaeology the proposal is, therefore, in accordance with Policy ENV6 (Historic Environment) Policy ENV7 (Listed buildings) and Policy ENV9 (Archaeology and Scheduled Monuments). There will be no significant adverse effect on heritage assets, in accordance with Policy DES9 (Renewable Energy).

7.6 With regards to landscape impact, the proposed will result in a discernible change to the area, including in some immediate and filtered views and some longer distance 1.5km+ views where it will be heavily filtered and limited in its effects. Moreover, the degree of change to the landscape will not be dissimilar from other solar arrays development permitted elsewhere in the district. The proposal is in accordance Policy ENV1 (Landscape and Countryside). There is no significant adverse effect on the landscape, in accordance with Policy DES9 (Renewable Energy).

7.7 With regards to biodiversity and trees, the proposal will result in a 37% biodiversity net gain on the site, which is in accordance with Policy ENV1 (Landscape and Countryside) and Policies ENV2 and 3 (Biodiversity). Details of the biodiversity conditions to ensure Great Crested Newts are protected and biodiversity enhancements are delivered are provided at the end of this report. There is no significant adverse effect on biodiversity, in accordance with Policy DES9 (Renewable Energy).

7.8 The proposal will not give rise to any unacceptable noise, visual or other amenity impacts, and the proposal is in accordance with Policy DES6 (Residential Amenity). There is no significant adverse effect on residential amenity, in accordance with Policy DES9 (Renewable Energy). The proposal is in accordance with Policy TRANS5 (Transport). There is no significant adverse effect on highways, in accordance with Policy DES9 (Renewable Energy).

7.9 With regards to drainage and flood risk, the council's drainage engineer and the County Council as Lead Local Flood Authority have no objection to the proposal, subject to a condition requiring a detailed sustainable drainage scheme. The proposal is in accordance with Policy EP4 (Flood Risk) and Policy ENV4 (Watercourses). Protection measures for the gas pipeline within the site can be secured by condition in agreement with National Gas plant protection and the proposal is in accordance with Policy EP2 (Hazardous Substances).

7.10 The proposed development will have economic benefits and provide some opportunities for employment during construction and operation. The proposal will contribute towards environmental sustainability by providing opportunities to enhance local energy security, provide substantial quantities of renewable energy, help with the low carbon transition and assist the delivery of climate change emergency priorities. This has been balanced against the more localised impacts, with no significant adverse impact on the landscape, biodiversity and traffic. The proposal will contribute to social sustainability by avoiding adverse impacts on residential amenity. It will help to ensure a steady energy supply which the country requires.

7.11 To conclude, this is a development proposal which will avoid the loss of best and most versatile agricultural land, retain agriculture within and between solar panels, propose biodiversity enhancements, tree planting and suitably mitigate other possible impacts arising from the proposal. The proposed development is in accordance with the relevant policies of the South Oxfordshire Local Plan and National Planning Policy Framework. The proposal represents sustainable development, in accordance with the NPPF.

8.0 RECOMMENDATION

Approval of planning permission subject to the following conditions:

Time limits and approved plans

1. **Commencement of development within 3 years**
2. **Development in accordance with approved plans**
3. **Temporary permission for a period of 40 years**

Pre-commencement conditions

4. **Submission of final details of layout, design, and scale of equipment**
5. **Protection of gas transmission pipeline measures**
6. **Archaeological Written Scheme of Investigation**
7. **Programme of archaeological mitigation**
8. **Sustainable drainage scheme details**
9. **Construction traffic management plan**
10. **Landscaping scheme and implementation**
11. **Landscape and biodiversity management plan**
12. **Tree protection measures**
13. **Biodiversity enhancement plan**
14. **Construction environment management plan for biodiversity**
15. **Ecology district licence compliance certificate**

Compliance conditions

16. **Compliance with ecology district licence**
17. **Vision splay implementation and protection**
18. **Construction traffic access implementation**
19. **Lighting restriction**
20. **Removal of solar panels in the event not used for 6 months**

End of development condition

21. **Decommissioning Method Statement and restoration of the land plans. Works to be submitted prior to 6 months of the expiry of the 40 year permission and returned to agricultural use within 18 months.**

Informative: District licence requirements

Contact officer: William Sparling

Email: planning@whitehorsedc.gov.uk

Tel: 01235 422 600

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Appendix 3 – Appeal Decision APP/Y2736/W/24/3342002

Ministry of Housing, Communities & Local Government

Our Ref: APP/Y2736/W/24/3342002
Your Ref: 23/00046/MFULE

Alexandra Gavin
Lichfields
Ship Canal House
98 King St
Manchester
M2 4WU

25 February 2025

Sent by email only

[redacted]

Dear Alexandra Gavin

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY HARMONY ENERGY LTD
LAND OFF GREAT SIKE ROAD, OLD MALTON, MALTON, YO17 6SB
APPLICATION REF: 23/00046/MFULE

This decision was made by Minister Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of M Shrigley BSc MPlan MRTPI, who held a public local inquiry on 24-27 September, 1-3 and 7 October 2024 into your client's appeal against the decision of North Yorkshire Council (NYC) to refuse your client's application for planning permission for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years, in accordance with application Ref. 23/00046/MFULE, dated 3 January 2023.

2. On 20 September 2024, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. She has decided to allow the appeal and grant planning permission, subject to conditions. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing Communities & Local Government
Emma Hopkins, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF
Email: PCC@communities.gov.uk

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the environmental information submitted before the inquiry. Having taken account of the Inspector's comments at IR2.1-IR2.9, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposal.

Procedural Matters

6. The planning application form was submitted to Ryedale District Council which ceased to exist as of 31 March 2023 following local government reorganisation. NYC is now the Local Planning Authority. The Secretary of State does not consider that the change in Local Planning Authority raises any matters that would require her to refer back to the parties for further representations prior to reaching her decision on this appeal, and she is satisfied that no interests have thereby been prejudiced.

Matters arising since the close of the inquiry

7. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The Secretary of State referred back to parties in respect of the revised Framework on 20 December 2024. Representations were received from Lichfields on behalf of the appellant and Loxley Legal on behalf of Mr and Mrs Sturdy (the Rule 6 party), and these are listed in Annex A to this decision letter. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

8. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect her decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A letter dated 7 February 2025 from Loxley Legal requested that the decision be postponed until after the proposed DEFRA Land Use Framework is published. Given that the development of the Land Use Framework is at an early consultation stage and timescales for publication of the new Land Use Framework is scheduled for Summer 2025, the Secretary of State does not consider that the delay to this case would be justified. She further considers that given the Land Use Framework is at consultation stage and the final version has not yet been published, it is not necessary to refer back to parties for comments on the proposed Framework. Copies of the letters in Annex A may be obtained on request to the email address at the foot of the first page of this letter.

9. The Malton and Norton Neighbourhood Plan was made on 13 November 2024, after the close of the Inquiry.

Policy and statutory considerations

10. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case the development plan consists of the Ryedale Local Plan Strategy (RLPS) to 2027 (September 2013), the Ryedale Plan Local Plan Sites Document 2022-2023 (July 2019), the Minerals and Waste Joint Plan (February 2022), and the Malton and Norton Neighbourhood Plan (MNNP) made on 13 November 2024. The Helmsley Plan and the Yorkshire and Humber Plan Regional Strategy to 2026 are also part of the Development Plan for the area but are not considered to be relevant by main parties (IR4.16). The Secretary of State considers that relevant development plan policies include those set out at IR4.17 and IR4.22.

12. Other material considerations which the Secretary of State has taken into account include the Framework published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance), as well as those matters set out at IR4.1-IR4.10 and IR4.18-IR4.20.

Emerging plan

13. The emerging plan comprises the North Yorkshire Local Plan which is at a very early stage (IR4.21).

14. Paragraph 49 (previously 48) of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Given its early stage, the Secretary of State gives the emerging North Yorkshire Local Plan no weight.

Main issues

Acceptability of location - Renewable Energy, Flood Risk and Agricultural Land

15. For the reasons given at IR14.4, IR14.7-IR14.35, IR14.51 and IR14.183-IR14.184, the Secretary of State agrees with the Inspector's conclusion at IR14.17 that easy and readily available grid connectivity is an important consideration which holds significant weight. She further agrees that the solar farm would be able to make a significant contribution of achieving the statutory net target set by 2050 and reducing emissions by 78% compared with 1990 levels by 2035 (IR14.184). Paragraph 168(a) of the Framework states that significant weight should be given to 'the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future'. In line with this provision she considers that the delivery of clean and secure renewable energy (IR14.184) should be given significant weight. In terms of flooding, the Secretary of State agrees at IR14.51 that the appeal evidence demonstrates there are no reasonably preferable alternative sites in areas not prone to flood risk and disagrees with the Council and Rule 6 Party that the appellant has not satisfied the requirements of the sequential test (IR9.35 and IR10.164). Overall, she agrees with the Inspector at IR14.35 that there are no sequentially more favourable sites, and the exception test is passed. Like the Inspector she does not find any breach of RLPS Policy SP17 or the Framework with respect to flood risk.

16. For the reasons given at IR14.5 and IR14.36-IR14.51, the Secretary of State agrees with the Inspector that the appellant has demonstrably reduced the use and permanent loss of Best and Most Versatile (BMV) agricultural land as much as possible (IR14.40), and further agrees that there would not be any serious detriment to local or national food supply security issues (IR14.45). The Secretary of State considers that the small amount of permanent BMV agricultural land loss (IR15.4) carries moderate weight against the

proposal. In reaching her conclusion on this matter, she has taken into account the amendment made to footnote 65 (previously 62) of the Framework, and the representations by parties on this point.

17. Overall, the Secretary of State agrees that with the exception of the marginal non-compliance with RLPS Policy SP17 for the parts of the BMV land accepted as being permanently affected by the appellant (IR14.49), the main aims of Policy SP17 are otherwise complied with (IR14.50). She further agrees that the appellant's site selection justifications are appropriate for responding to known flood risks, as well as avoiding and minimising BMV agricultural land loss as far is as reasonably practicable (IR14.51).

Existing rural business impact

18. For the reasons given at IR14.52-IR14.82 and IR15.4, the Secretary of State agrees that the scheme would result in irreversible detriment to Eden Farm as an existing successful agricultural business entity (IR14.63). Like the Inspector, she acknowledges the impact of this application on the personal circumstances of the tenant and his immediate family, and concurs that the scale of the impact on the tenant is significant (IR14.72-IR14.73). She considers that the erosion of the wider local agricultural economy, including detriment to Eden Farm as an existing successful agricultural business entity, should carry substantial weight (IR14.63, IR14.69). She further agrees with the Inspector that the level of irreversible detriment to the Eden Farm agricultural business runs counter to the wider aims of RLPS Policy SP9 (IR14.81). Like the Inspector, the Secretary of State considers that there is nothing convincing within the evidence which demonstrates that the proposal would be detrimental to the future operation or standing of Eden Camp as well as broader tourism and recreation interests (IR14.80).

Heritage Impacts

19. For the reasons given at IR14.83-IR14.99 and IR14.116-IR14.135, the Secretary of State agrees that there would be harm arising from the change to the setting of the Grade II Listed Windmill at Windmill Farm as a result of the appeal proposal, but the level of harm would be tempered by the solar arrays low lying stature within the landscape (IR14.96). She further agrees that the impact would be temporary and reversible resulting in overall harm that would be of less than substantial harm (IR14.97). The Secretary of State agrees that there would be intervisibility between the solar farm arrays and the Grade II Listed Acomb Farmhouse, albeit that there would be some screening from existing hedgerows and proposed planting (IR14.98). The Secretary of State further agrees that the resultant impact on Acomb Farmhouse would be at the very low end of less than substantial harm (IR14.99).

20. For the reasons given at IR14.100-IR14.115 and IR14.116-IR14.135, the Secretary of State agrees that the proposal would result in minor/negligible significance of effect to Non Designated Heritage Assets (NDHA) Eden Camp (IR14.105), and Eden House (IR14.110) and limited harm to the archaeological significance of NDHAs of local value owing to the erosion of their setting in an agricultural open countryside location (IR14.132).

21. For the reasons given at IR14.116-IR14.135, the Secretary of State agrees, in respect of the group identified at IR14.124, that the development of the appeal site would not eradicate the ability to understand the significance of all heritage assets impacted, inclusive of regard to NDHAs and the combined overall group values and that the overall

setting impact of all heritage assets combined would fall within the ‘less than substantial harm’ bracket (IR14.133).

22. In line with the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Inspector assigns significant weight to the less than substantial harm to the setting of designated heritage assets. In line with paragraph 212 (previously 205) of the Framework, the Secretary of State considers that this harm carries great weight. The Secretary of State agrees with the Inspector’s conclusions at IR14.135 that such NDHA harm has importance owing to local cultural significance and attracts moderate weight. The Secretary of State agrees with the Inspector at IR14.134 that there would be some conflict with RLPS Policy SP12.

23. The Secretary of State has undertaken the balancing exercise under paragraph 215 of the Framework (previously 208) at paragraph 35 below.

Residential amenity

24. For the reasons given at IR14.136-IR14.151, like the Inspector the Secretary of State accepts that there would initially be a large scale of change in the view from some locations within the curtilage of Windmill Farm (IR14.147) and that the solar arrays would be clearly seen from Acomb House at distance owing to the flat topography (IR14.49). She also agrees that there would likely be only occasional filtered glimpses through the hedgerow to the site at ground floor level and through upstairs windows from Eden Farm (IR14.145). She agrees with the Inspector at IR14.150 that the resultant residential amenity levels of any of the mentioned properties does not amount to a breach of development plan policy and that with the scheme there would remain large expanses of countryside to enjoy for relaxation, exercise, and recreation (IR14.151).

25. For the reasons given at IR14.152-14.155, and IR15.7 the Secretary of State agrees with the conclusions at IR14.152 that any noise emitted from the appeal scheme is likely to be masked by existing noise and therefore would not impact on nearby residential amenity. She further agrees that there would be significant, albeit short lived, periods of construction traffic noise and disruption, and agrees with the Inspector that this harm to local amenity carries limited weight (IR15.7, IR14.155).

Other matters

26. The Secretary of State agrees with the Inspector’s conclusions in respect of the matters addressed at IR14.159-IR14.168.

27. The Secretary of State agrees with the Inspector’s conclusions at IR14.156-IR14.158 on the effect on the North York Moors National Park and the Howardian Hills AONB (a National Landscape) (IR14.156), and for the reasons given at IR14.156-IR14.158 and IR15.7, she agrees that there would be some largely contained visual appearance and character harm which carries limited weight (IR14.158).

28. Having regard to the Inspector’s findings at IR14.180, the Secretary of State concludes that biodiversity net gain (BNG) benefits should carry significant positive weight.

29. The Secretary of State notes the Inspector’s comments in IR14.185, and considers that the economic benefits arising from employment during both the construction and operational phases carry limited weight.

30. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and for the reasons set out at IR14.169-IR14.179 she agrees with the Inspector that she is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives (IR14.177). The relevant site is the River Derwent Special Area of Conservation. The Secretary of State agrees with the assessment and findings in IR14.169-IR14.179 of the IR, including that the mititgation measures proposed can be taken as achievable and effective in preventing potential adverse effects to the European site in line with all statutory expectations (IR14.179). She adopts IR14.169-IR14.179 as the necessary Appropriate Assessment in her role as the Competent Authority on this matter.

Planning conditions

31. The Secretary of State has had regard to the Inspector's analysis at IR16.1-IR16.13, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 57 (previously 56) of the Framework and the relevant Guidance. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework and that the conditions set out at Appendix B should form part of her decision.

Planning balance and overall conclusion

32. For the reasons given above, the Secretary of State considers that the appeal scheme is not entirely in accordance with Policies SP9, SP12 and SP17 of the development plan, and is not in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

33. Weighing in favour of the proposal are easily and readily available grid connectivity, carrying significant weight; clean and secure renewable energy, carrying significant weight; BNG, carrying significant weight; and employment benefits, carrying limited weight.

34. Weighing against the proposal are erosion of the wider local agricultural economy including detriment to Eden Farm as an existing successful business entity, carrying substantial weight; harm to designated heritage assets, carrying great weight; harm to NDHAs, carrying moderate weight; BMV loss, carrying moderate weight; harm to local amenity from temporary disruption, noise and construction activity, carrying limited weight; and harm to landscape character and appearance, carrying limited weight.

35. In line with the heritage balance set out at paragraph 215 (previously 208) of the Framework, the Secretary of State has considered whether the identified less than substantial harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall, the Secretary of State agrees with the Inspector at IR15.10 that the benefits of the appeal scheme are collectively sufficient to outbalance the identified less than substantial harm to the significance of The Windmill and Acomb Farmhouse. She considers that the balancing exercise under paragraph 215 of the Framework is therefore favourable to the proposal.

36. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.

37. The Secretary of State therefore concludes that the appeal be allowed, and planning permission granted subject to conditions.

Formal decision

38. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years, in accordance with application Ref. 23/00046/MFULE, dated 3 January 2023.

39. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

40. 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 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

41. A copy of this letter has been sent to NYC and Loxley Legal on behalf of Mr and Mrs Sturdy and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Emma Hopkins
Decision officer
This decision was made by Minister Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

General representations

Party	Date
Loxley Legal on behalf of Mr and Mrs Sturdy	7 November 2024, letter dated 4 November 2024
Loxley Legal on behalf of Mr and Mrs Sturdy	7 February 2025

Representations received in response to the Secretary of State's letter of 20 December 2024

Party	Date
Lichfields on behalf of appellant	9 January 2025
Loxley Legal on behalf of Mr and Mrs Sturdy	10 January 2025, letter dated 10 January 2024

Representations received in response to the Secretary of State's recirculation of 14 January 2025 of responses received to letter of 20 December 2024

Party	Date
Lichfields on behalf of appellant	20 January 2025
Loxley Legal on behalf of Mr and Mrs Sturdy	21 January 2025

Annex B List of conditions

Time Limit

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

Approved Plans

2. The development hereby permitted shall be carried out in general accordance with the following plans and documents:

   ES Figure 1.1 Rev A - Site Location Plan; ES Figure 1.3 Rev D - Proposed Site Plan; Drawing No OM_BSP_Rev H BESS Site Plan; BESS site plan indicating proposed plant type and layout; Drawing No PL.001 - Technical Details - Mounting Structure; Drawing No PL.005b - MV Power Station; Drawing No PL.006 – Technical Details Customer Substation; Drawing No PL.007 - Technical Details - Gate, Fence, Construction Road, Camera, Satellite Dish; Drawing No OM-EL-BAT-01 Envision Battery Elevation; Drawing No OM-EL-BTR-01 Rev 0 - Indicative Battery Transformer (KNAN Transformer); Drawing No OM ED(DNOLVAC) Rev 0 Indicative Customer Switchroom; Drawing No OM_ED(DNOLVAC)_Rev 0 DNO LVAC Transformer; Drawing No PSE2-CIV-1499-200 Rev OA - Proposed 66/33 kV Substation General Arrangement Plan.

Ecology/Biodiversity

3. The development hereby approved shall proceed in accordance with Appendix 6.5: Biodiversity Management Plan Version 4 dated 11/08/2023 and Biodiversity Management Plan Update Note prepared by Logika Group dated 18/7/24. The ecological enhancement measures, monitoring and management schedule set out there in shall be implemented in accordance with the Plan.

Flood risk/drainage

4. The development hereby approved shall be carried out in accordance with the Old Malton Solar Farm and Battery Storage Flood Risk & Drainage Assessment Report reference GON.0084.0054 version 2 dated 11/08/2023.

Lighting

5. No external lighting shall be installed on site until a lighting design scheme is submitted to and approved in writing by the Local Planning Authority. The proposed lighting design will be built out in accordance with the approved details.

Access

6. No changes to the surface of the site access routes running from the maintained public highway to the site shall occur without prior written consent from the Local Planning Authority. Any damage caused to the surface of the site access routes as a consequence of the development will be the responsibility of the developers to repair to the satisfaction of Local Planning Authority and repairs should be completed within 3 months of the first export of electricity from the application site. A photographic survey to record the condition of the bridleway shall be undertaken before the development commences and submitted to the Planning Authority.

Trees

7. All tree works are to be undertaken in accordance with British Standards BS 3998:2010 (Tree Works) (or successor document) by a suitably qualified arborist.

Noise

8. Low frequency noise emissions from the development shall not exceed the noise criterion curve detailed in NANR45: Proposed Criteria for the assessment of low frequency noise disturbance as measured from the nearest internal receptor with no financial interest in the development. As per the table:-

Frequency Hz	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
dBLeq	92	87	83	74	64	56	49	43	42	40	38	36	34

Construction Management

9. No works for the development hereby approved shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). The CTMP must include, but not be limited, to arrangements for the following in respect of each element of the works:

   a. Restriction on the use of Edenhouse Road (One way, West Bound) access for construction purposes;

   b. Wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;

   c. An area for the parking of contractors' site operatives and visitor's vehicles clear of the public highway;

d. Areas for storage of plant and materials used in constructing the development clear of the highway;

e. Measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;

f. Details of the traffic management including escorting of abnormal loads accessing or leaving Freehold Lane from Edenhouse Road;

g. A photographic survey to record the condition of the carriageway and adjacent verges of the full length of Edenhouse Road from its junction with Freehold Lane to the A169 should be undertaken before the development commences and submitted to the Planning Authority and the Highway Authority. The survey will be used in order to establish if any damage or degradation to the publicly maintainable highway has occurred during the period of work on the site and any such damage deemed to have taken place as a consequence of the development works will require to be rectified at the cost of the applicant;

h. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

i. Details of proposed culverts.

10. No works for the development hereby approved shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development and eventual decommissioning works shall proceed in accordance with the agreed details. The CEMP shall include (but shall not be limited to) the following matters:

    a. Site Waste Management Plan;

    b. Pollution Prevention Plan and mitigation;

    c. Details of contaminated site drainage;

    d. Surface water and ground water management;

    e. Details of ecological monitoring over the construction period;

    f. Details of the management of noise and vibration during construction period; and

    g. Cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the public road.

11. No works for the development hereby approved shall commence until details of a scheme of works for the protection of and any required post construction drainage system repair has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a full method statement for the protection and repair of all existing and proposed drainage features. The development shall be carried out in accordance with the agreed scheme of works.

12. No works for the development hereby approved shall commence until a Soil Management Plan (SMP) has been submitted to and approved in writing by the Local

Planning Authority. The SMP shall include proposals to safeguard soil resources and agricultural land at the commissioning stage, together with a commitment for the preparation of reinstatement, restoration and aftercare plans for the decommissioning phase; including plans to return the land to the predevelopment land quality (ALC grade). The SMP shall reference the Defra guidance Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. The development shall proceed in accordance with the agreed details.

Archaeology

13. No works for the development hereby approved shall commence until an Archaeological Written Scheme of Preservation/Investigation has been submitted to and approved by the local planning authority in writing. The scheme should set out the methodology for preservation of archaeological remains in situ and/or provide a scheme of mitigation for recording of remains that do not require physical preservation. The scheme shall include an assessment of significance and research questions; and:

    a. The programme and methodology of site preservation or site investigation and recording.

    b. Community involvement and/or outreach proposals.

    c. The programme for post investigation assessment.

    d. Provision to be made for analysis of the site investigation and recording.

    e. Provision to be made for publication and dissemination of the analysis and records of the site investigation.

    f. Provision to be made for archive deposition of the analysis and records of the site investigation.

    g. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

Landscaping/emergencies/BNG

14. Notwithstanding general conformity with the approved plans set out in Condition 2, no works for the development hereby approved shall commence until plans showing details of a landscaping and planting scheme are submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and new hedgerows and "gapping up" of hedgerow including existing items to be retained. New native hedges shall be planted at the minimum rate of 5-7 plants /metre of new hedge, in double staggered rows with mixed native species suitably protected from grazing animals, and appropriately maintained for a period of 5 years following planting. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period, as deemed necessary to accord with the approved landscaping and planning scheme.

If, prior to or during development, ground contamination is suspected or manifests itself then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted an appropriate remediation strategy to the Local Planning Authority and the written approval of the Local Planning Authority has been received. The strategy should detail how the contamination shall be managed. The remediation strategy shall be implemented in accordance with such details as may be approved and a remediation validation report shall be required to be submitted to Local Planning Authority to demonstrate the agreed strategy has been complied with.

15. No works for the development hereby approved shall commence until a Risk Management Plan and Emergency Response Plan is submitted to and approved in writing by the Local Planning Authority. These plans shall be developed using the best practice guidance as detailed and required in the published Grid Scale Battery Energy Storage System planning - Guidance for FRS published by NFCC National Fire Chiefs Council, or any subsequent version. Where the aforementioned guidance cannot be adhered to in full, an explanation of why should be provided within the Risk Management Plan and Emergency Response Plan. Once approved, these plans shall be implemented thereafter and for the duration of the development's lifetime.

16. No works for the development hereby approved shall commence until a Biodiversity Gain Plan, in accordance with DEFRA guidance (12th February 2024) or subsequent version, is submitted to and approved in writing by the local planning authority which provides a minimum of 10% measurable biodiversity net gain, using the Statutory DEFRA Biodiversity Metric or any successor.

17. The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter for the duration of the development.

18. Prior to the development being first brought into use, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows of a minimum of 4m high and of the 5m high native tree belt shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting implemented as part of the development. All vegetation within the site shall be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.

Temporary Period/investigation/first export

19. Planning permission is hereby granted for a temporary period not exceeding 40 years from the date that electricity from the development is first exported to the electricity distribution network ("First Export Date"). Written confirmation of the First Export Date will be provided to the Local Planning Authority within one month of the First Export Date.

20. The development shall not be brought into use until the site investigation and post investigation assessment in relation to Condition 13 has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

21. The details submitted in pursuance of Condition 13 Part A shall be preceded by the submission to the Local Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:

    a. The proper identification and evaluation of the extent, character, and significance of archaeological remains within the application area;

    b. an assessment of the impact of the proposed development on the archaeological significance of the remains.

22. The permission hereby granted shall expire after 40 years following the date when electrical power is first exported ('first export date') from the development to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.

Decommissioning

23. A restoration scheme shall be submitted to and approved by the Local Planning Authority no less than 6 months prior to decommissioning of the development and shall make provision for the dismantling and removal from the site of all structures, including fencing. The Local Planning Authority must be notified of the cessation of electricity generation in writing no later than one calendar month after the event.

24. Decommissioning must only commence once a Decommissioning Environmental Management Plan (DEMP) (incorporating a Decommissioning Traffic Management Plan) has been submitted to and approved in writing by the Local Planning Authority. The decommissioning works shall proceed in accordance with the agreed details. The DEMP shall include (but shall not be limited to) the following matters:

    a. Decommissioning Traffic Management Plan;

    b. A Site Waste Management Plan;

    c. Pollution Prevention Plan and mitigation;

    d. Details of foul and contaminated site drainage;

    e. Surface water and ground water management;

    f. Details of ecological monitoring over the decommissioning period;

    g. Details of the management of noise and vibration during construction period; and

    h. Cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or decommissioning materials to/from the site to prevent spillage or deposit of any materials on the public road.

25. No later than 12 months after commencement of decommissioning, all structures shall have been removed and the site restored in accordance with the approved restoration scheme.

26. The proposed development including solar panels, mounting structures, their associated plant, equipment, and fencing (including the BESS Site Plan area) must be removed

from the site within 12 months of the solar farm (and/or BESS) ceasing to be operational in accordance with the approved restoration scheme.

Planning Inspectorate

Report to the Secretary of State

by M Shrigley BSc MPlan MRTPI

an Inspector appointed by the Secretary of State

Date 28 November 2024

TOWN AND COUNTRY PLANNING ACT

NORTH YORKSHIRE COUNCIL

APPEAL BY

HARMONY ENERGY LTD

Inquiry Held on 24-27 September, 1-3 & 7 October 2024

Land Off Great Sike Road, Old Malton, Malton YO17 6SB

File Ref: APP/Y2736/W/24/3342002

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List of abbreviations used in the Report

AHA	Agricultural Holdings Act 1986
ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty (now named National Landscapes)
ASA	Alternative Site Assessment
BMVAL	Best and Most Versatile Agricultural Land
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BPS	Basic Payment Scheme
BSP	Bulk Supply Point
BESS	Battery Energy Storage System
CD	Core Document
CEMP	Construction and Environmental Management Plan
CMC	Case Management Conference
CTMP	Construction Traffic Management Plan
DEFRA	Department for Environment, Food and Rural Affairs
DNO	Distribution Network Operator
EA	Environment Agency
ECR	Embedded Capacity Register
EIA	Environmental Impact Assessment
EiC	Evidence in Chief
ES	Environmental Statement
FTC	Fitzwilliam Trust Corporation
GC	Gary Camplejohn
GSR	Great Sike Road
IEMA	Institute of Environmental Management and Assessment
km	Kilometres
m	Metres
LOA	Land Offer Agreement
LSE	Likely Significant Effects
LVA	Landscape Visual Assessment
MAFF	Ministry for Agriculture Food and Fisheries
MW	Mega Watts
MWJP	Minerals and Waste Joint Plan, February 2022
NDHAs	non-designated heritage assets
NPg	Northern Powergrid
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPS	National Policy Statement(s)
NYC	North Yorkshire Council
OSR	Oil Seed Rape
PoC	Point of Connection
PRoW	Public Right of Way
R6	Rule 6 Party
RC	Rebecca Caines
ReX	Re-examination
RfR	Reason for Refusal
RPLPSD	Ryedale Plan Local Plan Sites Document 2019

RTD	Round Table Discussion
RVA	Residential Visual Amenity
RVAA	Residential Visual Amenity Assessment
RLPS	Ryedale Local Plan Strategy 2013
RW	Richard Wood
SAC	Special Area of Conservation
SFI	Sustainable Farming Incentive
SoS	Secretary of State
SoCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest
SuDS	Sustainable Drainage System
TFA	Tennant Farmers Association
TK	Tony Kernon
t	Tonnes
t/ha	Tonnes per hectare
V&B	Vickers and Barrass
WB	Winter Barley
WMS	Written Ministerial Statement
WW	Winter Wheat
XX	Cross Examination

File Ref: APP/Y2736/W/24/3342002
Land Off Great Sike Road, Old Malton, Malton YO17 6SB

- 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 Harmony Energy Ltd against the decision of North Yorkshire Council.
- The application Ref 23/00046/MFULE, dated 3 January 2023, was refused by notice dated 17 October 2023.
- The development proposed is for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years.

Summary of Recommendation:

That the appeal be allowed, and planning permission granted subject to conditions.

1.0 Preliminary Matters

1.1 The Inquiry opened on 24 September 2024 and sat for 8 days (inclusive of a day set aside for undertaking an accompanied site visit).

1.2 The accompanied site visit was undertaken on 3 October to see the appeal land and the surrounding area nearby. Shortly after completing that a separate unaccompanied visit to some publicly accessible parts of the wider local area was also undertaken.

1.3 In compliance with the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, the appeal was originally to have been decided by an Inspector. However, the appeal was subsequently recovered by the Secretary of State (SoS), in exercise of the powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990. This was explained in the direction issued during the appeal process, dated 20 September 2024, which was served on me, the Council, the Rule 6 (R6) Party, and the Appellant.

1.4 The specific reasons for the direction are that the appeal involves proposals for major significance for the delivery of the Government's climate change programme and energy policies.

1.5 I note the planning application form was submitted to Ryedale District Council which ceased to exist 31 March 2023, following local government reorganisation. Under statutory provision North Yorkshire Council (NYC) then become the new decision making body and is the author of the Decision Notice now contested. Thus, the outcome of this appeal is to be issued to NYC.

1.6 In the lead up to the Inquiry I held a Case Management Conference (CMC) on 26 June 2024 (CD9.13) with the main parties to the appeal. At the CMC, the procedure for the Inquiry; the likely main issues; and the Inquiry programme were discussed.

1.7 There were originally 4 reasons for refusal advanced by the Council. A copy of the Decision Notice can be found at CD3.3. Although not contested by NYC in its decision, considering all representations made, heritage impacts were subsequently expected to be a main issue. This was confirmed to the parties in

a note post the CMC occurring (CD9.12). As a result, a roundtable discussion of heritage impacts took place during proceedings.

1.8 Given the nature of the dispute an overall planning balancing exercise would still need to inform any decision irrespective of it being listed independently as a main issue. For the purposes of reporting all matters to the SoS I have included the planning balance triggered under a separate Section heading within this recommendation. It pertains to whether any benefits associated with the scheme would outweigh any potential harm(s), should any benefits or harm arise in the matters engaged upon by all the appeal parties.

2.0 Environmental Impact Assessment

2.1 The Appellant submitted an Environmental Statement (ES) during the planning application period following a scoping exercise to which NYC were content. The ES provided has since been reviewed by the Planning Inspectorate in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations).

2.2 The Planning Inspectorate on behalf of the SoS agrees that Proposed Development falls within Schedule 2 (1) and is EIA development. Further information was requested under Regulation 25 (22 May) and was subsequently submitted satisfying the request in full.

2.3 I have considered the range of cultural and heritage information within the ES along with the addendum submitted to the NYC on the 31 May 2023, as well as the updated non-technical summary dated 19 July 2024 outlining minor changes to the appeal scheme.

2.4 I note the changes include: that the northern boundary of the proposed development has been moved 11m southwards to accommodate: a 3m buffer from the Acomb Croft Drain; 5m mitigation planting; and a further 3m for maintenance access purposes. They also depict access tracks within the fields and the realignment of a proposed fence to the western edge of the access track; the inclusion of an access gate immediately north of Windmill Farm and the removal of a CCTV camera from one of the fields.

2.5 The main appeal parties do not object to inclusion of the amendments. Given the nature of the changes and the public consultation which has transpired, I concur that their inclusion would not prejudice third parties.

2.6 The evidence of Catherine Bell as the R6 heritage expert witness (CD9.18, CD9.19 and CD.20, combined) indicates there has been omission of non-designated heritage assets (NDHAs) initially during the EIA screening process which does not fully address Historic England's correspondence of 22 May 2020. Because of that there has been an under valuation of the significance of NDHAs present within the local area.

2.7 As a result, I concur the group value shared by designated and NDHAs in the inner study area defined by the ES is not reliable to base a conclusion upon. Thus, should sole reliance on the ES follow without the benefit of Catherine Bell's evidence I agree this would lead to a failure to meet the requirements of

paragraph 200 of the Framework, which has impacted the NYC's ability to discharge the duty placed on it as supported by paragraph 201.

2.8 I also note that information provided by the R6 Party directly addresses a landmark listed windmill within the ES study area.

2.9 Consequently, notwithstanding the acceptability of the proposal, I consider that the ES together with additional information provided to inform the Inquiry is adequate in meeting the terms of the EIA Regulations. Moreover, the main appeal parties did not express a contrary view during proceedings.

3.0 The Appeal Site and Surroundings

3.1 The appeal site is located within the open countryside measuring some 52.86ha's. It lies around 2.5km north of Malton Town Centre on land adjacent to Northern Powergrid's Old Malton substation and Eden Camp Museum.

3.2 The appeal site comprises of cultivated agricultural farmland fields, with various existing intersecting roads, along with lines of hedgerows, individual trees, and other vegetation present within it.

3.3 Prominent areas of woodland also border the appeal land, with a strip of woodland near to the north-eastern boundary and another square of woodland lying beyond the north-western boundary. Notably, the A64 (Scarborough to York) sits 200m to the south with the A169 (Malton to Whitby) also nearby situated roughly to the east.

3.4 Access into the appeal site itself is from Freehold Lane, Great Sike Road, Borough Mere Lane and Fenton Lane, which all intersect at certain points. A bridleway runs through the southern part of the site along Great Sike Road, along part of Borough Mere Lane and Freehold Lane.

3.5 The immediate surroundings in the vicinity also comprise mainly of agricultural land, separated by hedgerows and some individual trees. Eden Business Park is located to the southeast. There are several farmsteads and properties nearby, including Windmill Farm adjacent to the southern boundary, Acomb House to the north and Eden Farm to the east.

4.0 Planning Policy

National policy

4.1 The 2023 revised National Planning Policy Statements (NPSs) came into force on 17 January 2024. Whilst the NPSs are for the delivery of Nationally Significant Infrastructure Projects (NSIPs), their policy content is relevant to the appeal.

Overarching NPS for Energy (EN-1)

4.2 EN-1 is part of a suite of NPSs issued by the SoS for Energy Security and Net Zero. It sets out the government's policy for delivery of major energy infrastructure.

4.3 As per paragraph's 1.2.1 and 1.2.2 of NPS EN-1. In *England, this NPS, in combination with any relevant technology specific NPSs, may be a material consideration in decision making on applications that fall under* the *Town and Country Planning Act 1990 (as amended). Whether the policies in this NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy.*

4.4 Section 2.3 of EN-1 refers to the Governments approach to meeting net zero. Paragraph's 2.3.1-2.3.6 state: *Energy underpins almost every aspect of our way of life. It enables us to heat and light our homes; to manufacture goods; to produce and transport food; and to travel to work and for leisure. Our businesses and jobs rely on the use of energy. Energy is essential for the critical services we rely on – from hospitals to traffic lights and mobile devices. It is difficult to overestimate the extent to which our quality of life is dependent on adequate energy supplies.*

(Paragraph 2.3.2) In October 2021 the government published the Net Zero Strategy. This set out our vision for transitioning to a net zero economy and the policies and proposals for decarbonising all sectors of the UK economy to meet our net zero target by 2050, making the most of new growth and employment opportunities across the UK.

Our objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050, including through delivery of our carbon budgets and Nationally Determined Contribution. This will require a step change in the decarbonisation of our energy system. Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level…..... The requirement for new energy infrastructure will present opportunities for the UK and contributes towards our ambition to support jobs in the UK's clean energy industry and local supply chains.

The sources of energy we use are changing. Since the industrial revolution, our energy system has been dominated by fossil fuels. That remains the case today. Although representing a record low, fossil fuels still accounted for just over 76 per cent of energy supply in 2020. We need to dramatically increase the volume of energy supplied from low carbon sources.

We need to transform the energy system, tackling emissions while continuing to ensure secure and reliable supply, and affordable bills for households and businesses. This includes increasing our supply of clean energy from renewables… .

4.5 Paragraph 3.3.20 goes on to state that *Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar*.

NPS Renewable Energy Infrastructure (EN-3)

4.6 Paragraph's 3.10.1, 3.10.2, 3.10.4 and 3.10.5 point out that *the government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. As such solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector.*

Solar also has an important role in delivering the government's goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in solar deployment by 2035 (up to 70GW). It sets out that government is supportive of solar that is co-located with other functions (for example, agriculture, onshore wind generation, or storage) to maximise the efficiency of land use.

Solar farms are one of the most established renewable electricity technologies in the UK and the cheapest form of electricity generation.

4.7 *Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large-scale solar is now viable in some cases to deploy subsidy-free.*

4.8 Although not intended to be exhaustive Section 3.10 of EN-3 refers to a range of assessment factors and impacts influencing site selection and design including: agriculture land classification and type; network connection; accessibility; security and lighting; project lifetime and decommissioning; biodiversity and ecological conservation; landscape, visual and residential amenity; glint and glare; cultural heritage; construction; and other technical aspects.

4.9 Paragraph 3.4.10 *states Solar photovoltaic sites may also be proposed in low lying exposed sites. For these proposals, applicants should consider, in particular, how plant will be resilient to: increased risk of flooding… .*

4.10 With respect to agriculture land classification and type Paragraph 3.10.136 makes clear *The SoS should take into account the economic and other benefits of the best and most versatile agricultural land. The SoS should ensure that the applicant has put forward appropriate mitigation measures to minimise impacts on soils or soil resources.*

The National Planning Policy Framework (The Framework)

4.11 The Framework confirms the presumption in favour of sustainable development. Sustainable development has three overarching objectives (economic, social, and environmental), which are interdependent and need to be pursued in mutually supportive ways.

4.12 Paragraph 11 pf the Framework states that: *Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means: c) approving development proposals that accord with an up-to-date*

development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

National Planning Practice Guidance (NPPG)

4.13 NPPG is also a material consideration and the content most relevant to the consideration of this planning application are the sections on: climate change, natural environment, flood risk; historic environment; as well as renewable and low carbon energy.

The Development Plan

4.14 The statutory provisions, set out through Regulation 26 of The Local Government (Boundary Changes) Regulations 2018, allow for any extant development plans to have effect as if adopted by the new Unitary Authority, and for the Unitary Authority to adopt, revise, replace or prepare a plan relating to an area of a predecessor Council. It is also the case that the provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 20084 and the Local Government (Boundary Changes) Regulations 2018 mean that Local Plans, in the name of, and covering the same area as, LPAs that existed prior to 1 April 2021, may continue to come forward until such time as a plan covering the whole unitary authority is adopted.

4.15 The Development Plan comprises of: the Ryedale Local Plan Strategy 2013 (RLPS); the Ryedale Plan Local Plan Sites Document (RPLPSD 2019); and the Minerals and Waste Joint Plan February 2022 (MWJP 2022).

4.16 I note that the Helmsley Plan and the Yorkshire and Humber Plan Regional Strategy to 2026 are also part of the Development Plan for the area but are not considered to be relevant by the main appeal parties. I have no reason to conclude differently.

4.17 The most relevant RLPS policies in relation to this appeal are:

- Policy SP1: General Location of Development and Settlement Hierarchy
- Policy SP9: The Land-Based and Rural Economy
- Policy SP10: Generic Development Management Issues
- Policy SP12: Heritage
- Policy SP13: Landscapes
- Policy SP14: Biodiversity
- Policy SP15: Green Infrastructure Networks
- Policy SP16: Design
- Policy SP17: Managing Air Quality, Land and Water Resources
- Policy SP18: Renewable and Low Carbon Energy
- Policy SP19: Presumption in Favour of Sustainable Development

- Policy SP20: Generic Development Management Issues.

Other relevant legislation and guidance

4.18 The Environment Act 2021 includes the requirement for a long-term target to be set in the following priority areas: air quality, water, biodiversity and resource efficiency and waste reduction. Most of Part 3: Waste and resource efficiency is in force. As of 12 February 2024, Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Nonetheless, if a planning application for a development was made before day one of mandatory BNG on 12 February 2024, the development is exempt from BNG.

4.19 The Agricultural Holdings Act 1986 (AHA) /Agricultural Tenancies Act 1995.

4.20 The Human Rights Act (1998) and Equality Act 2010 (containing the Public Sector Equality Duty) contain provisions to protect the rights of all members of society.

Other Planning Documents

- Smart Power- National Infrastructure Commission (March 2016) (CD8.5).
- Energy White Paper 'Powering our Net Zero Future' (December 2020) (CD8.6).
- National Grid ESO 'Future Energy Scenarios' (2023, and 2024) (CD8.7 and CD8.32).
- UK's Integrated National Energy and Climate Plan (January 2020) (CD8.8).
- British Energy Security Strategy (2022) (CD8.17).
- Department for Energy Security and Net Zero - 'Powering Up Britain' (March 2023) (CD8.9).
- Ministerial Statement on Solar Energy (March 2015) (CD8.10).
- Ministerial Statement on Solar Energy, Food Security and Best and Most Versatile Land (May 2024) (CD8.11).
- UK Solar PV Strategy: Roadmap to a Brighter Future.
- North Yorkshire Economic Growth Strategy 2023.
- Government Food Strategy, June 2022 (CD8.13).
- UK Food Security Report, December 2021 (CD8.14).
- Public Summary of Sector Security and Resilience Plans, Cabinet Office 2017 (CD8.12).

4.21 In addition, NYC Local Plan's public consultation on the 'Issues and Options' stage is stated as being scheduled for quarter four of 2024.

4.22 The Malton and Norton Neighbourhood Plan (MNNP) is also noted by NYC as being prepared (CD5.1, CD5.2 and CD10.6). That Plan is yet to be formally made and therefore is not currently part of the development plan. At its current production stage NYC and the appellant agree only limited weight should be given to it. The most relevant MNNP policies in relation to this appeal is Policy E4: Green and Blue Infrastructure. The final plan has been amended in line with the examiner's recommendations (February 2024) and will be subject to a referendum of all voters on the electoral roll in Malton and Norton parishes later this year.

5.0 Planning History

5.1 The following planning application reference number history has been detailed by NYC in its officer report and is accepted as relevant context to inform the appeal:

- Application reference 17/01156/FUL for the '*installation of a Gas fuelled capacity mechanism embedded electricity generation plant to support the National Grid to include formation of a vehicular access from Freehold Lane*', given consent on the 6 December 2017. This application site is directly to the south of the Battery Energy Storage System (BESS) site within the appeal land. It is understood by the main parties that planning application 17/01156/FUL has lapsed.

- Also relevant is application 14/00426/MOUTE for land adjacent to the south-east corner of the appeal site (involving the proposed BESS now sought at appeal), for the '*erection of new livestock market (sui generis) comprising circa. 2,850 sq.m floorspace: Agricultural Business Centre comprising circa. 6,010 sq.m of floorspace for uses within Use Class A1, A2, A3, D1, B1, B2, B8 and agricultural vehicle sales (sui generis); and new Business Park comprising circa. 19,040 sq.m of floorspace for uses within Use Class B1, B2, and B8 including premises for The Ginger Pig comprising 1,790 sq. m of floorspace (for uses falling within Class B1, B2, B8 and A1) along with (in respect of all elements) all associated development including drainage, provision of services, landscaping, boundary treatments, attenuation ponds and access and associated highway works*'. The application land is stated as comprising of 17.8ha. Planning permission was granted 24 March 2015.

6.0 The Proposals

6.1 The appeal scheme is for the proposed installation and operation of a solar farm and BESS with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years. The solar farm would produce up to 30.4MW of electricity and the BESS would have a capacity of 12.63MW.

6.2 The site is divided into two distinct parts: 1) the main part of the site, hosting the solar panels for the solar farm, and 2) a smaller part, to the south-east, which would host the BESS, sub-station, and other associated operational plant (Northern Powergrid's electricity substation is adjacent to the BESS and operational plant compound).

6.3 The main elements of the appeal development proposed are the following:-

i) Solar farm panels

6.4 The solar farm comprises of rows of solar array panels together with ancillary equipment. The rows of panels would be mounted on aluminium frames supported poles driven into the ground to a depth of approximately 1m. The precise panel mounting system details are shown in drawing No PL.001 (CD1.9). Each row of panels would be set around 4.5m apart to allow for

movement, maintenance and to prevent shadowing. The total above ground height of the panels would be approximately 3.1m.

ii) Inverter-transformer stations

6.5 A total of 11 inverter-transformer stations are located at various points (elevations are shown in Drawing PL005b –MV Power Station (CD1.10)). The inverters would be positioned on 1.4m platforms with railings around them. Their footprint measures 6.6m by 2.5m with a total height of 4.3m. The mounting platforms measure around 7.3m by 3.6m footprint.

iii) Customer substation/BESS/access/landscaping

6.6 A customer substation would be located in bottom south-east corner of solar panel site the site, near Freehold Lane. The substation elevations are provided in drawing PL006 (CD1.11). The substation measures approximately 10m by 3.5m in footprint, by 3.9 metres in height.

6.7 The BESS (CD.14 and CD2.2), substation and associated plant would be located on the smaller parcel of land to the south of Freehold Lane and adjacent to the western boundary of Eden Camp. Elevations for 12 battery containers with approximate dimensions of 14.6m by 1.45m in footprint, by 3m in height and substation are shown in Drawings No OM-EL-BAT-01 Battery Container (CD2.2) and PSE2-CIV-1499-200 - Substation General Arrangement (CD2.2). There will be six battery transformers (CD2.2) measuring 3m long, 2.9m wide and 3.1m high.

6.8 The proposed substation control room (CD2.2) housing measures roughly 9.9 metres by 4.5 metres in footprint, by 3.9m in height surrounding with 2.6 metre high palisade fencing. The BESS would be accessed via a new track off Freehold Lane, with additional tracks running between and around the battery equipment.

6.9 The main part of the appeal site would be surrounded with 2.5m high fence. The appellant advises that for security reasons, pole mounted CCTV cameras would be provided at various points around the site, each with a maximum height of 3m and satellite dishes at a height of 3m. Elevations for these scheme elements are provided in Drawing PL007 (CD1.12).

6.10 The scheme would be connected directly to the national grid, with the Point of Connection (PoC) at the adjacent Malton Substation located to the immediate east of the proposed battery storage location.

6.11 Internal access roads are proposed to provide access for operation and maintenance along with a landscaping scheme for the entire site (CD1.8, CD2.5 and CD7.13).

7.0 Matters agreed between NYC and the Appellant

7.1 The matters of agreement are contained within the main signed Statement of Common Ground (SoCG) (CD9.2) and the separate Agricultural SoCG, dated 25 September 2024 (CD10.9) between the appellant and NYC.

7.2 Based on those documents, the description of the development; application documents; statutory consultation responses; the relevant development plan policies as well as planning history are not in dispute. Moreover, the Environmental Impact Assessment (EIA) Scoping exercise undertaken and the ES produced are deemed by NYC to be robust, in accordance with Schedule 4 of the EIA Regulations.

7.3 Those points aside a series of planning issues are agreed upon:-

Extent of appeal site/Grade of land

7.4 The appeal site extends to 52.86ha and comprises cultivated agricultural land farmed by the tenants of Eden Farm. It comprises of:

- 6% Grade 1 land;
- 35% Grade 2 land; and
- 15% Grade 3a land.

7.5 Therefore, 56% of the land is considered Best and Most Versatile (BMV). The remaining 44% is Grade 3b (33%) and non-agricultural land (11%).
Relevant land designations

7.6 The appeal site is located within 'Open Countryside' (as per RLPS Policy SP1).

7.7 The appeal land is not subject to any ecological or landscape designations. The Vale of Pickering is identified in RLPS Policy SP13 as one of three broad areas of landscape which are valued locally but the Proposals Map does not identify the appeal site as falling within an 'Area of High Landscape Value' (AHLV).

7.8 The appeal land is situated within a Minerals and Waste Safeguarding Area for Limestone. Because of that a Phase 1 Land Contamination and Minerals Assessment (CD1.48) was prepared and submitted as part of the original planning application. Based on that information the parties agree RLPS Policy S20 is satisfied, and that the development is acceptable in terms of its impact on safeguarded surface mineral resources.

7.9 It is also agreed between NYC and the appellant that:

- The appellant has secured a grid connection directly to the Northern Powegrid distribution network at the Malton BPS.

- With respect to Flood Risk, it is national and local policy that the sequential test should be applied. A Flood Risk and Drainage Report and Sequential Test (dated September 2022 and December 2022, respectively) provides an assessment of the environmental effects of the proposed development on flood risk and considers alternative sites that may be sequentially preferable.

- The appeal land lies within Flood Zones 2 and 3.

- Surface water management strategy demonstrates that surface water runoff from the proposed development can be managed via implementation of run off dispersion and erosion protection measures including gravel pits and permeable tracks as well as a drainage pond in the BESS area; and as such is compliant with paragraph 167 of the NPPF (2023) and the applicable stated paragraphs of Policy SP17.

- The proposed development appealed is classed as 'essential infrastructure' in accordance with the PPG Flood Risk Vulnerability classifications.

- The conditions of the Exceptions Test have been satisfied through the proposed flood resilience mitigation, development of the surface water drainage strategy and due to the nature of the proposed development being a source of green energy contributing to net zero carbon emissions.

- North Yorkshire National Park lies 8km to the north of the Appeal Site and the Howardian Hills Area of Outstanding Natural Beauty lies 3km to the south west; and the proposed development will have a negligible effect on both.

- There are no unacceptable adverse landscape impacts. Once mitigation measures have established, including hedgerow management and additional planting, any effects on landscape fabric (i.e. existing physical features such as trees and hedgerows) would be negligible.

- Following the establishment of mitigation planting there would be an adverse residual effect of "Minor" significance on the landscape character between Ryton Riggs to the north, Edenhouse Road to the east, Freehold Lane to the south and Cheapsides to the west.

- 'Moderate' adverse effects on visual amenity would be experienced initially along the Public Right of Way (PRoW) network immediately adjoining the appeal site but that this would reduce to 'Minor' significance as mitigation establishes. In the wider landscape, adverse visual effects would range from 'Minor' to 'Negligible' significance.

- The proposed development would not give rise to any cumulative effects relating to landscape and visual impacts.

- The biodiversity enhancements proposed it would result in a net gain in biodiversity of 117% in biodiversity habitat units and 42.67% gain in hedgerow units (CD2.3). And that the ES (CD1.16) has considered the likely significant effects on important ecological features.

- The River Derwent Special Area of Conservation (SAC) and River Derwent Site of Special Scientific Interest (SSSI) are located approximately 0.6km to the south and the Ings Amotherby SSSI is located approximately 2.5km away to the west.

- A Habitats Regulations Assessment CD1.30 has been submitted which emphasises the importance of protecting watercourses during construction

and there are no ecological concerns subject to conditions ensuring proposed mitigation measures are in place.

- The development would not result in harm to in significant harm to the nearby River Derwent Special Area of Conservation (SAC) or River Derwent Site of Special Scientific Interest (SSSI), species protected under international or national legislation or Green Infrastructure Networks and in accordance with RLPS Policies SP14, SP15 and paragraph 180 of the NPPF.

- There are no above ground heritage assets within the appeal site, although the Grade II listed Acomb House Farmhouse is located 215m north and the Windmill Farm Grade II listed building is located around 60m to the east.

- The appeal scheme would provide significant public benefit that would outweigh the very low end of less than substantial harm to the setting of Acomb House Farmhouse and the Windmill at Windmill Farm.

- No alterations to any of the PRoW's are proposed.

- Moreover, there are no highways; noise; fire safety concerns subject to conditions.

8.0 The Case for Harmony Energy Ltd (the Appellant)

8.1 This summary contains all material points in relation to Harmony Energy Ltd's case and is substantially based upon the closing submissions made. It is also taken from the evidence given on behalf of the appellant from other documents submitted to the Inquiry.

8.2 The appellant starts from the position that the co-location of technologies in this way is strongly supported by Government Policy as being a feature of good design and efficient land use[1].

8.3 The appellant's overarching case is that there are numerous benefits of the scheme including contribution to generating renewable energy with the attendant benefits to climate change, energy security and net zero. But strikingly little harm given the following circumstances:

1) NYC withdrew reason for refusal (RfR) no.4 and in XX Mr Wood agreed that, having accepted the findings of the RVAA, there was no conflict with SP20. As such it is agreed between two main parties that there are no unacceptable impacts on residential amenity.

2) There is no harm to any designated landscape and no freestanding landscape case was taken by NYC.

3) No ecological receptors are alleged to be harmed by the proposal.

[1] EN-3 at paragraph 2.5.2 and 2.10.10 (CD8)

4) Any harm to NDHAs is at the "*very low end of less than substantial harm*" and is outweighed by the public benefits.

5) The site is not located within any area of major landscape restraint such as an AONB (now termed National Landscapes) or area of high landscape value. Nor is it within the Green Belt.

6) The principle of development is agreed to be in accordance with the local plan which supports the generation of renewable energy. Further, the plan clearly envisages that such development would take place in the open countryside and the supporting text to RLPS SP9 describes it as 'essential' that new land uses such as renewable energy schemes can come forward in order to diversify the rural economy. NYC rightly accepts that this scheme is rural diversification in the context of SP9.

7) It is agreed that there is no significant permanent loss of or harm to BMV soils.

8) It is agreed that the development is essential infrastructure and passes the exceptions test.

9) The benefits of generating renewable energy attract at least 'significant' weight.

10) It is also agreed between NYC and appellant that positive weight should be attached to the economic and biodiversity benefits of the scheme.

8.4 Turning to each of the main issues:-

i) Site selection a) Flood Risk

8.5 The sequential test only properly arises in relation to flood risk. The role of the sequential test is to steer new development to areas with the lowest risk of flooding from any source and, if not possible, to determine whether there are any other reasonably available sites within a suitable location for the type of development proposed.[2] If it is not possible, as in this case, the exception test has been applied and all parties agree the development constituting 'essential infrastructure'. Thus, passing the exceptions test.

8.6 The appeal proposal is a solar farm and BESS. Notably no Distribution Network Operator (DNO) substation is proposed. If included, this would represent a notable change to the development given its scale (40x40m) and consequent potential for different environmental effects. This is also a key part of the development's grid offer –that it does not require a DNO sub if the proposed intake substation is to be located within 300m of the Malton BSP. Any variation to this would be a different form of development to the extent that it would require a fresh grid offer and a different planning application.

[2] PPG paragraph 7-028

8.7 Mr Camplejohn explained, even if it would be theoretically possible to locate the intake substation within 300m using longer cabling, this becomes a different project when considering the length of cable that would be involved to reach the alternative sites. Whether a road, river or rail corridor would need to be crossed additional points. Further, no party rejected the proposition that the greater the distance from the PoC, the more expensive it becomes to build.

8.8 As a matter of general principle when considering alternative sites there is plenty of support for the appellant's view that grid connection should be the key locational consideration:

8.9 EN-3 at 2.10.22 notes that *"The capacity of the local grid network to accept the likely output from a proposed solar farm is critical to the technical and commercial feasibility of a development proposal*." And at 2.10.24: *"the connection voltage, availability of network capacity, and the distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal."*

8.10 In an appeal at Penhale Moor, Cornwall, the Inspector noted that *"the key"* factor in site selection is the ability to obtain a network connection.[3] He also placed weight on the on-site connection point which was said to maximise electricity captured and minimise environmental disturbance from longer cable routes. All of this is true in relation to the proposed development – the site sits adjacent to Malton BSP and benefits from an immediate connection offer, unconstrained by well reported and substantial grid connection queues.

8.11 Inspector Griffiths has also noted that easy access to the grid can be an important factor with access to the grid being a *"very important consideration*".[4]

8.12 If any of the alternative sites were favoured ahead of the appeal site, the appellant's grid offer would be redundant. This is a major part of the appeal proposal and the failure to capitalise on the early grid connection would be a failure to achieve the Government's ambition to urgently decarbonise. Notably, the Government's policy states that "*we consider that meeting energy security and climate change goals is urgent and of critical importance to the country, and that these goals can be achieved together with maintaining food security for the UK."*[5]

8.13 The Inspector stated that "*much has been made of the potential for land of lesser agricultural value to be used instead. However, it seems to me that it is unrealistic to make that comparison unless any such land has the same easy access to the grid*". None of the sites in the ASA or proposed by the R6 Party would have such easy access to the grid. Attempts by the R6 Party to suggest that directional drilling under a dual carriageway or rail line would be "easy" were entirely unconvincing. Mr Camplejohn provided clear evidence that such

[3] CD6.10 para 33
[4] CD6.12 paras 58-61
[5] See CD8.9 p.38

constraints were meaningful. They are both expensive and difficult, prohibitively so to this scheme.

8.14 Overall, the 'grid first' approach is consistent with other Inspector's decisions and Government policy. It is realistic – proximity to the PoC enhances the likelihood of deliverability. Notably the Carr House Farm project is also within 300m of its PoC to the overhead wires and the average project studied by Ms Caines is located within 1.6km of its PoC.[6]

8.15 As such, the project in its current form, and as per the accepted grid connection by Northern Powergrid needs to have its intake substation located within 300m of the PoC. This would amount to a sensible radius for the sequential test. However, the Inspector in the case before him presently does not need to reach a concluded view as to whether 300m, 2.5km or 5km is the most appropriate catchment. This is because whilst the appellant has undertaken a robust study of sites within 2.5km, Mr Stones' evidence demonstrates the absence of other suitable sites within 5km and the constraints mapping at CD10.10 makes it plain that Ryedale is not blessed with an abundance of unconstrained land.

8.16 Consequently, the 2.5km radius considered by Ms Caines is proportionate to the area given the lack of unconstrained land within a 7km radius (as shown on CD10.10), the absence of other sites in 5km and the average distances set out within her Rebuttal Appendix 1 (CD9.33). Moreover, importantly an 'ASA' is not a required document in local or national policy. The question of focus is whether 'there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.' The answer is 'no'.

8.17 On the detailed points raised by other parties:

1) Mr Stones' proposed alternative site to the north is much smaller than the appeal site and cannot host the proposal. A smaller development would be a different project and would not achieve the same benefits. Thus, is not a genuine alternative. Mr Stones' proposal would mean extending into: flood zone's 2 and 3; Grade 2 and 3 agricultural land; include a number of land owners; and is also closer to listed buildings. In doing so, it is not sequentially preferable in flood risk terms.

2) Mr Stones' proposed site to the south-east has essentially been considered as ASA8. This is in land which is shown as Grade 2 agricultural land on the maps and has an incredibly difficult grid connection including having to cross the A64, the rail line and the River Derwent SAC. If it were to connect to the overhead line, this would be in place of Carr House Farm (located around 16km away) and would be a smaller project given the capacity of the overhead line and would therefore be a different scheme realizing fewer benefits. It is therefore not a genuine alternative.

[6] Whilst much was made of the single project located at 7.4km, clearly this is very much an outlier.

3) The R6 also referred to land near the Malton Bacon Factory as being generally 'industrial' but no evidence of any available or more appropriate land in this area was produced.

4) NYC focussed entirely on the 2.5km limit, once it is accepted that this is (a) proportionate and (b) in any event, the Inspector has much wider evidence to demonstrate an absence of alternatives, one assumes that their case falls away and they accept that there is no alternative site within 2.5km.

5) NYC's objection to the 2.5km limit was based wholly on viability. As Ms Caines explained –not only is this only one element of looking at alternative sites, rhetorically what would the Council do with the costings they requested if they received them. NPPG provides guidance as to the standardised viability appraisal inputs including the level of developer's return. It does so to avoid debate about what is reasonable in the industry and to anonymise the exercise so that one does not end up in arguments about whether another given developer would accept a lower return. That guidance is central to viability appraisals and is wholly lacking in relation to solar schemes.

   As Ms Caines explained and was not challenged upon, solar viability appraisals are simply unheard of for this reason. In examination in chief Mr Wood reduced his 'ask' from a full appraisal or assessment (which is the language of Mr Wood's proof see paras 5.9, 5.21 and 6.15 which criticise the absence of "viability assessment") to simply asking for costings. To the extent that the appellant needs to demonstrate that projects which require a longer cable and more materials and more construction work are inherently more expensive, Mr Camplejohn has estimated such costs.[7] However, this principle was not in issue. Therefore, all NYC could have received was some figures, but without any benchmark as to at what point "more expensive" becomes "unviable" in an objective sense, the figures do not take us anywhere.

6) Moreover, Ms Caines' ASA does not discount any site based on viability alone. Cost is a factor but only in the broad sense that was agreed as being true i.e. further away equals more expense.

8.18 All land to the north of the appeal site (bar a small sliver of Flood Zone 1) is within Flood Zones 2 and 3. South of the appeal site lies the AONB, the A64, a rail line, the built up extent of Malton and then an area of high landscape value. Areas in between these designations are all in an area mapped on the ALC maps as being Grade 2 agricultural land.

8.19 Essentially, all alternative sites which could have an easy grid connection as they are not required to cross or have long sections of cable along the A64 are of equal or greater flood risk. All other sites would impinge upon other designations such as the AONB, visually important undeveloped areas or areas

[7] CD7.3

of high landscape value or would be higher grade agricultural land (so far as it can be ascertained from the mapping).

8.20 It should be noted that despite its limitations this represents a proportionate and sufficient tool for judging likelihood of BMV when compared to auguring soil samples and testing them on a range of third party owned sites and neither the Council nor R6 sought to suggest with any real vigour that the appellant should have undertaken copious off site soil surveys. Moreover, all sites to the south would suffer from these constraints and benefit from a difficult and lengthy grid connection required to cross the A64 and in some cases the rail line and the river Derwent (a SSSI and SAC) as well.

Site selection b) Soils/agricultural land

8.21 An ASA was produced even if not required. In relation to evidence of need the Inspector also has Government policy which clearly anticipates ground mounted solar on agricultural land (see CD8.9 p.37-38) and the 2024 WMS[8] which seeks to balance food security with energy security but does so in the context of up to 1% of agricultural land being used for solar projects and nevertheless does not change national policy on paying due regard to use of BMV.

8.22 The 2024 WMS speaks of 'minimising' impacts on BMV. This project has done just that. The ALC mapping shows the site as being Grade 3. Notably, neither NYC nor the R6 Party put forward any alternative sites on Grade 4 land. Grade 3 was the lowest grade proposed for any site. Therefore, in terms of initial site selection, the appellant cannot be fairly criticised. As far as land near the BSP goes, it is the lowest grade on the mapping available (save for unusable stretches of land near rivers). It is only after this stage that it was practical to discover that the appeal site had a mix of soils from grade 3b to grade 1.

8.23 This mix is important. There are no complete fields of BMV proposed to be sited under panels. Indeed, the survey undertaken on the wider 214ha site shows that the appellant has excluded those fields and centred the project on the area with the poorest quality soils. As the cropping choices on the appeal site will be limited by the mix, it is entirely artificial to say that the appeal site is x hectares of grade 1, for example, when the grade 1 land is incapable of being farmed in any different way to the areas of grade 3b as they fall within the same field boundaries. It should also go without saying that the appeal site was clearly greater quality agricultural land than the mapping would have suggested and this may well be true for other areas shown on the plan as grade 3.

8.24 The permanent loss of BMV soils is limited to less than 0.3ha. It being agreed by Mr Franklin that subject to adherence to an appropriately worded soil management condition. The soils are capable of being maintained and restored to their current grades.[9] Points made in relation to drainage are addressed by

[8] CD8.11
[9] CD10.9 - Agricultural land SoCG, 14 & 17

requirements of the proposed management plan and in any event are not based upon any actual evidence of the underdrainage or likely effects upon it.

8.25 As far as SP17 seeks to prevent irreversible loss of the soil resource, this appeal scheme would not sensibly offend that policy.

8.26 In relation to loss of agricultural land use and production, Mr Kernon has quantified this as being a negligible loss to food production based upon the difference made by higher yielding BMV land over lower grades. No one is realistically suggesting an alternative site that would not involve the use of at least grade 3 soils as shown on the ALC plans. Therefore, it is only the margin between loss of average performing soils and the 56% of BMV[10] within the site that is relevant for judging the impacts. Mr Kernon calculates this as 41 tonnes of wheat –in the context of the 22 million tonnes produced by the UK in 2023. The 47.2 ha of agricultural land within the site should also be viewed in the context of 1.12 million hectares of farmland (52% arable) in Yorkshire and the Humber.[11]

8.27 The context also includes incentives for farmers to take farming out of active production including grassland under the Countryside Stewardship Scheme and the new Sustainable Farming Incentive (SFI), plus other incentives such as under the Government's biomass strategy.[12] The Local Plan also has significant encouragement for growing biomass crops rather than food crops including at paragraph 7.34[13] and the table at 7.33 which envisages 46MW of within Ryedale. It is also noted that the R6 Party provided no tangible evidence as to the cropping on this farm and whether the crops produced are for human consumption as opposed to animal feed for example.

8.28 Additionally, the RLPS supports renewable energy generation in the open countryside. NYC agreed that the scheme was policy compliant in this regard and that the scheme should be seen as rural diversification in the context of SP9.[14]

8.29 The use of BMV has therefore been minimised and justified. It is also necessary in a district with high proportions of agricultural land but with ambitions to deliver renewables projects that some of this land will be used to achieve that aim. The land-take for this scheme is minimal and loss of food production is negligible. Particularly in the context of the SoS's decision at Mallard Pass which termed the loss of 360ha of BMV as having a negligible impact on cereal production and even the loss of up to 2114ha of BMV across Lincolnshire as having a negligible impact on food production.[15] The loss of 29.5ha of BMV on this site therefore cannot sensibly be described as anything more than negligible.

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[10] Mr Franklin disputes this figure but has not measured the site to check whether his assumptions are correct or not.
[11] CD 9.9 vol 1 TK POE para 8.38 to 8.44
[12] See TK POE para 9.19 and 9.20
[13] CD4.1 p.161
[14] Mr Wood evidence Inquiry Day 2.
[15] CD6.15 para's 4.98 & 4.100

ii) Impact on existing rural businesses

8.30 The background to this issue is that the AHA permits a landlord to take possession of tenanted land where an inconsistent planning permission is obtained. This is not dissimilar to similar provisions which permit a landowner to take possession of buildings which are due to be re-developed.

8.31 The planning system should not seek to tread on the toes of the AHA system which is a separate statutory regime which has set out the circumstances in which the legislature considers it acceptable for tenants to be required to surrender the tenancy and has provided for a regime of compensation. Whatever the criticisms of the regime, it remains on the statute books and the planning system should assume it will operate accordingly. As such, the AHA offers no security of tenure in circumstances where permission is granted and will compensate a tenant in line with the provisions of that regime.

8.32 The appellant has not sought to argue that this should be ignored but has instead sought to quantify and then mitigate any harm arising so that it can amount to a neutral factor in the planning balance.

8.33 To that end, the appellant has instructed an appraisal from Vickers and Barrass[16] which undertook an appraisal of what the residual farm could be used for. It is therefore far closer to a standardised viability appraisal than the R6 evidence as it establishes how any given farmer could farm the residual land. The R6 figures are predicated upon previous costs and income on the farm being replicated in future years, which may or may not be the case.

8.34 The appellant's projections are similar to the R6 Party's own proposed projections based upon a 3 year average. Mr Franklin stated in his EiC a 3 year average is likely to be more accurate given changes experienced in the past five years in terms of costs increases, etc. Both projections estimate an impact on the farm which would:

1) be less than the compensation package offered by the appellant, which is in addition to statutory compensation, and

2) leave a viable, profit making farm on the residual land. Mr Sturdy also confirmed that he would wish to stay.

8.35 The appellant's budgets, as analysed in Mr Kernon's Appendix KCC6, showed a projected reduced profit of £12,203 to £15,814, depending upon the budgets. As is clear in Appendices KCC7 and KCC8, these were not verbatim reproductions of the "John Nix" Pocketbook. But were mostly adjusted figures.

8.36 The R6 Party's evidence included an A3 spreadsheet at appendix 13 of Mr Franklin's proof. On the face of it, the Appendix 13 budget projections show post-development profits of (3 year adjusted average) £49,925 and (5 year average) £29,507. Both show that the post-development business will be profitable.

[16] CD9.9 KCC6,7 and 8

8.37 As such, the basis upon which Mr Wood reached his conclusion as to the scale of harm is contrary to the evidence presented. NYC's assessment that the farm will cease is wrong. The basis upon which Mr Wood considered there to be a potential for substantial harm is therefore incorrect. Further, Mr Wood gave no very credible answer as to why there should be any harm at all attaching in his alternative scenario in which the Inspector accepts the appellant's figures which demonstrate an absence of impact once compensation is factored. Moreover, his evidence doesn't address the fact that this is also the position on the 3 year figures relied upon by the R6.

8.38 The Appendix 13 budget projected reduced profits of £18,017 to £30,180 on the 3 and 5 year averages. As examined in XX of Mr Franklin and Mr Kernon, this reduction is significantly influenced by the fact that the document includes a reduction of £16,156 (3 year) and £18,300 (5 year) due to reduced Single Farm Payment which is not as a result of the solar farm. Therefore, if one is seeking to quantify the effects of the development (as opposed to merely projecting how much money the farm will make in a future year) the R6 figures do not assist with this as they include a substantial reduction which has nothing whatsoever to do with the effects of the appeal scheme.

8.39 If the effect of the SFP is removed from the calculation, the reduction in profits is (3 year) £1,861 (£18,017 minus £16,156) or (5 year) £11,880 (£30,180 minus £18,300), as explained by Mr Kernon in EiC and XX.

8.40 The other figure that is notably impacting the R6 Party's projections is the extra cost of £8,500 in the "other" box in the "consumables" section. Mr Franklin could not explain what this was. Indeed, the inquiry was not told that this was for straw until Mr Kernon was cross examined on inquiry day 6.

8.41 The figure put in for the extra cost is £8,500 but as Mr Kernon said in chief, the figure used in the budget was £9,489 (3 year) and £9,778 (5 year), with the difference unexplained. All in all, the Appendix 13 figures are self-evidently flawed and are of little assistance when seeking to quantify the anticipated effects of the development on the farm business.

8.42 In relation to straw, again new facts were put to Mr Kernon by way of cross examination which were not based upon any evidence before the inquiry. However, it was proposed that 116 to 150t of wheat straw would be needed for Mr Sturdy's cattle. As analysed by Mr Kernon, wheat straw yields 2.5 to 5.0 t/ha (1–2 tonnes per acre). The higher figure of 150t would require, therefore, 30–60ha (150 divided by 2.5 or 5.0). There will be 63ha available post development, so even with a rotation straw shortages are unlikely and the (unevidenced) £8500 should be removed from the costings.

8.43 Even if there was a shortfall in a particular year, the addition of an extra £8,500 (then increased to £9,489 to £9,778) is simply not justified by reference to any evidence.

8.44 Additional figures were provided within an appendix to Mr Franklin's rebuttal. Mr Kernon understandably expressed some doubt as to how the 3 year projected impact could increase from £18,000 to over £37,000 in between the

production of the proofs and rebuttals. Mr Franklin was unable to assist the inquiry with this during his evidence and despite careful review, Mr Kernon was also unable to see how this figure had been arrived at. As such, this figure should be given no weight.

8.45 Other aspects of the effect on the tenants also fall short of providing evidence of a significant impact:

1) Historic investment in a grain store should be included within depreciation figures if is to be included at all;

2) The claimed impact on the green waste operation appears to be that the tenants would have too much green waste and insufficient land to spread it. This latter point was unevidenced despite Mr Kernon seeking figures as to the nutrient limits said to restrict spreading over the land. Further, the tenants have not explained why additional soil conditioner produced could not be sold for additional profit or traded for a commodity the farm requires (such as straw); and

3) There is no robust evidence to suggest that the Windmill property would not continue to be a source of rental income. Mr Ingham's evidence is that the property would remain an attractive place to live given that it is orientated towards the south and views in this direction are unaffected.

8.46 Even taking the R6's evidence at face value, the impact is likely to be well below the compensation offered by the appellant. And for the reasons set out above, the R6 figures significantly overestimate the impact given the inclusion of over £16,000 loss of SFP and an additional unjustified cost for straw at around £8500. Set against the impact, the tenants would receive statutory compensation and in addition, would retain their home and significant sources of income which would not be affected including the rented property at Windmill Farm, circa 100 head of cattle, the green waste contract, and a residual area of arable land, all of which would turn a profit.

8.47 In relation to the rural economy, one needs to be careful not to double count any harm with loss of BMV addressed above and, as Ms Caines notes, the impact will be negligible and more than outweighed by the positive economic benefits of the scheme (which are also recognised by the Council).

8.48 The Inspector in the Washford decision[17] and the LPA's own officer's report[18] both take a broader view of economic impacts and balance any negative economic impacts on tenants against the beneficial economic impacts on the landlord and wider economy. Mr Wood rightly accepted that the scheme was rural diversification in the manner encouraged by SP9. Any temporary loss of the land for food production needs to be seen in this context.

iii) Heritage impact

[17] CD6.13
[18] CD3.1 para 10.80

8.49 NYC and the appellant agree in the main SoCG (CD9.2) that harm to designated assets is at the very low end of less than substantial harm and is outweighed by the public benefits.

8.50 However, the R6 Party relies upon harm to non-designated assets (which is not a harm found by the Council at all) and considers that the harm to designated assets is major/moderate.[19]

8.51 As Ms Bage explained in her written and oral evidence, this overstates the effects of developing what is a very low-scale development which will be adequately screened behind new and existing planting within part of the overall setting to these assets. Whilst the setting clearly contributes something to the significance of Acomb Farmhouse and the Windmill (noting that the Windmill has lost its functional connection to the land), it is not everything, nor will the setting be entirely obliterated.

8.52 Instead, they will still be legible in an agricultural landscape and the temporary siting of a solar array within part of the setting will not change this. The development is set over 200m away from Acomb Farmhouse and will be entirely screened by new planting. It is therefore a significant overstatement to describe these assets as suffering a harm which is close to finding of substantial harm i.e. that a key element is seriously affected with substantial harm being a "high test".

8.53 In relation to the historic landscape, as explained by Ms Bage, the appeal scheme will enhance rather than harm the field boundaries in this location and will not affect the prominence of the Windmill as a structure, being sited well below roof lines of buildings, and hedge lines.

8.54 In relation to non-designated assets:

1) Eden Farmhouse sits over 350m from the nearest panels and Mr Ingham's appendices demonstrate that views are incredibly limited even at 'year 1'.[20]

2) Ms Bell considered the impact to Eden House to be negligible.

3) Windmill Farm draws its significance from its immediate context and impacts are similar to the Windmill itself i.e. a portion of the overall setting.

4) Eden Camp – Ms Bell considered this to have a 'low' magnitude of impact based upon visual impact. However, the BESS will be separated by the Camp's own palisade fence and sited behind a 3m high landscaped bund. Further, as Ms Bage explained the appeal site does not contribute and it isn't an asset that draws its significance from its setting.

8.55 Ms Bage's evidence was considered and proportionate. It was also entirely in line with NYC's own heritage officer and views expressed within their committee report.

[19] Ms Bell summary POE 6.1
[20] CD9.8 JI PoE Appendix 1

8.56 Overall, the resultant heritage harm would be minor and easily outweighed by the public benefits of the scheme.

iv) Residential living conditions and amenity

8.57 NYC limited its case to residential visual amenity. However, it was clear from Mr Wood's evidence that it has misunderstood the findings of the RVAA. The Council accepted the findings of the RVAA, did not seek to provide any contrary view as to the methodology or conclusions of that assessment but nevertheless sought to attribute harm based upon the stage 3 findings of the report without considering the stage 4 assessment i.e., based upon the interim rather than final conclusions of the report.

8.58 This is important as the stage 3 findings stop short and only look at a magnitude of change. They do not consider this in the context of the applicable RVA Threshold. The guidance (which is not challenged by any party as being the applicable guidance and setting out the correct test) clearly explains that RVA methodology differs from a "standard" landscape and visual appraisal as it includes a 'stage 4' assessment as to whether the earlier findings do or do not meet the RVA Threshold.[21]

8.59 Paragraph 1.6 of the guidance states that: *"It is not uncommon for significant adverse effects on views and visual amenity to be experienced by people at their place of residence as a result of introducing a new development into the landscape. In itself this does not necessarily cause particular planning concern. However, there are situations where the effect on the outlook / visual amenity of a residential property is so great that it is not generally considered to be in the public interest to permit such conditions to occur where they did not exist before"*.

8.60 The decision-maker is therefore not looking to see whether a significant adverse effect occurs, but whether this also crosses over into the effect being 'so great' that the public interest ought not to permit the effect to occur at all (in other words, the RVA Threshold – see section 2 of the guidance).

8.61 It is clear from Mr Wood's proof that the input into his planning balance was the assessment of change included within the RVAA i.e. stage 3 (see p.7 of the guidance and RW POE para 5.37 and 5.38). He agreed in evidence that this did not consider the stage 4 assessment of the RVA Threshold and he did not seek to challenge the findings of the RVAA in this regard.

8.62 As such, the input into Mr Wood's planning balance ought to have been those derived from the RVAA i.e., that there are no effects which exceed the threshold. There are therefore no effects which are matters of public rather than private interest.

8.63 The R6 Party equally failed to engage with the RVAA findings on this level. Mrs Sturdy's concerns about views are noted, however, they are not inconsistent

[21] CD8.16

with the findings of the RVAA which does acknowledge a notable degree of change in views, however, it also concludes that such changes would not be "so great" that they ought not to be permitted.

8.64 Mr Woods conceded there would be no breach of policy SP20 which seeks to avoid material adverse impacts. However, this must mean material in a planning sense and impacts below the RVAA threshold are by definition not material in planning terms.

8.65 The remainder of the R6 case centred upon broader visual impacts from public rights of way. Photomontage methodology aside, there is little difference between the parties. The appellant's LVA and Mr Ingham's evidence recognise that from public rights of way immediately adjoining the site, and for the short stretches during which they pass the site there would be a moderate adverse impact.[22] Yet mitigation planting would reduce such impacts to minor and the effects would be felt would be for very small walking route stretches. Critically, there would be no longer range or even medium range adverse impacts.

8.66 Mr Ingham rejected any assertion that additional hedge planting and growth would be harmful, hedges being characteristic of the area.[23] Mr Ingham also noted NYC will ultimately have oversight of the LEMP which addresses hedgerow management and this could provide for a specification as to how hedges are maintained.

8.67 Views from the AONB are considered by the appellant to be overstated by the R6 evidence by using a telescopic lens to produce visualisations. This point was not refuted. As set out within the LVA[24] the site is barely perceptible from public vantage points in the AONB.

8.68 R6 criticism rested heavily upon a diagonal view taken from Great Sike Road, behind Windmill Farm and across to the southern portion of the site and rested upon the absence of hedge in this location on Great Sike Road. But the R6 Party's concern is not well founded – the distance between the viewer and the solar array would be around 200m and the mitigation planting on the eastern part of the appeal site would also be in between the viewer and any panels. The matter comes down to an at most 150m stretch along Great Sike Road and viewing panels at an oblique angle which are in any event to be sited behind a hedgerow.

8.69 NYC did not make any landscape case the appeal site is well screened and well sited in a flat landscape which is free from any landscape designation. Overall, the effects are minimal and is not a reason for refusing the scheme, as acknowledged by the Council.

Other matters raised by third parties

[22] CD1.20 Appendix A at 6.5.16
[23] CD8.15 page 165
[24] CD1.20 LVA Paragraph 6.5.26

8.70 The operators of Eden Camp raised a concern in relation to noise – this was not a point pursued by NYC and no objection was received their Environmental Health Team. The appellant's noise note and response to Eden Camp's criticisms of it deals with the point. Collectively, this shows consideration has been given to Eden Camp's operation but that the background noise environment is dominated by proximity to the A64. Further, the appeal scheme includes a 3m high soil bund in between the museum and the BESS.[25]

8.71 Fire and drainage concerns are addressed. NYC is satisfied that a condition requiring the submission of a final fire risk assessment and management plan would adequately address any risks in this regard. Moreover, the drainage strategy would not involve discharge into a sensitive receptor. It includes a fire water pond to contain any contaminated fire water in the event of a fire.

v) Overall planning balance conclusions of the Appellant

8.72 NYC acknowledges that the scheme accords with two key policies of the plan - SP1 and SP18 with the latter being the key policy guiding whether renewable energy projects should be permitted or not. And, following XX, no conflict with SP20.

8.73 Set against this, even on the NYC's case is conflict with SP17 and only partial conflict with SP9. Even on the Council's case one could reasonably conclude that there is compliance with the plan overall.

8.74 However, there no conflict with SP17 or SP9. In relation to the latter, in line with the Officer's report, once the harms and benefits to the rural economy are balanced, this reasonably comes down in favour of compliance with SP9 given that the policy is expressly written in contemplation of renewable energy projects on agricultural land and given NYC's agreement that the scheme is rural diversification supported by the policy. It does not make sense to read the policy as encouraging diversification on the one hand (which must sensibly mean diversification away from food production) but then, on the other, to find harm against this policy for projects which diversify away from food production.

8.75 SP17 compliance stands or falls with whether (1) the appellant has demonstrated the absence of reasonably available alternative sites at lower risk of flooding and (2) the loss of BMV to be justified (noting only 0.3ha of irreversible loss including tree planting). As set out above, there is due evidence that there are no realistic alternatives in this area. Certainly, none which would allow the same benefits to be realised in terms of easy and immediate grid connection, noting NPPF paragraph 168.

8.76 The benefits are largely agreed with NYC in terms of the contribution of the project to the Government's energy security and net zero agenda. As set out by Ms Caines, ground mounted solar and BESS are both key parts of the Government's climate change, net zero and energy security policies. The reduction in carbon emission resulting from the proposed development is the

[25] CD7.15

equivalent of meeting the energy needs of over 8,660 homes per year, and carbon dioxide savings amounting to just over 12,500 tonnes per year. This means the scheme could supply the average annual electricity needs of 38% of the households in the former Ryedale district.

8.77 The scheme unusually benefits from an immediate grid offer meaning it can be delivered swiftly and bring benefits immediately following a standard 18 month lead time. As explained by Mr Camplejohn, if this scheme were to be refused, it is not the case that another project in the queue would simply take its place on an equivalent basis. There are clear capacity and feasibility constraints to bringing forward alternative sites under the Malton BSP.

8.78 Furthermore, an alternative connection would sit behind the private Knapton Generating Station (constrained to 80MW) and would not be able to connect as a result of an 83.5MW limitation 'higher up' the network at the transmission connected Osbaldwick Grid Supply Point. The upshot is that until significant transmission upgrades are completed, new projects will not be able to connect in this region. The appellant's scheme is suitably sized, below 50MW, to take advantage of being delivered immediately, not having to wait for such upgrades. It should also be noted that the Carr House Farm scheme is proposed at 23.5MW, utilising the last remaining headroom due to overhead line voltage constraints at 28MW, and any proposal on the Birdsall land is years from delivery based on standard timescales from grid offer to connection – noting that there is no evidence of planning progress and the appellant's grid offer was Mid 2020.

8.79 In short, the appeal scheme is in a fortunate position which will not be replicated by the next project in the queue at Malton and the immediate grid offer is therefore a notable benefit of the scheme in light of the "urgent" need to address climate change.

8.80 The Government seeks deployment of large scale ground mounted solar across the UK. This is the only realistic location in Ryedale, which is an area which is required to "do its bit" as part of the Government's agenda on renewable energy and energy security. NYC has also declared a 'Climate Emergency' (CD8.18) and its own adopted policy seeks to deliver 2500MW of capacity from solar, onshore wind and hydropower by 2038.[26]

8.81 Despite permissive RLPS policies which support renewable energy, Ryedale has failed to deliver any utility scale projects since the adoption of the plan in 2013. This appeal presents a significant opportunity to assist Ryedale and North Yorkshire in delivering upon their own plan and policy ambitions.

8.82 This scheme can generate significant benefits in a way which would not have more than a negligible impact on food production, would not cause more than a very low level of harm to heritage assets, would not have significant landscape or visual impacts and would not unduly affect residential amenity. The scheme would have a neutral financial impact on the tenants overall and they will be compensated both by the operation of the statutory scheme which

[26] CD8.18 at page 18

secures possession of the land and by the appellant's offer of compensation. The scheme can also be brought forward quickly, unlike projects further back in the 'queue'.

8.83 In circumstances where NYC agrees that the scheme complies with the 'key' policy against which the scheme should be judged, SP18[27], the Inspector invited to conclude that the scheme complies with the development plan and recommend that the appeal be allowed.

8.84 In any event, the appellant's case is that there are numerous benefits of the appeal scheme including contribution to generating renewable energy with the attendant benefits to climate change, energy security and net zero and strikingly little harm. The balance of harm versus the benefits assessed against the development plan is argued as falling in favour of the appellant.

9.0 The Case for North Yorkshire Council (NYC)

9.1 This summary contains all material points in relation to NYC's case and it is substantially based upon the closing submissions made. It is also taken from the evidence given on behalf of NYC and from other documents submitted to the Inquiry.

9.2 NYC in referring to their Decision Notice (CD3.3) do not dispute that the principle of the development appealed is supported both by the development plan and national policy. But that does not preclude the need to ensure the impacts are (or can be made) acceptable[28]. This requires robust methodology to support any conclusions that there are no sequentially preferable sites available from a flood risk perspective.

9.3 Robust methodology is also required to support conclusions that the loss of the ability to use the land, comprising of at least 56% BMV land, for food production is justified. And, it requires careful and detailed analysis to guarantee that existing rural businesses will not be unacceptably adversely affected. Especially where the scheme would result in the loss of a protected agricultural tenancy.

9.4 Such safeguards are argued as necessary to ensure renewable energy schemes cannot simply rely on their green credentials as a de facto justification for various harms. There must be a high level of scrutiny to ensure that development is in the right place. In that context, dealing with NYC's reasons for refusal in turn:-

i) Flood risk

9.5 The appeal site is within Flood Zones 2 and 3.[29] There is no dispute between the parties that the appeal scheme is classified as 'essential infrastructure' in

[27] RW PoE paragraph 6.1
[28] NPPF Paragraph 163(b), Policy SP18
[29] CD9.2 - SoCG, Paragraph 3.11

accordance with the PPG Food Risk Vulnerability classifications.[30] As such, it is agreed that the appeal scheme is subject to the sequential test set out in both national and local policy.[31]

9.6 Policy SP17, Managing Air Quality, Land and Water Resources, of the RLPS states that flood risk will be managed by undertaking a sequential test.[32] It is consistent with that set out in NPPF paragraphs 167-168. The requirement is particularly important so to avoid, where possible, flood risk to people and property and must be reviewed in that context.[33] NPS EN-3 does not override this sequential test.[34]

9.7 As NYC planning witness Mr Richard Wood (RW) highlighted, NPSs are applicable for Nationally Significant Infrastructure Projects (NSIPs), and although they can amount to material considerations[35] that is "*judged on a case by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy*."[36] There is well established and significant planning policy at both local and national level covering this appeal.

9.8 The appellant's primary case is that the original sequential test[37], which considered alternative sites within a 300m PoC from Malton BSP substation is sufficient given the technical constraints and their agreement with Northern Powergrid (NPg).[38]

9.9 In particular, it is repeatedly asserted in the evidence of Ms Rebecca Caines (RC) that a scheme beyond the 300m PoC would fundamentally change the parameters of the proposed development, such that it "would not therefore be strictly the same development".[39] It was the appellant's commercial decision to pursue grid connection discussions in relation to the land in question. A different red line application boundary for the grid connection (i.e. in respect of land further afield) could have been sought but the appellant chose to pursue this site. An argument put forward by the appellant to suggest that the sequential test should be constrained by such commercial decisions is a slippery slope and puts the cart before the horse.

9.10 The flood risk classification of the appeal site has remained the same since before NPg agreement was entered into. The original sequential test explains that "*until 2020, the application site and much of the surrounding area fell within Flood Zone 1. However, modelling by the EA in early 2020 lead to a reclassification of some areas, including the application site, into Flood Zones 2 and 3*."[40] As RC accepted in XX that was before the grid connection agreement

[30] Ibid, Paragraph 3.13
[31] CD9.2 - SoCG, Paragraph 3.10
[32] CD4.1
[33] NPPF para 168
[34] Accepted by RC in XX
[35] NPPF para 5
[36] NPS EN1, para 1.1.2
[37] CD1.20
[38] CD9.3 - Appellant's SoC, Para 5.28 & RC PoE CD9.7, para 27-28
[39] CD9.7 - RC POE, para 7.28
[40] CD1.20, Appendix C2

was entered into (dated October 2020),[41] and thus a sequential test (even if it was not a thoroughly detailed assessment at that stage) should have been undertaken prior to that agreement.

9.11 All than can be relied upon to understand the extent to which flood risk was taken into account in the initial site selection exercise and viability review referred to by Mr Gary Camplejohn's (GC) Technical Note[42] is that he set out in oral evidence. He was not privy to the site selection exercise from a planning perspective, which is not part of his job and which was undertaken by others in the company who did not present evidence before the inquiry.

9.12 He could not tell us the extent to which the internal initial site selection review approached, considered, or applied queries around viability or the flood risk sequential test; other than accepting it was high level. The only evidence in terms of the flood risk sequential test that appears before this inquiry begins with the original sequential test[43] dated November 2022 (i.e. 2 years after the NPg agreement was entered into).

9.13 The clarifications document updated sequential test and ASA are all even more recent. The only reasonable inference that can be drawn is that flood risk was not properly assessed before this site was chosen by the appellant to form the basis of an application, or discussions, for a grid connection agreement. Indeed, that aligns with GC's explanation of the three important elements that are required: a grid connection, land ownership and planning; where he stated in EIC that "*land ownership is the starting point*".

9.14 In fact, on the appellant's approach, planning seems to be last in the queue with important planning considerations ignored, or at the very least not properly assessed, before the grid connection agreement was secured. To that extent reference to the NPg agreement and the appellant's concerns about getting pushed back in the grid connection queue should not be given any weight, because as RC accepted in XX it could be described as doing things the wrong way round.

9.15 Second, the appellant's reliance on 'technical constraints' to justify a maximum search area of 300m is a red herring; that has been firmly established through this inquiry. Numerous documents, including the original sequential test; the technical note;[44] and more recently GC's rebuttal;[45] all confirm that the development could technically be sited at a distance further from the PoC, but claim that the increased costs associated with additional equipment and

[41] CD9.7 -RC POE, Appendix 1
[42] CD7.3, states: "*Upon determining that there were no other more suitable sites in planning terms (please review the Statement of Case and ASA associated with the Appeal for further information), within a viable distance from Malton BSP, and the adjacent land next to Malton BSP was deemed to be the most logical location – with the approval of the landowner, Harmony Energy made a grid connection application to NPg*." The NPg agreement (RC Appendices) also refers to "following design approval".
[43] CD1.20, Appendix C2
[44] CD7.3
[45] CD9.35

infrastructure (including for example a new DNO substation), would make the scheme unviable.[46]

9.16 The technical and viability considerations for each solar scheme are different and references in the original sequential test to 'technical constraints'[47] in reality, are matters of viability. That is because, as Mr Camplejohn stated, "*everything is technically possible*".[48] Indeed, that is reflected in the examples provided in RC's rebuttal, which sets out 31 schemes with planning permission that have a range of PoC distances up to 7.4km.

9.17 It can safely be assumed that those schemes were pursued on the basis that they were viable and feasible. Indeed, RC uses them to show "the variability and project-specific considerations for projects like the proposed development."[49] The result is that there are no technical limitations associated with the scheme, in part or at all. GC accepted that the solar panels could be sited further from the PoC for example, even if the intake substation remains within the 300m radius.

9.18 Equally, it was accepted that the whole scheme could be sited further from the PoC, it would just require additional infrastructure in the form of a DNO substation and additional cabling. The appellant's position is, in short, that anything beyond the 300m would be unviable.

9.19 The problem in this appeal is that the non-viability of alternative sites or distances is presented as an unevidenced, and unsubstantiated, assertion. The lack of a standardised methodology for solar farm schemes, or policy requirement for a viability assessment, is just not relevant.[50] Viability has been relied on to constrain the sequential test parameters and as such the appellant has brought it into the spotlight. However, there is no evidence that can be tested to confirm whether such an assertion, which appears to apply to any distance beyond 300m from the PoC, is remotely correct. GC's costs evidence[51] asserts that the increased expenditure would be approximately £0.9m per additional km of cabling and £1.5m for a new DNO substation.

9.20 These are said to be fair noting two recently built projects at Hawthorn Pit (Durham) and Rusholme (Selby).[52] However, neither general costs, nor viability evidence, in relation to either of those projects is before this inquiry. GC also assessed what he terms a hypothetical scenario if the scheme were to be sited at a greater distance than 300m from Malton BSP.[53] However, having set the additional costs out he jumps straight to the conclusion that such a scheme would not be viable.

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[46] See the sequential test clarifications document (CD2.9) at §7.19, §7.27, §7.41 and GC Rebuttal at §3.5 and 3.8 for example.
[47] CD1.20, §3.9, §3.10, §3.12, §3.13, §3.14, §3.15
[48] GC in XX
[49] CD9.32 - RC Rebuttal, §3.7
[50] Rebecca Caines POE (CD9.7), §7.22; Rebuttal (CD9.32), §3.4
[51] CD7.3
[52] CD9.35 - GC Rebuttal, §3.7
[53] CD7.3

9.21 The total calculations, including overall build costs, or even reduced profit margins, is naught. The costs set out are therefore entirely meaningless where they cannot be considered in context. They could amount to an increased build cost of 1% overall, or 10%. There is no way of knowing whether, or to what extent, they would even affect the appellant's profit margin. Importantly, GC is not a viability expert nor the responsible individual in the appellant's company for determining whether schemes are viable or if they should be pursued.[54]

9.22 The unreasonableness of the appellant's lack of viability evidence was further highlighted in GC's XX when he indicated there was an established "*solar wide industry approach*" to viability, which he explained was relatively simple. That approach considers costs in pounds per MW, where he accepted there is an acceptable industry range. Moreover, he also accepted that there would be a maximum pounds per MW cost that would be acceptable to the appellant for this Development to be viable.

9.23 GC could not provide any answer as to why that simple calculation had not been provided, which RW accepted in evidence would be applied so long as it was reasonable (i.e. based on whatever profit margin the appellant's business model works to), due to the lack of standard methodology or applicable guidance setting out expected profit margins, as there is for housing development for instance. The lack of any evidence whatsoever is even more stark where it has been an active criticism for no less than 4 years. Emails from the Council[55] dated 2020 indicate the criticism; as does the Committee Report.[56] RC rightly accepted in XX that the criticism falls firmly within the scope of RfR1.

9.24 The appellant has had ample opportunity to present any viability evidence but has chosen not to do so. RC's criticism that too much emphasis has been placed on viability in this inquiry is misplaced. Viability is, and has been for some time, the sole justification for the appellant's reliance on a 300m radius from Malton BSP. It is however unsubstantiated and given the ease of which such evidence could have been provided to address NYC's concern in this respect. Despite numerous requests it is unclear as to why.

9.25 Alternatively, the appellant puts forward that in any event, an updated sequential test[57] and alternatives sites assessment ("ASA")[58] has been provided to demonstrate that there are no sequentially preferable reasonably available sites within 2.5km of the point of PoC. However, the appellant's updated approach still fails to properly meet the sequential test requirements for two reasons.

9.26 First, several factors are applied in the ASA and updated sequential test to compare and discount alternative sites. Given the conclusions the robustness

[54] GC accepted in evidence that he deals with the input of technical costs, but that the decision in relation to the viability of a scheme does not lie with him.
[55] CD1.20, Appendix C2
[56] CD3.1, §10.52 and §11.2
[57] CD7.2
[58] CD7.1

of the methodology is therefore important. The updated sequential test methodology explains that 'physical development constraints' and 'operational constraints' have been considered in assessing alternative sites.[59]

9.27 Indeed, that has factored into discounting alternative sites including alternative sites 1, 3, 4, 5, 6 and 7.[60] Many of these are discounted at least in part because they would require the need to include a DNO substation. None however appear to consider or assess viability in respect of only the panels being sited further away (and therefore no need for an additional DNO substation) as GC accepted was entirely technically achievable. The same can be seen in the ASA which references 'viability and feasibility' and commercial feasibility within the 'grid connection' principle.[61]

9.28 However, he accepted during XX that those are not operational or physical constraints properly considered, they are points of viability. RC's response in oral evidence was that it doesn't matter if they are unsubstantiated factors because they are just one of numerous factors that are applied to discounting alternative sites.

9.29 The problem, however, as she accepted in XX is that we do not know how much weight was attributed to each factor. Her argument is the same as suggesting applying a factor which asks whether Expert A likes the site, and not presenting any evidence from Expert A or calling him to give evidence at the inquiry to be tested, is nonetheless perfectly permissible because it is just one of several factors.

9.30 Insofar as viability is even a factor (let alone where it appears to be more than one for both the updated sequential test and ASA), we do not know to what extent the conclusions would remain the same if that factor was not included as a relevant consideration or if the conclusions on viability in relation to each site was wrong; which we cannot test because there is no viability evidence. To that extent there is a methodological flaw which infects the assessments, and their conclusions.

9.31 Second, and in any event, the updated sequential test applies a 2.5km search area, which is labelled a "robust approach"[62] solely based on one appeal decision which applied a 1.5km radius.[63] That appeal decision, however, discounted a search area beyond a 1.5km radius on the basis that it would stray into the consideration of sites within areas of alternative substations elsewhere.[64] That is not the case for this scheme. There is only one substation in the former Ryedale district (repeatedly emphasised by the appellant). The next nearest substation would be in York or Scarborough.[65]

[59] CD7.2, §5.12
[60] Ibid, §5.18, §5.20, §5.21, §5.23, §5.25, §5.26, §5.27
[61] CD7.1, §3.2
[62] Rebecca Caines POE (CD9.7), §7.35
[63] CD6.14
[64] Ibid, §28
[65] CD1.20, Figure 3

9.32 Reference to technical constraints at paragraph 28 of the Appeal Decision are similarly not applicable as both the appellant's experts accepted in XX that the technical considerations for each solar scheme are different, which reflects the specific infrastructure in place and required, specific connection agreement and so forth.

9.33 Far from being robust as described in RC's evidence,[66] that is not even a reasonable approach, especially in the context of other schemes and decisions. For example, a greater search area of 3km in at Carr House Solar Farm in the former Scarborough district was applied, which importantly is a lower capacity scheme than the proposed Development.[67]

9.34 Further, Inspector Parker refused to accept a 4km search area employed in an ASA (in relation to BMV land) in respect of a proposal in Manuden because it was similarly unsubstantiated.[68] The point is further emphasised by the evidence in respect of the considerable variability of PoC distances in schemes. The result is that the 2.5km search area is not reasonable. RC's attempt to remedy this by suggesting that she had looked, during the inquiry, at alternative sited presented by OS within 5km instead, and nevertheless discounted, them is inadmissible. There is no evidence before the inquiry of any exercise undertaken to consider whether sites beyond 2.5km are sequentially preferable and thus the appellant's case stands or falls on the application of 2.5km alone.

9.35 Accordingly, the appellant has not satisfied the requirements of the sequential test. Reasonably available alternative sites for the scheme have not been properly assessed. Thus, development in Flood Zones 2 and 3 is not justified and in conflict with Policy SP17.

ii) Best and Most Versatile land

9.36 The protection of BMV land, both as a resource and one that is available for use (what has been referred to in this inquiry as the two strands), is reflected

[66] CD-9.7 RC POE
[67] CD8.33, §4.8
[68] CD6.18, §52 which states: "*Whilst an Alternative Sites Assessment (dated September 2022) has been submitted, this is limited by the reliance on an unsubstantiated distance of 4km PoC with the electricity grid. Moreover, the search area was mainly limited to the Uttlesford District (for example the brownfield land search) even though the East Herts District is located immediately to the west of the site. Whilst such assessment cannot be exhaustive ad infinitum it is, nonetheless, reasonable to assume that it would detail reasoning as to why 4km is the maximum range for a connection point and take into account the geographical scope of the site – _rather than local authority boundaries…*"

in national policy,[69] Written Ministerial Statements (WMS),[70] National Policy Statements (NPS)[71], and the PPG, which requires that the proposed use of any agricultural land be shown to be necessary and poorer quality land used in preference to higher quality land[72].

9.37 That is a matter of agreement between the parties as established in the XX of RC and Mr Tony Kernon (TK). Indeed, Natural England's consultation response[73] is entirely consistent with that approach, and similarly reflects the need to consider whether it is an effective use of BMV land[74].

9.38 Both agreed that the weight to be given to proposed amendments to the NPPF must be very limited/ towards the lower end of the scale, because the consultation period has only just ended and it is yet to be seen whether the amendments will be brought into effect. It is also agreed that the 2015 WMS has not been revoked and as such the requirement to justify the use of BMV through "the most compelling evidence" remains applicable. The 2024 WMS also recently reinforced the importance of food security (i.e. the use of BMV land), which has been recognised in the Penhale Moore Appeal Decision cited by Mr Kernon[75].

9.39 RLPS Policy SP17 states that land resources will be protected and improved by: *Prioritising the use of previously developed land and protecting the best and most versatile agricultural land from irreversible loss. ….Proposals for major development coming forward on sites that are not allocated for development which would result in the loss of the Best and Most Versatile Agricultural Land will be resisted unless it can be demonstrated that the use proposed cannot be located elsewhere and that the need for the development outweighs the loss of the resource.*

9.40 There was initially some debate between the parties as to the interpretation of Policy SP17, not least because TK (who is not a planning witness and accepted in XX that policy matters ought overall to be for RC) argued that, adopting the

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[69] NPPF §180 expressly recognises the economic and other benefits of BMV land and footnote 62 recognises the availability of agricultural land. TK accepted in XX that it is still a material consideration and applicable, despite the position in his POE that it is constrained to plan making as a result of NPPF §181. RC accepted in XX that NPPF §163 must be read as a whole, which includes considering whether the impacts of the scheme are (or can be made) acceptable (i.e. they cannot be ignored simply because of the wording in favour of renewable energy projects in NPPF §163(a)).
[70] CD8.10, CD8.11
[71] CD8.1 - NPS EN1, §5.11.12 states: "*Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5)*."
[72] CD8.19
[73] CD3.1 Paragraph 10.67
[74] *Ibid Natural England state: "However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large scale solar farms on previously developed and non-agricultural land."*
[75] CD6.31

definition of loss in the IEMA guide to interpret Policy SP17, loss can only mean irreversible loss. However, common ground appeared to be reached through the XX of RC. She accepted that the IEMA guide, which defines impact for EIA purposes as "*permanent, irreversible loss of one or more soil functions or soil volumes (including permanent sealing or land quality downgrading)*" is not relevant for the interpretation of national or local policy.

9.41 The correct approach is to consider the policy wording and interpret it in light of the reasoned justification. Policy SP17 distinguishes between 'irreversible loss' and 'loss'. To suggest that the latter necessarily means the former would be to read into the policy words which are not there.

9.42 The first of those plainly protects the resource itself. Paragraph 7.27 of the reasoned justification highlights the "*need to support local food production and it is important that as a resource, the loss of productive land, particularly the loss of Best and Most Versatile Land is carefully managed and avoided…*"[76] It also expressly refers to the use of BMVL as a resource in the context of productive land for local food production. As a result, the general reference to 'loss' in SP17, as RC agreed in XX, must include the loss of use, or availability, of the resource. In fact, if it did not, there would be serious doubt as to whether it was consistent with national policy recognising the two strands.

9.43 Although the BMV on site would not be lost as a resource. It would be unable to be used for 40 years. Indeed, the appellant has confirmed that no agricultural use will occur on the site throughout the lifetime of the development[77]. It has not been properly demonstrated that sites with a lower proportion of BMV land could not have been used.

9.44 First, had the updated sequential test and ASA properly assessed alternative sites, using a greater search area, there may have been reasonable available sites with lower proportions of BMV. Although there is no BMV specific requirement to carry out a sequential approach, that would plainly be a material consideration when assessing whether it is necessary to locate the development on a site which contains 56% BMV[78].

9.45 Indeed, the appellant has made much of the fact there is no requirement for a sequential approach when assessing BMV, but the only evidence put forward to support that the use of BMV on this site is justified is the ASA (i.e. a sequential approach).

9.46 To that extent if the ASA is inadequate for the same reasons that apply to the flood risk sequential test, it is equally inadequate in terms of an evidence base to justify the use of BMV on the site, especially where even on a 2.5km radius it recognises that alternative sites perform better in terms of BMV but are otherwise discounted.[79]

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[76] CD4.1
[77] CD9.32 - RC Rebuttal, §2.3
[78] SoCG (CD9.2), §5.47
[79] RC POE (CD9.7), §7.69 recognises that alternative sites 3, 5, 6, 7 and 8 perform better in terms of BMV.

9.47 Second, TK's evidence relies solely on ALC provisional maps from the 1970s of the wider area to argue that "*there is no indication that wider afield there will be land of lower quality*".[80]

9.48 These maps are contained at inserts 13 and 14 in his POE. However, there are significant problems with the maps which mean in practice they are all but meaningless. They show that land further afield is mostly Grade 3 land, however they do not differentiate between Grade 3a land (i.e. BMV land) and Grade 3b land (i.e. not BMV land). TK relies on the predictive likelihood of BMV plans to counteract this shortfall,[81] but that is similarly vague and unhelpful.

9.49 That plan shows land further afield as largely falling within the 'moderate' likelihood of BMV, classified as 20-60% BMV. That is a significant range itself. But taken in the context that the appeal site is 56% BMV (or over 60% on the R6's calculations) the consequence is that most land falling within that 'moderate' range is highly likely to have lower proportions of BMV than the appeal site. To that extent TK's conclusion is wholly misplaced, as the plans he relies on strongly indicate that wider afield there will be land of lower quality.

9.50 Accordingly, the extent to which the use of BMV land is compliant with policy stands or falls with the appellant's updated sequential test and ASA. Insofar as the sequential test requirements have not been met, nor has it been demonstrated that the use of BMV land which comprises over half the appeal site is justified.

iii) Impact on existing rural business

9.51 The site extends to some 52.86 ha and comprises cultivated agricultural land farmed by the tenants of Eden Farm,[82] Mr and Mrs Sturdy. RLPS Policy SP9, states that Ryedale's land-based economy will be sustained and diversified with support for local food production, amongst others.

9.52 Such support for agricultural land-based rural businesses are also found in NPPF paragraph 88. In this sense the policy supports aims which are inconsistent with one another, and therefore pulls in different directions.

9.53 RC's application of SP9 is essentially that bullet point 8 proffers support for the appeal scheme as a renewable energy project.[83] The scheme is clearly not a farm diversification (bullet point 6), indeed it would harm the existing R6 Party's farm business. Nor is the scheme in support of local food production and sales (bullet point 7) reflected by a scheme that takes high quality agricultural land out of food production.

[80] TK POE (CD9.9), §7.13
[81] Ibid, Insert 14
[82] Ibid, §2.19
[83] RC POE (CD9.7), §7.84

9.54 Both witnesses accepted that there will be an adverse effect on the R6 Party's farm business[84] and thus harm that should be considered in the planning balance.[85] The extent to which it would be mitigated by compensation is a matter of dispute on the basis of viability evidence presented by the R6 Party. For the sake of clarity, RW explained that he had not undertaken a detailed assessment of that evidence, such that it remains a matter of dispute primarily between the R6 Party and appellant. However, and insofar as the Inspector endorses the R6's Party's evidence, significant weight should be attributed to such harm in accordance with the Council's third RfR as RW explained in EIC.

9.55 The appeal scheme would also reduce the amount of land farmed such that the agricultural economy will be affected by reduced agricultural activity. RC expressly accepts this as a harm, and therefore ultimately the dispute is about the weight attributed to it. However, her assessment is based on the percentage of agricultural land lost in the context of the wider area and the UK on a national scale.[86] She accepted in XX that there was no reference to the local rural impacts, nor to the consideration of Ryedale, as applied by Mr Wood to reach his moderate weight to agricultural economic harm, but that it was a relevant and important consideration.

9.56 That is even more so given the importance of the agricultural economy to the Ryedale area. That is clear from the explanatory text which highlights: "*Land-based economic activity is integral to the District's economy, cultural heritage and identity" and "this Strategy is intended to support and be flexible to the needs of those who rely on the land-based economy…. It is essential that these new land uses and economic activity must be supported and encouraged where appropriate if Ryedale's countryside is to continue as the living and working countryside that is intrinsic to Ryedale's cultural identity."*[87]

9.57 RW explained in chief that he attributes moderate weight to the agricultural economic harm, which slides up one on his scale to significant harm in the instance that the R6 Party's case, that there will be harm to their farm business (and not betterment)[88], is preferred by the Inspector. The result would necessarily be that the balance tips (as referred to by RC in XX), from favouring renewable projects to supporting local food production and rural farm business, to result in conflict with Policy SP9.

iv) Residential living conditions and amenity

9.58 RLPS Policy SP20, Generic Development Management Issues, provides that new development will not have a material adverse impact on the amenity of present or future occupants. The same is reflected in NPPF paragraph 135.

[84] TK POE (CD9.9), §10.16
[85] RC POE (CD9.7), §7.85
[86] Ibid
[87] §5.34-5.35
[88] TK POE (CD9.9), §8.34

9.59 Although RW accepted that the impact on residential amenity does not comprise a freestanding reason for refusal,[89] the harm nevertheless needs to be considered in the planning balance as recognised by RC.[90] In particular, there would be a fundamental change in character from an arable landscape to a solar landscape in the immediate locality of nearby occupiers. Moreover, the Residential Visual Amenity Assessment[91] (RVAA) identifies harm to residents of Windmill House, Acomb House and Eden Farm, in addition to glint and glare at the latter.[92]

v) Overall planning balance by NYC

9.60 Ultimately the appellant's case argues compliance with the development plan and the overall balance is in favour of the proposed development in any event.[93] Such conclusion is reached on the basis that "*there are no significant adverse effects that weigh into the planning balance*."[94] However, that does not mean there no harms which ought to be considered. Even on RC's own evidence, she recognises harm arises from amenity impacts, landscape harm and heritage harm[95].

9.61 RC's conclusions is therefore premised on compliance with development plan policy, and she fairly accepted in XX that she has not considered the balance for alternative scenarios, such as if RfR1, or RfR3 is made is out for example.

9.62 The only planning evidence which does assess that is RW's who confirmed that each of the first three RfR are freestanding reasons to dismiss the appeal. That must be correct because the impacts of the scheme would not be acceptable, which results in significant weight to the respective harm(s) and non-compliance with the policies which otherwise offer support for renewable energy.[96] Accordingly, if any of the RfRs are upheld there would not be accordance with the development plan and other material considerations, including the benefits, would not outweigh the harm.

9.63 The appellant has failed to demonstrate that the sequential test requirements in both local and national policy have been met. The primary reliance on 300m which is justified by non-existing viability evidence is entirely without merit. The 2.5km search area applied as an alternative is equally unreasonable where it is solely premised on one Appeal Decision, given the variability of distances from the PoC for other schemes, and criticisms of wider search areas where they are unsubstantiated in other decisions. Equally, the conclusions in the updated sequential test and ASA themselves are unreliable given they are based in part on factors which are disguised viability considerations which cannot be tested and which have not been evidenced.

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[89] Richard Wood POE (CD9.14), §6.17
[90] RC POE (CD9.14), §7.108
[91] CD1.20, Appendix A4
[92] CD1.20, Appendix F1
[93] RC POE (CD9.14), §11.15
[94] Ibid, §11.12
[95] Ibid, §7.108, §7.109, §8.20
[96] Policy SP18, NPPF §163

9.64 So too has the appellant failed to justify the loss of availability of an appeal site with at least 56% BMV agricultural land. It falls for the same reasons as the flood risk sequential test. If anything, within their limitations the 1970s ALC provisional maps indicate that in fact the likelihood is that a site further afield would have a lower proportion of BMV.

9.65 The impact on the existing rural business (and indeed the impact in respect of their personal matters), would be significant. Coupled with the harm to the local and wider agricultural economy, especially in the context of the highly rural nature of Ryedale, the impact would be unacceptable.

9.66 There are also amenity, landscape, and heritage harms to consider. Even just one of the above issues identified by NYC: flood risk; BMV agricultural land; or economic impacts would provide sufficient reason to refuse permission for the proposal. Accordingly, NYC invite the SoS to dismiss the appeal.

10 The Case for Mr and Mrs Sturdy (the R6 Party)

10.1 Granting planning permission for the appeal scheme will have profound consequences for the Sturdy family and the wider community in Malton. On day 1 of the inquiry Interested Parties spoke passionately against the scheme explaining why this is not the right location for such a development. Over 500 objections during the application stage, and not one in support.

10.2 The benefits of solar energy are well-understood. Nonetheless, they do not justify taking the best agricultural land in Ryedale District[97] out of production for 40 years. Nor do they justify the ramifications on an important rural business which exemplifies qualities that the Ryedale Local Plan[98] supports.

10.3 Refusing this appeal does not mean that Ryedale or North Yorkshire will fail to meet its climate change obligations. Grid connections are competitive to find, and there is a significant amount of interest in delivering renewable energy in the wider locality. It will simply free up grid capacity for other sites, more compliant with planning policy, to come forward elsewhere in the district.

10.4 This scheme has been 'grid-led'[99]. Not landscape-led or even planning-led. It is a project which has been defined not by viability but by commercial considerations (and not just by those who operate in the wider solar industry but of this particular operator).

10.5 Secondary to that commercial priority has been flood risk, agricultural land considerations, and concern for the tenant who has the most to lose from the development of this land. As the appellant's own Alternative Site Assessment (ASA)[100] demonstrates, as the alternatives put forward by Mr Stones show and the litany of other sites patiently waiting in line for headroom to appear at the

[97] Mr Franklin in EiC.
[98] CD4.1
[99] Technical Note, CD7.3 – see conclusion – page 11.
[100] CD7.1

Malton Bulk Supply Point (BSP) indicate, there are alternatives to developing on this land.

10.6 The circumstances that the Sturdy family find themselves in are now agreed with the appellant to be "*exceptional*" and a material consideration[101]. They have worked for generations to tend to this land, to ensure that it is effectively drained, to ensure that the very best agricultural produce can be grown, and to ensure that the sustainability credentials of Malton as a town are improved through the recycling of green waste.[102] All of this leads to land of the highest quality. This scheme differs from others as it will have no continuing agricultural use. All those benefits will be lost if this appeal is granted.

10.7 Harmony and the freehold landowner will realise the benefits from this land at the expense of the Sturdy's and the tenant of Willow Farm. The compensation offer is premised on theoretical figures rather than actual business losses.

10.8 Moreover, what is proposed will not sufficiently compensate the Sturdy family financially and will also cause significant disruption to their business in a multitude of non-financial ways: through taking important land out of production, causing them to need to buy in straw, taking away land that is critical to the green waste business, and depriving them of an opportunity to claim Sustainable Farming Incentive (SFI) (which requires land).

10.9 Importantly, it will also deprive them of a succession opportunity which they currently enjoy as tenants with a special form of protected tenancy under the AHA. The result of this is that their land and also their home are at risk, given that the latter forms part of the tenancy.

10.10 The appeal proposal is also unacceptable in several other material ways as it would be: alien and incongruous in the receiving landscape; be sited around the nationally significant windmill at Windmill Farm; have adverse consequences for Acomb House (through impact on the setting of importance to these local farmsteads, which were built contemporaneously and are to be best understood together[103]); have impacts on NDHAs and on the regionally important Eden Camp, a prisoner-of-war site which attracts hundreds of thousands of visitors per annum.

10.11 Overall, the proposed development is argued to be fundamentally different from many other solar projects across the UK, which the R6 Party understands have been granted permission for good reasons: to help the UK meet its climate mitigation goals. Responding to the main issues in turn:-

i) Principle of the development having regard to a) flood risk b) the loss of agricultural land for farming purposes inclusive of its grade

[101] Ms Caines XX.
[102] Note the Circular Malton initiative which was mentioned by Interested Parties on Day 1 of the inquiry.
[103] Ms Bell, in the Round Table Discussion.

10.12 Appropriately siting schemes is an important imperative recognised by national policy. Paragraph 165 of the NPPF expressly requires that development such as this be directed away from the areas at the highest risk. A sequential, risk-based approach to the location of development is required (see Paragraph 167). Particularly given that the majority of this development is within Flood Zone 3, that is, land which has the highest risk of flooding.

10.13 The initial approach to site selection is 300m from the PoC. During the inquiry, GC (a technical grid witness), employed by Harmony Energy produced a Technical Note,[104] which explained the approach that had been taken to the siting.[105] Therein, he explains that Harmony Energy takes a "*grid-led approach to searching for new developing projects*"[106].

10.14 In GC's Technical Note, he explains that this "grid-led approach" is typically coupled with a "planning review". No witness before this inquiry was able to assist with what that planning review entailed and what factors were considered when siting this solar scheme where it is today.[107]

10.15 GC was keen to point out that there are three considerations when looking at the siting of a solar farm: grid availability, planning and land considerations.[108] He was of the view that the grid is the most important of those three factors, largely given the well-reported constraints on capacity. However, he agreed that all three can potentially imperil the delivery of a solar project.[109]

The queue

10.16 Blake Clough provided a note to assist the Inspector with the advice that they have been providing to the R6 Party (appended to the Proof of Mr Oliver Stones[110]). They have expertise in this field and are used by Harmony.[111] They refer to the Embedded Capacity Register (ECR) which explains which projects are waiting to connect at Malton Bulk Supply Point (BSP).

10.17 The ECR for the Malton BSP highlights a substantial number of projects that have already accepted connection offers to connect to the Malton BSP which would require a larger capacity than possible using the existing transformers at the Malton Grid[112].

10.18 They also explain that there is currently 270MW of registered capacity awaiting connection to Malton BSP, with a current firm capacity availability of 82 MVA. And acknowledge that further reinforcement works to the BSP must be triggered to allow all these projects to connect as well.

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[104] CD7.6.
[105] CD7.3
[106] CD7.3, page 11.
[107] Mr Camplejohn and Ms Caines XX.
[108] Mr Camplejohn EiC
[109] Mr Camplejohn XX.
[110] CD9.27, Appendix 1
[111] Mr Camplejohn XX.
[112] CD9.27 – page 6 of Blake Clough Note, Appendix 1 of Stones evidence.

10.19 GC referred to the number of solar developers who are now operating in this local area: they are all noted on the ECR, which details which operators are waiting in line. It is a competitive marketplace.

10.20 Moreover, the ECR operates as a 'queue'. If Harmony do not take up that grid capacity, they will move further down the queue and will not be able to connect before 2033. But that would not stop another project from coming online sooner meeting need.

Justifying the 300ms

10.21 Site search has been defined according to the grid offer and the appellant's commercial terms, which they negotiated with NPg.[113] The land which is within the grid offer is that owned by the Fitzwilliam Trust Corporation (FTC).

10.22 Throughout the written and oral evidence, it was heard that it is not viable for Harmony to develop beyond a site which was adjacent to the PoC and, therefore, within the flood zone[114]. But that argument is entirely circular. It is because the site falls within that 300m (of the PoC) and it has a grid offer.

10.23 That is fundamentally different to a viability justification; that is a commercial justification because it will cost them less to connect. The two are very different. RC adduces evidence looking at the distance of other solar farms from the PoC.[115]

10.24 It demonstrates that some have been developed close to the PoC; but that may be because those are sites where the planning and land considerations to develop so close to the PoC are acceptable for those projects. The evidence[116] also shows that solar developers are developing up to 7.4km away from the PoC.[117]

10.25 There are a litany of other examples where it has been feasible to develop beyond such a constrained radius of 300m from the PoC. Indeed, that is the case in 27 out of the 31 examples put forward in the *Lichfields Distance from PoC– Commercial Scale Solar Installations Note*[118].

10.26 The suggestion that it is not viable to develop beyond 300m is not an industry-wide standard. Instead, it is a commercial justification of this appellant. In other words, another operator could look at this BSP and consider that, on their commercial terms, they could develop further away from the BSP. The 300m is merely a Harmony-specific criterion.

[113] Mr Camplejohn XX.
[114] See CD7.3, page 4.
[115] Cd9.3 – Distance from PoC– Commercial Scale Solar Installations, page 4.
[116] Ibid
[117] See CD9.33, see Tregonning Farm – Solar Farm & Battery Storage.
[118] CD9.33

10.27 In his XX, GC recognised that it would be technically feasible to develop beyond the redline of the grid offer. Anything is technically possible, he says[119] – it simply comes at a cost.

10.28 There is no evidence before the inquiry which properly explains how, or why, it would not be viable to develop slightly further away from the PoC. If that truly was a constraint, then one would only see sites coming forward immediately adjacent to PoCs. One would expect that to be the case, up and down the country. Whilst that might be Harmony's approach, that is simply not the approach that is taken by others – which GC recognises[120].

10.29 Perhaps unsurprisingly, that is not the case even in this district, as there are other operators promoting sites further afield – see Birdsall and Carr House Farm as two examples.

10.30 A commercial consideration provides no justification for developing so close to a PoC in the flood zone which is of highest risk and on a high proportion of Best and Most Versatile Agricultural Land (BMVAL), then whether a site is "reasonably available" will be driven by an applicant's own commercial terms, rather than by a more objective standard. That cannot be a defensible approach to be taken to the acceptability of siting solar farms.

10.31 In short, the 300m is driven by commercial rather than viability considerations. That is no planning rationale for looking for a site so close to the substation, rather than any more objective standard. This must be rejected as an acceptable search area.

10.32 The 2.5km search area. The date of the NPg offer was the 14 October 2020. The first sequential test document authored by PWA was dated November 2022.[121] At the time of the NPg Offer, we cannot tell whether any of the relevant planning policies were considered.[122]

10.33 The earliest sequential test document available is 2 years after the initial agreement was signed. There is no evidence of whether flood zones for example were even considered when the grid offer was signed. Whether or not the sequential test properly addressed those important planning considerations prior to the grid offer being agreed is neither evidenced nor explained by the appellant.

10.34 In any event, the PWA document was not sufficiently robust, as Lichfields saw fit to undertake a separate Alternative Sites Assessment (prepared in April 2024). This was undertaken some four years after the grid offer had been secured[123].

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[119] Mr Camplejohn XX
[120] Mr Camplejohn XX
[121] CD1.20 – Appendix C2, Sequential Test, November 2022.
[122] Mr Camplejohn agreed in XX.
[123] The Grid Offer was secured in 2019, the ASA was undertaken in April 2024 (CD7.1).

10.35 Again, that exercise is entirely circular because the grid offer for that site is used as a means of ruling out other sites which would otherwise be sequentially preferable. See below in relation to Site 3 by way of example.

10.36 *"Site 3 demonstrates a poor to moderate performance against the assessment criteria. The presence of overhead lines and farm buildings are physical constraints to development that would significantly hamper the ability to deliver an efficient scheme."*

10.37 GC's evidence is that all options are technically possible it is just that this is not such an efficient scheme in cost terms. When asked to consider Site 4(b), and the fact that *"cabling would be required to cross the A64"*[124], that GC said it was technically feasible, but at an increased cost.

10.38 It is common ground that: all of the ASA should be read in line with the fact that there are no operational constraints; and all options are technically possible.

10.39 The difference is that the appellant says that they would not be "*viable*", without any evidential basis, and what can be inferred from this is that it will simply cost the scheme more which may not meet the Harmony investment criteria.

10.40 Moreover, there is no further information about when a tipping point is reached at which a viable scheme becomes unviable from a commercial perspective. That is most surprising when, GC acknowledged, there were projects which Harmony has already built out. Implying such information is at his disposal[125].

10.41 Moreover, the commercial considerations of this operator need not be shared in circumstances where GC conceded that there is a standard industry approach to how much it costs to build such schemes on a price per-megawatt basis[126]. Not even that information was forthcoming,[127] despite requests from the LPA dating back to August 2020. Viability and profitability are not the same – as GC put the point, "if it costs more, then the internal rate of return is reduced".[128] That is precisely the issue.

10.42 GC confirmed Harmony's practice is not to build more than 300m away from the PoC. But that does not mean that is the policy of other operators.[129] It also does not relate to the distance required for the solar panels.[130]

10.43 This illustrates an attempt to secure a development scheme on the most commercially favourable terms to the operator. Just because building closer to

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[124] CD7.1, page 33.
[125] He mentioned two sites in Durham and Selby.
[126] Mr Camplejohn XX.
[127] Mr Camplejohn XX.
[128] Mr Camplejohn agreed in XX.
[129] Mr Camplejohn agreed in XX.
[130] Mr Camplejohn XX.

a PoC costs less does not justify sitting in that location. Moreover, it does not mean that it is the same for other operators who may view the siting of solar farms more holistically, with proper consideration of sites which were further away if they perform better in planning terms. Harmony's approach does not justify how they ought to approach the sequential test.

Land as one of the critical factors to delivery

10.44 The Land Offer Agreement (LOA) in this case is constrained to FTC. Though having to stitch together a site from multiple landowners has been put forward as a constraint here, that is not an uncommon practice in solar developments, as GC fairly acknowledges.[131]

10.45 It is also fair to acknowledge that there has been no proper consideration of the Sturdys' interest in the land in this case. Mr Camplejohn indicated that he had been involved since November 2020, while Mr and Mrs Sturdy were not even notified of the scheme until after the LOA had been signed.

10.46 The Sturdy family have been nothing but an afterthought which should not be endorsed. This is surprising given that "*land*" availability has been put forward as being one of the critical components necessary to deliver a successful project. GC indicated that had had not really considered the Sturdy's land interest when looking at impacts on project delivery. But the reality is that their position does have the potential to imperil the project. That brings with it risk.

Other developers in the area

10.47 It is the case that the main constraint on renewables development coming forward is headroom in the grid.[132] If this scheme does not get permission, there are a host of developers waiting in the wings to eat up the capacity.[133]

10.48 As demonstrated on the ECR, there are other projects which were accepted to connect (as well as solar PV project that connected in 2015). Alongside Harmony's project, six projects were accepted to connect to Malton BSP; three either side of the appellant's.[134]

10.49 Both the *Birdsall Estate* and *Carr House Farm* are promoting sites which sit behind Harmony in the queue. There is no evidence at all that other sites such as *Carr House Farm, Salton*[135] or Birdsall will not come forward.

The consequences of endorsing the Appellant's approach

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[131] Mr Camplejohn XX
[132] This was what Mr Camplejohn explained in his EiC.
[133] As explored with Mr Camplejohn in XX.
[134] See CD9.27 – Appendix 3.
[135] Mr Camplejohn explained how this was a 55Mw Scheme and that if the Proposed development here did not come forward, then this would release capacity at Malton BSP.

10.50 The appellant's approach to this case has not been planning led. The ramifications of an Inspector and the SoS's endorsement of such an approach should not be understated.

10.51 First, it would indicate that it is acceptable to define by a developer's own commercial terms – an area outside which it is not viable to develop beyond 300m. GC even accepts that is only the commercial requirement of this developer and that is not a criteria which other developers have.

10.52 Second, and more worryingly, it would indicate that it is acceptable to restrict that ability to develop further beyond 300m from a PoC by reference to it being "unviable" to develop without any evidential basis to substantiate that assertion whatsoever.

10.53 Third, it would not require much work to demonstrate to the LPA, and even to the Inspector how and why it would not be viable to develop beyond 300m. In this case, the LPA has not asked for much to substantiate the position. Yet, nothing has been forthcoming. There are standard industry pricings[136] – even those have not been adduced. Moreover, other developers manage to develop further afield. Just because Harmony say that this does not accord with their commercial terms is no justification to find such a constrained search area to be acceptable.

10.54 Fourth, inquiries are evidence-based processes. The irony of the appellant's failure to produce even a shred of evidence to substantiate its viability position will not be lost on the Inspector. This is particularly so when Mr and Mrs Sturdy have felt the need to put extremely sensitive financial information in the public domain so that the inquiry can understand their view that the impacts on this rural business would be catastrophic.

10.55 Fifth, the appellant has repeatedly sought to justify this site, over any other, on the basis that there are technical constraints to developing beyond the redline boundary of the LOA. But that is to put the cart before the horse – it would enable developers to define a grid offer on their own terms and then rule out those sites as they are not reasonably available, based on their own, commercial criteria.

10.56 Put shortly, endorsing this approach taken by the appellant would send a deeply worrying message. It would, in effect, ratify an approach which says that the (i) the grid offer is decisive as to where schemes need to be located; (ii) it would indicate that it is acceptable, even where that grid offer has been negotiated on favourable commercial terms to the promoter of the site (iii) that other sites can be ruled out on the basis that it would not be "*viable*" based on a bare assertion alone and (iv) this is enough to rule out looking beyond those sites on the basis that they were not reasonably available.

10.57 Moreover, it would underscore that planning considerations are an afterthought and that it is acceptable to develop in any flood zone because unless there is a grid offer, the site would not be reasonably available. It

[136] Mr Camplejohn XX.

would, in effect, indicate that developers have carte blanche to develop anywhere (even in Flood Zone 3 where there are other sites of a lower flood zone available) on the basis that a grid connection justifies the relevant location and the ability to build adjacent to the PoC.

How does this Site preform against others identified by the appellant?

10.58 The Lichfields ASA explains that there are other sites, ASA3, 5, 6, 7, and 8, which all perform better than the appeal site in terms of both flooding and BMVAL.[137] These are sites within the 2.5km radius.

10.59 However, they have been ruled out on the basis that they "*are often closer to more heritage assets and are more visible from key roads and residential properties/areas, closer to the AONB, SSSI or located on protected land or undeveloped land and thus not considered to be preferable to the Appeal Site".*[138] This analysis does not withstand scrutiny.

More visible from key roads

10.60 This assertion is made in the ASA without relying upon the expertise of any landscape architect.[139] There are clearly several PRoWs which would be affected as part of the Proposed Development. This would include the users of the main Malton to Pickering cycle route, which has received significant public investment. As Mr Ingham accepted, those users are more sensitive than those who use public roads given that the footpath/bridleway users are recreational users. Road users, by comparison, could be driving those routes at 60-70mph, paying limited attention to what is around them.

10.61 If the "key roads" referred to are the A64, Mr Ingham agrees that there are hedgerows on both sides of the road.[140] It is heavily vegetated, and the Inspector will see that for himself. As to the A169, this too is a public road with no public footpaths alongside it.[141]

10.62 It is a screened road and that the alternative sites put forward by Mr Stones along this route can be nestled within the parcel so as not to be visible from those main A-Roads, particularly with similar mitigation. Given the sensitivity of the PRoW users (cutting through the appeal site), it is hard to imagine that an alternative would be less harmful. The approach taken to assessing impacts on PRoW users is also flawed. Take ASA 8 as an example; that is a huge tract of land which is double the size of the appeal land.[142]

10.63 Within it, there will be PRoWs, but given the size of that parcel, a design could be conceived to mitigate away any effect. However, only two PRoWs are within that area (see CD7.1, page 40), as one can see from the green lines traversing

[137] CD7.1 – see page 42 in the conclusion.
[138] Ibid.
[139] Ms Caines XX.
[140] Mr Ingham XX.
[141] Mr Ingham XX.
[142] Ms Caines XX.

the whole parcel.[143] Given the size of that parcel, it will not all be affected, which Ms. Caines fairly conceded.

Closer to the AONB

10.64 The second suggestion is that sites have been ruled out based on proximity to the AONB. But that assertion is not supported by the analysis in Lichfields' own document[144].

10.65 RC accepted that each and every site that has been put forward in the ASA performs better in the Zone of Theoretical Visibility ("ZTV") analysis than the Appeal Site does in terms of its visibility from the AONB[145]. Proximity to the AONB is, therefore, no good reason for ruling out other sites when, based on the ZTV. The appeal site performs worst in terms of visibility to the AONB of them all.

The defective ASA

10.66 Without going through every site in the ASA, the overall approach taken by the appellant to ruling out sites is fundamentally flawed.

10.67 First, ASA8. A land parcel of approximately 118.8ha (over double the size of the appeal site) is predominantly located within Flood Zone 1, making it considerably more preferable.

10.68 It is stated that Priorpot Beck River runs through the parcel and that connection from this location would be required to cross a railway and a road. However, ASA8 is a huge tract of land. GC agrees that it would be technically possible to connect to land by crossing roads, railways, and rivers.[146] The only means by which it is ruled out is that it would render the scheme unviable. No evidence at all is provided to substantiate this assertion.[147]

10.69 It is said that the ZTV mapping indicates that a development would be theoretically visible predominantly from the South and East. This is not theoretically visible from the AONB.[148] There is said to be low hedgerows on Scarborough Road. Still, Scarborough Road is an industrial part of an established employment area as recognised in the RLPS Policies Map[149].

10.70 This includes large-scale buildings along that road, including the "*Malton Bacon Factory*" (also known as Sofina Malton) (a large, very substantial industrial pig abattoir and processing building), a large pastry company's industrial building and a mix of other industrial buildings. A large housing allocation is proposed

[143] See CD7.1 Appendix 6, ASA 8, page 144.
[144] CD7.1 see ZTV Mapping at Appendix 6.
[145] ASA Sites, ZTV Appendix 6.
[146] Mr Camplejohn XX.
[147] CD7.1, page 40
[148] See CD7.1 page 38.
[149] CD4.3.

on the western end of the area.[150] This is not a sensitive location for development given other uses to be developed or promoted.

10.71 Heritage assets are named as a constraint including a Roman Road and a Grade II listed building. Yet, there is no reason why a development could not be located away from those assets. In any event, there are fewer assets than there are on the appeal site having regard to a Grade II listed Windmill, impacts on Acomb house (Grade II) and impacts on non-designated assets, (Eden House, Eden Farm, as well as Eden Camp).

10.72 Looking to ASA 3 of 108.4ha in size. It is also almost all within Flood Zone 1.

10.73 There are noted to be several individual farms. However, as Mr Stones demonstrates, these are all held by one landowner, the Archbishop Holgate Trust, who indicated their interest in accommodating the proposal November 2021[151]. As Mr Camplejohn fairly indicated, land assembly for solar schemes with more than one landowner is not uncommon.[152]

10.74 There are said to be overhead lines. As accepted by RC, these do not provide a real barrier to delivery of the scheme;[153] they just require a 6-7m stand-off distance[154] which could be incorporated within the scheme design.

10.75 Regarding operational constraints, there is a dip away from the southwestern side. However, thereafter, it is generally flat. See Viewpoints 2 and 6 provided by the R6 Party.

10.76 'Site 3' is noted to be "*some distance*" from the PoC. It would still be relatively close and would be required to run adjacent to the A64 or along farm tracks. It is very likely that this would be a soft dig only. Again, Mr Camplejohn notes that everything is technically possible, and there is no evidence at all to suggest that this would not be financially viable.

10.77 Finally, the parcel is said to be adjacent to the AONB[155] described as a "*key constraint*".[156] However, the parcel has been drawn very large. It did not need

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[150] As agreed with Caines in XX – by reference to CD4.3 – see the red hatched area which is a large housing allocation and the blue area which is the existing employment land
[151] As set out in Mr Stones' Proof at Paragraph 6.30 "The Archbishop Holgate Trust ("AHT") own land to the west of Malton BSP within the 2.5 km Search Area as shown on the plan at Appendix 4. I wrote (via email) to the agent for FTC and the Appellant in November 2021 noting, inter-alia, that following a discussion with their agent the AHT would consider their land as an alternative site for the proposed development. A copy of this email is enclosed at Appendix 7. Only part of the AHT land has been included in the ASA (Alternative Site 3), with the remainder discounted as it is within a similar Flood Zone as the Appeal Site notwithstanding that it may be more preferable based on other planning considerations." Appendix 7 - at page 37 – where it is stated
[152] Mr Camplejohn XX.
[153] Ms Caines XX.
[154] CD7.1 – page 30, Ms Caines XX.
[155] Note that the ASA says that it is the eastern boundary, which is adjacent to the AONB, however, that is not correct, it is the western boundary of this Alternative.
[156] Paragraph 5.10 of CD7.1.

to join the AONB and it is not necessary to have an array close to the AONB boundary due to the size of the tract of land. In any event, as the ZTVs demonstrate, the site is less visible from the AONB, than the appeal site would be,[157] and Mr Ingham agrees that this would be viewed in a wide, panoramic vista from Viewpoint 6 put forward by the appellant.[158] It would take up only a small proportion of that view if it was visible at all. In summary, the appellant's dismissal of this site is not supported by the appellant's ZTVs.

10.78 When tested, RC stated that she "*did not disagree that this was a preferable site*". Thus, it is unsurprising that the R6 Party has maintained throughout this process (from 15 November 2021 onwards) that this tract of land would have been preferable (as per the email of Mr Stones to Charles Hardcastle, the agent acting for the FTC that this was the case).[159]

10.79 None of the appellant's witnesses appear to have looked at or critically evaluated the sites put forward as alternatives by Mr Stones.[160]

10.80 Sites to the north of the appeal land move away from any kind of visual sensitivity from the AONB in the Southwest. Out to the northeast (the blue and red parcels), sites would be located away from footpaths and bridleways which one would associate with recreational users.[161]

10.81 To the extent that road users move along the A169 (shown between the yellow and blue parcels above), the Proposed Development could be located away from the roadside, given that the parcels are sufficiently large, and there would be no PRoW users, as Mr Ingham acknowledged.

10.82 Second, there are established, mature hedges at either side of the A169, which constrain views eastwards and westwards into the adjoining land.

Avoiding Best and Most Versatile Agricultural Land - policy tests

10.83 In the last few years, food security has risen up the political agenda, with global events jeopardising food production. Ukraine, COVID-19, and Climate Change have all brought uncertainty around the resilience of supply chains and the UK's ability to source food. It is an issue of national and local importance.

10.84 BMVAL is crucial in terms of food security as it is the most flexible land and allows farmers to grow a wide range of crops, changing markets and climate conditions. Whilst climate change may pose the biggest risk to farmland, it does not follow that land that is capable of flexibly producing a range of agricultural produce be taken of production.

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[157] Caines XX.
[158] Ingham XX.
[159] Mr Stones, Appendix 7.
[160] As explored with Mr Ingham, Mr Kernon and Ms Caines in XX.
[161] See the absence of green lines on the plan –in CD7.1, page 136, Appendix 6 where there is a lack or PRoWs out to the East of the Appeal Site.

10.85 BMVAL is the better-yielding land, so the loss disproportionately impacts food production and the range of crops that can be grown. Paragraph 180(b) of the NPPF requires that the economic and other benefits from the best and most versatile agricultural land be recognised.

10.86 The Written Ministerial Statement (WMS) on Solar and Protecting our Food Security and Best and Most Versatile Agricultural Land[162] requires that due weight be given to the proposed use of BMVAL when considering whether planning consent should be granted for solar developments. It then goes on to expressly state how *"for applicants the highest quality agricultural land is least appropriate for solar development"* (emphasis added)[163]. It goes on to state that as the land grade increases, there is a greater onus on developers to show how the use of higher-quality land is necessary.[164] That is an evidential burden the appellant simply has not discharged.

10.87 There is also an emphasis on the protection of agricultural land at the local level. SP17 brings an emphasis to protecting air quality, land, and water resources. It states that land resources will be protected by prioritising the use of previously developed land and protecting the BMVAL from irreversible loss. It then goes on to state that *"Proposals for major development coming forward on sites that are not allocated for development which would result in the loss of the BMVAL will be resisted unless it can be demonstrated that the use proposed cannot be located elsewhere and that the need for the development outweighs the loss of the resource."*

10.88 The R6 Party support the approach taken by Mr Wood for the NYC in relation to the interpretation of SP17. "*Irreversible loss*" is referenced in relation to the protection of the land. However, later in the policy, it refers[165] only to *"loss"* where major development is coming forward. That can be assumed to be deliberate.

10.89 If this was only a policy which was going to be engaged where that loss was going to be *"irreversible"*, the draughtsman could have used that term consistently throughout. To suggest that this policy is only engaged where there is irreversible loss is to read words into the sentence that are not there.

10.90 The extent of non-agricultural land included Mr Franklin sets out that he does not dispute the actual gradings of the land put forward by the appellant but does have some reservations about the exact extent of "non-agricultural land" put forward as part of that assessment.

10.91 The difference between Mr Franklin and Mr Kernon relates to the overall proportion of the appeal site which is BMV owing to the amount of non-agricultural land which is referred to in Table 1 of ES Appendix 8.1 Soils and Agricultural Report[166].

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[162] CD8.11, 15 May 2024.
[163] CD8.11
[164] Ibid.
[165] See SP17, second sentence in CD4.1.
[166] Prepared by Land Research Associates dated October 2022 – page 8.

10.92 That survey was undertaken on a larger part of the FTC estate land than the appeal site alone. Mr Franklin considered that it is likely that the amount put forward includes farmsteads that no longer form part of the red line boundary of the appeal site. This is because the extent of "Non Agricultural" land mentioned as being included within the assessment work "includes Eden Farm, a number of roads (Edenhouse Road, Borough Mere Lane and Fenton Lane), farm tracks drainage ditches/hedges and a small woodland".[167]

10.93 Eden Farm is plainly not part of the redline boundary for the appeal development but appears to have been included as part of the "non-agricultural" land assessed. If that is the case, the effect of the amount of BMV that would appear to form part of the site would be diluted (given that it is presented as a % of the whole area surveyed). If one rules out the non-agricultural land surveyed (given the debate between the parties on this point), the percentage of BMV of the agricultural land will likely be closer to 62%.

The grading of the agricultural land

10.94 The actual findings of the ALC Report are that there is a high percentage of BMV; the largest single proportion is Grade 2, but there is also Grade 1 land, as well as Grade 3a land– at twice the amount compared to the national average and in a district where Mr Kernon states there is no Grade 1.[168]

10.95 The Ministry for Agriculture Food and Fisheries (MAFF) guidelines define the meaning and importance of Grade. Grade 1 means that the land can produce above-average yields, with Grade 2 also being high-yielding, productive land. This land can consistently produce above average yields. Grade 1 land can also grow many crops, and it has few to no limitations on its use. It may include the growth of fruit and winter vegetables.

10.96 There is also Grade 3a Land (at least 15%), and even the lowest qualify of the land (Grade 3b) is described as moderate. None of this land is poor quality.[169] Ryedale does have a substantial proportion of BMVL[170]. However, the district also has a great variability of agricultural land. The land which is the subject of this application is obviously land of the highest quality, producing high-quality cereals, containing Grade 1 land (which is not found in Ryedale based on the mapping), which means that it is in the order of the highest grade land in the whole district.[171]

10.97 Nationally, there is only about 3% Grade 1 land, whilst on this site, there is 6% Grade 1 land: twice the national average. This is particularly significant in a district considered to have no Grade 1 land showing on the ALC Land Grade

[167] Paragraph 3.10, of ES Appendix 8.1 Soils and Agricultural Report prepared by Land Research Associates dated3 October 2022, page 8.
[168] Kernon Proof paragraph 9.24 Table 5.
[169] See CD10.1 and quoted in the Proof of Mr Franklin at Paragraph 5.3.
[170] Mr Franklin Paragraph 5.5
[171] CD 5.9

Plans. Similarly, nationally, Grades 1 and 2 land amounts to 21% of agricultural land in England and Wales – here, Grade 2 adds up to 42%.

10.98 On this basis, arguably, this is one of the worst possible sites in Ryedale on which to develop a solar scheme, as it is some of the best quality land.[172] It is also helpful to compare and contrast this with recent applications for Nationally Significant Infrastructure Schemes (NSIPs) for solar schemes recently promoted, including Mallard Pass.[173] There are other NSIP schemes which are plainly larger in scale and yet can be developed on land with a much lower percentage of BMV land than this, and with no Grade 1 land.[174]

10.99 The suggestion that there is a considerable amount of BMV land in Ryedale should not dilute its importance. It should magnify the importance of this land as one which is for producing food in this locality. Land Grade is ultimately a national consideration and given that there is so little of Grade 1 and 2 land nationally, that magnify its importance.

Drainage

10.100 It is likely that part of the reason that this land has been so successful in maintaining its very high to excellent grade is because it is well drained.[175]

10.101 Drainage is fundamentally important to maintaining Grade; poor drainage is one of the reasons that land is downgraded[176]. This is because soil wetness will mean that access to farm machinery is limited in winter and spring in most years, which, in turn, restricts the land to autumn-grown cereal-based rotations.

10.102 The efficacy of the drainage on this land is, in no small part, attributable to the efforts of Mr Sturdy and his late father, who inputted drainage channels and under-drainage on the site to allow water to drain away from the land. This is in an area with a high water table. The result of effective drainage is that the moisture content of the soil is controlled, and the quality of the soil is sufficiently maintained.

10.103 Both soil compaction and damage to drains would damage the grade of the soil.[177] There is very real reason to be concerned about the impact on the soils and their short-, medium- and long term future as a direct result of this Proposed Development.

10.104 The drains sit 0.4m-0.8m below the surface. The standing poles supporting the solar panels will be inserted to a depth of 1m. They will be inserted into the soil, deeper than the drains. Not only will they sit deeper, but

[172] Mr Franklin EiC.
[173] Mr Franklin EiC.
[174] Mr Franklin EiC.
[175] See discussion on the importance of drainage in Mr Franklin's Proof from paragraph 5.9.
[176] See for example, paragraph 3.9 of the ES Appendix 8.1 Soils and Agricultural Report prepared by Land Research Associates dated October 2022, page 8.
[177] As discussed with Mr Kernon in XX.

there will be tens of thousands of poles inserted into the land for 1m for the lifetime of the scheme.

10.105 There is no indication that these will not pierce or break the shallower drains. Mr Kernon (who could not assist with how deep the drains were as he had not been able to survey them), said in XX that it would be dealt with in the Soil Management Plan.

10.106 But the Soil Management Plan currently makes no so such provision for what would happen in such an event of drain damage and there is no obligation to remedy on decommissioning of the site.[178] Whilst there may be every intention to fix drains pre-and post-construction, the ability to effectively fix drains is severely doubted when the site is covered in solar panels. Moreover, if the drains are not fixed until decommissioning, then there will be many years over which that effective drainage system will likely affect agricultural land quality.

10.107 When confronted with the likelihood of drainage issues being fixed with a solar farm *in situ,* even Mr Kernon recognises that systemic drainage could not be fixed (they would only be able to fix localised issues[179]). That would not adequately resolve the issues raised.

10.108 With a high water table, failure to control drainage will mean that there may be standing water issues. This would likely cause a knock-on reduction in land Grade. For evidence of what solar schemes with problems with standing water look like, one only has to look to the evidence of Mr Franklin[180].

10.109 It is clear that pooling water poses risks in this case. Over a 40-year period, it has the very real prospect of degrading the soil resource. That matters because a failure to protect the drains would be a failure to protect the soils, risking BMVAL quality and the 'soil resource' in RLPS Policy SP17.

Decommissioning

10.110 There is no decommissioning plan before the Inspector or the SoS. As Mr Kernon explained, the cabling could be left in situ upon decommissioning.[181] This may have ongoing impacts on the use of the agricultural land and the soil quality and structure.

10.111 Mr Kernon was not willing to accept that there was a risk of contaminants in the cables. However, there is a risk with the inclusion of cables with metal and plastic components. The extent to which Mr Kernon can confidently say that there will be no negative impacts on the soil resource is,

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[178] Note firstly the fact that the Soil Management Plan recognises that drainage is unlikely which the R6 disagrees with, and that the technical details of the drainage system design are "*beyond the scope of this report*".
[179] Mr Kernon XX.
[180] CD9.29, Rule 6 Proof of Evidence, Appendices of Mr Franklin from page 25 onwards.
[181] Mr Kernon XX.

therefore, very severely doubted. At this stage, he does not know what the plan for cabling will be.

The lack of continued agricultural use

10.112 Finally, not only does this scheme take some of the best agricultural land in Ryedale out of production for the full range of potential uses of BMVAL. This is a case where there will be no form of continued agricultural use whatsoever.

10.113 One can contrast this case with those where agricultural use of the land can be maintained (as it can in many solar schemes) through, for example, sheep grazing. In this case, we know that any agricultural use of the site will be ceased for the Landlord to be able to pursue a Notice to Quit on the tenants. There cannot and will not be continued agricultural use of this land if the planning permission is implemented.

10.114 Therefore, not only will BMVAL not be to the best of its potential for growing a variety of crops, but there will also be no realisation of the co-benefit of energy and agricultural use on the same piece of land, which has now become commonplace on solar schemes. The agricultural use will be entirely lost for a period of 40 years.

10.115 The period of 40 years is not temporary to Mr Sturdy. If granted, the agricultural land will be permanently removed from his Agricultural Tenancy.

10.116 In summary, the appellant has failed to demonstrate that this site is sequentially preferable to other sites in the locality—on that basis alone, planning permission should be refused. It has also failed to demonstrate that it has avoided BMVAL and that, in any event, the resource will be protected. The Proposed Development poses a very real risk to this important agricultural land resource.

ii) Existing rural business impact

10.117 It is common ground that it is the actual figures, rather than the forecasts put forward by the appellant, which should be used to inform the losses which are to be projected.[182]

10.118 The appellant put forward Vickers & Barrass (V&B) figures based on projections from the John Nix Pocketbook. But is limited. It is biased towards the southeast of the country and does not take account of soil/topography, local climate factors, skills, or resources.[183] It also does not consider soils.

10.119 By contrast, the R6 Party put forward the actual accounts from the farm through the Numbers Business, the farm's accountant. A detailed Profit and Loss Table (which was the working table used by the accountants) contained substantial detail on what was going to be lost. There was then a Summary

[182] Mr Kernon XX.
[183] Mr Kernon XX.

Table adduced by the Numbers Business put forward as part of Mr Franklin's Rebuttal, which summarised the differences between the V&B figures and their own.[184] Not only are the V&B figures based on estimates rather than the real farm results, but they are also based on a flawed assumptions including:-

a. V&B assume a narrow crop rotation of Oil Seed Rape, Winter Wheat, and Winter Barley (denoted as OSR, WW and WB) carried forward for two years. Mr Sturdy runs a rotation of crops, and it would be unsustainable and ill-advised to plant, for example, OSR year after year. The failure to recognise that crops are rotated means that the anticipated impacts on profitability are calculated on an incorrect premise.
b. V&B start with an arable income of £203,000 as a starting point – one can see from the P&L charts put forward by the Numbers Business that this far exceeds the trading income which has actually been experienced at Eden Farm, even accounting for inflation in the price of commodities owing to the impacts of Ukraine.[185]
c. Wrong assumptions underpinning the impacts on the cattle business. Mr Kernon assumed that there were only 20 cattle. However, there are 97 cattle) and there have been up to 110 in the past. Furthermore, V&B have not assumed that straw is used for bedding and feed (winter wheat straw for the former, barley straw for the latter). It has also been assumed that the cattle are only "*overwintered*",[186] rather than largely kept in all year around as they are here.
d. Because of incorrect assumptions in the cattle business there is inaccurate assumption over which the manure from the cattle-rearing enterprise would need to be spread and assumptions how 'green waste' could be mixed and applied to land. The primary implication being there would be insufficient land because of taking this critical land area out of the farming enterprise.
e. Finally, the fixed costs relied upon have been reduced by almost a third.[187] These would not be reduced by much – they are costs which are "fixed". Whilst there might be minor variations, those certainly would not be to the order of magnitude of a third reduction.

10.120 Mr Kernon seems to assume that Mr Sturdy could overcome some of these issues by buying crops or using a "*muck for straw*" arrangement where a farmer exchanges one commodity for another with another farmer. Not only do these shortages tend to prevail through the industry where there is a particular stress on one crop (for example, the availability of straw), and so we do not know whether this would be possible, it also significantly heightens the risk of cross-contamination of weed seeds, including from for example blackgrass.[188]

10.121 Put simply, the V&B figures put forward by the appellant cannot be relied upon, as agreed by Mr Kernon (he said that he was "*parking the V&B figures*" and relying on the R6 Party's) one can assume for the reasons

[184] See CD9.38, Appendix 1.
[185] See discussion of this at CD9.38, Appendix 1, page 3 bullet point 1.
[186] See discussion of this at CD9.38, Appendix 1, page 3 bullet point 6.
[187] See discussion of this at CD9.38, Appendix 1, page 3 bullet point 9.
[188] Mr Franklin EiC.

highlighted (incorrect crop selection and proportion; livestock understated; straw not correctly calculated, fixed costs hugely understated).

10.122 V&B figures calculate that between 12 and 16 tonnes of straw are needed. They based their calculations on 20 head, only for winter bedding, and 0.6-0.8 tonnes per head. The actual requirement would be between 203 and 223 tonnes, based on 97 head, with year-round bedding and feed straw. The land remaining after the solar development would not be enough to produce this much straw, based on a 5-crop rotation. The shortfall would have to be bought in, at a cost of up to £9600 (estimated in the forecast at £8500).

10.123 V&B figures advanced by the appellant, even though the absolute ££ values are considerably out of line with what the actual figures say, they do still support there being a huge financial impact on the farm: 69% for one year and 88% for the other year (profit reduction).

10.124 All the figures (both the Numbers Business and V&B) show a range of financial impacts, which is to be expected as there is no 'crystal ball' to say definitively what the future financial results are going to be - as stated by Mr Kernon - no one can predict the weather, for example. So, a minimum-maximum range is a sensible approach.

10.125 On any analysis, there will undoubtedly be a significant impact on the Sturdy's business. V&B say that this will be between £12,000 and £16,000 net profit reduction per annum (however, all parties now agree that this is not reliable). The Numbers Business figures (based on actual figures) indicate that the impacts will be between £25,000 and £37,000 per annum. All parties' evidence shows a significant reduction in profit because of the solar project. The final figures to be agreed should only be calculated based upon actual figures, and a sensible approach to forecasting the realistic income and costs.

10.126 The Summary Tables produced by the Numbers Business (Table 1[189]) show the actual 3-year average, the actual 5-year average, the V&B projection, and the realistic forecast. This links directly back to the full P&L detail page – the forecast on the right-hand side is the forecast based on 5 years, as used in the summary table. The solar impact is between this, and the actual averages as shown in the table. Mr Kernon was comparing this to the figures on the P&L page, which compare the forecast to adjusted figures rather than the actual figures in the table.

10.127 Table 2 was an exercise to challenge the figures and see if there was any similarity in those presented by the appellant.[190] This was on the assumption that the methodology used by V&B was used but corrected the assumptions on which they were operating (including for crop selection, fixed costs and so on). This exercise resulted in the approach being broadly in line with the figures produced by the R6, at a loss of £34,285.[191]

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[189] Now updated to be CD10.10.20 – this included a figure which was corrected, and which was accepted to the inquiry.
[190] See discussion of this at CD9.38, Appendix 1, Table 2.
[191] See discussion of this at CD9.38, Appendix 1, Page 5.

10.128 Table 3 summarises all the financial impacts from each of the three calculation methods. Finally, the financial information shared by the R6 Party has been extremely detailed. It is not fair for the appellant to criticise the R6 Party for these figures. They have comprehensively sought to show the drastic impacts that the scheme will have on this rural business. That can be compared with the position in CD6.13, the Washford decision, where an Inspector was asked to consider the personal circumstances of the tenant farmers but without any detailed information. Unlike the situation in this case.[192]

10.129 The "offer" put forward by the landowner (and summarised in Mr Kernon's Proof at Paragraph 8.33), does not come close to properly compensating the R6 Party. Had the offer been a fair offer (which reflected the true losses), then Mr and Mrs Sturdy would be unlikely to have put themselves through four years of strain.

10.130 Please note that this is now updated to be CD10.10.20 – this included a figure which was corrected, and which was accepted to the inquiry. The "Offer" has a litany of issues:[193]

a. First, statutory compensation does not reflect the actual losses of the appellant. As Mr Dunn, the Chairman of the Tenant Farmers Association (TFA) explained on Day 1, this has recently come under scrutiny from the Rock Review commissioned by the Department for Environment, Food and Rural Affairs, given that it is based upon historic legislation which is being reviewed.[194] The total compensation being offered fell short of what was expected by Mr Dunn, the Chair of the TFA. Mr Kernon accepted that this operated as of statute and that it was outdated. It does not reflect the losses.

b. Second, it does not reflect the loss of opportunity for Mrs Sturdy or the children to succeed. Whilst succession is not guaranteed, it is an opportunity for the next generation to continue with the protected agricultural tenancy for the next 75 years. Farming is generally a generational business, as demonstrated by Mr Sturdy's succession to the tenancy.

c. Third, it does not recognise the sunken costs that Mr Sturdy has borne in the business, including making substantial capital investments on the basis that he would be able to use the farm over time and over the land that was included in the tenancy—the grain store and the drainage are two examples of such investments. The Statutory compensation does not cover these items because they have either been written off by the Landlord or the Landlord did not provide consent for them to be treated as an improvement under the Statute.

[192] As acknowledged by Ms Caines XX.
[193] See Mr Kernon paragraph 8.33
[194] Mr Dunn, Chair of the TFA who spoke on Day 1 as an Interested Party.

d. Fourth, it would cause very significant disruption to the business given the way in which the land is inextricably linked with the wider business (straw for cattle, manure for the land, and given that it is essential to the success of the Green Waste business). It is the "hub in the wheel" . Without this land, everything is made considerably more difficult.[195]

e. Fifth, the "offer" is tied to the operation of the solar farm. It may be that permission is granted, Notice to Quit is served, and then the solar farm is not built out and does not become operational. Mr Sturdy has direct experience of having had land released from the tenancy for the building of the livestock market, which later was not built. If the same thing were to happen with the solar farm, there would be no benefit to Mr Sturdy at all, and the land would be lost to him.

f. Sixth, in the context of the Basic Payment Scheme (BPS) being phased out (which the R6 Party accept is not attributable to Harmony), the phasing in of Sustainable Farming Incentive (SFI) requires that works be undertaken on land, to recoup benefits and offset the impacts of losing BPS. As the Inspector will see, this has been an important part of stabilising the farm business to date. However, participation in the SFI requires access to land. Therefore, not only will Sturdys be left with the reduction in land holding and the removal of BPS, but they will also be in a position of double jeopardy where they will also be deprived of an opportunity to participate in the SFI Scheme. That loss is directly attributable to the appellant, given that the land is taken away.

g. Finally, nowhere has the appellant sought to address the issue raised by Mr Franklin and Mr Stones about the considerable taxation implications—that Mr and Mrs Sturdy may be liable for a tax sum that far exceeds what they were being paid in year one. This would cause them great difficulty indeed.

10.131 To the extent that short-term improvements and freedom to agree market value (as part of the AHA regime) are relied upon, these also do not mitigate the loss. Short-term improvements are limited to items such as the application of manure, fertiliser, etc., for which the outgoing tenant has already incurred a cost but will not derive full benefit. These do not compensate for all the costs referenced and are negligible in the scheme of the overall impact of losing the land.

10.132 The appellant has said repeatedly that the "*negotiations*" remain open. The R6 Party replied to the offer set out at Mr Kernon's paragraph 8.33 but received no reply. During the inquiry, an 11th-hour offer was referenced in Mr Kernon's EiC, as a result of Mr Stones' evidence.

10.133 To be clear, the appellant's 11th hour offer does not address the R6 Party's concerns as set out or in the evidence of Mr Stones. Many of the issues go unresolved, and there is no legal certainty about what is being offered whatsoever (it is far from a contractual offer as Mr Kernon implied); the offer could be revoked at any point.

[195] Mr Franklin EiC.

10.134 Drawing all points together, the proposal severely jeopardises the R6 Party's business. Not only does it have drastic financial consequences (estimated to be up to £37,000 per annum), it also brings other forms of harm which the business is expected to bear, with little to no benefit offered to them.

iii) Heritage impacts

10.135 The appeal site sits almost adjacent to a Windmill which is a nationally important heritage asset (at Windmill Farm). There is an open aspect farmyard around the asset.

10.136 As Ms. Bell explains, very few windmills which survive in such a complete form, with the mechanical apparatus intact.[196] This helps give the building evidential value and makes a strong contribution towards its significance. It is a rare building type, which has survived in the local landscape.

10.137 Ms Bell explains how, in 1805 there was a very substantial scheme of works which characterised the agricultural revolution. Later, in the 19th century, the area experienced enclosure and land drainage, which, since then, has given it an ongoing historical relationship.

10.138 The Windmill is still recognised in its immediate setting and context, within an agricultural, arable landscape which is so important to understanding the significance of this building as it was used to process the grain produced in the surrounding landscape.

10.139 The appellant's heritage witness, Ms Bage agrees to a large degree with Ms Bell that the wider setting is important in understanding this asset.[197] However, she draws out the building and its surviving testimony as being important; and the immediate farmyard context.

10.140 The windmill should be understood in the context of the agricultural fields which were fundamental to its operation. The farmyard around it does little to aid that understanding as its function was related to the production of grain beyond the farmyard curtilage.

10.141 Ms Bell explains how the agrarian landscape will be very much altered through the Appeal Scheme; the change in the land use and the creation of huge barriers within that landscape will sever our understanding of the windmill within that context. In the Wolds Heritage Consultancy Report[198] one can see how the application site is shown with a field of corn. Ms Bell explains how that aids one's understanding of the history and special interest of this building and, therefore, its significance as a windmill.

[196] Ms Bell RTD.
[197] Ms Bage RTD.
[198] CD9.30 – page 5.

10.142 To take away that context may result in confusion. Instead of this being a windmill, it may be confused with, for example, a windpump.[199] It is precisely its landscape setting which makes it legible as a windmill. The solar farm would provide a radical change to the setting and context of the windmill; this would be an "*industrialisation"* which would radically alter the 19th-century character.

10.143 The farmstead, which sits around the windmill, does not effectively screen it from the solar farm. The panels, as well as the vegetation to be proposed as part of the landscaping plan (with hedges up to 4m tall), would mean the intervisibility with Acomb House (again, part of the way that the windmill would be understood with the contemporaneous farmsteads around it). Ms Bell considers that the level of impact would be anticipated to medium-high on its setting and therefore between moderate and major impact on the significance of the asset.

10.144 Acomb House is also Grade II listed. This has a high significance[200] derived from the fact that was part of the Fitzwilliam Estate. It conforms to the regional character and form of farmsteads. Plainly, the fields around it are essential to its understanding of being a farmhouse. The panels will harm that setting, causing a low to moderate level of less than substantial harm. They will erode that intervisibility with Windmill Farm, too, and the landscaping does not mitigate the impacts; it reinforces them, given the height of what is proposed.

10.145 There will also be harm to a range of NDHAs. Eden Camp is a historic complex of medium sensitivity. Ms Bage agrees that this has strong evidential and cultural value.[201] It was a facility used to house prisoners of war in the 1940s, and some of those prisoners would have likely worked in the fields around the Camp. The Inquiry heard the concerns from those who run Eden Camp[202] about the impacts of the BESS which will site just outside the perimeter fence and adjacent to the Memorial Hall which attracts veterans for services and often draws visitors for quiet contemplation. This is a particular concern of those who run the facility, particularly given that noise impact has the potential to be a 'setting' impact.[203]

10.146 Regarding impacts on Eden House, Ms Bell considers this to be a high-status building of impressive design. There is illustrative and associative historical significance to this house. The house and surrounding cottages exemplify historical social structures and the important role of the Fitzwilliam Estate. The location of Eden House in a large domestic / parkland curtilage surrounded by farmland within the same ownership means its setting contributes to the site's significance. Eden House formed a part of the same major early 19th century scheme of works as the improvement of Old Malton Moor for arable production.

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[199] Ms Bell RTD
[200] Ms Bell RTD
[201] Ms Bage RTD
[202] Mr Howard Johnston.
[203] Ms Bell RTD.

10.147 Finally, Eden Farm is a NDHA of regional significance. The character of farmsteads of a historic nature is what contributes to the landscape character of this part of the Vale of Pickering. This is a polite-fronted Georgian Building.

10.148 There has been some piecemeal development to the rear of the building, but clearly it is a farm with animal sheds and granaries etc. Typical development of this area which of 'regional significance'.

10.149 The contribution of the setting to the significance is high because it has a relationship with form and function, which relate to the type of character, informed by the type of land. Ms Bage agrees that the wider landscape is part of understanding its significance. However, this will be mitigated by screening and setbacks. Ms Bell considers that this will still harm the kinetic rural experience of the farmstead scaled as a low moderate degree of less than substantial harm.

iv) Acceptability of the resultant effects upon residential living conditions and local amenity

10.150 The appellant's landscape architect (Mr Ingham) agrees that the panels (and the associated paraphernalia) are not characteristic of this character area.[204] He attempted to suggest that this was given that the North Yorkshire and York Landscape Characterisation Report was drafted in May 2011 and so would not recognise solar farms. However, as heard throughout this inquiry, there are no other solar farms in this immediate locality. Given that there are no examples of them, they are very unlikely (even now) to be recognised as being in any way as being part of the landscape character report. They are alien and incongruous: there is not a single example of this kind of infrastructure in this entire District.

10.151 When reviewing the LVA photo sheets there are landscape impacts from the appeal scheme not illustrated properly. Particularly, impacts upon users of Great Sike Road (GSR), where the baseline photo sheets fail to show what the real impacts upon GSR will be.[205] There is no hedgerow along GSR for 100-150m to the East of Windmill Farm extending along the PRoW which is not shown. Photo sheet 4 does only demonstrates what the impacts would be where there are hedgerows along the boundary.

10.152 Mr Ingham explains impacts along GSR would be mitigated through the hedgerow extending to the south of Windmill farm. However, this would not be the case until the hedgerows have fully established over time. In addition, the hedgerow, extending southward from the windmill farm bisecting the large field to the south has only a historic remnant of a hedge at present. The Inspector and SoS must bear in mind that a hedgerow is going to need to fully establish southward from windmill farm to mitigate the impacts on the open views of the people walking, cycling, or riding along GSR.

[204] Mr Ingham XX.
[205] See photo sheet 4 of the LVA (CD1.20).

10.153 In Viewpoint 9 the vantages would change for users of the PRoW. It would take time for tree cover/hedgerow to establish, and that is going to be a harm to PRoW user. When it is established, there would be a foreshortening of views, including across vast, open fields. This would also include removing views from the junction between Borough Mere Lane and Freehold Lane across open fields, including to the distant windmill at Windmill Farm.[206]

10.154 Furthermore, on the PRoW frontage in that location, there will be high, industrial looking fencing with metal gates.[207] This will not be characteristic of the agricultural landscape in which the scheme sits. Such fencing is not generally used, given that this is an area which tends to grow cereals.

10.155 Finally, the appellant has sought to show that there will not be a sufficiently adverse impact on residential amenity. It is relevant to note that the way in which people use their homes has changed somewhat since the Covid pandemic, given that people may now be more inclined to use the upstairs of their homes, for office space.

10.156 This will give them longer-ranging views. The occupants of Windmill Farm have indicated they would seriously consider leaving their home if planning permission is granted. In addition, the vast number of solar panels visible in open aspect from the garden of both Windmill Farm and Acomb House will significantly change the view from being open, agricultural to more industrial which would clearly be harmful to those residential occupiers.

v) Overall planning balance argued by the R6 Party having regard to any related planning policy, any harm, or benefits

10.157 It is imperative to understand the importance of food and farming in this particular locality when tying all threads together relative to the RLPS.

10.158 RLPS Policy SP9 concerns the land-based and rural economy. The introductory text is particularly important to read carefully when understanding how the policy should be interpreted. It states that the strategy (underpinning the Local Plan) is intended to "*support and be flexible to the needs of those who rely upon the land-based economy.*"

10.159 With respect, that is not to support the absentee landowner but instead to support those who rely on the land. Later in the supporting text, there is backing for new opportunities that may arise from future changes, which range from alternative cropping to renewable energy schemes. There is also support for the Malton Livestock Market (as the last remaining livestock market in Malton). It is a valued resource by the local farming and wider community. That supports more localised food production.[208] That imperative is fed through into the language of the Policy itself, which shows that it is expressly supportive of "*appropriate farm and rural diversification activity*" (emphasis

[206] See CD1.20 - Viewpoint 5 in the Appendix A5 LVA Photosheets prepared by Stephenson Halliday.
[207] See impacts on GSR users by way of example – at Viewpoint 9.
[208] See Paragraph's 5.35 and 5.36 in the Local Plan.

added)*;* this does not represent a rural diversification opportunity as it is an absentee landlord modifying an investment portfolio.[209]

10.160 The policy encourages proposals or actions that would assist in utilising and retaining traditional rural skills, including land and woodland management, farming, and conservation. All of these are important characteristics of the Sturdys' business through passing on generational farming knowledge. Threatening their business, including through removing considerable succession rights, will run precisely contrary to the thrust of that policy. The appeal development is clearly in conflict with this policy.

10.161 The scheme will also conflict with RLPS Policy SP17. The Proposed Development involves seeking to take out of production some of, if not, the best, agricultural land in Ryedale. This will result in a loss of this agricultural land for the operational life of the development. There are also very real risks that, thereafter, the BMV status will not be sustained.

10.162 Mr Franklin is concerned about the soil erosion, the impact of cabling, the lack of the organic inputs being maintained, and the very real risk to the drainage systems in the field. These all have the potential to imperil the BMVAL status.

10.163 Moreover, given all the flaws with the sequential approach as is required by SP17 (putting aside whether it is required by national policy), the appellant has not demonstrated in any compelling way that the Proposed Development cannot be located elsewhere.

10.164 The proposal has failed to demonstrate through the risk-based sequential approach that guides new development to land with a lower probability of flooding that this location is essential either.

10.165 Given all the shortcomings of the appellant's approach (detailed above) the Proposed Development has not been properly directed to the land with the lowest risk of flooding. It has simply been directed to land with a Grid-offer.

10.166 Mr Franklin explained that FTC were mainly holding investments and collecting rents. This was not a genuine farm diversification.

10.167 The appellant claims RLPS Policy SP18 supports the development of a solar scheme. However, that is all secondary to the requirements of meeting SP17, which this scheme fails to do.

10.168 SP18 should also be read with its supporting text where there is express support in this policy for contributing community-led and farm-scale renewable and low-carbon solutions. This includes support for anaerobic digestion, biomass boilers, and heat generation. The Anaerobic Digester, which is part of Circular Malton and Norton Community Interest Company, aims to make Malton a circular town and such an example, where crops can be grown

[209] Mr Franklin explained that FTC were mainly holding investments and collecting rents. This was not a genuine farm diversification.

flexibly to meet food security or energy demands, as the market requires. That is precisely the type of renewable energy installation which the Plan encourages.

10.169 There are a range of other important material considerations. Plainly, the benefits of renewable energy generation need to be considered and weighed. But they do not outweigh the very considerable harm caused.

10.170 The R6 Party support solar development in the right place. As explained in the opening, as the Prime Minister has indicated, the development of such schemes should not be at the expense of tenants.[210] Solar farms simply cannot be delivered "*by taking advantage of tenant farmers, farmers producing good British food on carefully maintained, fertile land. They can't plan properly if the soil beneath their feet isn't secure. It's a huge barrier to planning sustainable food production.*"[211]

10.171 The circumstances of the tenants in this case are exceptional. That exceptionality means that their concerns should form an important material consideration in the determination of this appeal. It is nothing short of extremely surprising that Ms Caines, in her rebuttal, sought to dismiss the tenants' position as not even weighing in the planning balance.[212] But, her position now appears to have been reversed, recognising in XX that their position is exceptional. In accordance with the principles set out by Lord Scarman in *Westminster City council v Great Portland Street Estates* where the personal hardship and the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. They are highly germane in this case.

10.172 The appeal scheme will have a detrimental financial impact on the Sturdy's business. It will break up their landholding. It will have knock-on impacts on other aspects of their business, including in relation to keeping cattle, selling straw, and letting of a residential dwelling, and cause an important opportunity cost based on (sound) assumptions that they would be able to succeed in the tenancy. It will mean that the assumptions upon which they have based their business (and the understanding that they will be able to be afforded the opportunity to succeed) will be undermined. These concerns have not been taken seriously by the appellant.

10.173 There will be landscape harm through harm to the character, users of the PRoW and the residential amenity of occupiers of Windmill and Acomb House. This should all weigh negatively against the scheme. So, too, should the heritage impacts arising from enveloping a nationally important windmill, the Grade II Acomb House, and the range of NDHAs.

10.174 This is a poorly sited scheme. The appellant's own ASA recognises alternative sites as performing better in flood risk and agricultural land terms.

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[210] See CD9.28 Mr Franklin Proof paragraph 6.10.
[211] Ibid.
[212] Paragraph 5.3 of CD9.32 – Appellant Planning Rebuttal

The rationale for ruling sites out has been based on shaky observations and assumptions, which do not withstand scrutiny when tested.

10.175 If permission is not granted, more grid capacity will be freed up for all of those other schemes in the queue behind this appellant. There is no evidence that refusing permission here will imperil climate mitigation targets either in this district, in North Yorkshire, or nationally. For all the reasons set out above, there is clear conflict with the RLPS. It also fails to accord with national policy, which, although generally supports solar development, requires appropriate consideration to flood risk and agricultural land. National policy does not offer *carte blanche* to develop anywhere and at any cost.

10.176 There are compelling material considerations as to why planning permission should be refused. Accordingly, it is respectfully suggested that this scheme be recommended for refusal and that the SoS dismiss the appeal.

11.0 Interested Parties (who spoke at the Inquiry)

11.1 There were several interested parties who attended and spoke during the Inquiry, including persons speaking on behalf of the local community and businesses. In tandem with the written representations, they raised issues related to (but not limited in extent to) the following matters:

Rt Hon Sir Robert Goodwill

11.2 He referred to the 'UK Farm Summit'; domestic food security production; climate change; and farming self-sufficiency principles inclusive of food stock for animals as well as human consumption and how those elements relate to current Government policy. He also spoke of unanimous opposition to the appeal scheme because it conflicts with important adopted local policy for the Ryedale area.

Cllr Lindsay Burr

11.3 She referred to the proposal being at odds with the Local Plan; negative impacts to tourism given the quiet reflective area and services; the beauty of Ryedale countryside; the harm to character of the area and local distinctiveness and heritage owing to the proposed industrialisation of the landscape; overbearing impact to living conditions; impingement to Mr and Mrs Sturdy farming business preventing its viability; and the need to protect farmers and farming interests.

Mr Pritchard – Malton Town Council

11.4 He cited amongst other points: the number of members of public who are against the scheme proceeding; harm to food security through loss of fertile land, businesses, and the economy; conflict with the neighbourhood plan (with a referendum held 3 October) being relevant which has a food production focus as well as encouraging tourism. Eden Camp being a major tourist attraction adversely impacted. The risks of battery fires, ecological risks to the river corridor, the impacts to ecology and local amenity network; listed building setting harm all referred to. In addition to, regard to the active

sustainability movement in Malton which is an established rural market town with unique circular and community processes which should be protected.

11.5 *Richard Banister (resident)*

11.6 He raised amongst other things: the consideration of agrivoltaics provision in solar farms; worker and human rights, resultant tenant and farming impacts being 'unjust'.

Sue Jefferson (resident)

11.7 She spoke of her involvement in change management; and local interest in the area. Advocated several points: there has been ineffective public engagement; that amenity and safety issues are reasonable concerns; and a lack of commitment to resolve safety provision interests with up to date risk report(s); plus expected/likely reputational damage to the Eden Camp museum site.

Dr Sam Hoste (resident)

11.8 Broadly referred to ecological/BNG implications and potential alternatives including potential approaches to other landowners being properly considered. Pointed and that no one has contacted him (as a local landowner) from Harmony Energy.

Howard Johnson (resident)

11.9 Spoke about noise and ecological impacts relative to heritage demonstration/educational talks including for school children, television programmes occurring as well as weddings taking place in the area. Found the noise evidence to be misleading factoring receptor distances and technical information. There is no noise assessment of the BESS. Additional safety issues for battery storage system would require water to extinguish potential fires which would be environmentally damaging when absorbed into the ground and travelling further afield via water transfer.

John Scarth (resident)

11.10 Referred to the enjoyment of walking and recreation being eroded and harm to countryside beauty. Spoke about the tranquillity and character of the open countryside and expected resultant loss to mental health and wellbeing. The UK should look to protect valuable agricultural land for food production as a further point.

Mr Williamson (resident)

11.11 He spoke about various impacts including related to: commitments to 200 units per annum of house building locally; public rights of way near farmland; dog walking; thriving green space; regenerative farming, wildlife interests; that good quality agricultural land should not be used in this way owing to food security interests.

Sarah Clarke (resident)

11.12 She spoke about family business interests in the area; Malton being known as a 'food capital' of Yorkshire; loss of the Sturdy's farmland would reduce food security; farming requiring generational planning to be successful as well as in an everyday sense; and that future generations should be able to learn the craft. Additional points she referred to included that energy targets could still be accommodated through smarter initiatives and land or buildings elsewhere. Mr and Mrs have a right to farm, and the future of Malton is an important consideration.

George Dunn (Tenant Farmers Association)

11.13 Referred to substantial impediments to tenant farming business planning affected by schemes such as this one. Personal circumstances should not be ignored – the human factor is important; compensation would be wholly inadequate for the loss; questioned what would occur if the solar farm was successful and then ceased; businesses would be negatively impacted; moral, ethical implications and cultural loss implications were also mentioned.

David Woolly (resident)

11.14 Spoke about the need for an appropriate level of regard to the balance of power/justice for local businesses and residents, in relation to the scheme. Disruption to family businesses and family life interests being significant concerns; harm to the ambience of the area; eroding the local enjoyment of cycling, rambling, walking and general recreation; wildlife harm; also spoke about religious values/the notion of what it means to be good stewards of local land.

Peter Conwell (resident)

11.15 Commented that the size of the solar scheme application area is too large –at industrial scale. Also, that the proposal should not be considered as 'temporary' given its 40 year span alongside stated food loss production concerns.

Jane Lawsley (resident)

11.16 The security fencing and battery storage gives rise to an unwanted industrial appearance using agricultural land for local produce with value to the community. Questioned if the Sturdy family would ever get their land back when alternative land could be used.

Mark Hepworth (resident)

11.17 The windmill at Windmill Farm is an important/notable heritage asset, bearing in mind the associated listing application was granted by Historic England. He advocated its setting would be harmed to a 'substantial' level rather than less than at a 'less than substantial' level as argued by the appellant. His views referred to Historic England's documentation alongside the memorandum from the heritage officer, and the author content of Harmony Energy Limited own

report(s). He put forward the conclusion that technical aspects are not addressed/covered in the appellant's findings. He also referred to the wider advice of Historic England.

Janice Hart (resident)

11.18 Spoke as occupier of Windmill Farm. Made the argument that wind renewable energy proposals are more productive and would be a better option. Had concerns about living condition impacts from roadworks and lorry movements required, proximity, as well as the impact to the night sky from light pollution.

12.0 Written Representations

12.1 Written representations were made during the appeal period. These included interested party objections relating to (but not limited in extent to) the following issues:

Use of farmland/food security/justification for the scheme

- The appeal site is prime farming land which should be retained as such for national food needs/food security interests.
- The majority of the proposal is on BMV land which National Planning guidance advises against. The land is already in best use, producing sustainably grown food for the UK, economically contributing locally and nationally, as well as supporting a hard working family business.
- It is unlikely the land would ever be returned to food production use.
- Not supporting productive arable regional farmers across the UK is long term bad news for the country. There's no point in having electricity production if there is no food supply.
- Winter flooding (caused by climate change) is likely to become an ongoing threat to food production as a further reason to retain high quality food producing farmland.
- Large corporations think that they can ride roughshod over multi-generational tenant farmers land to install plastic solar panels on good food producing land. Precedent should not be set for placing solar farms on grades 1 or 2 agricultural land given the need to produce more home grown food because of climate change/reducing reliance on large producers (such as the Ukraine). Over 40% of agricultural land in the Ryedale area is graded as 4 or 5 whereas there is only around 16% that is top quality.
- It should be a priority to preserve the best and most versatile farmland for food production. The options available for growing food are far more restricted than the opportunities to generate renewable energy. The new Government is unlikely to change the key aims of the current strategy which looks to support home-grown food for food security and a healthy population.
- Reduction in farmland means more imported food.
- The proposal is not a form of farming diversification.
- Threat to UK food security –production and supply/broader concern towards regulation of solar development itself.
- Previously developed land should be used first for solar schemes.
- There is no benefit to the local population.

- There is inadequate justification for the scheme, given the overall harms it would result in. The proposals are contrary to local and national planning policy.

Business impacts/Eden Farm

- Reference by Mr and Mrs Sturdy and the Tennant Farmers Association (TFA) that the Eden Farm tenancy is regulated under the terms of the AHA which affords lifetime security and the opportunity for succession to two further generations for their lifetimes. One succession of tenancy has already occurred and a further opportunity for succession remains available to the family. This is a crucial point which distinguishes this appeal from almost every other solar development appeal which the SoS has had to consider.
- The Fitzwilliam Trust Corporation has not taken sufficient concern to ensure that the personal circumstances, hardship, and difficulties of the Sturdy family have been addressed. This failure is not just one of process, but it is a material consideration that must be noted by the Inspector. Case law including the leading cases of *R v Vale of Glamorgan District Council (ex parte Adams)* [2000] and *Westminster City Council v Great Portland Estates plc* [1985] are referred to in this regard.
- The findings of The Rock Review into agricultural tenancies commissioned by the Government should be fully considered.
- The appeal proposal runs roughshod over existing tenancy agreements.
- Reducing the viability of a family farm that is working hard for the UK, when alternative sites are available (including on poorer land/industrial rooftops) is wrong.
- There would be inadequate/low level of compensation for farmland loss.
- Britain has the best safety rights/best agricultural rights which should be respected.
- Mr Sturdy is an award winning farmer bringing much expertise to Malton. Skills which would be eroded/lost.
- Mr and Mrs Sturdy have put their heart and soul into making their business successful and improving soil quality using Council green waste. The Sturdy family are half way through a 3 generation tenancy and the proposal would render their business unviable.
- Previous farmland in the area adjacent to the A169 Eden Camp already taken off Mr Sturdy's tenancy has been left as building waste heaps with weeds and is unsightly compared to the farmland is previously was.
- The rights of the tenant farmer and his family to see out the remaining tenancy term; to earn an honest living; and contribute to the local economy through trade and services should be respected and are all important material considerations to the outcome of the appeal.
- Loss of farming work for existing workers/ local livelihoods would be ruined through eroding agricultural supply chains to industry and the economy currently creating a thriving community.
- Targeting small farming businesses in this way is unethical.
- Renewable energy schemes should not displace or prejudice other key national priorities such as food production, having regard to UK strategy and policy. It is generally accepted that some (poor) land will need to be used if government are to hit their renewable energy targets, but it must not be at the expense of tenant farmers.

- Consideration should be given to the holistic consequences for the North Yorkshire rural economy and more widely of planning decisions being made in cases like this. More than 230,000 hectares of land are farmed across North Yorkshire, providing employment for over 17300 people. 35% of the farms are managed by tenant farmers. If the planning decision finds in favour of the landlord in this case, this tenant farm will no longer be viable.
- If planning permission is granted, scores of other landowners may follow suit with disastrous consequences for local tenant farm businesses and food production. Tennant farms are the backbone of local rural communities UK wide.

Eden Camp and other local business impacts

- There would also be negative impacts to local tourism interests during construction. In particular, Eden Camp Museum is a premier tourism and heritage attraction to Malton which attracts thousands of visitors per year (some 125,000 visitors a year, of which 30,000 are children).
- Eden Camp has unique historic and cultural value/is specialist visitor attraction which would be eroded relative to the location of the inappropriate location of the BESS site.
- Noise from the development (including BESS) would interfere with remembrance services and presentations at Eden Camp.
- Fire access and emergency management is inadequate. Lack of fire hydrants/emergency water supply is a health and safety risk.
- There should be more than one access to the BESS site because of safety risks. There could be uncontrollable release of energy/human safety risk/ business reputational damage.
- Disaster accountability is a concern.

Alternatives

- There are fairer/more effective ways of delivering solar including using existing farm buildings roof spaces in the area.
- Example of alternative renewable energy development being led by the Malton & Norton Community Interest Company (CIC), Circular Malton, on Eden Business Park just outside Old Malton referred to. Anaerobic Digestion (AD) facility with support from the Rural Community Energy Fund (RCEF), a Defra fund to support the pre-development and physical development of community-scale renewable energy projects. When compared to solar which offers no direct benefits to the local community, hampers agricultural development, and reduces food production, whilst achieving just over 10% efficiency on average (which in lay terms means it delivers power for just 10% of the time, or at 10% of its installed capacity), it is clear which option is better suited to the highly rural area being targeted. Community interests should be a consideration and there are inevitably better locations for large-scale solar developments, and clearly alternative renewable energy technologies better suited to the rural area immediately surrounding Yorkshire's Food Capital.
- Solar panels should be on previously developed land/ on top of industrial buildings rather than located adjacent to villages and tourist attractions or using good quality arable land.

- Other landowners have not been contacted by the appellant for potential solar development on more suitable sites.
- Alternatives (including better alternatives) have not been properly considered.
- The solar farm is not needed to achieve UK Net Zero ambition. Solar is becoming outdated in any event and there are other more sustainable/effective ways of producing energy.

Flood risk/fire risk/health and safety concerns

- Flooding problems in the area would be exacerbated.
- The proposal increase a risk of fires. Including from moisture/water ingress into parts of the PV system, such as the DC and AC connectors. Concerns toward: fire risk assessment to wildlife; local communities; and visitors therefore arise.
- Cleaning/maintenance impacts of panels should be carefully considered.
- Adverse impact on the flooding situation in Malton if the tenanted land is not managed and drainage sustained.

Local amenity, heritage, character, environmental impacts/ and other matters

- North Yorkshire is an area of outstanding beauty with land managed by the farming industry. Putting panels in fields is an 'easy fix' and would be detrimental to the landscape that people visit the county to see, as well as impacting a long-standing agricultural industry.
- The beauty of the countryside should be protected.
- Erosion of the area's aesthetics/harm to the visual appearance of the area/industrialisation of the open countryside. The scheme would be an eyesore.
- 'Substantial harm' to important local heritage assets – a local Windmill (Grade II listed, granted by Historic England 25 May 2023).
- The scheme is out of keeping with the setting of a local Windmill building which has been used historically by farmers and the surrounding area.
- Negative effect on local mental health/well-being including the Sturdy family.
- Detrimental impact on users of the surrounding PRoW network particularly within the Howardian Hills National Landscape.
- Visual intrusion from the high fences/CCTV/inverter's transformers and solar panels.
- Ryedale District Council obtained a grant of around £250K from the European Agricultural Fund for Rural Development. This was used to create a cycle and walking route from Malton to Pickering for people to enjoy the countryside.
- The route is used by local people and visitors and is approved by Sustrans.
- There would be harm to the route from lorries, months of noise and turmoil
- Loss to tranquillity of the rural environment.
- Resultant views from lanes would be of inappropriately high hedges with no enjoyment of the countryside views – of fields of barley and wheat.
- The rural environment is important to local health and wellbeing interests which would be eroded.
- Harm to local amenity; landscape; tourism; visual appearance of the area.

- The local population overwhelmingly want the proposal rejected.
- Concerns towards unethical forms of labour/human rights to produce solar panels in other countries. Maximising profit should not come before all other considerations triggered by the proposal.
- Inadequate/ineffective consultation by the appellant.

Local living condition harm

- Increased/excessive noise pollution in a peaceful area.
- Proximity to residential use is inappropriate/harmful to living conditions including Windmill Farm and Acomb House Farmhouse.
- Once built rural views would be spoiled by industrial looking development.
- The construction period of at least 6 months would be unbearable: noise from pile driving/ erection of the panels/invertors, and security fencing.
- The transport management plan states that over a 20 week period there will be 3,348 two way trips by construction vehicles, many of those traveling down Freehold Lane close to residential use and alongside a new road (52 metres from garden land) through the southern field, then round the back of the cattle shed. It would simply be too much.
- Light pollution.

Ecology/environment/decommissioning

- Concern over water pollution during construction/operation.
- Environmental/ecological damage.
- Negative impact on soils/flora and fauna.
- Doubts concerning the degree of BNG claimed.
- The loss of BNG (after 40 years including during any decommissioning);
- Decommissioning/restoring the land to its original state would not be effective from pilling.
- Solar is not carbon free owing to manufacturing elsewhere. Moving the carbon issue from the UK oversees, not really attaining a low/net zero carbon economy.

13.0 Planning Conditions

13.1 On a without prejudice basis, draft conditions have been agreed between the appellant and the Council and discussed further during the Inquiry.

13.2 Thus, for the purposes of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the appellant records its agreement to the imposition of the pre-commencement conditions set out (or to any variations of them imposed by the Inspector which are to substantially similar effect).

13.3 The focus of the discussions was to ensure that all matters of control and mitigation were properly addressed, and all conditions were necessary, relevant to planning and to the development, enforceable, precise, and reasonable in all other respects.

13.4 Were the SoS to consider that this proposal should be allowed, and permission granted, I have considered in my assessment below, possible conditions that I recommend should be applied. These can be found in Annex D.

14.0 Inspector's conclusions

14.1 Considering the evidence in this case, including the submissions and representations on which I have reported above, I have reached the following conclusions. The numbers in square brackets [ ], refer to preceding sections of this Report from which some of my conclusions are drawn.

14.2 Having regard to the reasons for refusal pursued by NYC, together with the development plan context, statutory obligations, and the contributions of interested parties on other matters, I find that the main considerations which need to be addressed relate to:

(i) The acceptability of the principle of the development in the location proposed having regard to a) flood risk b) the loss of agricultural land for farming purposes inclusive of its grade;
(ii) The impact of the development on existing rural business;
(iii) The impact on nearby heritage assets;
(iv) The acceptability of the resultant effects upon residential living conditions and local amenity; and
(v) The overall planning balance having regard to any related planning policy, any harm, or benefits.

14.3 *Acceptability of location with respect to (a) flood risk and (b) agricultural land*

14.4 RLPS Policy SP17 supports undertaking a risk based sequential approach in the consideration of development proposals to guide new development to areas with the lowest probability of flooding, in accordance with national policy. The 'exception test' is now defined under 167 and 168 of the Framework. SP17 also requires the use of sustainable drainage systems and techniques, where technically feasible, to promote groundwater recharge and reduce flood risk.

14.5 Equally SP17 aims to prioritise the use of previously developed land whilst protecting the BMVAL from 'irreversible' loss. It advocates that the loss of BMVAL will be resisted unless it can be demonstrated that the use proposed cannot be located elsewhere. And that the need for the development outweighs the loss of the resource.

14.6 There is a high degree of interconnectedness in these land management issues listed in the same development plan policy.

(a) Flood risk

14.7 The aim of the flood risk sequential test within the Framework is to direct new development towards areas with the lowest risk of flooding from any source and, if that is not possible, to then determine whether there are any other reasonably available sites within a suitable location for the type of development proposed.

14.8 I note that the main parties have confirmed their agreement to the appeal development falling as 'essential infrastructure' described in Annex 3 of the Framework. In this case therefore, if it is not possible to position the appeal

scheme on other lower flood risk land areas, assuming the appellant's justifications are reasonable, the exception test would be applied. The R6 and NYC's criticisms are that the appellant's grid first approach is inadequate when assessing flood risk[9.2-9.3][10.13-10.15].

14.9 From an electrical design perspective, a major aspect of the appellant's grid offer argument is that they do not need to provide a DNO substation as part of their scheme given the solar farm would be within 300m of Malton BSP.

14.10 I heard evidence from the appellant's technical expert (Mr Camplejohn) that locational alternatives pursued by NYC and the R6 Party's evidence, could in theory be undertaken with longer cabling corridors. Yet, he suggested the nature of the grid connection readily available has been the primary driver to discount those as alternatives [8.7-8.8] [10.5].

14.11 Whilst other alternatives argued may not be insurmountable as construction concepts, I accept that longer cabling would be more expensive operationally and may well involve directional drilling and other engineering complexities (as per Mr Camplejohn's cost estimates at CD7.3).

14.12 It is unsurprising that the appellant has paid significant attention to an immediate unconstrained connection offer –from both business and environmental perspectives[8.6] [9.10-9.22]. Essentially, the appellant favours a scheme which would not be subject to a substantial grid connection waiting queue[9.19]. This is because it would have direct control over resultant viability interests alongside the interface of the wider land constraints involved.

14.13 Bearing in mind the mapping information contained within CD10.10 as well as Mr Stone's evidence I agree Ryedale does not have an abundance of technically unconstrained land within a 2.5km search radius[8.14-8.19].

14.14 A higher ASA radius is referred to by NYC and the R6 as being warranted. But a 2.5km search area is proportionate in this case relative to the size of the scheme, all 'known' constraints and readily available grid connection.

14.15 Even if a 5km or 7km ASA was endorsed there is no strong evidence to suggest that all constraints (both technical and environmental) could be readily overcome [8.16]. Subsequent commercial costs are a further factor.

14.16 I am also aware that there is no set requirement for the extent or content of an ASA in local or national policy. I anticipate the reason for that is linked to the sheer number of variables potentially impacting on any given area initial conceptual feasibility scoping exercise onwards. Hence the differences in other appeals mentioned. That said, Mr Stones' evidence gives further details towards ASA considerations for a greater radius which the appellant has subsequently rejected as being either impractical or less favourable during the Inquiry itself, in any event.

14.17 Akin to my colleagues' conclusions made at the Penhale Moor appeal such readily available connectivity secured by the appellant amounts to a key locational factor. It would minimise environmental disruption compared to

other longer theoretical cable routes. Thus, easy, and readily available grid connectivity is an important consideration which holds significant weight.

14.18 Further afield all land to the north of the appeal site (except a small part of Flood Zone 1) is located within Flood Zones 2 and 3. I am also aware south of the appeal site is the AONB (or National Landscapes as per the Framework), the A64, a railway line, the built-up extent of Malton and an area of high landscape value beyond. Areas falling within these designations are all in an area mapped as comprising Grade 2 agricultural land.

14.19 It is apparent other alternative sites which could have an easy grid connection not requiring sections of cabling crossing highway infrastructure are of equal or greater flood risk.

14.20 Furthermore, it is also apparent that the other potential alternative sites involve land designations such as: the AONB; visually important undeveloped areas or areas of high landscape value; or would be higher grade agricultural land according to the ALC mapping evidenced.

14.21 I also appreciate that soil surveys and sampling beyond such mapping would be lengthy and difficult to undertake given the size of the geographical area. Indeed, other environmental survey work outcomes which would ordinarily be expected cannot be relied upon as being favourable.

14.22 Given the existing electrical infrastructure present in the area offered from Malton BSP a 300m radius (referred to during the planning application period) was a reasonable starting position to take. Such a starting position does not necessarily preclude flood risk management and agricultural land classification policy interests from being met relative to the PoC ease.

14.23 Even without taking that view, the additional higher radius information before the Inquiry identified by Mr Stones serves useful context. Whilst not arising from the appellant's own appraisals, the collective information provided gives me sufficient assurance that other potential alternatives can be reasonably discounted in line with the appellant's submissions.

14.24 The suitability of landscape and heritage impacts, hydrogeological conditions, potential contamination pathways and related ecological ramification are too readily skated over in NYC's and the R6's overall assertions toward favouring shorter cable distance and engineering ease. The full environmental asset implication of any alternative would still need to be rigorously evaluated. A broad brush evaluation carries unquantified risks.

14.25 In tandem with those points, I note Mr Camplejohn's submissions within CD9.35 confirm that the BESS import is limited at 12.63MW due to demand and import capacity issues at the existing Malton BSP. Harmony Energy are aware that this is the maximum import capacity they could have without triggering costly network upgrades.

14.26 That is important as Blake Clough (CD9.27) reviewed the ECR. Considering the R6's claims this highlights a substantial registered capacity of projects that have already accepted connection offers to the Malton BSP. Based on all

technical submissions they would require a larger capacity than is possible using the existing transformers at the Malton Grid.

14.27 Mr Camplejohn maintained that the appeal project can be scheduled for connection 'immediately' because no reinforcement works are required (save for a standard 18-month lead in time to procure the required electrical equipment).

14.28 He also made the case that National Powergrid would not allow an adjustment to the red line boundary of the LoA to be made at this stage. It would result in the loss of the current grid connection offer and the appellant losing their current position in the queue.

14.29 I acknowledge that the original redline boundary of the LoA (CD9.36, Appendix 1 – Malton LoA), at its further extent from Malton BSP, measured 1.6km prior to refining the site's design based on detailed site assessment.

14.30 Therefore, bearing in mind the full technical submissions from Mr Camplejohn orally and by way of rebuttal I accept that suggestions referred to by Mr Stones would not constitute more feasible or realistic alternative options which should be better explored by the appellant. It would constitute a different project altogether.

14.31 That is not to say whether other theoretical alternatives could, or could not, obtain planning consent. It would be for the local decision making process to determine that informed by a full complement of detailed survey information inclusive of any likely significant effects and all risks.

14.32 In accordance with the Framework within Flood Zone 2 and 3 areas, developers should seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development, alongside the application of sustainable drainage systems. The appellant takes such an approach in the suite of layout information and the planning conditions it is committed to.

14.33 It is striking that the appeal location has already been subject to historic drainage programmes to allow intensive farming uses in the evolution of the area. The appellant's expected surface and ground water management scheme would be able to complement historic drainage capacity allowing greater groundwater recharge.

14.34 Moreover, it is common ground that the surface water management strategy demonstrates that runoff from the proposed development can be managed via implementation of dispersion and erosion protection measures. This includes gravel pits and permeable tracks as well as a drainage pond in the BESS area. Such provision would be compliant with local and national policy.

14.35 Thus overall, I conclude the there are no sequentially more favourable sites and the exception test is passed. For all of the above reasons I do not find any breach of SP17 or the Framework with respect to flood risk.

(b) Agricultural land

14.36 I acknowledge that paragraph's 180 and 181 of the Framework seek that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other things: protecting and enhancing landscapes and soils (in a manner commensurate with their statutory status or identified quality in the development plan). Plans should: distinguish between the hierarchy of international, national, and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies within the Framework.

14.37 And as per Footnote 62 *where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development*.

14.38 NYC's reason for refusal applies primarily to the most western field, and the outer edges on the east and western sides of most of the site, being the Grade 1 and 2 areas. In that context, similar site selection arguments applied to flood risk issues are posed by NYC and the R6 Party toward BMV land loss.

14.39 Nonetheless, the evidence submitted suggests to me that the appellant has surveyed some 214ha of land and has tried to focus the development on poorer quality soils where it is possible. Because of those steps, the appellant broadly submits that the 'permanent' loss of BMV soil from the scheme is limited to around 0.3ha from building the customer substation and accommodating tree planting.

14.40 Tellingly there are no complete fields of BMV land under the proposed solar arrays. There is a mix of grades involved. The appellant pursues a layout that placed the panels only on the 29.5 ha of Subgrade 3b land within the wider ALC survey area. The scheme would be reversable so there would be a total temporary loss of around 29.5ha of BMV land on the site whilst the solar farm is in operation. Given the ALC survey information informing the appellant's steps and layout I accept they have demonstrably reduced both the use and permanent loss of BMV as much as possible[8.21-8.23]. Ryedale being a geographical region where soil quality is generally anticipated to be high bar.

14.41 Aside to ALC related selection arguments, the Framework requires me to have regard to the economic and other benefits of BMV land. The appellant has calculated such impacts by comparing the production and economic performance of average and high yielding crops, as well as gauging the direct impacts to an existing farming business also contested.

14.42 In terms of agricultural land loss and the related UK food security interests raised, the argument can be quantified. Mr Kernon equates such loss to stand in the region of some 41 tonnes of wheat. But at a national level this is in the overall context of the 22 million tonnes of wheat produced by the UK during 2023[8.25-8.27].

14.43 The appellant also makes the convincing case that from a local or regional perspective 47.2 ha of agricultural land within the site should also be viewed in

the context of 1.12 million hectares of farmland (52% of which is arable) in the Yorkshire and the Humber area[8.25].

14.44 As additional context, I am equally mindful that the RLPS gives encouragement for growing biomass crops rather than food crops including at paragraph 7.34 and the table at 7.33 which envisages 46MW of within Ryedale (CD4.1). Neither the RLPS, nor the other evidence before me, convincingly indicates that there is a local production land scarcity problem when assessing economic cases for other wider types of farmland use.

14.45 Consequently, although there would be loss of good quality farmland used to produce food for a 40 year period, on a relative scale recognition of that point does not lead me to the conclusion there would be any serious detriment to local or national food supply security interests.

14.46 The site has already been accepted as being enhanced over time through farming techniques and the skills of the tenant. Factoring that there is nothing convincing for me to conclude that a Soil Management Plan (SMP) together with a suitable water management strategy and its future implementation would not be a successful mechanism. An SMP to restore the appeal site either to the same ALC grade it is now, or allowing further enhancement including microbial health and overall fertility would be likely.

14.47 I note that Paragraph 163 of the Framework sets out that applicants should not be required to demonstrate the overall need for renewable schemes, and that even small-scale projects provide a valuable contribution to significantly cutting greenhouse gas emissions. Comparatively SP17 does refer to need interests.

14.48 Allowing for the full wording of SP17 PoC ease gives a strong basis as to why the development cannot be reasonably located elsewhere. The overall need for the development stems from ensuring clean and secure energy interests can be met.

14.49 Accordingly, whilst not in total conflict with SP17 there would be some marginal non-compliance for the parts of the BMV land accepted as being permanently affected by the appellant. The policy specifically incorporates protecting BMV agricultural land from irreversible loss. It is generic to all forms of development, some of which could comprise of permanent construction projects unlike in the case of the appeal scheme.

14.50 The main aims of Policy SP17 are otherwise complied with: to direct new development to the most appropriate locations having regard to flood risk and agricultural land management when taken alongside the consideration of other important environmental factors and scheme need. The interface with the appellant's PoC arguments are material and compelling in gauging those. Albeit components of overall site selection clung to are made in retrospect considering all Inquiry evidence and were right to be critically questioned by NYC and the R6.

14.51 Thus, in overall conclusion of both matters (a) and (b), I find that the appeal evidence demonstrates that there are no reasonably preferable alternative

sites in areas not prone to flood risk. The appellant's site selection justifications are appropriate for responding to known flood risks, as well as avoiding and minimising BMV agricultural land loss as far is as reasonably practicable, bearing in mind all technical information provided.

Existing rural business impact

14.52 The areas of dispute in relation to business impacts largely centre on the degree of harm apparent to the viability of the Eden Farm business. My conclusions have also had regard to the first main issue where there is significant overlap.

14.53 At a national level Paragraph 85 of the Framework states that *planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future*.

14.54 Framework Paragraph 88 goes on to state that planning policies and decisions should enable amongst other things the sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural businesses.

14.55 RLPS Policy SP9 (CD4.1), supports Ryedale's land based rural economy in a variety of ways including: local food production and sales; appropriate new uses for land including flood management and energy production related research education in this field; appropriate farm and rural diversification activity including innovative approaches; and indirectly by supporting the livestock market within Ryedale, weekly markets and farmers markets as well as other events; and proposals or actions that would assist in utilising and retaining traditional rural land management skills.

14.56 I note that the introductory text to SP9 points to land-based economic activity as being integral to the District's economy, cultural heritage and identity which has undergone considerable restructuring over the post war period and is set to continue to restructure as a consequence of both local and global changes.

14.57 Such changes are acknowledged in the preamble text as happening at a rapid rate; being difficult to predict and are likely to exert a combination of 'positive' and 'negative' pressures on the District's rural economy. Paragraph 5.35 of the RLPS specifically states *this Strategy is intended to support and be flexible to the needs of those who rely on the land-based economy. It also supports new opportunities that may arise from future changes. These range from alternative cropping to renewable energy schemes. It is essential that these new land uses and economic activity must be supported and encouraged where appropriate if Ryedale's countryside is to continue as the living and working countryside that is intrinsic to Ryedale's cultural identity.*

14.58 In relation to that national and local planning policy context Mr Robert Sturdy holds an agricultural tenancy over Eden Farm of which 44.52 hectares sits

inside the overall 52.86 hectares of the appeal site. This is submitted to entail just under half of the land subject to his agricultural tenancy which is a key consideration of the appeal.

14.59 All the evidence submitted points to the conclusion that Mr Sturdy presently runs a successful farming business he and his family have worked hard to create and sustain. Mr and Mrs Sturdy and their children collectively have strong ties to the land and local area. All of which amount to important considerations for any decision maker to factor.

14.60 In gauging NYC and the R6 Party's arguments I am aware that the TFA have followed the appeal. They make representation as a national body dedicated to representing the interests of tenant farmers in England and Wales.

14.61 I recognise that the tenancy subject to the dispute is regulated under the terms of the AHA which affords lifetime security and the opportunity for succession to two further generations for their lifetimes. One succession of tenancy has already occurred and a further opportunity for succession remains available to the Sturdy family. I accept that this is a crucial point, providing distinguishing circumstances from other solar cases referred to in the submissions made as a whole.

14.62 Importantly, the appeal proposal does not concern an occupier/tenant seeking to diversify their 'own' activities when having regard to the RLPS or the Framework.

14.63 Factoring the financial information considered by the Inquiry, if allowed, the solar farm scheme would result in irreversible detriment to Eden Farm as an existing successful agricultural business entity[9.55-9.58].

14.64 Whilst Eden Farm is shown to be able (in theory) to continue as a viable business[8.33-8.44] the level change stemming from land removed from the tenancy would still represent a significant decrement[10.133] of a definable range. Having viewed the financial figures, I am conscious there remains numerous degrees of speculation to be certain if the business would be able to flourish in the same way it has over the years to date.

14.65 Variables such as future crop yield; rotation; crop mix; cattle numbers; maintenance and operational costs/abnormalities; farming enterprise/environmental schemes and appropriation at a national level can rapidly change over time. Therefore, accounting for the content of the opposing statements made there is a great deal of guesswork also implied.

14.66 Should planning consent be granted, based on the submissions made by all parties during the Inquiry, Mr Sturdy would face the prospect of an incontestable notice to quit the land subject to his tenancy.

14.67 In other words, Mr Sturdy would not be able to continue to farm the holding under any terms if the development is allowed to proceed. He would lose access to all the land subject to the development.

14.68 The appellant makes no case for any dual use such as through agrivoltaics. The expected requirements of such notice to quit would mean that an alternative use (to agriculture) is envisaged. Any use which includes agriculture (for example sheep grazing under solar panels) is likely to result in difficulty with the requirements of the AHA.

14.69 I also accept that Mr Sturdy's business is part of the wider local agricultural economy which would be eroded because of decreasing farming productivity. Such harm in the context of the adopted development plan policy wording carries substantial overarching weight against granting permission for the appeal scheme.

14.70 As informed by all the evidence submitted, the statutory compensation available to a tenant is referred to as amounting to a maximum of six times the rent passing for the land being removed from the tenancy. This is alleged as falling considerably short of the true impact of the loss involved to the Sturdy farming business. The appellant has factored that point.

14.71 Yet the TFA alleges that, the landlord has not followed this guidance and is therefore in breach of what would be considered good practice in its conduct of negotiations with the tenant. In essence they contend there has not been sufficient concern to the personal circumstances, hardship, and difficulties of Mr Sturdy. This issue is referred to by the TFA as supported by case law including the leading cases of *R v Vale of Glamorgan District Council (ex parte Adams) [2000] and Westminster City Council v Great Portland Estates plc [1985].*

14.72 In such context, I am therefore cognisant of the impact of this application on the personal circumstances of the tenant and his immediate family. The TFA along with other interested parties submit that, on the grounds of the impact on the personal circumstances of the tenant alone the appeal should fail.

14.73 I concur that the scale of the impact on the tenant is significant and, exceptional by comparison to other schemes without such impacts. Tied to those considerations are the wide ranging public concerns toward the ramification to: the local and regional economy which is agricultural land based; precedent consequences to other tenancies; Ryedale's/Malton's social and cultural prestige for a successful farming industry; high quality food produce; and promoting a circular sustainable economy.

14.74 I have considerable sympathy for Mr and Mrs Sturdy's predicament in relation to the high degree of uncertainty that they have faced, whilst raising their family and continuing their livelihood. During the Inquiry Mr Sturdy indicated it was his aspiration to continue farming within Ryedale working in collaboration with the landlord.

14.75 Much tertiary R6 argument is made in relation to the inadequacy of the statutory compensation, in the event the scheme proceeded. I have also considered the report and recommendations of The Rock Review (CD8.42) into agricultural tenancies commissioned by the Government.

14.76 I appreciate there are a variety of agricultural land management fragilities raised by the Rock Review (2023) (CD8.42). For example, moves to de-linked payments which have evolved from the Basic Payments Scheme and farmers industry wide are recognised in the Review as seeing their future cashflow diminish. Uncertainty around the precise nature of public schemes going forward means farmers are documented as struggling to see how they can remain viable without intensifying production.

14.77 Added to this, I equally recognise tenant farmers such as Mr Sturdy may face barriers to accessing government schemes and growing and maintaining their business in a long term sense, even without a reduced land area tenancy format. I am aware rent requirements, restrictive clauses, and individual contractual issues in some cases can all lead to uncertainty.

14.78 The collective information submitted indicates to me that tenant farmers have rights in relation to: sanctity of contract; the covenant of quiet enjoyment of the rented land; developing a viable business; and to a future livelihood. There is an important balance of rights and obligations from both the tenant and landlord in the issues raised.

14.79 Even so, the potential level of compensation is not in itself a determinative matter for this appeal. Such a point instead relates to independent statutory and any affiliated arbitration processes which could be up taken.

14.80 Separate to those matters, I have considered business impacts to Eden Camp as well as broader tourism and recreation interests. There is nothing convincing within the evidence which demonstrates that the proposal would be detrimental to the future operation or standing of those.

14.81 Accordingly, whilst there is clear support for: renewable energy schemes; innovation; and diversification afforded by the RLPS I find that the level of irreversible detriment to the Eden Farm agricultural business[10.133], does still run counter to the wider aims of Policy SP9. These aims extend to supporting the uniqueness of Ryedale as a land based food producing rural economy where successful agriculture businesses play a significant role.

14.82 Even though rural area economic change is anticipated by the policy and the business is shown to remain viable post the development proceeding (if that were to be the case) it does not overcome the policy conflict I have identified.

Heritage impacts

14.83 As per the duties contained within Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the SoS must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

14.84 The development plan via RLPS SP12 sets out that distinctive elements of Ryedale's historic environment will be conserved and where appropriate, enhanced. Proposals which would result in less than substantial harm will only

be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of harm to the asset. Such an approach is consistent with the policies contained within the Framework seeking to prevent heritage assets from harm.

14.85 Where any harm is attributed to designated heritage assets this must be weighed against the public benefits of the proposal. Such weighing exercise is set out in paragraphs 205-209 of the Framework, and I have included this in the 'Planning Balance' section of this recommendation.

14.86 Substantial harm is not specifically defined in the Framework. It is not prescribed as formulaic. Nonetheless the NPPG[213], advises in general terms, substantial harm is a high test. It may not arise in many cases.

14.87 I acknowledge that NYC did not refuse planning permission on heritage grounds following their detailed assessment[9.5] (CD3.1, Report to Strategic Planning Committee 10 October 2023 and CD3.2 Minutes from the meeting and CD3.3 showing the Decision Notice).

14.88 At the planning application determination stage NYC considered that the resultant level of low (defined as 'less than substantial') harm identified to the Windmill and Acomb House Farmhouse was outweighed by the significant public benefits. No other impacts on heritage assets were identified. The content of the main SoCG (CD9.2) outlines NYC's position on this issue and is consistent with their original determination[8.18]. Nonetheless, in light of all heritage evidence before me including regard to relevant NDHA's I agree further detailed evaluation is warranted.

a) Designated assets – the Windmill / Acomb Farmhouse

14.89 The Windmill at Windmill Farm is located around 60m east of the appeal site boundary. During the determination of the application, the Windmill was added to the List of Buildings of Special Architectural or Historic Interest on 25 May 2023, as Grade II. The significance of the Windmill is considered to derive from both its architectural and historic interest.

14.90 On an architectural interest level, the Windmill is late 18th to early 19th century. It forms a landmark building in the surrounding countryside. Its importance is linked to the survival of an increasingly rare agrarian-industrial building type with internal fittings and fixtures giving a clear understanding of processes it was originally built for.

14.91 The historic interest of the Windmill stems from the adaptions made to the mill illustrating the changing social and economic conditions in the countryside. Such as emanating from the industrialisation of corn mills at ports like Kingston upon Hull and Selby, and the subsequent cheap transportation of flour and feed by road and rail.

[213] Paragraph 018 Reference ID: 18a-018-20190723

14.92 I acknowledge it is a rare survivor of a local windmill containing mechanical apparatus with a relationship to neighbouring heritage sites. The Windmill is part of a distinctive local farming industry vernacular. It is intrinsically linked with the historic agricultural working practices which have evolved over time to manage grain produce in the landscape setting. Eventually declining in 1940's when such use started to cease.

14.93 Whilst objectors to the development comment that the wider landscape setting is largely unchanged, it is credible there have been changes to the north of the Windmill and to the southeast through the amalgamation of field boundaries. Also, the creation of larger field boundaries, is supported by historic mapping.

14.94 I appreciate that from the wider landscape the Windmill is visible as a tall building situated within flat open fields. Because of its height, albeit without sails, it is distinguishable from afar. However, from Freehold lane it is only in occasional views otherwise obscured by mature hedgerows. It is also visible from the fields to the southeast, although neighbouring farm buildings such as Acomb House become more prominent from those vantages.

14.95 The R6 Party only raise an issue with the impacts on the setting and significance of the listed windmill. They set out that the significance of the listed building is partly understood through this setting. The solar arrays would harm this link between the agrarian landscape in which the windmill sits.

14.96 There would be harm arising from the change to the setting of the Windmill with the appeal proposals. But the level of harm would be tempered by their low lying stature within the landscape. The panels and apparatus would be viewable to a limited degree within the wider views of the asset. The change would not adversely affect established field boundaries, and landscaping would be reinforced through planning conditions.

14.97 It is also the case that the impact would be temporary and reversable. Thus, for all those reasons I agree that the overall harm would be 'less than substantial'. The R6 Party as well as NYC draw similar conclusions.

14.98 'Acomb Farmhouse' is a Grade II listed late 18th to early 19th century property of national importance and high significance. There would be intervisibility between the solar farm arrays and the farmhouse. Albeit there would be some screening from hedgerows marking field boundaries, reinforced through the appellant's proposed planting scheme.

14.99 The contribution that the appeal site adds to the significance of the asset is accepted as limited by the R6 Party, alongside their appreciation of temporary and reversible impacts. I concur the resultant impact would be at the very low end of less than substantial harm.

b) NDHA's– Windmill Farm/Acomb House Farm/Eden Camp/Eden House and Eden Farm/archaeology

14.100 Importantly, I note that the agricultural buildings at Windmill Farm are explicitly excluded from the Windmill's designation. However, based on their

age, form, and fabric I acknowledge that they do have relevant historical interest.

14.101 I recognise that the Windmill Farm buildings adjacent have historic value in terms of direct linkage to the site's evolution and strong relationship to the setting of arable fields. They meet the criteria to be considered as an NDHA. I note that the value of Windmill Farm as an NDHA is assessed in the Report by Wolds Heritage (CD9.30). I have taken this information into account.

14.102 'Acomb House Farm' contains building types that evidence historic farming practices. These conform to the predominant types of arable-based multifunctional buildings that typify the area.

14.103 The significance of Acomb House Farm is informed by its architectural form and historical development. Although now in private ownership it was developed by the Fitzwilliam Malton Estate in the same period as neighbouring farmsteads as part of the agricultural improvements from land drainage and enclosure. It contributes to the landscape character of nucleated farmsteads within a dispersed settlement and the collective group value with neighbouring heritage assets including NDHAs.

14.104 Eden Camp is stated as being originally constructed in 1942, which held Italian and German prisoners during World War Two. The prisoners were put to work locally in surrounding agricultural fields. I recognise Eden Camp now operates as a modern day history museum and has done so since the 1980's. The museum provides a unique cultural interface between Ryedale's agricultural community; local tourism; and established veteran groups.

14.105 Based on Catherin Bells submissions I agree that Eden Camp as an NDHA should be valued at a regional level. It is attributed medium significance as per the ES terminology to describe such assets. I concur that there would be a minor/negligible significance of effect.

14.106 The main parties agree that Eden Camp and its setting would not be significantly impacted upon owing to topography, distance to the appeal site, the height of the development and screening. I have no strong reason to disagree.

14.107 Eden House is a late 18th early 19th century high status property with architectural interest. It has a large curtilage including a parkland setting, walled garden, and kitchen garden. The site was historically owned by the Fitzwilliam Estate. It is neighboured by 19th century estate cottages.

14.108 Eden House has illustrative and associative historical interest as a principal residence to the management of the Fitzwilliam Malton Estate, which has dominated the evolution of Malton and its surrounding area since the post Medieval period. The house and nearby cottages exemplify historical social structures and the important role of the Fitzwilliam Estate within the area.

14.109 The location of Eden House in a large domestic /parkland curtilage, surrounded by farmland within the same ownership is relevant. Eden House

formed a part of the same major early 19th century scheme of works as the improvement of Old Malton Moor for arable production. It has a close associative relationship with Eden Farm, adjacent. Consequently, I accept that Eden House should be considered as an NDHA. It has medium rather than high significance.

14.110 Nonetheless based on the orientation of Eden House away from the proposed development, the magnitude of impact on Eden House would be 'Low / Negligible'. As this results in a 'Minor / Negligible Significance of Effect' in the Table 7.4 matrix, impacts on Eden House as an individual NDHA are not considered further within the R6's assessment.

14.111 Furthermore, Eden Farm (historically Eden House Farm) adjacent to Eden House, is a late 18th / early 19th century farmstead with a handsome red brick farmhouse displaying a hipped roof with symmetrical front elevation. It is typical of the Georgian period and evidences the cultural and social backdrop of the period(s) of construction. I appreciate the historical relationship between Eden Farm and Eden House would have been as a 'home farm' to 'country house'. Eden Farm exemplifies characteristics in materials and design that typify the area and contribute to the landscape character.

14.112 Eden Farm retains a number of curtilage agricultural buildings from its period of construction and later 19th century additions. Many of these have been altered over time to meet the changing needs of its continued agricultural use. The significance of Eden Farm is considered to be 'medium' by the R6 Party based on its age and level of survival of historic features that characterise historic farmsteads in this area. I agree.

14.113 It has a functional relationship to the appeal site that continues today. Unlike with Acomb House farm where there is no such functional relationship between the two. The contribution of the appeal site to Acomb House Farm is the intervisibility with neighbouring sites and the way the farm is experienced in the landscape.

14.114 The geophysical survey undertaken and referred to in the ES showed that fields without green waste did produce anomalies of archaeological interest including a trackway in the western part of the site. This is interpreted as likely to be medieval in date in the Cultural Heritage ES chapter, although it could also be prehistoric or Roman in date.

14.115 Together with Catherine Bells additional assessment covering all relevant NDHAs impacted upon (which is convincing), responses from the appellant, other parties, and the content of the ES combined I am satisfied that there is adequate information to inform my assessment.

c) The significance of designated and NDHAs overall 'Group Value'

14.116 Importantly, Section 3 of the R6 heritage impact assessment is informed by Historic England guidance and appraisals specifically for the Vale of Pickering Area.

14.117 Based on that information I note the enclosure of Malton Moor in 1805 coupled with water management practices introduced cuts, ditches and canalised sikes, that brought marginal land into intensive production. The formation of a drained landscape informed the dispersed settlement of isolated farmsteads that characterise the landscape. Besides the removal of some field boundaries in the 20th century, the landscape character has remained unchanged in the inner study area since the turn of the 19th century.

14.118 I accept that the contribution of shared setting, to properly understand the significance group value of Acomb House Farm, Windmill and Eden Farm is high. Harm to the shared setting through the introduction of fields of solar arrays, would impact the intervisibility between them. It would introduce a dominant and alien feature into a predominantly unaltered early 19th century landscape.

14.119 The evidence points to the conclusion that land drainage and enclosure determined the landscape character of the area at the turn of the 19th century, creating a field system intersected by drainage channels, and a dispersed settlement of farmsteads to manage this improved arable land.

14.120 Existing buildings and landscape share historical values relating to their period of development, which is enhanced by the presence of Eden House and the Windmill amongst the group.

14.121 The high level of importance attributed by the Fitzwilliam Malton Estate to the programme of land improvement on Old Malton Moor in this period is evident from the presence of Eden House.

14.122 The development of a windmill within the building group denotes the importance of grain production in the landscape. It is testament to the scale of historic investment in the agricultural development of this area. The intentional locating of the windmill on estate owned land would have supported the efficient processing of grain by tenanted farms.

14.123 Accordingly, the neighbouring farms referred to by the parties hold a functional relationship with each other. They have operated as an agricultural community since they were established at the turn of the 19th century. They hold historical relationships with the Windmill (for processing crops) and with Eden House (for the management of tenancies).

14.124 The designated and NDHAs which would be directly impacted by the proposed solar farm development are: Acomb House Farm; the Windmill at Windmill Farm and Eden Farm. Likelihood of archaeological remains as indicated in the ES is a further factor.

14.125 The field setting of Acomb House Farm, Eden Farm and the Windmill is an intrinsic component of their significance. This drained landscape of good grade arable fields is the fundamental reason for the construction of both farms and the Windmill as well as neighbouring farms in the same period. Acomb House Farm, Eden Farm and the Windmill share inter-visibility, reinforcing their group value within the landscape.

14.126 The historical and economic connections between the appeal site and both Eden Farm and the Windmill increase the value of their arable setting to their significance. They have a functional relationship with the appeal site. For the windmill this is historical. For Eden Farm this historical relationship continues to the present day as a source of income generation.

14.127 The appeal site is not within the landholding of Acomb House Farm so there is no functional relationship between the two. The contribution of the appeal site to the setting of Acomb House Farm is the inter-visibility it has with neighbouring sites within the dispersed settlement and the way the farm is experienced within the landscape.

14.128 As per the conclusions of Catherine Bell I agree the contribution of the setting of the appeal site to the significance of the heritage assets and NDHAs is at the moderate/high level when considered as a group.

14.129 The widening and installation gated access tracks; rows of solar arrays surrounded by 2.5m high fencing, initially, and 4m hedges thereafter, would harm the legibility of the group value amongst dispersed sites within the landscape. Although, the reduced development area since initial EIA screening has abridged the extent of landscape impact to the shared group setting of Acomb House Farm, Windmill and Eden Farm.

14.130 The LVA finds that between 200m and 750m from the site in a northerly and westerly direction there would be a medium scale of change to landscape character. This impact on landscape character can be applied to the shared setting of Eden Farm, Acomb House Farm and Windmill Farm and the context the group is experienced in. The impact on any future ability to understand the functional relationships and group value between these farmsteads, the Windmill and their agricultural context would be at a moderate to major degree of 'less than substantial harm'.

14.131 In the assessment of heritage assets, I find that the information towards the effects on overall significance offered by the R6 Party to be convincing (Section 6.6 and the summary Table 6.6.1 of Catherine Bells PoE). I agree that major and moderate effects on heritage assets are 'significant' in the context of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations). Therefore, such findings identify that the appeal scheme would have impacts on heritage assets of a magnitude that requires consideration within the overall planning balance.

14.132 In that context, Paragraph 203 of the Framework sets out that harm to NDHAs is a balance considering the scale of any harm or loss and the significance of the heritage asset. In this case there would also be some limited harm to the archaeological significance of NDHAs of local value owing to erosion of their setting in an agricultural open countryside location.

14.133 In conclusion, the development of the appeal site would not eradicate the ability to understand the significance of all heritage assets impacted, inclusive of regard to NDHAs and the combined overall group values. I find that the level of harm arising towards the overall setting impact of all heritage assets combined would still fall within the 'less than substantial' bracket.

14.134 Accordingly, there would be some conflict with RLPS Policy SP12 which amongst other criteria seeks to conserve and where appropriate enhance distinctive elements of Ryedale's historic assets and environment. In finding such conflict I note that SP12 goes on to set out that proposals which would result in less than substantial harm to designated assets will only be agreed where the public benefit of the proposal is considered to outweigh the harm.

14.135 Having regard to the advice of the Framework, I attribute significant weight to the less than substantial harm I have identified to the setting of two designated heritage assets. Separate to that, there would also be some limited harm to NDHAs evidenced to be of significant value and likely prehistoric/medieval/roman archaeological remains in the vicinity. Such non-designated asset harm has importance owing to local cultural significance and attracts moderate weight.

Residential amenity impacts

14.136 NYC and the R6 Party dispute the impact on the residential visual amenity of the occupiers of Eden Farm, Acomb House and Windmill Farm. In that context, Framework paragraph 123 requires that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

14.137 At a local level RLPS Policy SP20 covers a variety of generic development management issues relating to residential amenity and requires new development to respect the character and context of the immediate locality and the wider landscape. It also requires that proposed new uses should be compatible with: the existing ambience of the immediate locality; and the surrounding area; and with neighbouring land uses. New development uses should not prejudice the continued operation of existing neighbouring land uses.

14.138 At my site visit I could see that the landscape close to the site is flat and predominantly open arable land with hedgerows. The solar farm would be detached from the main residential settlements. Eden Farm, Windmill Farm and Acomb House nearby are all isolated properties. Near to the proposed location of the BESS, the landscape becomes associated with industrial/commercial uses, Eden Camp and where pylons are prominent.

14.139 I refer to the appellant's Residential Visual Amenity Assessment (RVAA) and that The Landscape Institute has prepared a Technical Guidance Note (TGN) on RVAA: Landscape Institute Technical Guidance Note 2/19: Residential Visual Amenity Assessment (TGN 2/19)1 (CD 8.16).

14.140 The advice of TGN 2/19 is important because it defines what the term 'residential visual amenity' should be taken to mean. Paragraph 1.2 denoting this as '*the overall quality, experience and nature of views and outlook available to occupants of residential properties, including views from gardens and domestic curtilage*.'

14.141 TGN 2/19 acknowledges changes in views and visual amenity are considered in the planning process and it is not uncommon for significant adverse effects on visual amenity to be experienced by people at their place of residence as a result of introducing a new development into a landscape.

14.142 I appreciate that the submitted RVAA scoped Eden Farm out of the requirement for detailed assessment on the grounds that the likely visual effect at this property was 'minor'. However, it did provide analysis for both Windmill Farm and Acomb House.

14.143 The RVAA concluded that the visual effects would not 'be of such a nature and/or magnitude that they would potentially affect living conditions at any property to the point it becomes an unattractive place to live, when judged objectively in the round.'

14.144 The Inquiry has been informed by additional evidence from the appellant further assessing its conclusions during the planning application stage.

14.145 Eden Farm farmstead lies roughly 330m to the east of the proposed solar farm. To the immediate north of the property, there is a garden with open views northwards towards Milton Wood and westwards towards the site. The view west is across arable fields and there are two lines of hedgerow before the site boundary. There is likely to be only occasional filtered glimpses through the hedgerow to the site at ground floor level and through upstairs windows, which would greatly reduce with established planting mitigation proposed by the appellant.

14.146 The solar farm would be set back around 125m from Windmill Farm (farmhouse). The site boundary also extends roughly 55m west of that farmhouse behind a sizable agricultural building. The nearest solar panel would be around 90m away.

14.147 I accept there would initially be a large scale of change in the view from some locations within the curtilage of the property, most notably at the gateway serving it. But the overall level of outlook would remain unchanged from many locations within and surrounding the dwelling. Once mitigation planting has established, the resultant effects would be greatly reduced leading to a small residual change in the views currently experienced.

14.148 The separation from the farmhouse; the enclosure generated by other buildings and boundary treatments around it; the angle in which views of the solar farm would be seen; and the effect of mitigation in the long term give me much confidence that the occupiers of the dwelling would not experience an overbearing effect.

14.149 Acomb House would be in the order of 215m to the boundary of the solar farm with an approximate 5m additional buffer to the nearest panel. The solar arrays would be clearly seen from the property at a distance owing to the flat topography. But it would not break the skyline. It is estimated by the appellant at 'year 10' post mitigation planting the solar farm would no longer be visible from the ground floor of the property or gardens. Given the

separation distances involved the proposed solar farm would not result in an overbearing relationship.

14.150 Whilst I realise that some people may dislike the appearance of the panels, it is the level of change evidenced which I have focused on as opposed to personal taste. I do not find that the resultant residential amenity levels of any of the mentioned properties amount to a breach of development plan policy. The appellant argues that the properties would continue to be attractive rural places to live, even before any proposed mitigation fully establishes.

14.151 With the scheme there would remain large expanses of countryside to enjoy for relaxation, exercise, and recreation, as the areas dominant feature. Hedgerow planting and height management envisaged do not alter my conclusions on those issues, as I do not find those to be harmful to amenity or to the character and visual appearance of the area.

14.152 Separate to those points, it is common ground with NYC the appeal site is subjected to high ambient noise levels from road traffic on the nearby A64 and A169. Consequently, any noise emitted from the appeal scheme is likely to be masked by existing noise and therefore would not impact on nearby residential amenity in accordance with RLPS Policy SP20[8.71].

14.153 Additionally, to ensure that low frequency noise would not result in any adverse issues, a noise condition is recommended by NYC to be imposed as per the comments from their Environmental Health Officer.

14.154 Thus, I find there would be no breach of Policy SP20 –which seeks to ensure that new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location, and proximity to neighbouring land uses. Including regard to creating an alleged overbearing or oppressive presence.

14.155 Even so, whilst not in contravention with SP20 there would be significant, albeit short lived, periods of construction traffic noise and disruption. Given such impacts can be appropriately managed through planning conditions and would be temporary in nature during construction I attribute such harm limited weight.

Other considerations

14.156 In relation to overall landscape effects, I note the appeal site does not fall within an area covered by a national or local landscape designation and any effects on the North York Moors National Park and the Howardian Hills AONB (a National Landscape) would be negligible.

14.157 It is common ground between the appellant and NYC[214] that once mitigation measures have established, any effects on existing landscape fabric would be insignificant and that there would be only a residual adverse effect of

[214] SoCG CD 9.2

minor significance on the landscape character between Ryton Riggs to the north, Edenhouse Road to the east, Freehold Lane to the south and Cheapside to the west.

14.158 The SoCG (CD 9.2) clarifies that reason for Refusal 4 of the Decision Notice relates only to visual effects and not landscape effects and that there would be no unacceptable adverse landscape impacts. Nevertheless, I accept that there would be some largely contained visual appearance and character harm which carries limited weight.

14.159 With respect to the impact on users of the surrounding PRoW network. Whilst I accept that some footpath users may not like the appearance of the scheme when using PRoWs, the impact to the mainstay of walking route views would generally be imperceptible.

14.160 I have carefully considered the range of other potential impacts and objections referred to by interested parties in written and oral submissions alongside the conclusions of NYC, as well as the other background evidence informing the appellant's case. In relation to some of the points raised the content of the submitted Transport Statement (CD Ref: 1.43), Construction Traffic Management Plan (CD Ref: 1.44), Construction Environmental Management Plan (CD1.33), and Solar Photovoltaic Glint and Glare Study (CD1.49) are applicable. In summary, I find that none of those other factors significantly weigh against the appeal scheme.

14.161 Interested parties raised concerns in relation to noise, fire risk and tourism. Even so, the appellant's overall case provides convincing evidence which demonstrates an absence of noise impact on Eden Camp, that fire safety mitigation is embedded into the design response pursued at appeal and there is no positive evidence of any effect on leisure or tourism.

14.162 I note that the North Yorkshire Fire and Rescue Service were consulted during the determination of the application. Subsequently there have been amendments to address access and other comments. A Grampian condition is agreed as appropriate by NYC to ensure a Fire Safety Strategy is prepared and agreed prior to commencement of works. I find such an approach would accord with the NPPG.

14.163 I also note that a Technical Noise Note was prepared by the appellant in March 2023 (CD2.11) and an updated note was submitted during the Inquiry (CD10.14) to further consider noise impacts at Eden Camp Modern History Museum. NYC agreed during the Inquiry that there are no significant effects in relation to noise because of the proposed development.

14.164 With respect to decommissioning points raised, in line with the spirit of the content of EN-3 I accept that solar panels can be decommissioned relatively easily, and that the precise nature and full extent of decommissioning of a site can vary.

14.165 It is expected by the NPS that at the end of the lifetime of such development, panel arrays and mounting structures would be

decommissioned, and underground cabling dug out to ensure that prior use of the site can continue.

14.166 In accordance with the NPS applicants should set out what would be decommissioned and removed from the site at the end of the operational life of the generating station, considering instances where it may be less harmful for the ecology of the site to keep or retain certain types of infrastructure. For example, underground cabling and where there may be socio-economic benefits in retaining site infrastructure after the operational life, such as retaining pathways through the site or a site substation. There is nothing before the Inquiry which leads me to the conclusion any expected decommissioning would be ineffective or move away from national guidance.

14.167 There has been public concern towards the wider environmental costs and human labour implications of producing solar panels abroad. Nonetheless, I do not find there is compelling evidence that such concerns should hold significant weight against the scheme applied for.

14.168 Moreover, the appellant's ecology and BNG evidence, taken as a whole, is credible and sufficient. I have no strong reason to conclude it is inadequate considering the shared position documented in the submitted SoCG. The risk of the schemes ecological enhancements diminishing over time would be low.

HRA/Appropriate Assessment

14.169 The appellant has submitted information to inform the SoS (within CD1.18 at Appendix 6.3: Information to Inform Habitat Regulations Assessment (dated August 2022)), as the Competent Authority. It details the Likely Significant Effects (LSE) of the solar farm on the qualifying interests of European designated sites in accordance with Article 63 of The Conservation of Habitats and Species Regulations 2017, (the Habitat Regulations).

14.170 The River Derwent SAC (a European designated site) is located approximately 0.6km south of the appeal land and separated by urban development. The appeal site is located within the Rye catchment and is drained by numerous agricultural ditches which drain into the River Rye and eventually into the River Derwent.

14.171 The river supports an aquatic flora uncommon in northern Britain. Several species, including river water-dropwort, flowering rush, shining pondweed, arrowhead, opposite-leaved pondweed, and narrow-leaved water-parsnip are more typically found in lowland rivers in southern England. It is noted for the diversity of its fish communities, which include river and sea lamprey populations that spawn in the lower reaches, as well as bullhead. The diverse habitats also support otters.

14.172 The SAC's conservation objectives are that: the integrity of the site is maintained or restored as appropriate; the site contributes to achieving the favourable conservation status of its qualifying features, by maintaining or restoring the extent and distribution of qualifying natural habitats and habitats of qualifying species, including their structure and function as well as species population numbers.

14.173 In terms of habitat loss or change there would be no direct effect on habitats within any European site. Consequently, such consideration has been screened out by the appellant's assessments. Similarly, the solar farm does not 'directly' impact upon habitats that are functionally linked to European sites. All drainage ditches would be protected during construction and a buffer of 8m maintained. The ditches are steep sided, mostly dry, and unsuitable for fish and not functionally linked to the SAC for qualifying interest species.

14.174 Plus, periodic cleaning of PV modules would not involve chemicals. Direct and indirect habitat are therefore excluded from the assessment.

14.175 Potential for direct harm to qualifying interest species is not considered by the appellant's assessments to occur. However, the site is drained by numerous ditches which drain further afield. Therefore, there is potential that any site related runoff could drain into the River Derwent SAC and result in potentially LSE, as an indirect impact.

14.176 Thus, I note that the proposed development is considered, either alone or in combination with any other plans or projects, to have LSEs on the SAC, when assessed in the absence of any mitigation, in relation to its potential to cause indirect sedimentation and/or pollution.

14.177 LSEs are argued to be restricted to the construction, operation, and decommissioning phases, in relation to site runoff and pollution into nearby watercourses. An 'appropriate assessment' is therefore required in relation to the potential indirect impacts.

14.178 In light of those circumstances, I agree mitigation would be able to be secured by planning condition for a final Construction Environmental Management Plan (CEMP) which would include: a detailed breakdown of the phasing of construction activities; a pollution risk assessment; identification of all temporary discharge points to watercourses; appropriate pollution control measures during earthworks and construction; storage of all fuel and other chemicals in accordance with best practice; contingency planning and emergency procedures; on-going monitoring of construction procedures to ensure management of risk is maintained as well as details of construction phase sustainable drainage systems (SuDS).

14.179 Accordingly, I find that the range of mitigation measures proposed by the appellant are both extensive and reasonable. I conclude they can be taken as achievable and effective in preventing potential adverse effects to the European site in line with all statutory expectations.

Benefits

14.180 In terms of direct benefits, the proposed development results in a net gain of 117.37% in habitat units and 42.67% in hedgerow units. Ecological enhancements that would be secured include: 3 beetle banks; 2 additional 'bug hotels' for insects; 2 habitat 'scrapes' to introduce aquatic habitats, floral diversification, bare ground for invertebrates and also a small run off retention area; as well as a Winter bird seed mix strip to provide habitat for wintering

birds and invertebrates. The level of BNG on offer represents a considerable benefit.

14.181 I note that the Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level to net zero by 2050 and reducing emissions by 78% compared with 1998 levels, by 2035. North Yorkshire County Council also declared a climate change emergency during July 2022 subsumed to the new NYC from April 2023, making a commitment to actions to achieve net zero emissions across North Yorkshire by 2050 and a local ambition to be the first carbon negative region by 2040 (CD 8.18). A target by NYC is to install an additional 2,500MW of capacity from solar, onshore wind and hydropower by 2038.

14.182 NPS EN-1 and EN-3 identify the approach to delivering nationally strategic level energy schemes. EN-3 recognises that solar is to play a key part in the strategy for low-cost decarbonisation of the energy sector and will help deliver greater energy independence. In line with the British Energy Security Strategy (2022) [CD8.17] the government expects a five-fold increase in solar deployment by 2035, in the order of up to 70GW.

14.183 Crucially, the appeal scheme is estimated by the appellant as being able to supply the average annual electricity needs of around 38% of households in the Ryedale area. This is akin to meeting the energy needs of over 8,660 homes per year. Resulting in estimated carbon savings of around 12,500 tonnes annually. Plus, the battery storage would allow clean energy to be put back into the grid more flexibly.

14.184 There are no physical constraints limiting early development of the appeal scheme and the appellant has a grid connection offer in place. Therefore, the solar farm would be able to make an early and significant contribution of achieving the statutory net target set by 2050 and reducing emissions by 78% compared with 1990 levels by 2035. It would enable the delivery of clean and secure renewable energy to be realised. This carries substantial overarching weight. These reasons also applicable to meeting SP17.

14.185 I appreciate there would be significant construction employment work created to install a commercial scale solar farm as well as from expected maintenance work during its operation. But the degree of operational employment opportunity would be far narrower and less impactful in extent. Therefore, the latter carries limited weight as a standalone economic benefit.

14.186 I have considered the other planning decisions, rulings and statements referred to in the wider evidence but in the main they relate to different sites and circumstances. Therefore, they do not alter any of my main conclusions.

15.0 Overall Planning Balance

15.1 Section 70(2) of the Town and Country Planning Act 1990 states that in dealing with an application for planning permission the authority shall have regard to the provisions of the development plan, so far as material to the application and any other material considerations.

15.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

15.3 Weaknesses arise in the appellant's case relative to RLPS policy. Some of the argument is retrospective following the initial planning application stage. Broadly speaking NYC and the R6 were right to question the interrelated environmental, social, and economic impacts posed in the round. But the lack of unconstrained land within a 7km radius (as shown on CD10.10) and the absence of other more favourable sites within 5km is material.

15.4 In this case I have found that the appellant does not demonstrate full compliance with the development plan because of the harmful impacts it would have from: a small amount of permanent BMV agricultural land loss (with the vast majority of land effects not falling as permanent); detriment to a successful agricultural business as part of the local rural economy; as well as heritage asset impact harms (in particular to two listed buildings: a landmark Windmill and Acomb Farmhouse), which all contravene local policy carrying substantial weight.

15.5 In tandem, there would be harm arising to the setting of non-designated assets of historic importance, in the context of group value and significance associations combined holistically.

15.6 Accounting for the potential 40-year operational lifespan of the solar farm the harm from the scheme would ultimately be reversible. Having regard to designated asset significance and wider group value considerations I have found that the level of harm still equates to less than substantial in scale.

15.7 There would also be some limited harm to: existing landscape character and appearance levels within the open countryside; and local amenity from temporary disruption, noise, and construction activity. Although such harms would be lessened through planning condition use. Nevertheless, they are still significant adverse implications to factor relative to the advice of the Framework.

15.8 As the appeal proposal does not fully accord with the development plan, subsequently it does not lead me to apply paragraph 11 (c) of the Framework which would otherwise mean that planning permission for the appeal scheme should be granted without delay.

15.9 Instead, the outcome of a decision turns on whether any benefits of the proposed development would outweigh the harms and subsequent conflict with the development plan identified.

15.10 As directed by paragraph 202 of the Framework I am required to assess designated asset harm in relation to any public benefits on offer. I have attributed significant weight to such harm but the clean and secure energy production the scheme offers is a substantial standalone overarching public

benefit. There would also be substantial public benefits from BNG. Those particular benefits, in this case, outweigh the 'less than substantial harm' to the settings of designated heritage assets, bearing in mind proximity and the overall intervening landscape evident in concluding on such harm.

15.11 And from a wider decision-making perspective, recognising those harms with all the other harms I have identified and referenced in all of my above reasoning including harm to: BMV loss and availability levels; an existing agricultural business; landscape harm; NDHAs; and the disruption to local roads and amenity levels probable during construction periods as an additional negative factors, taken collectively. Combined all those considerations attract significant weight within the overall planning balance to be undertaken. Nonetheless, the level of overall scheme benefits on offer still exceeds all the harms combined.

15.12 As informed by the wider evidence of the appeal I am also cognisant that Malton BSP also is the only BSP in the former Ryedale District Council administrative area (which extends to an area of circa 150,000 ha) as a material constraint. The next nearest substations are within York and Scarborough.

15.13 Overall, my recommendation must be made on the total level of harms arising against any overall benefits attributed to this appeal scheme. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 I have identified there is some conflict with the RLPS.

15.14 Bringing all points together, I find that although balanced the collective benefits would outweigh the harms I have identified.

15.15 I acknowledge that this is a balanced decision and based on relative weights of the benefits against the harms. If the Secretary of State agrees, I have set out the conditions that should be applied in Annex D.

16.0 Inspector's Recommended Planning Conditions

16.1 Standard time limit and approved plans planning conditions would be required in accordance with statutory provision contained within Section 51 of the Planning and Compulsory Purchase Act 2004; and to allow a formal mechanism for amendment of the plans. (Condition's 1 and 2).

16.2 A condition setting out compliance with existing Biodiversity Management Plan information, ecological enhancement measures and monitoring is required to ensure the interests of conserving the natural environment are respected in accordance with RLPS SP14. (Condition 3)

16.3 A condition to ensure compliance with battery storage and flood risk assessments would be necessary owing to known flood risks (Condition 4).

16.4 No external lighting should be installed until the full details have been agreed would ensure wildlife interests can be respected (Condition 5).

16.5 A condition regulating changes to access surfaces would be necessary to ensure there is no detrimental impact to road safety (Condition 6).

16.6 All tree works would need to be conditioned to ensure compliance with the British Standard, to protect local character and the natural environment (Condition 7).

16.7 A condition regulating low frequency noise to acceptable levels would be required to safeguard the living conditions of neighbouring occupiers (Condition 8).

16.8 A suite of prior to development commencement construction management related conditions covering: construction traffic; construction and environmental management matters; existing drainage provision and repair works; as well as due soil management planning would all be required to maintain public safety and general amenity levels; to ensure surface water run off levels are appropriate; and to protect agricultural soils for future generations. (Condition's 9, 10, 11 and 12).

16.9 A condition securing appropriate written archaeological investigation would be required given the site is of archaeological importance and to allow due mitigation. (Condition's 13 and 20).

16.10 Notwithstanding the appeal plans already submitted further details of landscaping and planting scheme information as well as future maintenance provision would be necessary to ensure that appropriate screening around the edges of the development transpires and to ensure local character and appearance levels are respected. (Condition's 14 and 18).

16.11 Conditions ensuring: due contaminated land management (should any contamination be found during construction) alongside a Risk and Emergency Response Management would be necessary to ensure adequate environmental protection and public safety interests are maintained. (Condition's 15 and 16).

16.12 A Biodiversity Gain Plan would be required to adequately demonstrate the measurable net gains anticipated to the satisfaction of the Council to ensure ecological enhancements are accurately measured and obtained. (Condition 17).

16.13 A first export of electricity and 40 year time expiry condition alongside a range of decommissioning management (inclusive of decommissioning construction traffic routing arrangements) and site restoration conditions would be required. This is to ensure that the local natural environment and ecology is safeguarded; in the interests of ensuring road and bridleway user safety; wider public safety levels are properly maintained owing to risks; and to ensure the full mitigation measures contained within the ES (and addendum July 2024) are fully implemented unless otherwise agreed if there is well founded reason to deviate from those plans or to provide any additional mitigation. (Condition's 19, 21, 22, 23, 24, 25, 26, 27).

17.0 Inspectors Recommendation

17.1 For the reasons given above I recommend that the appeal should be allowed and that planning permission is granted.

M Shrigley

INSPECTOR

Appendix A

Appearances

For the Appellant

Stephanie Hall, Kings Chambers, instructed by Harmony Energy. Who called:

Fiona Bage MRTPI IHBC	Principal Heritage Consultant, ELG Heritage
Tony Kernon BSc (Hons) MRICS FBIAC	Principal, Kernon Countryside Consultants
John Ingham BA (Hons) DipLA, CMLI	Director of Landscape Planning, Stephenson Halliday
Gary Camplejohn	Technical Director, Harmony Energy Ltd
Rebecca Caines MA MRTPI	Senior Director, Lichfields

For the Council

Shemuel Sheikh, Kings Chambers. Who called:

Richard Wood BA (Hons) BPI MBA MRTPI	Richard Wood Associates Ltd

For the Rule 6 Party

Sioned Davies, Counsel, No.5 Chambers, instructed by Loxley Legal. Who called:

Emma Sturdy	Tenant, Eden Farm
Robert Sturdy	Tenant, Eden Farm
Catherine Bell MA (cons) ACIfa	Heritage Witness

Oliver Stones BSc (Hons) MRICS FAAV	Partner, Alnwick Farming and Property Consultants
Samuel Franklin BSc (Hons) FAAV FBIAC MISoilSci	Director, Landscope Land and Property Ltd

Interested Parties (who spoke at the Inquiry)

Rt Hon Sir Robert Goodwill

Cllr Lindsey Burr	(NYC)
Mr Pritchard	(Malton Town Council)
Richard Bannister	(Resident)
Sue Jefferson	(Resident)
Dr Sam Hoste	(Resident)
Howard Johnson	(Resident/ Eden Camp Modern History Museum)
John Scarth	(Resident)
Mr Williamson	(Resident)
Sarah Clark	(Resident)
George Dunn	(Tenant Farmers Association)
David Woolley	(Resident)
Peter Conwell	(Resident)
Jane Lawsley	(Resident)
Mark Hepworth	(Resident)
Janice Hart	(Resident)

Appendix B

List of Inquiry Documents

INQ1	Appellant's Opening Statement
INQ2	Appellant Appearances List
INQ3	Council's Opening Statement
INQ4	Rule 6 Opening Statement

INQ5	Mr Howard Johnson's Appeal Objection Points and Notes, Eden Camp Modern History Museum & Old Malton Solar Farm ES Figure 1.3 – Proposed Site Plan, Rev D by Stephenson Halliday, dated July 2024 - Inquiry Day 1
INQ6	Sue & David Woolley written objection made orally – Inquiry Day 1
INQ7	Lichfields 'Agricultural Land Classification' Drg No:GIS/LF/68206/01-05, dated 28.2.24 Lichfields 'Flood Risk & Alternative Sites' Drg No: GIS/LF/68206/01-48, dated 12.3.24 Lichfields 'Roof Space' Drg No: GIS/LF/68206/01-12, dated 1.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 01-Site', Drg No:GIS/LF/68206/01-10, 28.2.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 02-Alternative Site 1', Drg No: GIS/LF/68206/01-40, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 03- Alternative Site 2', Drg No: GIS/LF/68206/01-41, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 04-Alternative Site 3', Drg No: GIS/LF/68206/01-42, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 06-Alternative Site 5', Drg No: GIS/LF/68206/01-44, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 05- Alternative Site 4', Drg No: GIS/LF/68206/01-43, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 07-Alternative Site 6', Drg No: GIS/LF/68206/01-45, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 08-Alternative Site 7' Drg No: GIS/LF/68206/01-46, dated 7.3.24 Lichfields 'Zone of Theoretical Visibility (ZTV) 09-Alternative Site 8', Drg No: GIS/LF/68206/01-47, dated 7.3.24
INQ8	Table 1: Summary comparison of figures/ Table 2: Alternative forecast using V&B methodology/ Table 3:Summary of solar impact
INQ9	Profit and Loss Eden Farm for the year ended 31 March 2024 (spreadsheet table size A3)
INQ10	Lichfield (Google Earth 2024) A3 hard copy map showing designated and non-designated assets numbered in the 'key' it contains as 1-5.
INQ11	Agricultural Matters Scott Schedule – 25.09.2024
INQ12	Hard Copy of CD9.34 – Stephenson Halliday Environmental Constraints Rev A 26 Sept 2024 Revision A
INQ13	Updated Core Document List

INQ14	Updated Agreed List of Proposed Planning Conditions (27.9.24)
INQ15	Lichfields: Inspectors Site Visit (for 3 October 2024) with ariel map and Alnwick Farming and Property Consultants (AFP) O F Stones Evidence Alternative Landowners/Sites –proposed viewpoints plan
INQ16	Council's Closing Statement
INQ17	Rule 6's Closing Statement
INQ18	Appellant's Closing Statement

Appendix C

List of Core Documents

1	**Original Submission: Application Documents and Plans**
1.1	Cover Letter PWA (3 January 2023)
1.2	Application Form (3 January 2023)
1.3	Design and Access Statement prepared by PWA (November 2022)
1.4	Planning Statement prepared by PWA (December 2022)
1.5	Statement of Community Involvement prepared by Harmony Energy
	Drawings
1.6	ES Figure 1.1 Rev A - Site Location Plan
1.7	ES Figure 1.2 Existing Site Plan
1.8	ES Figure 1.3 Proposed Site Plan
1.9	Drawing No PL.001 - Mounting Structure
1.10	Drawing No PL.005b –MV Power Station
1.11	Drawing No PL.006 - Customer Substation
1.12	Drawing No PL.007 - Gate, Fence, Construction Road, Camera, Satellite Dish
1.13	Drawing No PL010 - Storage Container
1.14	Drawing No PL011 - BESS Container
1.15	Drawing No PL012 - Transformer
	Environmental Statement
1.16	Volume 1 ES Main Text (covering Ecology, Cultural Heritage and Soils and Agricultural Land Quality) November 2022

1.17	Volume 2 ES Figures and Visualisations
	ES Figure 1.1 - Site Location Plan (CD Ref 1.6)
	ES Figure 1.2 - Existing Site Plan (CD Ref 1.7)
	ES Figure 1.3 - Proposed Site Plan (CD Ref 1.8)
	ES Figure 4.1 - 300m Buffer around Old Malton Substation
	ES Figure 4.2 - Screening and Pre-Application Stage, 120ha of wider 160ha Area
	ES Figure 4.3 - Scoping Stage, 65ha of wider 85ha area
	ES Figure 4.4 - Public Consultation Stage, 74.2ha
	ES Figure 4.5 - Best and Most Versatile Land – Yorkshire and Humber Region
	ES Figure 6.1 - Statutory Designated Sites
	ES Figure 6.2 - Non-Statutory Designated Sites
	ES Figure 6.3 - Habitat Plan
	ES Figure 6.4 - Pond Plan
	ES Figure 6.5 - Breeding Bird Survey Plan
	ES Figure 6.6 - Biodiversity Management Plan
	ES Figure 7.1 - Heritage Assets Within Site
	ES Figure 7.2 - Heritage Assets and Events within the Inner Study Area
	ES Figure 7.3 - Inner Study Area: Historic Mapping
	ES Figure 7.4 - Inner Study Area: Historic Landscape Characterisation
	ES Figure 7.5 - Designated Heritage Assets within the Outer Study Area
1.18	Volume 3 ES Technical Appendices:
	Appendix 2.1: Copy of LPA's Screening Opinion and Historic England's Screening Response dated 13 July 2020;
	Appendix 2.2: Copy of LPA's Scoping Opinion and Consultee Scoping Responses dated 14 Jan 2021;
	Appendix 2.3: LPA's Pre-Application Response dated 26 May 2020;
	Appendix 6.1: Ecological Impact Assessment Methodology dated August 2022;
	Appendix 6.2: Habitat and Species Baseline dated August 2022;
	Appendix 6.3: Information to Inform Habitat Regulations Assessment dated August 2022;

	Appendix 6.4: Biodiversity Net Gain dated 21 Nov 2022;
	Appendix 6.5: Biodiversity Management Plan dated August 2022;
	Appendix 6.6: Outline Construction Environmental Management Plan dated August 2022;
	Appendix 7.1: Heritage Assets Within Site;
	Appendix 7.2: Heritage Assets Within Inner Study Area;
	Appendix 7.3: Archaeological Events Within Inner Study Area;
	Appendix 7.4: Designated Heritage Assets Outer Study Area;
	Appendix 7.5: Photographs from Field Visit;
	Appendix 7.6: Geophysical Survey Report prepared by Magnitude Surveys dated Jan 2022;
	Appendix 8.1: Soils and Agricultural Report prepared by Land Research Associates dated October 2022;
	Appendix 8.2: Soil Management Plan prepared by Land Research dated May 2022.
1.19	Volume 4 Non-Technical Summary prepared by PWA, November 2022
	Scoped out Topics Summary prepared by PWA dated November 2022. Appendices:
1.20	Appendix A – Landscape and Visual Appraisal prepared by Stephenson Halliday dated October 2022
	Appendix A1 - LVA Methodology prepared by Stephenson Halliday
	Appendix A2 – Viewpoint Analysis prepared by Stephenson Halliday
	Appendix A3 – Landscape Sensitivity Assessment prepared by Stephenson Halliday
	Appendix A4 – Residential Visual Amenity Assessment prepared by Stephenson Halliday
	Appendix A5 – LVA Photo-sheets prepared by Stephenson Halliday
	Appendix A6 – LVA Figures 1-5 prepared by Stephenson Halliday
	Appendix B1 – Transport Statement prepared by Local Transport Projects dated September 2022
	Appendix B2 – Construction Traffic Management Plan prepared by Local Transport Projects dated September 2022
	Appendix C1 – Flood Risk and Drainage Assessment Report prepared by Gondolin Land and Water dated September 2022
	Appendix C2 – Sequential Test prepared by PWA dated November 2022
	Appendix D1 – Arboricultural Impact Assessment prepared by Lakeland Tree Consultancy dated July 2022
	Appendix E1 – Phase 1 Geoenvironmental Site Assessment prepared by E3p dated June 2021
	Appendix F1 – Solar Photovoltaic Glint and Glare Study prepared by Pagerpower Urban and Renewables dated October 2022
2.	**Additional/Amended Plans and Reports submitted after validation**
2.1	ES Figure 1.3 Proposed Site Plan Rev C
2.2	*Drawing Pack including:*
	Drawing No OM-EL-BAT-01 Envision Battery Elevation
	Drawing No OM BSP Rev H BESS Site Plan
	BESS Layout Plan
	Drawing No OM ED(DNOLVAC) Rev 0 Indicative Customer Switchroom
	Drawing No OM-EL-BTR-01 Rev 0 - Indicative Battery Transformer (KNAN Transformer)

	Drawing No OM_ED(DNOLVAC)_Rev0 DNO LVAC Transformer
	Drawing No PSE2-CIV-1499-200 Rev OA - Proposed 66/33 kV Substation General Arrangement Plan
2.3	Appendix 6.4 BNG V6 dated June 2023
2.4	Appendix 6.5 BMP V4 dated August 2023
2.5	LVA Figure 5 - Landscape Mitigation Strategy prepared by Stephenson Halliday Rev B
2.6	Old Malton Solar Farm and Battery Storage Flood Risk & Drainage Assessment Report prepared by Gondolin Land and Water reference GON.0084.0054 version 2 dated 11/08/2023
2.7	Technical Note Fire Safety prepared by Harmony Energy
2.8	Cultural Heritage Addendum V1
2.9	PWA Sequential Test Clarifications
2.10	Technical Grid Response prepared by Harmony Energy dated 23.06.23
2.11	Technical Noise Note prepared by ITPEnergised dated 30-03-2023
3	**Committee Report, Minutes of Committee Meeting and Decision Notice**
3.1	Report to Strategic Planning Committee 10 October 2023
3.2	Minutes from Strategic Planning Committee Meeting 10 October 2023
3.3	Decision Notice (Refusal) 17 October 2023
4	**Development Plan**
4.1	The Ryedale Local Plan Strategy (adopted 2013)
4.2	The Ryedale Local Plan Sites Document (adopted 2019)
4.3	Overview of Ryedale Local Planning Authority Area and The Ryedale Local Plan Strategy Malton and Norton Policies Map
4.4	The Minerals and Waste Joint Plan (Feb 2022) Extract Chapter 8
5	**Emerging Development Plan Documents**
5.1	Extracts from the Submission Version of the Malton and Norton Neighbourhood Plan July 2023
5.2	Malton and Norton Neighbourhood Plan Proposals Map Submission Version
6	**Judgements, Other Relevant Appeal Decisions and Summary Pages**
6.1	APP/X2220/A/08/2071880 - Land West of Enifer Downs Farm 16 March 2009
6.2	APP/V3310/A/06/2031158 –Land at Inner Farm Burnham on Sea 15 January 2008
6.3	APP/D0840/A/09/2103026 – Carland Cross Wind Farm 19 January 2010
6.4	APP/D05151/N/10/2131194 – Land north of Burnthouse Farm, Cambridgeshire 6 July 2011
6.5	APP/C3240/W/22/3293667 – Land West of New Works Lane Telford SoS 27 March 2023

6.6	APP/C1570/W/23/3319421 – Land west of Thaxted, Cutlers Green Lane, Thaxted 18 December 2023
6.7	APP/U2235/W/23/ 3321094 – Land north of Little Cheveney Farm, Sheephurst Lane, Marden, Kent 5 February 2024
6.8	APP/L3245/W/23/3329815 – Land to the South of Hall Lane, Kemberton Telford 22 February 2024
6.9	APP/X1925/W/23/3323321 – Land at Graveley Lane Great Wymondley 11 March 2024
6.10	APP/D0840/W/23/3334658 – Land known as Penhale Moor Cornwall 18 July 2024
6.11	APP/W3520/W/23/3319970 – Land to the east of The Channel, Burstall Suffolk 23 August 2023
6.12	S62A/22/0006 Land at Berden Hall Farm, Berden 18 July 2024
6.13	APP/E3355/W/24/3337226 – Land north of Transmitting Station Washford West Somerset 28 May 2024
6.14	APP/G2713/W/23/3315877 – Land south of Leeming substation 28 June 2023
6.15	EN 010127 – Mallard Pass Solar Farm 12 July 2024
6.16	APP/W2845/W/23/3314266 - Land at Milton Road Gayton Northampton 13 March 2024
6.17	Bramley Solar Farm v SoS 15 November 2023
6.18	S62A/2022/0011 – Land east of Pelham Substation, Maggots End, Manuden 11 May 2023
6.19	Regina v Rochdale Metropolitan Borough Council Ex Parte Milne 31 July 2000
6.20	City of Edinburgh Council v SoS for Scotland 31 October 1997
6.21	Lullington Solar Park v SoS 16 February 2024
6.22	Appeals Summary Document
6.23	Forge Field Society and Others Regina v Sevenoaks District Council 12 June 2014
6.24	R v Vale of Glamorgan DC ex p Adams [2000] EWHC Admin 323
6.25	Great Portland Estates v Westminster City Council [1985] AC 661
6.26	APP/W0530/W/15/3012014 & APP/W0530/W/15/3013863 Land North of Dales Manor Business Park 15 June 2016
6.27	APP/Y2003/W/16/3144447 Land at Manor Farm, Manton, North Lincolnshire 28 June 2016

6.28	APP/P3040/W/23/3329235 Land to the West if Wood Lane and Stocking Lane, Gotham 8 July 2024
7	**Additional Evidential Documentation and Updated Documents/Plans**
	With Appellant's Statement of Case April 2024:
7.1	Alternative Site Assessment prepared by Lichfields April 2024 and Appendices including:
	Appendix 1 Appeal Ref: APP/Z3825/A/14/2219843 Priors Byne Farm, Bines Road, Partridge Green, West Sussex RH13 8NX 18 March 2015
	Appendix 2 Map 2 of the Soils and Agricultural Report 2022
	Appendix 3 Tesco Stores Limited v Dundee City Council, Supreme Court Judgement, 21 March 2012
	Appendix 4 Appeal Ref: APP/G2713/W/23/3315877 Land south of Leeming Substation, west of the village of Scruton, bordering Fence Dike Lane, part of Low Street and Feltham Lane, DL7 0RG 27 June 2023
	Appendix 5 Drawing GIS\LF\68206\01-13 Roof Space prepared by Lichfields
	Appendix 6 ZTV Mapping prepared by Lichfields
	Appendix 7 ALC Mapping prepared by Lichfields
	Appendix 8 Flood Risk Mapping prepared by Lichfields
7.2	Sequential Test Update Note prepared by Lichfields April 2024 and Appendices including:
	Appendix 1 Sequential Test prepared by PWA Planning
	Appendix 2 Technical Grid Response June 2023 prepared by Harmony Energy
	Appendix 3 Sequential Test Clarifications document prepared by PWA Planning
	Appendix 4 Alternative Sites prepared by Lichfields
7.3	Technical Note Grid Connection prepared by Harmony Energy dated April 2024
7.4	Biodiversity Management Plan dated June 2023
	Regulation 25 (July 2024)
7.5	Environmental Statement Addendum prepared by Lichfields 19th July 2024 and Appendices including: • Appendix 1 Regulation 25 Request • Appendix 2 Statement of Competency

	• Appendix 3 Site Location Plan • Appendix 4 Proposed Site Plan • Appendix 5 Figure 6.6 Biodiversity Management Plan (July 2024) • Appendix 6 Biodiversity Net Gain Assessment (July 2024) • Appendix 7 Outline Construction Environmental Management Plan Update Note (July 2024) • Appendix 8 Biodiversity Management Plan Update Note (July 2024) • Appendix 9 Habitat and Species update Note and Updated Figure 6.3 (July 2024)
7.6	Environmental Statement Updated Non-Technical Summary prepared by Lichfields 19th July 2024
7.7	Environmental Statement Addendum Appendix 6 Biodiversity Net Gain Assessment V7 dated July 2024
	Amended Application Documents (July 2024)
7.8	Biodiversity Management Plan Figure 6.6 prepared by Logika Group dated July 2024
7.9	Biodiversity Management Plan Update Note prepared by Logika Group dated July 2024
7.10	Habitat and Species Update Note prepared by Logika Group dated July 2024
7.11	Biodiversity Net Gain Assessment V7 July 2024
7.12	Habitat Plan Figure 6.3 prepared by Logika dated July 2024
7.13	Landscape Mitigation Plan Rev C prepared by Stephenson Halliday dated July 2024
7.14	OCEMP Update Note prepared by Logika Group dated July 2024
7.15	Proposed Site Plan Rev D Figure 1.3
8	**National Policy and Other Material Considerations**
8.1	The Overarching National Policy Statement for Energy (EN-1) November 2023 (Came into force Jan 2024)
8.2	The National Policy Statement for Renewable Energy Infrastructure (EN-3) November 2023 (Came into force Jan 2024)
8.3	Environment Agency and DEFRA guidance 'Flood risk assessment: the sequential test for applicants' (updated February 2017)
8.4	Net Zero Strategy: Build Back Greener (October 2021)

8.5	Smart Power- National Infrastructure Commission (March 2016)
8.6	Energy White Paper 'Powering our Net Zero Future' (December 2020)
8.7	National Grid ESO 'Future Energy Scenarios' (2023)
8.8	UK's Integrated National Energy and Climate Plan (January 2020)
8.9	Powering Up Britain (2023)
8.10	Written Ministerial Statement (WMS) Solar energy: protecting the local and global environment (25 March 2015)
8.11	Written Ministerial Statement (WMS) on Solar and protecting our Food Security and Best and Most Versatile Land (15 May 2024)
8.12	Public Summary of Sector Security and Resilience Plans Cabinet Office 2017
8.13	Government Food Strategy (June 2022)
8.14	UK Food Security Report (December 2021)
8.15	North Yorkshire and York Landscape Characterisation Project Report May 2011
8.16	Technical Guidance Note 02/19: Residential Visual Amenity Assessment (TGN 02/19) (2019) Landscape Institute
8.17	British Energy Security Strategy (2022)
8.18	NYC Climate Change Strategy 2023 to 2030
8.19	Planning Practice Guidance Flood Risk and Coastal Change (25 August 2022) and Planning Practice Guidance Renewable and Low Carbon Energy (14 August 2023)
8.20	Clean Energy Superpower Mission Ed Miliband Speech 18 July 2024
8.21	The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Historic England 2017)
8.22	Historic England Good Practice Advice in Planning: 2, Managing Significance in Decision-Taking in the Historic Environment, March 2015
8.23	Historic England Advice Note 15 - Commercial Renewable Energy Development and the Historic Environment (HEAN 15)
8.24	Local Heritage Listing: Identifying and Conserving Local Heritage Historic England Advice Note 7 Second Edition
8.25	Historic England - Conservation Principles, Policies and Guidance
8.26	Historic England - Farmstead and Landscape Statement Vale of Pickering National Character Area 26
8.27	English Heritage - Vale of Pickering Statement of Significance

8.28	National Planning Policy Framework, December 2023
8.29	National Planning Policy Framework September 2023
8.30	National Planning Policy Framework Draft Text for Consultation July 2024
8.31	National Planning Policy Framework July 2021
8.32	National Grid ESO 'Future Energy Scenarios' (2024)
8.33	Carr House Solar Farm Alternative Sites Assessment
8.34	Natural England Technical Information Note TIN066 dated June 2010
8.35	Agricultural Land Classification of England and Wales October 1988
8.36	Natural England Technical Information Note TIN049 dated 19 December 2012
8.37	Welsh Government The Impact of solar photovoltaic PV sites on agricultural soils and land quality March 2023
8.38	Agri-Environment Evidence Annual Report 2023 July 2024
8.39	Planning Practice Guidance Viability (14 February 2024)
8.40	Planning Practice Guidance Natural Land (14 February 2024)
8.41	Planning Practice Guidance Historic Environment (23 July 2019)
8.42	The Rock Review – Working together for a thriving sector (October 2019)
9	**Appeal Documents**
9.1	North Yorkshire Council Questionnaire dated 07 May 2024
9.2	Signed Statement of Common/Uncommon Ground (12 July 2024)
9.3	Statement of Case – Appellant (4 April 2024), Appendices: • Appendix 1 Procedural Note • Appendix 2 Alternative Site Assessment (CD 7.1) • Appendix 3 Sequential test Update Note and Exceptions Test (CD 7.2) • Appendix 4 Technical Note: Grid Connection (CD 7.3)
9.4	Statement of Case – LPA (June 2024)
9.5	Statement of Case – Sturdy (June 2024)
9.6	Third Party Comments and Summary Table
9.7	Appellants Planning Proof of Evidence August 2024 prepared by Lichfields Part 1 – Proof of Evidence

	Part 2 – Proof of Evidence Appendices • Appendix 1 Built Heritage Note • Appendix 2 Grid Connection Technical Note • Appendix 3 Planning Phase Battery Safety Management Plan – Fire Strategy Report prepared by OWC • Appendix 4 Agreed Conditions Part 3 – Summary Proof of Evidence
9.8	Appellants Landscape and Visual Impact Proof of Evidence August 2024. Appendices • Appendix 1 Illustrative Material Relating to Eden Farm • Appendix 2 Illustrative Material relating to Windmill Farm • Appendix 3 Illustrative Material relating to Acomb House • Appendix 4 Updated Photomontages for LVA Viewpoint 9
9.9	Appellants Agricultural Land Proof of Evidence August 2024 prepared by Kernon Countryside Ltd Volume 1 – Text Volume 2 – Appendices • Appendix 1 KCC1 Curriculum Vitae • Appendix 2 KCC2 Natural England's Technical Information Note 049 (2012) • Appendix 3 KCC3 ALC Methodology • Appendix 4 KCC4 Agricultural Land Classification Report (LRA October 2022) • Appendix 5 KCC5 Photographs of the Site and the Wider Area • Appendix 6 KCC6 Farm Viability Assessment Note • Appendix 7 KCC7 Vickers and Barrass 2024 Budget • Appendix 8 KCC8 Vickers and Barrass 2025 Budget • Appendix 9 KCC9 Extracts from the John Nix's Pocketbook for Farm Management • Appendix 10 KCC10 Extracts from the Gov.uk Agricultural Facts: Yorkshire and the Humber Region • Appendix 11 KCC11 Analysis of UK Food Security • Appendix 12 KCC12 Defra Press Release 6th December 2022 Volume 3 – Summary Proof

9.10	• Eden Farm Viability Assessment (Following Solar Farm) Jan 2024 prepared by Vickers & Barrass • Eden Farm Viability Assessment (Normal Year) Jan 2024 prepared by Vickers & Barrass • Eden Farm Viability Assessment (Normal Year) V3 August 2024 prepared by Vickers & Barrass • Eden Farm Viability Assessment (Following Solar Farm) V3 August 2024 prepared by Vickers & Barrass
9.11	P&C R6 Viability: Financial Impact on Eden Farm, resulting from the proposed solar development' prepared by The Numbers Business on behalf of Mr and Mrs Sturdy issued to the Appellant on 20.08.24 . 'Confidential Farm Viability Information Exchange' on behalf of Mr and Mrs Sturdy issued to the Appellant on 20.08.24.
9.12	Agreed List of Conditions, dated 27.08.24
9.13	Inspectors Post-Case Management Conference Note dated 1 July 2024
9.14	LPA Planning Proof of Evidence Summary Proof prepared by Richard Woods
9.15	LPA Planning Proof of Evidence Main Proof prepared by Richard Woods
9.16	ELG Heritage Rebuttal to Rule 6 Party Proofs 05.09.24
9.17	Heritage Technical Note dated 23.08.24 prepared by Fiona Bage ELG Heritage
9.18	Rule 6 Heritage Proof of Evidence Summary – Catherine Bell August 2024
9.19	Rule 6 Heritage Proof of Evidence – Catherine Bell August 2024
9.20	Rule 6 Heritage Proof of Evidence Appendices – Catherine Bell August 2024: • Appendix 1 Historic England Responses • Appendix 2 Significance Assessment Tables
9.21	Rule 6 Proof of Evidence – Robert Sturdy August 2024
9.22	Rule 6 Proof of Evidence Appendices – Robert Sturdy August 2024 • Appendix 1 Personal letter of objection (23 March 2023)
9.23	Rule 6 Proof of Evidence RfR 4– Emma Sturdy August 2024
9.24	Rule 6 Proof of Evidence RfR 4 Appendices – Emma Sturdy August 2024 • Appendix 1 Map 1 The Appeal Site and Local Area • Appendix 2 Windmill Farm

	• Appendix 3 Photo of approaching the site from the east on Great Sike Road • Appendix 4 Photo of Robert Sturdy with Marker demonstrating Measurements • Appendix 5 Photomontages submitted by Loxley 27 March 2023 • Appendix 6 Photo looking from within Windmill Farm • Appendix 7 Photo Wide Open Views from Windmill Farmhouse Garden to the south west field • Appendix 8 Photo Wide Open exposed views to the north from Windmill Farmhouse
9.25	Rule 6 Proof of Evidence Planning Policy – Emma Sturdy August 2024
9.26	Rule 6 Proof of Evidence – Oliver Stones 27.08.24
9.27	Rule 6 Proof of Evidence Appendices – Oliver Stones 27.08.24 • Appendix 1 Blake Clough Consulting Report • Appendix 2 Grid Application and Red Line Boundary • Appendix 3 Email from Blake Clough dated 23 August 2024 • Appendix 4 Plan of Landowners surrounding the Appeal Site • Appendix 5 Letter from Neighbouring Landowners • Appendix 6 Plan of Landownership and Flood Zone 3 • Appendix 7 Email to the Agent for FTC and the Appellant dated 15 Nov 2021
9.28	Rule 6 Proof of Evidence – Samuel Franklin August 2024
9.29	Rule 6 Proof of Evidence Appendices – Samuel Franklin August 2024. Appendices include: • Photo sheet 1, Farm Buildings • Soil map of general area • Soil type descriptions • Carbon capture • Alternative ways to sequester carbon • Map of Agricultural Land Classification Grades in the general area • Map of Likelihood of Best and Most Versatile Land locally • Photographs of soil structural problems during construction and management

	• Photos of poor workmanship in construction and operation of solar sites • Photographs of research into soil structural issues • Photographs showing poor establishment under operational solar farm panels • Food Security • Sustainable Farming Incentive • Five years accounts and analysis • Appellants farm analysis • Landlords surrender offer letter
9.30	Wolds Heritage Consultancy – Solar Farm, Old Malton 6th August 2024
9.31	Site Notice, Location, and Images
9.32	Appellant Planning Rebuttal– Rebecca Caines September 2024
9.33	Appellant Planning Rebuttal Appendix 1 - Lichfields Research PoC
9.34	Appellant Planning Rebuttal Appendix 2 - Environmental Constraints Plan A1
9.35	Appellant Grid Connection Rebuttal –Gary Camplejohn 5 Sep 2024
9.36	Appellant Grid Connection Rebuttal –Appendix 1 - Malton LOA
9.37	Rule 6 Party Rebuttal Proof of Evidence Oliver Stones 5 September 2024
9.38	Rule 6 Party Rebuttal Proof of Evidence Samuel Franklin September 2024. Appendices include: 1. Notes and Feedback on the Vickers & Barrass/Tony Kernon Farm Viability Assessment 2. A copy of the Mr and Mrs Sturdy's letter of response to the compensation offer
9.39	Inquiry Notification Letter prepared by NYC, 5 Sep 2024
9.40	Inquiry Notification list prepared by NYC
10	**Other Inquiry Documents**
10.1	ELG Windmill Farm Letter, 20 April 2023
10.2	Appellant's Opening Submission
10.3	Council's Opening Submission
10.4	Rule 6 Party Opening Submission
10.5	Heritage Assets Plan (Designated and Non-Designated Assets)

10.6	Referendum Version of the Malton and Norton Neighbourhood Plan and Malton & Norton Neighbourhood Plan Proposals Map
10.7	Third Party Oral Statement – Mr H Johnson & Supporting Plan
10.8	Third Party Oral Statement – Cllr Pritchard
10.9	Old Malton Solar Agricultural SoCG 25.9.24
10.10	Updated Environmental Constraints Plan
10.11	Updated List of Planning Conditions (27.9.24)
10.12	Third Party Oral Statement – Dr John Scarth
10.13	Third Party Oral Statement – Sue Jefferson
10.14	Appellant – updated noise response 27.9.24
10.15	LPA Recovery Letter 3342002
10.16	Appellant Recovery Letter 3342002
10.17	Site visit briefing note 30.09.24
10.18	Appendix 1 Route and Key Viewpoints
10.19	Appendix 2 – OFS Proposed Viewing Points V.2

Appendix D

List of recommended Planning Conditions

Time Limit

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

Approved Plans

2. The development hereby permitted shall be carried out in general accordance with the following plans and documents:

   ES Figure 1.1 Rev A - Site Location Plan; ES Figure 1.3 Rev D - Proposed Site Plan; Drawing No OM_BSP_Rev H BESS Site Plan; BESS site plan indicating proposed plant type and layout; Drawing No PL.001 - Technical Details - Mounting Structure; Drawing No PL.005b - MV Power Station; Drawing No PL.006 – Technical Details Customer Substation; Drawing No PL.007 - Technical Details - Gate, Fence, Construction Road, Camera, Satellite Dish Drawing No OM-EL-BAT-01 Envision Battery Elevation; Drawing No OM-EL-BTR-01 Rev 0 - Indicative Battery Transformer (KNAN Transformer); Drawing No OM ED(DNOLVAC) Rev 0 Indicative Customer Switchroom; Drawing No OM_ED(DNOLVAC)_Rev 0 DNO LVAC Transformer; Drawing No PSE2-CIV-1499-200 Rev OA - Proposed 66/33 kV Substation General Arrangement Plan.

Ecology/Biodiversity

3. The development hereby approved shall proceed in accordance with Appendix 6.5: Biodiversity Management Plan Version 4 dated 11/08/2023 and Biodiversity Management Plan Update Note prepared by Logika Group dated 18/7/24. The ecological enhancement measures, monitoring and management schedule set out there in shall be implemented in accordance with the Plan.

Flood risk/drainage

4. The development hereby approved shall be carried out in accordance with the Old Malton Solar Farm and Battery Storage Flood Risk & Drainage Assessment Report reference GON.0084.0054 version 2 dated 11/08/2023.

Lighting

5. No external lighting shall be installed on site until a lighting design scheme is submitted to and approved in writing by the Local Planning Authority. The proposed lighting design will be built out in accordance with the approved details.

Access

6. No changes to the surface of the site access routes running from the maintained public highway to the site shall occur without prior written consent from the Local Planning Authority. Any damage caused to the surface of the site access routes as a consequence of the development will be the responsibility of the developers to repair to the satisfaction of Local Planning Authority and repairs should be completed within 3 months of the first export of electricity from the application site. A photographic survey to record the condition of the bridleway shall be undertaken before the development commences and submitted to the Planning Authority.

Trees

7. All tree works are to be undertaken in accordance with British Standards BS 3998:2010 (Tree Works) (or successor document) by a suitably qualified arborist.

Noise

8. Low frequency noise emissions from the development shall not exceed the noise criterion curve detailed in NANR45: Proposed Criteria for the assessment of low frequency noise disturbance as measured from the nearest internal receptor with no financial interest in the development. As per the table:-

Frequency Hz	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
dBLeq	92	87	83	74	64	56	49	43	42	40	38	36	3

Construction Management

9. No works for the development hereby approved shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). The CTMP must include, but not be limited, to arrangements for the following in respect of each element of the works:

a. Restriction on the use of Edenhouse Road (One way, West Bound) access for construction purposes;

b. Wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;

c. An area for the parking of contractors' site operatives and visitor's vehicles clear of the public highway;

d. Areas for storage of plant and materials used in constructing the development clear of the highway;

e. Measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;

f. Details of the traffic management including escorting of abnormal loads accessing or leaving Freehold Lane from Edenhouse Road;

g. A photographic survey to record the condition of the carriageway and adjacent verges of the full length of Edenhouse Road from its junction with Freehold Lane to the A169 should be undertaken before the development commences and submitted to the Planning Authority and the Highway Authority. The survey will be used in order to establish if any damage or degradation to the publicly maintainable highway has occurred during the period of work on the site and any such damage deemed to have taken place as a consequence of the development works will require to be rectified at the cost of the applicant;

h. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

i. Details of proposed culverts.

10. No works for the development hereby approved shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development and eventual decommissioning works shall proceed in accordance with the agreed details. The CEMP shall include (but shall not be limited to) the following matters:

    a. Site Waste Management Plan;

    b. Pollution Prevention Plan and mitigation;

    c. Details of contaminated site drainage;

    d. Surface water and ground water management;

    e. Details of ecological monitoring over the construction period;

    f. Details of the management of noise and vibration during construction period; and

    g. Cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the public road.

11. No works for the development hereby approved shall commence until details of a scheme of works for the protection of and any required post construction

drainage system repair has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a full method statement for the protection and repair of all existing and proposed drainage features. The development shall be carried out in accordance with the agreed scheme of works.

12. No works for the development hereby approved shall commence until a Soil Management Plan (SMP) has been submitted to and approved in writing by the Local Planning Authority. The SMP shall include proposals to safeguard soil resources and agricultural land at the commissioning stage, together with a commitment for the preparation of reinstatement, restoration and aftercare plans for the decommissioning phase; including plans to return the land to the predevelopment land quality (ALC grade). The SMP shall reference the Defra guidance Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. The development shall proceed in accordance with the agreed details.

Archaeology

13. No works for the development hereby approved shall commence until an Archaeological Written Scheme of Preservation/Investigation has been submitted to and approved by the local planning authority in writing. The scheme should set out the methodology for preservation of archaeological remains in situ and/or provide a scheme of mitigation for recording of remains that do not require physical preservation. The scheme shall include an assessment of significance and research questions; and:

    a. The programme and methodology of site preservation or site investigation and recording.

    b. Community involvement and/or outreach proposals.

    c. The programme for post investigation assessment.

    d. Provision to be made for analysis of the site investigation and recording.

    e. Provision to be made for publication and dissemination of the analysis and records of the site investigation.

    f. Provision to be made for archive deposition of the analysis and records of the site investigation.

    g. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

Landscaping/emergencies/BNG

14. Notwithstanding general conformity with the approved plans set out in Condition 2, no works for the development hereby approved shall commence until plans showing details of a landscaping and planting scheme are submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and new hedgerows and

"gapping up" of hedgerow including existing items to be retained. New native hedges shall be planted at the minimum rate of 5-7 plants /metre of new hedge, in double staggered rows with mixed native species suitably protected from grazing animals, and appropriately maintained for a period of 5 years following planting. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period, as deemed necessary to accord with the approved landscaping and planning scheme.

If, prior to or during development, ground contamination is suspected or manifests itself then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted an appropriate remediation strategy to the Local Planning Authority and the written approval of the Local Planning Authority has been received. The strategy should detail how the contamination shall be managed. The remediation strategy shall be implemented in accordance with such details as may be approved and a remediation validation report shall be required to be submitted to Local Planning Authority to demonstrate the agreed strategy has been complied with.

15. No works for the development hereby approved shall commence until a Risk Management Plan and Emergency Response Plan is submitted to and approved in writing by the Local Planning Authority. These plans shall be developed using the best practice guidance as detailed and required in the published Grid Scale Battery Energy Storage System planning - Guidance for FRS published by NFCC National Fire Chiefs Council, or any subsequent version. Where the aforementioned guidance cannot be adhered to in full, an explanation of why should be provided within the Risk Management Plan and Emergency Response Plan. Once approved, these plans shall be implemented thereafter and for the duration of the development's lifetime.

16. No works for the development hereby approved shall commence until a Biodiversity Gain Plan, in accordance with DEFRA guidance (12th February 2024) or subsequent version, is submitted to and approved in writing by the local planning authority which provides a minimum of 10% measurable biodiversity net gain, using the Statutory DEFRA Biodiversity Metric or any successor.

17. The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter for the duration of the development.

18. Prior to the development being first brought into use, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows of a minimum of 4m high and of the 5m high native tree belt shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting implemented as part of the development. All vegetation within the site shall be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.

Temporary Period/investigation/first export

19. Planning permission is hereby granted for a temporary period not exceeding 40 years from the date that electricity from the development is first exported to the electricity distribution network ("First Export Date"). Written confirmation of the First Export Date will be provided to the Local Planning Authority within one month of the First Export Date.

20. The development shall not be brought into use until the site investigation and post investigation assessment in relation to Condition 13 has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

21. The details submitted in pursuance of Condition 13 Part A shall be preceded by the submission to the Local Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:

    a. The proper identification and evaluation of the extent, character, and significance of archaeological remains within the application area;

    b. an assessment of the impact of the proposed development on the archaeological significance of the remains.

22. The permission hereby granted shall expire after 40 years following the date when electrical power is first exported ('first export date') from the development to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.

    Decommissioning

23. A restoration scheme shall be submitted to and approved by the Local Planning Authority no less than 6 months prior to decommissioning of the development and shall make provision for the dismantling and removal from the site of all structures, including fencing. The Local Planning Authority must be notified of the cessation of electricity generation in writing no later than one calendar month after the event.

24. Decommissioning must only commence once a Decommissioning Environmental Management Plan (DEMP) (incorporating a Decommissioning Traffic Management Plan) has been submitted to and approved in writing by the Local Planning Authority. The decommissioning works shall proceed in accordance with the agreed details. The DEMP shall include (but shall not be limited to) the following matters:

    a. Decommissioning Traffic Management Plan;

    b. A Site Waste Management Plan;

    c. Pollution Prevention Plan and mitigation;

    d. Details of foul and contaminated site drainage;

    e. Surface water and ground water management;

f. Details of ecological monitoring over the decommissioning period;

g. Details of the management of noise and vibration during construction period; and

h. Cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or decommissioning materials to/from the site to prevent spillage or deposit of any materials on the public road.

25. No later than 12 months after commencement of decommissioning, all structures shall have been removed and the site restored in accordance with the approved restoration scheme.

26. The proposed development including solar panels, mounting structures, their associated plant, equipment, and fencing (including the BESS Site Plan area) must be removed from the site within 12 months of the solar farm (and/or BESS) ceasing to be operational in accordance with the approved restoration scheme.

Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

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, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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

Appendix 4 – Appeal Decision APP/V3120/W/24/3356504

Planning Inspectorate

Appeal Decision

Hearing held on 11 March 2025

Site visit made on 12 March 2025

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2025

Appeal Ref: APP/V3120/W/24/3356504
Land at Manor Farm, to the East of Denchworth, Oxfordshire, OX12 0HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Renewable Connections Developments Limited against the decision of the Vale of White Horse District Council.
- The application Ref is P23/V2673/FUL.
- The development proposed is for the construction and operation of a solar photovoltaic (PV) farm with associated infrastructure, including inverters, transformers/power stations, substations, security cameras, fencing, access tracks and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of a solar photovoltaic farm with associated infrastructure, including inverters, transformers/power stations, substations, security cameras, fencing, access tracks and landscaping, at land at Manor Farm, to the East of Denchworth, OX12 0HP in accordance with the terms of the application, Ref P23/V2673/FUL and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. At the hearing the issue of highway safety was discussed, as there remained disagreements between the parties. During the hearing and following negotiations between the Council and Appellant it was decided that the main contentious point between the parties, being the route to be taken by construction traffic, was agreed to be an issue that could be addressed by planning condition. As such, it is not a main issue for this Decision, but will be addressed in the Other Matters section.

Main Issues

3. The main issues are:
    - Whether the proposed development would result in harm to the landscape character, historic features and tranquillity of the area, including the wider setting of the North Wessex Downs National Landscape.
    - Whether the proposed development would result in material effects to the setting of nearby listed buildings and the Denchworth Conservation Area, and if so what level of harm would this result in.
    - Whether there is sufficient information and detail to ensure the ecology and biodiversity of the site would be preserved and enhanced where possible. Furthermore, would the proposed mitigation be sufficient to

safeguard the priority species of skylarks breeding and foraging at the site.

Reasons

Landscape Matters

4. The National Planning Policy Framework (NPPF) recognises the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services (paragraph 187).

5. In terms of the baseline for the landscape of the site and as a visual baseline, from my site visit I would agree with the Council that it has an open character due partially to the large size of the fields and some of the lower boundary hedgerows. The fields that make up the site are most readily appreciated for their landscape qualities from the right of way (a restricted byway ref: 402/8/10) which runs between the small villages of Denchworth and West Hanney. The site is particularly close to the eastern side of Denchworth and forms part of the setting for this village.

6. The site has been assessed within the South Oxfordshire and Vale of White Horse Landscape Character Assessment 2024, as Landscape Character Area (LCA)12B: Western Middle Vale. I would agree with the description of the assessed landscape and that this represents the site generally, particularly the scattered historic settlements and the tranquillity of the site. This form of landscape does make it sensitive to development such as solar farms.

7. From the restricted byway there are clear views towards the edge of Denchworth and also beyond to the raised topography of the North Wessex Downs National Landscape (NWDNL). It is acknowledged that these views out of the current site area, especially towards the NWDNL, are an attractive feature of the restricted byway.

8. The proposed development, which would result in the coverage of a substantial area of agricultural land with solar panels and other associated infrastructure and site roads, would inevitably change the character of the land. However, it is also acknowledged that the developed area would be set in from the existing field boundaries and there is proposed extensive planting in the form of new woodland areas, new field hedgerows and riparian planting along Childrey Brook. The proposed planting would, over time, soften the visual impact of the proposed solar farm and visually enclose the site to a greater extent than existing.

9. Even with enhanced planting and landscaping of the site it is considered that due to varying topography that there would be views of the solar farm from public vantage points, such as nearby roads including Hyde Road to the north of Denchworth and the restricted byway. There would also be views from neighbouring properties, particularly those on the eastern side of Denchworth, which I observed on site. This will be especially the case before the proposed landscaping fully matures. However, it is unlikely that from most viewpoints, especially when the landscaping proposed is mature, that the whole of the development would be seen. It is likely that certain sections would be viewed, with other areas of the proposed solar farm filtered or obscured from clear views by intervening landscaping features.

10. From the proposed plans and my observations on the site visit I consider that the proposed solar farm would be localised in its impacts. The most prominent positions to view the proposed solar farm would be from near the site itself. There would be some views from further away from the site, but the low level of the solar panels and the intervening landscaping and other existing buildings would provide a good level of screening and minimise wider visual impacts.

11. The proposed layout has used the existing field pattern and is set within the hedgerow boundaries. The solar panels themselves would essentially be placed on the fields, with little change in surfacing needed throughout the development as proposed. The solar farm would appear as a development within fields, where the agricultural fields and their historic layout would still be discernible. The Council has described the development as industrial in character, but this is a proposed development which would have a 'light footprint' on the land and would also be generally reversable after decommissioning. As such, though there would be a change in character to these fields and to the eastern side of Denchworth, this is not an industrial proposal where the fields would be lost. Indeed, grazing of sheep would still take place within the site, typical of agricultural land.

12. There would be some loss of views of the North Wessex Downs from the restricted byway, especially the section which would run through the solar farm. This would be largely due to the proposed landscaping which would essentially form a green corridor for the route. This contrasts with the open nature of the track through the fields currently. The loss of these views is an adverse impact, though it is preferable to there being open and clear views of the solar panels either side of the route.

13. Green corridor type right of way routes are not uncommon in countryside settings and once the hedgerows as proposed are matured this would still remain an attractive route, even if different from existing. Furthermore, the section of the restricted byway that would run through the solar farm is only a portion of its distance between the villages of Denchworth and West Hanney. The remaining section of the byway would still allow for longer range views.

14. There is also a bridleway which crosses the south-western corner of the site (Public Right of Way 402/11/10). This is a relatively short section of right of way, with the proposal being to plant either side of the route, again creating a green corridor. There would be a loss of openness and views from this section of bridleway as a result.

15. These public rights of way are not proposed to be re-aligned with the development, but the character of the landscape these routes cross will alter. However, there should remain recreational value for these routes for walkers etc.

16. In terms of views from the NWDNL, the proposed development would be a relatively small section of a wide vista, which would still encompass much undeveloped land, but also settlements and other forms of infrastructure like the main trainline and the highway network. As such, the proposed development would not have any discernible harm on the NWDNL or its setting.

17. The site should generally retain a tranquil character as the solar farm would not need lots of people or vehicles to be there for operational purposes on a daily basis. Also, the solar panels and associated infrastructure are not generally noisy.

However, the loss of openness and the construction of this infrastructure on these fields would result in some limited loss of tranquillity from existing levels.

18. For Denchworth, this is a rural village and this is reflected in the agricultural land use that largely surrounds this settlement. The proposal would change the use and character of part of this setting, though much of the rural undeveloped land around the village would remain. Views of the approach to the village from the restricted byway would also be obscured due to new landscaping. Overall, there would be some adverse change to the rural character of the setting of Denchworth, which is also addressed below in relation to Denchworth Conservation Area.

19. As acknowledged above, the proposed solar farm would inevitably change the character of the land, from agricultural to a more developed character, for a long period of time. There would also be some loss of the openness of the existing fields, and loss of some views from these fields, due to the panels themselves and also the landscaping proposed to soften the wider views of the development. However, I consider that the adverse effects would be localised for the reasons given.

20. Core Policy 41: Renewable Energy (excluding wind energy) of the Vale of White Horse Local Plan 2031 Part 1 (LP Part 1) states that the Council would support planning applications for renewable and low carbon energy generation, but only where it would not cause a significantly adverse effect to the landscape, both designated AONB (now National Landscapes) and locally valued. It is clear from what I heard at the hearing that the site area is locally valued and that there would be an adverse effect to the landscape, though mainly to a localised extent. The proposal would be contrary to this policy.

21. There would also be some level of harm to the landscape setting of Denchworth, some attractive views obscured (such as from the site towards the NWDNL), and the tranquillity of the site diminished, which would be contrary to Core Policy 44 of the LP.

Heritage Matters

22. As set out by the Council, Reason for Refusal No 2 states that the ‘proposed development would result in the loss of the agricultural character of the open land which contributes to the setting of a number of designated heritage assets’. The assets identified by the Council within that refusal reason include Denchworth Conservation Area (CA), the grade II listed College Farmhouse with its associated outbuildings, and the grade II listed Cross Cottage. These two listed buildings (LBs) are located to the north of Denchworth.

23. Furthermore, within the Denchworth CA are listed buildings. It is agreed between the parties that the proposals may result in a limited degree of harm to the following listed buildings within Denchworth Conservation Area, including the Grade II* listed Denchworth Manor, and the Grade II listed buildings known as Home Farmhouse, The Old Post Office, Old Compton and Magpie Cottage. It is agreed between the parties that the proposals would not result in harm to any other listed buildings within Denchworth Conservation Area.

24. It is also agreed between the parties that the proposed development of the agricultural land to the east of Denchworth would have harm that would be less than substantial to these heritage assets.

25. As set out in paragraph 215 of the National Planning Policy Framework (NPPF), *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'* Furthermore, paragraph 212 states that "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation*." Therefore, regardless of the level of harm, it is a matter that must be given considerable importance in the overall planning balance.

26. Furthermore, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to have special regard to the desirability of preserving a listed building or its setting.

27. As a development that is within the setting of these listed buildings, which would have some level of adverse effect on the landscape and also change the character from open agricultural land to a more utilitarian use, then I agree that there would be some harm to the significance of these listed buildings. I would also agree with the parties that the proposed development would have a less than substantial harm to these listed buildings, due to the notable separation distances involved and the fact that there would be no direct impact to the listed buildings themselves, for example.

28. The disagreement between the parties is what the level of harm is, within the scale of it being 'less than substantial harm'. The Appellant considered there to be harm at the lower end of the less than substantial range, whereas the Council consider it to be more central in that spectrum.

29. With regard to the grade II listed College Farmhouse and the grade II listed Cross Cottage, their significance is derived partially from their ties to the agricultural history of the area with their vernacular appearance. Both buildings are enhanced by their agricultural setting, which would be eroded to some degree by the proposed development and the change in character and loss of openness of this rural setting, especially as there is some level of intervisibility between the site and these buildings.

30. As such, the proposal would result in less than substantial harm to both of these LBs, but as clarified in the Hearing there is no substantive evidence to historically link the agricultural land where the proposed solar farm is to be located and these former farmhouses. It is more that the proposals would develop agricultural land which forms part of the wider setting of these listed buildings, but there is no historic link demonstrated. Furthermore, there is a significant separation distance between the site and these LBs. This has the effect of reducing the significance of the site to these LBs, with there being more important and closely associated agricultural land immediately adjacent to these heritage assets.

31. It is acknowledged that the proposed development would result in the obscuring of views from the restricted byway towards these LBs, mainly due to the proposed landscaping. However, whilst there is an appreciation of these LBs from the byway it is at a distance with intervening agricultural land and landscape features, with there being no clear historical link between the part of the site area which contains the byway and the LBs.

32. For these reasons, for both College Farmhouse and Cross Cottage the harm would be at the lower end of less than substantial harm at worst.

33. For Denchworth CA, this is located close to the west of the site boundary. As observed on site the CA has a historic core around the Church and public house, with some more modern dwellings built adjacent to this core. It is the architectural and historic interest of the historic buildings within the CA that gives this heritage asset its significance, in my view. The proposed development would be within the setting of the CA and would be seen in the foreground when approaching Denchworth along the public rights of way, and the solar farm would also be visible from viewpoints within the CA.

34. As with the LBs discussed above, the proposed solar farm is not immediately adjacent to the CA. There is some agricultural land and intervening hedgerows and other landscape features between the CA boundary and the location of the proposed development. It is considered that the undeveloped land outside of the site area closest to the CA is of more importance to the setting. This reduces the harm to the CA significance from the proposals, as there would still be some agricultural land free from development closest to its eastern boundary. The solar farm would also maintain the existing field pattern and would not result in the loss of the fields completely, with the solar panels being positioned on and within these fields. Furthermore, the CA and the village of Denchworth more generally would still maintain much of its rural setting, with substantial areas of agricultural land to the north, south and west of the settlement remaining. The agricultural significance of the CA setting would still be able to be appreciated. However, the change in character of part of the CA setting to a solar farm, visible from certain points within the CA to some extent (less so when the proposed landscaping is mature), would have an adverse effect on the CA significance.

35. There are views of the CA areas of Denchworth from the restricted byway, when approaching this village. It is accepted by all parties that much of the views currently available of the village would be screened from view by the landscaping proposed either side of the byway, resulting in a green corridor effect. However, views of the historic core of the village and its older and more historic buildings from the byway is limited to some extent by trees and hedgerows that exist, with the more visible parts of the village being some of the more modern dwellings. Nonetheless, the loss of views of the village from the approach along the byway would have an adverse effect on the significance of this heritage asset. The same would be true regarding views from the other section of the bridleway.

36. Overall, though there would be harm to the significance of the CA, for the reasons given it would be at the lower end of the ‘less than substantial’ harm spectrum.

37. There are other LBs within Denchworth, including the Grade II* listed Denchworth Manor and the Grade II listed Home Farmhouse, The Old Post Office, Old Compton and Magpie Cottage. However, any harm to the setting and significance of any LB in Denchworth would also be at the lower end of the ‘less than substantial’ harm spectrum. This is due to a combination of the separation distances involved, the intervening landscape features, which also filters views between the site and these LBs (and vice-versa), and a lack of evidence to show historic functional links between these LBs and the site area for the proposed development.

38. The Council have described the restricted byway as being historic, linking the villages of Denchworth and West Hanney. However, from the evidence before me it is not a heritage asset, though clearly is valued locally. The proposed development would effect of portion of this route, though there would still remain this link between the villages with much of the route largely to be unchanged.

39. I would also consider that the significant distance and intervening landscape features means that the proposed development would not have any adverse impacts to the significance of both the West Hanney CA or any of the LBs within this village.

40. Core Policy 39 of the LP Part 1 requires that new development conserved, and where possible enhances, heritage assets and their settings. This is also reflected in LP Part 2 Development Policies 36, 37 and 38, with specific reference to both listed buildings and conservation areas. Core Policy 39 does also make reference to national guidance and legislation. In this regard, the NPPF and its 'heritage balance' is of importance, where harm is to be weighed against public benefit. Furthermore, the supporting text to Local Plan Part 2 Development Policies 36, 37 and 38 refers back to Core Policy 39 and that conservation should be in accordance with national policy.

41. Under paragraph 215 of the NPPF, less than substantial harm to a designated heritage asset should be weighed against the public benefit in decision making. Paragraph 212 of the Framework indicates that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to its conservation and the more important the asset, the greater the weight should be.

42. In my view, for the reasons given, there is no harm to any of the aforementioned heritage assets that would be more than the lower end of the 'less than substantial' harm range. Furthermore, this is a long term but temporary proposal, and the solar farm should be removed from site while the heritage assets would remain.

43. This harm would be balanced against the substantial public benefit of a new energy generating solar farm development. The importance of this form of renewable energy infrastructure is emphasised by the NPPF in paragraph 168 which states that planning authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. I consider the contribution the scheme would make to the generation of clean and secure energy is a substantial public benefit, and together with the other benefits outlined in this Decision, would be clear and convincing reasons to outweigh the less than substantial harm to the designated heritage assets.

44. Nonetheless, in accordance with the Framework and the statutory obligations imposed I give great weight to the harm to the setting of these heritage assets and their significance.

Ecology Matters

45. The Council's delegated report outlines four areas of concern related to ecology matters. These include the following:

- The need for an updated Construction Environmental Management Plan: Biodiversity (CEMP)
- The need for an updated Badger Mitigation Strategy
- The need for clarification related to the position of the proposed fencing in proximity to Childrey Brook
- The concern from the Council that the Skylark Mitigation Plan would be unlikely to be successful.

46. The submitted Ecology Statement of Common Ground (SOCG) confirms that following submission of new information and clarification, the matters at determination of the planning application relating to the CEMP and the Badger Mitigation Strategy are agreed, with conditions of agreed wording in place to safeguard updated documents. Furthermore, the Council and Appellant have agreed that the proposed fences do not encroach closer than 10m to Childrey Brook, which can be secured via condition. I have no reason to disagree that these matters can be resolved via conditions.

47. There was still the matter of the skylark mitigation which remained in dispute at the time of the hearing. The Ecological Impact Assessment showed that the site currently, as open fields, supports up to seven skylark territories, of which five of the seven would be lost as a result of the proposed development. The Skylark Mitigation Strategy does not propose offsite mitigation but proposes the provision of up to 16 skylark plots within the site in retained areas of open habitat around the solar installation in land to be managed as enhanced grassland.

48. The Council's concerns relate primarily to the anticipated skylark territory density. The submitted Skylark Mitigation Strategy proposes providing 16 skylark plots within the areas of retained and enhanced open land. The Council contend that these densities would significantly exceed the density for the most favourable habitats recorded for skylark and therefore are not considered to be achievable.

49. The areas of retained land would be species rich grassland created outside of the solar arrays. The appellant argues that even accounting for the preferences of skylark to nest more than 50m from a boundary feature (such as a hedgerow) there would be ample opportunity within the grassland to find areas within which seven nest sites could be set up by breeding pairs. However, it is also acknowledged that in reality skylarks may not keep the 50m distance from hedgerows or other field boundaries.

50. The appellant's evidence does demonstrate that the layout would provide for well-spaced skylark plots, more than 50m from a boundary. The density would be greater than the typical minimum provision or density as set out by the Council. However, it is also considered that the plots would be within species-rich managed grassland and not within an arable field as existing. This would provide a benefit to the skylark over the existing arable fields (and possibly better than unmanaged grassland), where opportunities for nesting and foraging may be restricted by farming activities. There could also be provision for adaptive management within the final Skylark Mitigation Strategy which could help with enhancing or changing the mitigation if needed in the future.

51. Overall, I am persuaded by the appellant's evidence that it is likely that the displaced pairs of skylarks could be accommodated within the site boundary, without the need to secure more land offsite for the skylarks. A final Skylark Mitigation Plan can be secured by condition, to ensure the mitigation is delivered.

52. For the reasons set out above, along with the provision of suitable levels of biodiversity enhancements for the site, it is concluded that the proposed development would comply with policies CP41, CP45 and CP46 of the Vale of White Horse Local Plan 2031 Part 1. These policies require that development does not have significant adverse effects to biodiversity, provide a net gain for green infrastructure, and avoid the loss, deterioration or harm to habitats or species of importance to biodiversity, amongst other things. Based on the evidence before me, the proposals also accord with the NPPF and all other forms of relevant guidance and legislation on this matter.

Other Matters

53. The matter of construction traffic was discussed at the hearing. There was concern from the Council that there was no suitable route to the site access off Main Street to the northern edge of the site for construction traffic. However, potential routes were discussed and the Council stated it was of the view that a suitable access route could be confirmed. However, there was no final decision on this matter but the construction route would be agreed via condition prior to any construction work being undertaken.

54. The matter of vision splay provision was also discussed at the hearing. Although there is a lack of vision to the left of the access, the Council confirmed that with traffic management measures this could be overcome.

55. Construction traffic on the country roads around the site would be difficult, but having seen the highway network on my site visits and after hearing the evidence I am satisfied that suitable and safe access can be achieved. Furthermore, the construction period would be a temporary phase only, with the operational phase having much less of a highway impact.

56. Some interested parties have raised concern with regards to flooding. However, following consultation there was no objection from the Environment Agency to the proposals, subject to conditions which are attached to this Decision. Furthermore, the submitted Flood Risk Assessment, which has been inspected by the Environment Agency, confirms that the proposals will be sequentially located within Flood Zone 1. Also, the solar farm would constitute 'Essential Infrastructure' and are appropriate in Flood Zone 1. The site is at Very Low risk of groundwater flooding and not considered to be at risk of flooding from sewers, reservoirs or other artificial sources. With the conditions attached I am persuaded that the proposed development would not be at a significant risk of flooding or likely to cause increased flood risk elsewhere. The grassland (rather than arable use) within the field could also result in some betterment for downstream flood risk.

57. The proposed solar farm panels and associated infrastructure are not located in close proximity to dwellings. There could be some level of noise from some of the machinery and possibly from rain hitting the panels, but there is not the evidence before me to demonstrate that this would be a significant or unacceptable impact for neighbouring occupiers in terms of noise pollution. The submitted Noise Assessment concludes that the proposed development would result in "*noise levels*

not exceeding a level which would represent a No Observed Effects Level, thus ensuring that the operation did not result in unacceptable levels of noise." On this matter, I note there was no objection from the Environmental Health team or the Council.

58. In terms of potential effects on residential receptors from glint and glare from the proposed panels, the submitted Glint and Glare Assessment concludes that "*Upon reviewing the actual visibility of the receptors, glint and glare impacts reduce to Low at five receptors, including one residential area and reduce to None at all remaining receptors, including one residential area*." It also states that "*Mitigation is not required due to all impacts upon ground-based receptors being either Low or None*". Given the position of the site and the existing and proposed landscaping which would screen and filter many views of the development I have no reason to disagree with the Assessment's conclusions. Such a level of residual potential glint and glare effect would not be significant or unacceptable in its level of impact in my view.

59. For clarification, as discussed at the Hearing, the Appellant confirmed that the solar farm as proposed could produce an annual power supplied MWh of over 33,000 MWh, which could power over 11,000 homes.

60. Comments have been received which question whether some of the scale bars on the submitted plans are correct. Whilst there may be some inaccuracies with the scale bar, the scale given on the plan at A1 size has been confirmed by the Appellant as correct. Furthermore, there was no confusion as to the scale and extent of the proposed development following my extensive site visit and also that the solar farm is set within existing field patterns, clearly discernible on site.

61. There have been numerous concerns raised by local residents to the proposed development, most of which have been directly addressed in this Decision. However, all other points raised are considered to be minor issues and does not result in the proposed development being in conflict with either national or local policy.

Planning Balance

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. As such, the outcome of a decision turns on whether any benefits of the proposed development would outweigh the harms and subsequent conflict with any development plan identified.

63. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 established a target for a reduction in net carbon dioxide emissions by 2050 of 100% relative to the 1990 level (known as net zero). The proposed solar farm would help to achieve this, albeit to a small degree.

64. The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future. The appeal scheme would make a contribution to this, and I give substantial weight to the contribution the proposal makes to renewable energy generation, addressing climate change and to improving energy resilience and security.

65. There would also be other positive aspects of the proposal, such as for biodiversity which would be of benefit to ecology for the area. There would also be economic benefits from the construction work especially.

66. Within the LP Part 1 (Para 6.99) it states that responding to climate change is one of the Strategic Objectives for the Council, with promoting the development and use of decentralised renewable and low carbon energy. The Council encourages schemes for renewable and low carbon energy generation, as stated in Core Policy 41. Furthermore, the NPPF in paragraph 168 states that planning authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.

67. Weighing against the proposal are the impacts on landscape character and heritage assets. The harm to landscape character and appearance is given significant weight. This has led to the proposal being contrary to some LP policies.

68. As determined above, the public benefits of the solar farm as proposed would outweigh the less than substantial harm identified to the significance of heritage assets. However, as directed by the NPPF (Para 212), the heritage harm must be given great weight in the overall balance.

69. As such, the proposal conflicts with some of the policies within the Development Plan, with harm weighing against the planning balance in favour of the proposals due primarily to the impacts to the landscape and heritage assets. This is balanced against the positive aspects of the proposed solar farm, particularly with renewable energy generation.

70. As already stated, against the development I give significant weight to the landscape harm and great weight against due to the less than substantial harm to the setting of heritage assets. However, the benefits are very great as the proposal would provide large quantities of renewable energy, enough to power many homes. In this case I conclude that due to these great benefits there are material considerations that make me conclude that this proposal should be allowed.

Conditions

71. A condition schedule agreed between the main parties was discussed at the hearing. I have revised the wording to a number of the suggested amended conditions in light of that discussion, and in considering Government guidance on the use of conditions in planning permissions.

72. In addition to the standard condition regarding the time limit for the commencement of development there is a condition specifying the relevant drawings, which provides certainty. However, due to the nature of the development final details of the layout of the solar farm and some other details are required under Condition 2, to be agreed by the Local Planning Authority.

73. The permission is for a 40 year period, which is secured by Condition 4, with a decommissioning plan also required via condition to ensure the site is appropriately returned to its current form.

74. A landscape and ecological management plan (LEMP) is required and needs to detail such things as new habitats and protection of water courses, together with details of maintenance and management. This is in the interests of enhancing the site's nature conservation value, among other things.

75. An Arboricultural Method Statement (AMS) in general accordance with the submitted Arboricultural Impact Assessment is required by condition, in the interest of protecting existing trees and hedges.

76. Further to the landscaping information submitted with this proposal, a detailed scheme for the landscaping of the site, including the planting of live trees and shrubs, will need to be submitted to and approved in writing by the Local Planning Authority. This is needed to improve the environmental quality and help mitigate the visual impact of the solar farm. A maintenance schedule and a long-term landscape management plan (for a minimum period of 20 years), for the soft landscaping works is also required by condition, to ensure the landscaping would last and be well maintained.

77. A Construction Traffic Management Plan (CTMP) is required by condition, which shall include details of traffic management to and from the site, along with at the site access, amongst other things. Separately, conditions are imposed requiring the submission of details of the access to the site (along with vision splays, to be retained and maintained), together with parking and manoeuvring space. This is to ensure highway safety and avoid significant traffic issues.

78. A detailed surface water drainage scheme for the site based on the Appellant's Calibro report is required via condition, to ensure a suitable drainage strategy is implemented.

79. A Construction Environmental Management Plan for Biodiversity is required by condition, which shall include the need for updated ecological surveys, the retention of a 10m buffer strip along the Childrey Brook, amongst other things. A final mitigation scheme for both skylark and badgers are required by separate conditions. The development is also required to accord with the submitted Biodiversity Mitigation and Enhancement Plan (BMEP). All these conditions are in the interests of both preserving and enhancing ecological features and species at the site.

80. The times of construction at the site is restricted by condition, in the interests of the preserving the amenities of neighbours to the site.

81. Due to the potential of archaeological value and features at the site, conditions requiring an Archaeological Written Scheme of Investigation and a subsequent Programme of Archaeological Mitigation are imposed. Furthermore, a condition is imposed to ensure there is no invasive below ground development that can be undertaken within the areas of archaeological preservation identified by the appellant within the site.

82. A condition is imposed to ensure that no external lights shall be erected within the site without the prior written agreement of the Local Planning Authority, in the interests of the appearance of the site and also to safeguard wildlife interests.

83. A condition is imposed for the removal of the infrastructure if no longer functioning on site, to ensure the site is returned to its current appearance if the solar farm becomes redundant for a long time.

84. Finally, a grazing management plan (GMP) is required by condition, to ensure that the land is appropriately managed during the development lifetime.

85. The conditions included which require an action from the developer prior to the development starting are necessarily worded as pre-commencement conditions as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measures which could be used.

86. For clarification, where the conditions refer to the first export date, this is the date to which the solar farm first produces electricity exported to the grid.

Conclusion

87. I have had regard to all matters raised, including the points put forward in opposition to this proposal by local residents and other interested persons, but in this case, the weight of beneficial considerations has led me to conclude that this appeal should be allowed.

Mr S Rennie

INSPECTOR

ANNEX – Hearing Attendance:

FOR THE COUNCIL:

Tracy Smith, Principal Appeals Officer

Hazel Osbourne, Landscape Officer

Samantha Allen, Senior Heritage Officer

Amanda Rendell, Case Officer

John Wenham, John Wenham Ecological Consultants

Armid Akram, Senior Transport Development Officer for Oxfordshire County Council

FOR THE APPELLANT:

Stephen Humphries, Partner at Ashfords LLP

Maureen Darrie, BSC (Hons), MRTPI – Director, GP Planning Limited

Clive Self MA (Urb Des) Dip LA CMLI Director, CSA Environmental

Rosey Meara MA (Hons) PGCert MCIfA Associate Director, CSA Environmental

Alan Kirby, Technical Director (Ecology) Logika Consultants

John Russell, Director, Motion

Corey Isolda, Renewable Connections

INTERESTED PARTIES/PERSONS

Cllr Richard Starkey – Denchworth Parish Council

Cllr David Corps – West Hanney Parish Council

Neil Memery – Local Resident

Helen Dorsett – Local Resident

APPENDIX – CONDITIONS

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

2) Prior to the commencement of the development hereby permitted, and in general accordance with submitted drawings Indicative Proposed Site Layout Plan - RCN1004-PLE-01 Rev 7 and Development Zone Plan - RCN1004-DZ-01 Rev 3 full details of the final locations, design, colour and materials to be used for the panel arrays, all ancillary buildings equipment and enclosures CCTV cameras and fencing shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the development shall be carried out in accordance with the approved details.

3) The development shall be carried out in accordance with the following plans, except where superseded by drawings submitted under condition 2:

   - Indicative Proposed Site Layout Plan - RCN1004-PLE-01 Rev 7
   - Site Location Plan - RCN1004-SP-01 Rev 5
   - Development Zone Plan - RCN1004-DZ-01 Rev 3
   - PV Array Details - RCN1004-200D
   - Inverter Mounting Details - RCN1004-202A
   - CCTV Pole Mounting Details - RCN1004-215A
   - Typical Road Detail - RCN1004-217A
   - DNO Substation - RCN1004-220B
   - Customer Substation Plan - RCN1004-221A
   - Power Station Details - RCN1004-223B
   - Security Fence and Gate Details - RCN1004-231A
   - Landscape Strategy - edp7490_d004e

4) Planning permission is hereby granted for a temporary period of 40 years from the date of the first commercial export of energy. No later than one month after the first commercial export of energy the applicant shall supply written notice to the Local Planning Authority of this commencement. Following the expiry of the 40 years temporary period, or within six months of the cessation of electricity generation by the solar PV facility, whichever is sooner, all ancillary equipment and structures shall be decommissioned and removed from the site in accordance with the Decommissioning Method Statement, agreed pursuant to Condition 24.

5) No development shall take place until a Landscape and Ecological Management Plan (LEMP) including long-term design objectives, management responsibilities, maintenance schedules and a timetable for implementation has been submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall include the following:

   a) Details of management regimes.
   b) Details of any new habitats created on-site.
   c) Details of treatment of ecological buffers around water bodies.

d) Details of management responsibilities, and
e) Details of how the watercourse will be protected during construction.

The development shall be carried out in accordance with the approved LEMP.

6) Prior to the commencement of any site works or operations and site clearance relating to the development hereby permitted, an Arboricultural Method Statement (AMS) in general accordance with the submitted Arboricultural Impact Assessment (March 2023) and the Tree Protection Plans therein shall be submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement must include the following:

a) A specification of any pruning or tree surgery works to any trees to be retained, to prevent accidental damage by construction or demolition activities.
b) The specification and location of temporary tree protective fencing and any ground protection required to protect all retained trees in accordance with the current edition of BS 5837 "Trees in relation to design, demolition and construction", and details of the timing and duration of its erection.
c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.
d) The means of demolition of any existing site structures, and of the re instatement of the area currently occupied thereby.
e) The route and method of installation of drainage or any underground services in the vicinity of retained trees; Consideration will be made to avoid siting of utilities and service runs within the Root Protection Area (RPA) of all trees to be retained. Only where it can be demonstrated that there is no alternative location for the laying of utilities, will encroachment into the RPA be considered. Methodology for any installation works within the RPA will be provided and must be in compliance with the current edition of NJUG 'Guidelines for the planning and installation and maintenance of utility apparatus in proximity to trees'.
f) The details and method of construction of any other structures such as boundary walls in the RPA of retained trees and how these relate to existing ground levels.
g) The details of materials and method of construction of any roadway, driveway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method, in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and is appropriate for the type of roadway required in relation to its usage.
h) Provision for the supervision of any works within the RPA of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed by the developer and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.

The development shall be undertaken in accordance with the agreed AMS.

7) Prior to commencement of the development hereby approved a scheme for the landscaping of the site, including the planting of live trees and shrubs, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The scheme shall be implemented prior to the first occupation or use of the development hereby approved and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

8) Concurrent with the submission of comprehensive details of the proposed landscape works, a maintenance schedule and a long-term management plan (for a minimum period of 20 years), for the soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include:

    a) Details of long-term design principles and objectives.
    b) Management responsibilities, maintenance schedules and replacement provisions for existing retained landscape features and any landscape to be implemented as part of the approved landscape scheme.
    c) Summary plan detailing different management procedures for the types of landscape on site. The schedule and plan shall be implemented in accordance with the agreed programme.

    The maintenance and long-term management of the landscaping works shall be in accordance with the agreed details.

9) Prior to the commencement of development, a detailed Construction Traffic Management Plan (CTMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CTMP shall include as a minimum:

    a) Measures to manage vehicle movements at the site access point.
    b) The operational times for deliveries and how this will be managed.
    c) Details of the construction traffic route(s) to and from the site.
    d) Traffic management measures required for safe routes to site. This shall include but not be limited to:
        - Passing places along the route in line with OCC standards
        - Traffic Marshals and / or escort vehicles
        - Junction improvements to facilitate routing
    e) On-site wheel washing or other measures to prevent mud on the highway
    f) Details of temporary traffic management works as considered necessary by the Highway Authority, to facilitate safe access and egress by construction traffic onto the public highway including, but not limited to, the use of temporary signals, signage and banksmen

g) Pre-commencement and post-completion highway condition surveys on access routes for construction vehicles

The development shall be undertaken in full accordance with the agreed details within the CTMP.

10) Construction shall not begin until a detailed surface water drainage scheme for the site based on Calibro report reference 22-386-60 dated 12/12/23, sustainable drainage principles and the hydrogeological context of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

a. A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire".
b. Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
c. Detailed design drainage layout drawings of the SuDS proposals including cross-section details.
d. Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element.
e. Details of how water quality will be managed during construction and post development in perpetuity.
f. Confirmation that the solar panels sited on an open metal frame and that the lowest panel edges are to be set at least 800mm high from general ground level as shown in the PV array details.
g. Confirmation that all fencing is permeable to flood waters as shown in plan entitled "Security Fence and Gate Detail".
h. Confirmation that no land raising within 20 metres of the main river, the Childrey Brook, and the other ordinary watercourses on site.

11) Development shall not begin until details showing the location, layout, design and method of construction of any new or altered vehicular access, parking and manoeuvring space, in general accordance with submitted drawings Indicative Proposed Site Layout Plan – RCN 1004-PLE-01 Rev 7 and Typical Road Detail – RCN1004-PLE-217A have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is commenced the vehicular access, parking and manoeuvring space shall be constructed in accordance with those approved details and shall thereafter be so retained.

12) The visibility splay to the east of the site access shown on the approved plan, drawing 2201063-02 of the submitted Transport Statement shall not be obstructed by an object, structure, planting or other material with a height exceeding or growing above 0.6 metres as measured from the carriageway level.

13) Prior to the commencement of the development (including vegetation clearance), an updated Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local

Planning Authority. The CEMP shall be based on the recommendations made in the CEMP: BIODIVERSITY by Renewable Connections dated March 2024 and shall include the following:

a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines.
b) Risk assessment of potentially damaging construction activities including details of cabling routes.
c) Identification of biodiversity protection zones.
d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
e) The location and timing of sensitive works to avoid harm to biodiversity features.
f) The times during construction when specialist ecologists need to be present on site to oversee works.
g) Responsible persons and lines of communication.
h) Retention of a 10m buffer strip along the Childrey Brook
i) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

14) Prior to the commencement of the development a Skylark Mitigation Scheme, based on the submitted Skylark Mitigation Strategy, 21 February 2024, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented prior to the first export date and retained thereafter in accordance with the approved scheme for the lifetime of the development hereby permitted.

15) Prior to commencement of development, a Badger Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy should detail protective measures to ensure no adverse impacts to badger setts onsite, along with a due assessment of foraging habitat and commutability of the site for badgers in congruence with the proposals. The approved scheme shall be implemented in accordance with a timetable to be agreed by the Local Planning Authority prior to the commencement of development. The Badger Mitigation Strategy shall be adhered to in accordance with the approved scheme for the lifetime of the development hereby permitted.

16) The development hereby permitted shall be undertaken in accordance with the Biodiversity Mitigation and Enhancement Plan (BMEP) by Renewable Connections dated March 2024. All enhancements should be delivered by no later than the first planting season following the First Export Date and thereafter be maintained in accordance with the approved scheme.

17) No construction work shall be carried out before 08:00 or after 18:00 Mondays to Fridays inclusive, before 08:00 or after 13:00 on Saturdays, and at any time on Sundays or Bank Holidays.

18) Prior to the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, and shall be submitted to and approved in writing by the Local Planning Authority.

19) Following the approval of the Written Scheme of Investigation referred to in condition 18 and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork

20) No invasive below ground development shall be undertaken within the areas of archaeological preservation identified within the site, as referred to as ASA A to ASA D and illustrated on Figure 7.16 and 7.23 of the Environmental Statement – Chapter 7: Historic Environment.

21) No external lights shall be erected within the site without the prior written agreement of the Local Planning Authority.

22) Should the development cease generating energy for a period of six months or more, the panels, support structures and associated buildings shall be removed in their entirety and the land shall be restored to its former condition in accordance with a scheme of work and timetable submitted to and approved in writing by the Local Planning Authority.

23) Prior to the First Export Date, a grazing management plan (GMP) shall be submitted to and approved in writing by the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. Within three years of the First Export Date, the grazing of livestock shall be implemented on the site in accordance with the GMP. Any changes to the GMP during the lifetime of the permission shall first be submitted to the Local Planning Authority for approval in writing prior to implementation on site and shall thereafter be provided in accordance with the approved revised GMP.

24) Within 6 months of the cessation of the export of electricity, or within 39 years following the First Export Date, a detailed Decommissioning Method Statement (DMS) shall be submitted to the Local Planning Authority for its written approval. The DMS shall include:

a) details of the removal of the panels, supports, inverters, cables, buildings and all associated structures and fencing from the site, and a timetable for their removal.
b) a traffic management plan to address likely traffic impacts during the decommissioning period.

c) an environmental management plan to include measures to be taken during the decommissioning period to protect wildlife and habitats.
d) full details of the proposed restoration of the site including a site wide restoration and aftercare scheme which details how the land will be restored to its former agricultural grade; and
e) Details of the recycling and disposal of the decommissioned elements.

The Site shall be decommissioned in accordance with the approved DMS within 12 months of the expiry of the 40-year period of planning permission.

END OF CONDITIONS

Appendix 5 – Appeal Decision APP/U1105/W/23/3320714

The Planning Inspectorate

Appeal Decision

Inquiry Held on 12-15 and 19-20 September 2023
Site visit made on 21 September 2023

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2023

Appeal Ref: APP/U1105/W/23/3320714
Land to the south and west of Marsh Green, Marsh Green, East Devon EX5 2EU

- 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 Mr Phil Cookson (Low Carbon Alliance Ltd) against the decision of East Devon District Council.
- The application Ref 22/0990/MFUL, dated 4 May 2022, was refused by notice dated 12 January 2023.
- The development proposed is for the construction and operation of a ground mounted solar farm and associated landscaping and ecological habitat, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment and associated development; and temporary change of use of land for construction compound (off site).

Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of a ground mounted solar farm and associated landscaping and ecological habitat, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment and associated development; and the temporary change of use of land for a construction compound (off site) on land at Marsh Green Farm, Marsh Green EX5 2EU in accordance with the terms of the application, reference 22/0990/MFUL, dated 4 May 2022, subject to the 'Schedule of Conditions' set out at the end of this decision.

Application for Costs

2. An application for the partial award of costs was made by Low Carbon Alliance Ltd against East Devon District Council (EDDC). That application will be the subject of a separate decision.

Procedural Matters

3. I have amended the description of the development from that given on the Planning Application Form in the above banner, to that specified on the Council's Decision Notice as it provides a more accurate description of the proposal; and because it was already subject to public consultation agreed with the Appellant during the planning application determination period.

4. In advance of the Inquiry EDDC agreed via Statement of Common Ground (SoCG) not to contend its reason for refusal relating to agricultural land

classification. Additionally, I note that flooding impacts were not disputed by the Council in the Decision Notice but rather the opportunities or steps to improve flood risk impacts.

5. Bearing in mind Marsh Green Valley Protection Group's (MGVPG) submissions as a Rule 6 Party there was some round table discussion regarding agricultural land classification; flood risk management; and highway impact matters linked to overall planning balance arguments and any potential planning conditions which could be applied. Accordingly, I have considered those elements in my overall decision.

6. I have dealt with local policy implications largely within the main issues. But other elements of the dispute require wider consideration of national policy, and strategy. Therefore, those further aspects are included within my reasoning.

Main Issues

7. The main issues are the impact of the development on i) the character and appearance of the landscape; and ii) the setting of nearby heritage assets; iii) the overall merits of the development having regard to any harms or benefits.

Reasons

Character and appearance

8. At my site visit I could see that the appeal site comprises of attractive expanses of open countryside entailing agricultural fields lined with hedgerows and established greenery. The locality is interconnected with a network of narrow rural lanes, some of which are sunken relative to adjoining agricultural fields. The area exhibits distinct scenic qualities and a great deal of beauty. Further afield the presence of the A30 is a noticeable built feature that bisects the rural landscape. The presence of commercial buildings near to the airport are also noticeable features, as are collections of dwellings and hamlets. The latter being in much closer proximity to the appeal site.

9. The Appellant's landscape evidence including its Landscape Visual Impact Assessment (LVIA) offers me a systematic summary of the likely effects of the development. I note that the appeal site is not located within or immediately adjacent to any Local Plan landscape designation. The East Devon Area of Outstanding Natural Beauty (AONB) is located approximately 1km to the east. Given the distance involved as well as intervening landscape and topography I accept there would be no impact to the setting of the AONB.

10. That said, Devon's Landscape Character Assessment' (DLCA) highlights the appeal site is located within distinctive local Landscape Character Types (LCT's). Collectively, the main parties refer me to, namely: 1C: Pebblebed heaths: 3B: Lower Rolling Farmed and Settled Valley Slopes: and 3E (formerly 4D): Lowland Plains.

11. The LCT's give me important information in gauging the overall landscape sensitivity and value of the landscape in dispute. Subsequently, I recognise that the appeal site does have genuine landscape value when gauging it as part of local distinctiveness and qualities set within the DLCA.

12. At the Inquiry, EDDC and MGVPG's position in broad terms was that the appeal site is part of a locally valued landscape. To that end, paragraph 174 (a) of the Framework, indicates that whilst the intrinsic character and beauty of the countryside should be recognised, it does not seek to protect, for its own sake, all the countryside from development; rather it concentrates on the protection of 'valued landscapes'. Although the Framework does not define what constitutes a valued landscape.

13. I note the appeal site does not have any defined community use linked to it or internal public walkways. Albeit local walking routes were referred to as being frequently undertaken for recreation using the rural road network near to the site. It is credible local people would use those routes for such activity, whilst enjoying views of the rural surrounds.

14. Although the site has no specific local plan designation or community use it is a significant part of the East Devonshire countryside which exhibits high levels of scenic beauty at a regional scale when having regard to the DLCA and LCTs. Separate to that, I recognise there are also broader local cultural and heritage aspects linked to some of the arguments made. All in all, the site is clearly part of a local landscape cherished by many residents as evidenced at the Inquiry.

15. Because of those factors, and the magnitude of land which would be occupied by the development I agree the appeal site and its surroundings are sensitive to change. For the purposes of applying paragraph 174(a) of the Framework the local landscape impacted is a valued landscape. And significant weight should be attributed to any harm to landscape character and appearance.

16. That said, I am cognisant that whilst the appeal site comprises of around 74 hectares (ha) of land, both EDDC and the Appellant agree that the solar farm (including ancillary development) would only occupy around 29ha. This would leave some 45ha of land for landscaping and ecological enhancement. Based on the evidence submitted and given those figures are not contested I have no reason to take a different view.

17. The presence of the A30; the proximity of the airport which has a nearby commercial landscape associated to it; and pylons within the landscape are all existing factors impacting on countryside tranquillity levels as well as its overall appearance. Therefore, I do not find the appeal site to represent deep countryside remote from other forms of development.

18. There would be a noticeable change in the character and appearance of the landscape from agricultural and grassed over fields to land featuring engineered solar panels. But the solar panels would be relatively low lying and even with the ancillary development applied for, a substantial amount of attractive greenery would remain in place.

19. The overall visual effects of the development would be largely contained within the appeal site boundary itself because of topography and hedge boundary features. I accept owing to the contained nature of the site largely only infrequent, transient, and glimpsed views would be possible from broader locations in the immediate locality. Nonetheless, given the scale of the development, and its nature, it would be at odds with the qualities of the LCTs. There would be some unavoidable harm to the character and appearance of the immediate landscape.

20. The Appellant demonstrates through extensive negotiations with EDDC it has designed the appeal scheme in a way to minimise visual and landscape impacts as much as possible. The scheme does not involve any tree removal, and the protection, retention and management of existing trees and hedges would be able to be successfully undertaken.

21. There were concerns expressed at the Inquiry that resultant hedgerow heights in any mitigation proposed would be excessive and domineering. However, I am content there is a suitable degree of flexibility enabled in planning condition use to prevent that outcome.

22. Other solar farms are referred to in the wider vicinity. But the level of intervisibility would be negligible. Owing to the mature hedgerow network seen in the area cumulative impacts would be contained and therefore not detrimental.

23. Thus overall, I find an adverse but largely contained change would be caused to the character and appearance of the site itself and local landscape. Because of that there would be some conflict with Strategies 39 (Renewable and Low Carbon Energy Projects), and 46 (Landscape Conservation and Enhancement of AONB's) of the East Devon Local Plan (EDLP) which collectively seek to protect and conserve local landscape distinctiveness, in tandem with regard given to the context of paragraph 174(a) of the Framework towards valued landscapes I attribute significant weight to such harm.

Heritage Assets

24. The statutory duty contained in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings or their setting, or any features of special architectural or historic interest which they possess.

25. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

26. It was agreed by EDDC in the SoCG with the Appellant that the appeal proposal would not affect the setting or significance of any scheduled monument, conservation area, registered battlefield, World Heritage Site or any registered park and garden. This includes the grade II registered park and garden at Rockbeare.

27. Indeed, Historic England raised no objection in that regard. EDDC also agree that the appeal scheme would result in no harm to any grade I or grade II* listed buildings because of development within their settings. I have no reason to reach a different conclusion.

28. Accordingly, out of a total of 56 heritage assets assessed by the Appellant the dispute at the Inquiry focused on 6 designated assets. In Westcott these were namely: Westcott House; Westcott Farmhouse; and the Barn approximately 20m south of Westcott Farmhouse, all grade II listed.

29. Their significance stems from their age and architectural interest as buildings which illustrate the development of Westcott as a small rural hamlet. The buildings also have a relationship with surrounding local land that was once owned and worked by their occupants.

30. I agree the surrounding countryside (of which the appeal site is part of) makes a positive contribution to their setting. But in the case of the properties at Westcott this is to a lesser extent than the contribution made by their gardens, and views over Rag Lane to which the principal elevations of both Westcott House and Westcott Farmhouse are orientated.

31. In Marsh Green: The Knoll; Rose Cottage; and The Old Post Office are the grade II listed buildings in dispute. They have architectural qualities and significance linked to historic rural settlement development in East Devon. There is also an historic association between the buildings and the surrounding agricultural landscape. Their settings, they are experienced in include their gardens and street scene of Marsh Green. However, I agree the appeal site also makes a positive contribution to their setting by virtue of proximity and historic connection.

32. I note that with respect to the 6 properties in dispute there is at least 300m between any of the 6 assets and any part of the appeal site boundary. In that context, I appreciate the heritage assets in dispute would be separated from the solar arrays by gardens, undeveloped field parcels and a buffer of agricultural land within the site itself. The Appellant makes a strong case there would be no harm at all to the assets because of those factors.

33. Nevertheless, some glimpsed views and intervisibility would be possible and cannot be discounted. The combined collective interest of the properties and historic connections of former residents working local land evidenced are also important factors.

34. Therefore, bringing all points together given the magnitude of the scheme I accept it would lead to an adverse impact to the individual asset settings in dispute as well as their combined collective historic interest.

35. In summary, bearing in mind the range of visual and overall sensory perception arguments (including how different people may experience 'setting' having regard to tranquillity, general ambience, sounds, and smells combined with any visual change in an agricultural location) evidenced at the Inquiry there would be some harm to the settings of all 6 listed buildings. Thus, there would be conflict with the terms of the Act and the Framework which seek to prevent harm to the settings of designated assets.

36. Nonetheless, the separation distances involved, and existing intervening boundary features would greatly limit the resultant harm. For that reason, the level of detriment involved would sit at the lower end of the 'less than substantial' harm definition contained within the Framework.

37. MGVPG also reference three non-designated heritage assets within or immediately adjacent to the site involving: modern earthwork banks, believed to relate to historic farming activity; post medieval to modern orchard banks (outside of the appeal site); and further post medieval to modern earthwork banks, again believed to relate to farming activity (a small part of which lies

within the appeal site boundary). Their archaeological significance is closely tied to an agricultural landscape which would be eroded by the appeal scheme.

38. The evidence before me indicates that the banks lack the age, rarity, group value or condition to be considered of interest at a regional or national level. This does not mean that they are without historic or cultural value, but that on a relative scale that they are of low value.

39. I am content that the Appellant through the proposed layout has sought to avoid all heritage impacts where it was possible to do so. Furthermore, there are no objections from Historic England or other technical consultees referred to, and EDDC accept that additional archaeological mitigation is not required.

40. In that context, Paragraph 203 of the Framework sets out that harm to non-designated heritage assets is a balance considering the scale of any harm or loss and the significance of the heritage asset. In this case there would be some limited harm to the archaeological significance of non-designated assets of low value owing to the presence of the scheme eroding the agricultural open countryside location.

41. Consequently overall, I do find there would be conflict with EDLP Policy EN9 (Development Affecting Heritage Assets) which seeks to protect the settings of listed buildings and other historic assets from harm.

42. Having regard to the advice of the Framework, I attribute significant weight to the less than substantial harm I have identified to the setting of the 6 designated heritage assets in dispute. Separate to that, there would also be some limited harm to non-designated archaeological assets evidenced to be of low value. Even so, I find such non-designated asset harm still has importance owing to local cultural significance and attracts moderate weight in my decision.

Other merit/planning balance considerations

43. The Framework supports the increased use and supply of renewable energy. The solar farm would generate up to 30MW of renewable electricity. The level of energy produced could potentially power some 18,500 households, and in doing so save significant tonnes of CO_2 emissions per year. Moreover, there are no physical constraints limiting early development of the solar farm and a grid connection offer is accepted as being in place.

44. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. Recently, the Government committed to reduce emissions by 78% compared with 1990 levels by 2035.

45. The National Policy Statements (NPSs) for the delivery of major energy infrastructure are also material considerations in my decision. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Whilst NPSs EN-1 and EN-3 do not specifically refer to solar generated power they reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity. Notwithstanding the replacement EN-3 is in draft consultation form and therefore the draft carries limited weight.

46. Connected to NPS considerations, I have had regard to Government's Net Zero Strategy: Build Back Greener (2021) which also has relevance. It explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable energy generation such as solar.

47. I am also aware the Government's British Energy Security Strategy (April 2022) does not set a firm target for solar but expects a five-fold increase in deployment by 2035. This aligns to the strategy's aim that by 2030, 95% of British electricity could be low carbon; and by 2035 that the electricity system will be able to be decarbonised, subject to security of supply.

48. Those considerations aside, I recognise the Appellant's point that with more locally derived renewable energy the UK would become less reliant on price volatility from imports. As referenced in Government's 'Powering Up Britain' (March 2023) Plan, solar is one of the cheapest forms of electricity generation.

49. As such, I accept the scheme could make an early and significant contribution to the objective of achieving Net Zero and the commitment to reducing emissions by 78% compared with 1990 levels by 2035. Accordingly, the clean and secure energy benefits on offer attract substantial weight in my decision.

50. In terms of the biodiversity impacts posed, the Landscape and Ecological Management Plan (LEMP) and other information suggests that a Biodiversity Net Gain (BNG) in the order of 121% can be achieved. I agree the Appellant has maximised its approach to seeking such improvements following negotiations with the Council. This would be consistent with Local Plan Strategy 47 and Policy EN5, supporting ecological enhancements.

51. The BNG would involve the planting of approximately 350 meters of new native species hedgerows and new trees including a woodland extension enhancing the natural features of the existing landscape. There would be some 8.1ha of wildflower meadow created (including wet meadow); and the creation of 2.4ha of new native woodland.

52. The planting scheme evidenced would also include re-establishing areas of traditional Devon hedgerow management techniques to improve health and biodiversity in the existing and the newly created hedgerows. All of which when combined in the context of BNG constitute substantial positive ecological benefits for the local area and future generations. Further significant benefits would include legacy landscape enhancement embedded in the scheme layout.

53. Flooding issues experienced in the area were raised by several interested parties during the Inquiry. To that end, an extensive mitigation package using planning conditions would be able to be provided which includes: increased vegetation cover; SuDS drainage features; the provision of 'leaky dams'; 'scrapes' along the onsite water course; and field drains which will pond on site. With such provision in mind, I accept that the scheme has been designed to enable a betterment to controlling known flood risks and is conducive with best practice design principles.

54. Because of those carefully thought-out provisions I do find surface water run-off would be properly managed within the site boundary. There was further concern that existing flooding issues beyond the appeal land could lead to

failure of the Appellant's drainage scheme. But the amount of rainfall the site would experience would still be the same with or without the scheme.

55. Consequently, I do not accept the solar farm would exacerbate local flooding issues elsewhere. Instead, all the evidence before me indicates the opposite effect would be apparent. As a result, there would not be any conflict with Policy EN22 of the EDLP. Not only does this demonstrate compliance with EDLP Strategy 39 but when taken alongside the overall scheme layout, substantial BNG provision and other prevailing design layout considerations, collectively the evidence indicates flood risk management design would exceed policy, and is therefore a positive design factor in favour of supporting the scheme.

56. There would be some economic benefit in allowing related construction work. Post construction the scheme would provide modest employment opportunity. There is no clear indication existing agricultural work opportunities would be eroded. But even if that was the case, maintenance of the wider site is evidenced to require jobs in landscape and ecological management. Therefore, diversifying local labour opportunities into the green economy is likely to compensate for any notional loss, of which there is no strong evidence either way. Therefore, I give the overall economic betterment from all job opportunities modest weight accepting that the overall betterment is more favourable in relation to construction periods.

57. In relation to Agricultural Land Classification (ALC) the Appellant makes the argument that the majority of the appeal site occupied by the solar farm would be Grade 3b (92%). With the remaining 8% found to be Grade 3a, located alongside a stream running across the site. Approximately half of this land would be part of the built development. Best and most versatile agricultural land only encompasses land in Grades 1, 2 and 3a.

58. Whilst EDDC concurred with the ALC position of the Appellant, MGVPG and other interested parties did not. Consequently, I have considered the methodology and submissions used to determine the grade of land. Whilst technical argument does enable different inferences and conclusions to be drawn, I find that the Appellant's evidence is convincing and sufficient. There is no other detailed on-site survey information to conclude otherwise.

59. The Framework advises me the loss of high-grade land should only be granted exceptionally. EDLP Policy EN13 seeks similar safeguards. I have borne in mind there would be some use of Grade 3a land, as well as a degree of tokenistic animal grazing being possible. Albeit it would not be comparable to more intensive farming practices. Therefore, given the ACL figures, I agree there would be some conflict with EN13.

60. Additionally, there would be negative impacts to local amenity arising from construction traffic movements and related work. Such construction period activity is likely to cause unavoidable local frustration to residents, motorists, cyclists, walkers, and other pedestrians. However, all the evidence suggests that there would be no significant highway safety detriment if the appeal was allowed. That is because construction period impacts would be able to be successfully mitigated by carefully thought-out traffic routing and management arrangements, achieved through planning condition use.

61. In relation to most aspects of the appeal I have been referred to an extensive list of appeal decisions, judgements and decisions made by the Secretary of

State. I do not find any conflict with the broad principles of decision making triggered in those decisions. Collectively, they also involve a combination of different sites and sets of circumstances which do not lead me to alter my findings in this case.

62. The weight to be given to EDDC's emerging Draft Local Plan 2020 to 2040 was a matter of disagreement between the Appellant and EDDC in the lead up to the Inquiry. EDDC, contending it has no weight. I accept because of its infancy that the document carries little weight. That said, the main matters in dispute are linked to existing adopted Plan policy, in any event, and is where my decision has focused.

Other Matters

63. Outside of the main issues I have carefully considered other interested party objections. But beyond aesthetic considerations of people disliking the appearance of the solar farm, once completed, it would not restrict access to any public route currently utilised. There is no compelling basis to conclude the appeal scheme would erode from tourism, or the public enjoyment of the countryside for recreation and health interests.

64. At operational stages there is nothing demonstrating that the scheme would erode from existing living conditions by virtue of noise or the solar farm's positioning. I have considered potential for glint and glare problems to arise but there is nothing convincing such impacts would harm amenity given the distances involved and the embedded design layout safeguards negotiated with the Council.

65. Although a variety of pollution and litter issues are posed in representations there is nothing convincing to directly link those problems as constituting compelling reasons to support refusal of the scheme. There are no other public safety issues arising that are incapable of being addressed by planning condition. Furthermore, I am satisfied protected species, other wildlife interests and decommissioning requirements could be properly safeguarded, controlled, and enforced through planning condition use.

Conditions

66. Without prejudice, the main parties compiled an agreed list of conditions in the event the appeal were to be allowed. Subject to minor amendments the suggested wording would meet the relevant legal tests. Standard conditions would be needed to specify the time limit and plans in line with statutory provision and to provide a formal mechanism for amendment.

67. The approval of details for the proposed materials and finish including colour of all solar panels, frames, ancillary structures, equipment, and enclosures is warranted in the interests of safeguarding visual amenity. Decommissioning conditions would ensure site restoration is properly undertaken in the interests of protecting the character and appearance of the area. A range of ecology conditions are necessary to ensure flora and fauna (including protected species) are properly respected, and to ensure an adequate level of overall biodiversity enhancement and future ecological management. Additionally, further conditions would be required to ensure: construction management is respectful to the area; highway safety is maintained during construction and

operation; and any new lighting does not give rise to ecological or other wider amenity harm.

Planning Balance

68. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

69. There would be some conflict with the Council's development plan arising from the main issues and other planning issues of the case. Accepting there would be some limited use of higher grade best and most versatile agricultural land. Given the amount I attribute limited weight to such harm. Outside of my findings on the main issues, and related matters, there would also be significant benefits because of the appeal scheme encouraged by other elements of the Council's development plan and the content of the Framework.

70. I have found that the proposal would have a material adverse effect on the character and appearance of the local landscape, predominantly within the site itself, but also accounting for wider views and the subsequent contribution the site makes to the local area as a valued landscape. This carries significant weight.

71. There would also be some limited harm to a non-designated archaeological asset. There would be temporary erosion of local amenity from disruption, noise, and construction activity. Although such harms would be lessened through planning condition use. Nevertheless, they are both significant adverse implications to factor relative to the advice of the Framework.

72. Accounting for the potential 40-year operational lifespan of the solar farm the harm from the scheme would ultimately be reversible. Albeit there is no doubt a generational commitment involved. In that context, I have also found there would be less than substantial harm to the settings of six local heritage assets.

73. As directed by paragraph 202 of the Framework I am required to assess designated asset harm in relation to any public benefits on offer. I have attributed significant weight to such harm but the clean and secure energy production the scheme offers is a substantial standalone overarching public benefit. There would also be substantial public benefits from BNG and legacy planting provision, as enhancements. Those particular benefits, in this case, outweigh the 'less than substantial harm' to the settings of designated heritage assets, bearing in mind proximity and the overall intervening landscape evident in concluding on such harm.

74. And from a wider decision-making perspective, recognising those harms with all of the other harms I have identified and referenced in all of my above reasoning including harm to: the character and appearance of the landscape; a non-designated archaeological asset; the marginal uptake of land of higher grade best and most versatile agricultural land; and the disruption to local roads and amenity levels probable during construction periods as an additional negative factor, taken collectively. Combined all those considerations attract significant weight within the overall planning balance to be undertaken. Nonetheless, the level of overall scheme benefits on offer still far exceeds all of the harms combined.

75. Overall, my decision must ultimately be made on the total level of harms arising against any overall benefits attributed to this appeal scheme. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 I have identified there is some conflict with EDDC's development plan.

76. However, benefits of the proposal are material considerations which outweigh the harm that I have identified with the development plan. That is because, when weighed in the planning balance the magnitude of combined benefits is considerable relative to all of the harms. And subsequently the direct benefits arising from the development give me sufficient reasons to allow the appeal.

Conclusion

77. Taking all matters raised in the round I find that the overall benefits of the development would substantially outweigh the harms it would cause. For the reasons set out above the appeal succeeds.

M Shrigley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Gavin Collett	Counsel
WHO CALLED:	
Paul Beswick	Landscape Witness
Helena Kelly	Heritage Witness
Sharon Queeney	Planning Witness

FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Wadsley	Counsel
WHO CALLED:	
Sarah Leete-Groves	Heritage Witness
John Burgess	Landscape Witness
Christopher Whitehouse	Planning Witness

FOR MGVPG:

Frances Ratcliffe	Landscape Witness
Todd Olive	Planning Witness

INTERESTED PARTIES (WHO SPOKE AT THE INQUIRY):

Godfrey Whitehouse	Resident
Ron Forrest	Resident
Paul Jefferson	Resident
Emmett	Resident
Roy Knight	Resident
Keith Bassett	Resident
Elizabeth Sloss Butler	
Andrea Cook	
Phil Franklin	
Dan Gray	

DOCUMENTS SUBMITTED DURING THE INQUIRY:

INQ1 – Appellant's Opening

INQ2 – Council's Opening

INQ3 – Written closings of the Council.

INQ3 – Appellant's written costs claim.

INQ4 – Appellant's response to costs claim.

INQ5 – Written closings of the Appellant.

DOCUMENTS SUBMITTED AFTER THE INQUIRY:

None.

Schedule of Planning Conditions

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

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

   CRM3025.001.PL.D.001 Proposed Location Plan April 2022; CRM3025.001.PL.D.002 Proposed Planning Boundary (Reception Site) April 2022; CRM3025.001.PL.D.003 Proposed Planning Boundary (Main Site) April 2022; CRM3025.001.PL.D.004 Field Reference Plan April 2022; CRM3025.001.PL.D.005 Topographical Survey April 2022; CRM3025.001.PL.D.006 Topographical Survey (Reception Site) April 2022; CRM3025.001.PL.D.007 Topographical Survey (Northern Fields) April 2022;

CRM3025.001.PL.D.008 Topographical Survey (Southern Fields) April 2022; CRM3025.001.PL.D.009 Topographical Survey (Eastern Fields) April 2022; TPS FO 001 001 Proposed Development Plan Rev I; CRM3025.001.PL.D.010 Proposed Development Plan (Reception Site) April 2022; TPS FO 001 002 Proposed Development Plan (Northern Fields) Rev I; TPS FO 001 003 Proposed Development Plan (Southern Fields) Rev I; TPS FO 001 004 Proposed Development Plan (Eastern Fields) Rev I; TPS FO 001 005 Construction Phase Plan (Northern Fields) Rev I; TPS FO 001 006 Construction Phase Plan (Southern Fields) Rev I; TPS FO 001 007 Construction Phase Plan (Eastern Fields) Rev I; TPS FO 001 008 Construction Plan Complete Site Rev I; LOA1001-200.1C PV Array Details (2 portrait) Rev C; LOA1001-200.2C PV Array Details (3 portrait) Rev C; LOA1001-208C Transformer Details Rev C; LOA1001-209C Substation Details Rev C; LOA1001-215C CCTV Details Rev C; LOA1001-214D Fence & Security Gate Section Details Rev C; LOA1001-214Di Fence & Fence Gate Section Rev B; LOA1001-212C Spare Parts Details Rev C; CRM.3025.001.HY.D.012 SuDS Drainage Features/Betterment Features Rev F; CRM.3025.001.HY.D.013 Topographical Analysis Rev B; CRM.3025.001.HY.D.014 Flood Outline Overlay Rev A; DV5045PD-001 Review of Existing Local Highway Network Rev G; DV5045PD-002 Proposed Construction Routing on Local Roads Rev F; DV5045PD-003 (Contained within the TS); Proposed Construction Routing to Principal Roads Rev D; DV5045PD-004 (Contained within the TS); Proposed Off Site Reception Compound Rev B; DV5045PD-010 (Contained within TS) Proposed Construction Phase- Access and Internal Roads Rev C; J000245 (Contained within the arboriculture report); Tree Constraints Plan; Drawing J000245 (Contained within arboriculture report); Tree Protection Plan; Drawing 035 220 Landscape Plan Rev D Contained within LVIA.

3) The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring.

4) A Construction and Environment Management Plan (CEMP) shall be submitted and approved by the Local Planning Authority in writing prior to any works commencing on site. The approved CEMP shall then be implemented and remain in place during the period of construction. The CEMP shall include provisions for (at least) the following matters: air quality; dust; water quality; lighting; noise and vibration; pollution prevention and control; site compound location; extent and expected duration; delivery routes and booking system; contractor mini-bus transport; as well as monitoring arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

5) The development hereby approved shall be carried out in accordance with: the Construction Traffic Management Plan (CTMP) Rev C prepared by DLP Consultants Ltd and Delivery dated August 2022; the Technical note prepared by DLP Consultants and Delivery dated August 2022; and the Technical Note prepared by DLP Consultants Ltd ref DV5045PD-TN01 dated

September 2022. The approved CTMP and construction routing therein shall be adhered to during the full period of construction.

6) Prior to their installation/implementation or the siting of any solar panels on site, whichever is the sooner, the following information shall be submitted to and agreed in writing by the Local Planning Authority (where applicable in consultation with National Highways):

a) a boundary treatment plan, including details for the site boundary with the A30 trunk road;

b) a revised Landscape Plan and associated Planting Schedule;

c) a full set of soft and hard landscape details including:

i. planting plan(s) showing locations, species and number of new trees and native hedge/shrub planting and extent of new grass areas, together with existing trees, hedgerow, and habitat to be retained/removed; ii. plant schedule indicating the species, form, size, numbers, and density of proposed planting; iii. Soft landscape specification covering clearance, soil preparation planting and sowing; mulching and means of plant support and protection during establishment period and 5-year maintenance schedule; iv. tree pit and tree staking details; v. a method statement for creation and maintenance of species rich grassland and wetland habitats.

d) Details of proposed colour finishes to housing for inverters, storage units and sub-stations;

e) Details of proposed under and over ground cable routes together with method statements for taking underground cables through any hedge banks;

f) details of finishes of framing elements of proposed pv panels;

g) details of proposed gates and alterations to existing gateways. This shall include an overall site plan(s) showing the locations of new and replacement gates and any existing gateways to be infilled with new hedging. The plan should clearly distinguish between different gate types. Elevation details of each proposed gate type shall also be provided;

h) construction details for proposed hardstanding's, trackways and associated drainage provision including location, extent, associated grading and specification for material finishes.

The development shall thereafter be carried out in accordance with the approved details. In relation to the soft landscaping, this shall be implemented before the end of the first planting season following installation of the solar panels and any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the Local Planning Authority.

7) Notwithstanding the submitted details and prior to the commencement of the development a detailed Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The AMS shall include all relevant details to protect the retained trees, including a detailed Tree Protection Plan. Relevant details may include but are not

limited to construction methods, construction traffic management, demolition methods, finished levels, ground protection, landscaping methods and materials, material storage, service runs and tree protection barrier fencing. The AMS will also include details of a clerk of works schedule that specified arboricultural supervision at appropriate stages of the development process. Any variations to the details of the AMS must only be undertaken after the proposed variations have been agreed in writing by the Local Planning Authority.

8) Notwithstanding the submitted landscape details, prior to the commencement of development a site-specific Ecology Management and Maintenance Plan (EMMP) shall have been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of ecological elements and bio-diversity measures. The EMMP shall set out the ecological aims and objectives for the site along with the specific management objectives for each ecological component, and the associated maintenance works required on an Annual and Occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided. The plan shall include an as existing condition survey for each length of hedge, identifying its position on the Hedgelink - hedge management cycle, any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range and cutting height and frequency and expected number of trees to be let up within each identified section. The EMMP shall cover a period of not less than 25 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

   All management, maintenance inspection and monitoring shall thereafter be carried out in accordance with the approved EMMP for the duration of construction and the operational phase of the development.

9) The development hereby approved shall be carried out in accordance with the recommendations and mitigation measures set out within Section 4 of the Ecological Appraisal, prepared by Devon Wildlife Consultants (2022) Ref: 21/3754.01.

10) Within 12 months of commencement of the development hereby permitted a Decommissioning Plan covering the removal of all infrastructure from the site and identifying any areas of new habitat creation/planting and any tracks and hardstanding's which are to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The plan should show how and when the site will be returned to agricultural use and shall include a demolition and restoration programme. The development shall thereafter be carried out in accordance with the approved details including any variations to the Decommissioning Plan as may be approved by the Local Planning Authority from time to time.

11) No permanent external lighting shall be installed on the site until details of the lighting have been submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be carried out in accordance with the approved details and no further lighting shall be

installed without a grant of express planning permission from the Local Planning Authority.

12) Notwithstanding the submitted details and prior to the commencement of their installation, details of the CCTV cameras to include their design, exact siting, angle of direction and operational monitoring shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the agreed details.

13) No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

a) a detailed drainage design based upon the approved Ford oak Solar and Green Infrastructure Facility Flood Risk Assessment and Drainage Strategy (Report Ref. CRM.2035.001.HY.R.001.B, dated July 2022) together with the detailed design of the proposed drainage for the T junction improvements, transformers and substations;

b) detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted;

c) proposals for the adoption and maintenance of the permanent surface water drainage system;

d) a plan indicating how exceedance flows will be safely managed at the site. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) to (d) above.

End of Schedule

Appendix 6 – Appeal Decision APP/P0240/W/24/3338483

The Planning Inspectorate

Appeal Decision

Inquiry held on 24 June and 20 August 024?

Site visits made on 25 and 27 June 2024

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2024

Appeal Ref: APP/P0240/W/24/3338483
Brogborough Landfill Site, Woburn Road, Lidlington

- 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 Infinis Solar Developments Limited against the decision of Central Bedfordshire Council.
- The application Ref, dated 27 January 2022, was refused by notice dated 11 August 2023.
- The development proposed is the installation of a solar PV park development and associated infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for the installation of a solar PV park development and associated infrastructure at Brogborough Landfill Site, Woburn Road, Lidlington in accordance with the terms of the application, Ref CB/22/00548/MW, dated 27 January 2022, subject to the conditions set out at the end of this decision.

Procedural matters

2. On 10 June 2024, after considering further information on the proposed Skylark Mitigation Strategy, the Council stated that the proposal would no longer conflict with the relevant policy and that, given the very significant weight to be applied to the generation of renewable energy, it no longer opposed the proposal. The Council explained this position at the start of the Inquiry and, aside from the discussion concerning conditions and the planning obligations, took no further part in the appeal.

3. The Council and the appellant have concluded a Statement of Common Ground (SOCG) reflecting that position.

4. During the adjournment of the inquiry the government published a draft revised national Planning Policy Framework for consultation. This is a material consideration, although of limited weight. The appellant addressed this matter on the second sitting day of the inquiry, whilst the Council advised that its position remained unchanged.

5. Two draft planning obligations (Skylark Mitigation and Monitoring) were discussed at the Inquiry, and (as agreed) were submitted subsequently in final form on 6 September. I have taken these into account.

Main issues

6. There are two main issues in this case:

   - The effect of the development on the landscape character of the area, including the consequences for the landfill restoration scheme.
   - The effect on the biodiversity of the site and the wider area, with particular regard to skylarks.

Reasons

The site and its history

7. The appeal site comprises 68 ha of party restored landfill in a generally rural location between Milton Keynes and Bedford. Cranfield is located around 2km to the north west and Brogborough is around 2.5km to the south. The A421 is to the east of the site and access to the proposed solar installation would be along the private road off the C94 (under the A421) currently giving access to the landfill site and related facilities.

8. The site is unusual in that it is effectively a man-made undulating landscape, comprising a capped and largely restored landfill site, sitting in a farmland and woodland area. It was originally a mineral working site, which began to be filled during the early 1980's. This continued until 2008, after which there has been a phased restoration scheme – some elements of which have been implemented.

9. The appeal site and the wider area of infill includes a very considerable number of methane wells and related pipework lying on the surface, leading to a methane power station with associated buildings and structures. The site is not used for agricultural purposes.

10. Although the Ordnance Survey map shows three lengths of bridleway within the site two of these are apparently extinguished. The current landscaping proposals shows the routes which are currently accessible connecting into the wider rights of way network. There is a long distance footpath around 780m to the south and west of the site.

11. The appeal site is not covered by any national landscape designation, but it lies within the Forest of Marston Vale. There are no international or national designated ecological sites on the site although Marston Thrift is a SSSI located 300 metres to the north of the site. However no issue was taken in relation to this site.

12. The site has is a lengthy planning history, and in particular there have been proposals for restoration and landscaping schemes – one approved and one pending approval.

The proposal

13. The proposal is for the construction of a solar farm, with a capacity of 40MW, for a temporary period of 35 years from the date of the first commercial export of electricity. After that time, or sooner if electricity generation ceases for a protracted period, the solar farm would be decommissioned, removed and the site returned to its current use with final landfill restoration taking place.

14. The appeal site comprises around 35% of the total landfill site. The solar panels would occupy around 25% of the solar farm area or 8% of the total landfill site.

15. The solar farm would consist of solar PV panels in rows facing south. Unusually the panels would be anchored into the ground using a concrete shoe or shallow piled system so as not to affect the integrity of the landfill cap or the methane/leachate management systems. Other equipment would be constructed, including a substation, switch stations and battery storage containers. The site would be enclosed by a 2m high post and wire deer fence and there would be a CCTV security system on 3m high poles.

Development plan policy context

16. The development plan includes the Central Bedfordshire Local Plan 2015 - 2035 (July 2021)(LP)[1]. The reasons cited in the Council's reasons for refusal and referenced in the (now withdrawn) evidence were EE1 (Green infrastructure); EE2 (Enhancing biodiversity); EE3 (nature conservation) and EE5 (Landscape character and value).

17. There are also three policies, raised by the appellant but not referenced in the reasons for refusal, which support schemes such as this. Policy SP2 crates a presumption in favour of sustainable development, as does national policy. Policy CC1 deals with climate change and sustainability and requires new development to take full advantage of opportunities to incorporate renewable energy technologies. Policy CC2 provides positive support for energy schemes, when located and designed to have no adverse impact.

18. I consider that the policies referenced in the preceding two paragraphs are the most important policies in determining this appeal.

19. The agreed SOCG lists other policies in the Local Plan, along with national policy and various Supplementary Planning Guidance documents.

Matters not in dispute

20. Before turning to the key matters which were in dispute between the appellant and the Council, some of which are still the subject of local objection, it is worth identifying a number of matters which are agreed or are at least not central to this decision.

    - There is no land allocated in the LP for renewable energy generation. However, subject to the effect on the character of the area, such development can be acceptable in the countryside, and thereby make a contribution to renewable and low carbon energy.
    - As confirmed in national policy there is no need for a developer to demonstrate a need for renewable energy.
    - The site has an existing connection to the grid, which would a more rapid connection.
    - The site does not include any agriculturally productive land.

[1] Together with two elements of the Minerals and Waste Local Plan.

- No objections have been raised in relation to the access or the effect on highway safety.
- No objections have been raised in relation to the visual component of residential amenity, or any potential nuisance.
- The wider setting of some heritage assets would be affected but there would be no adverse impact on their significance – due to distance and interposing vegetation and the existing use of the site. There is no effect on archaeology.

Landscape

21. The site and the surrounding landscape has been described in evidence and in the Council's report. At the broadest level it is within the National Character Area NCA 88 Bedfordshire and Cambridgeshire Claylands 7, which is characterised as a broad, gently undulating, lowland plateau dissected by shallow river valleys. The wider area around the site is typical of this type of landscape, although there is reference to landfill creating more prominent domed landforms which are more visible from elevated land – the appeal site is characteristic of this type of landform. The NCA also references the need to regenerate the landscape of the area, especially within the Forest of Marston Vale, and the amount of new planting which has been undertaken.

22. At a more local level, the site and the surrounding landscape is within LCA as Landscape Character Type 5, specifically North Marston Clay Vales. This is a large-scale landscape with a low-lying, flat landform providing distant views, bordered by the elevated landscapes of the Wooded Greensand Ridge and the Chalk Escarpments. One of the key characteristics is that the land is shaped by previous industrial activity – including landfill. The appeal site falls clearly within that description and is visible from the well-wooded ridge to the south, as well as from a number of footpaths.

23. The Forest of Marston Vale, within which the appeal site lies, includes over 60 square miles between Milton Keynes and Bedford. The Forest Plan is primarily concerned with increasing the amount of woodland cover across the area it also notes the value of mosaic habitats.

24. There are two initial matters to be considered. Firstly whether the area comprises a 'valued landscape'. From the written and verbal evidence it is clear that the site and the surrounding area is of value for some members of the local community. However this does not equate to a valued landscape in terms of national policy, and nothing that has been put before me persuades me that the site falls within this category as set out in the National Planning Policy Framework.

25. The second matter relates back to the fact that there is a fully approved restoration scheme for the wider site including the proposed solar area. In addition there is a second restoration scheme which the Council has apparently resolved to approve but where the necessary legal processes have yet to be completed. The first of these schemes is obviously that which is currently operative and some landscape restoration proposals have now been implemented – but the consequences of the appeal scheme are not dissimilar in either case. The second scheme can be afforded little weight at present.

26. From the evidence before me restoration following the decommissioning of the solar farm could deliver new woodland, woodland edge/shrub planting, a variety of grassland types, and a wide range of other features. This would be a notable benefit. It is true that some tree planting would be deferred by about five years, but this is not a major issue which weighs significantly against the proposal.

27. The length of hedgerow would not be reduced, indeed there would be an increase when the green lanes are taken into account. Obviously the way in which the green infrastructure would be perceived would change with the introduction of solar panels on the field parcels – but the current use of the site, with the gas infrastructure in place, would remain as grassland – albeit with a solar farm superimposed. There would be no effect of any significance on topography.

28. I fully appreciate that there are public rights of way in the area, and I heard from local people how valued these areas. From these there would be some points at which the development would be clearly visible – and others where it would not. In particular some areas would become enclosed or bordered by the solar farm. However the existing gas infrastructure already impinges on the existing (and proposed) footpaths, and the effect would not be significantly harmful.

29. In the wider area the undulating nature of the land, along with woodlands and hedgerows, would significantly limit the visibility of the development. That is not to say that the scheme would be invisible, but the essential character of the majority of the landscape character area would be unaffected. I have also considered the potential cumulative effect on the landscape taken along with the Stewartby Solar Park as, from a limited number of viewpoints the solar park and the proposal could be viewed together – but given the distances involved, the effects would be negligible.

30. The appeal site is unusual given its history and the continuing presence of gas infrastructure across the wider area. Energy infrastructure is part of the surrounding landscape, which includes pylons, turbines and a solar development. In this context, although the proposal would cause harm to the landscape character of the area, this would be very limited though there would be some conflict with LP policies EE5 and EE1. The effect on the restoration scheme would be neutral in overall terms.

<u>Ecology</u>

31. The appeal site is agreed to be part of a Green Corridor, but this would remain available to most species and would therefore not be fragmented. Indeed, some restriction on access to the site could benefit many species by providing an undisturbed area. 'Mammal gates' could provide access for a variety of small mammals. One exception would be deer, but these habitually travel quite some distance and could go around the fenced area.

32. The placing of solar panels has the potential to affect ground nesting birds, but the evidence is that only skylarks would be harmed (unlike the meadow pipit and grey partridge). It is accepted that solar farms cannot avoid impacts on skylarks, which are generally in decline, and that in such circumstances mitigation is necessary.

33. The Outline Skylark Mitigation Strategy (SMS) is intended to provide suitable and adequate mitigation. As skylarks are a relatively short-lived species the approach is not to attract displaced individual skylarks from the site, but to provide improved breeding conditions which enable the local population to persist and thrive. They are also a mobile species – often having to relocate as crops rotate.

34. The approach is to create skylark plots in accordance with national and RSPB guidance. These are undrilled patches in arable fields, which can be varied and rotated to suit farming requirements.

35. An area around 1km away from the appeal site has been identified for that purpose. The persuasive evidence of the appellant is that this distance would not cause an issue for the local population or for individual birds, and it would be feasible for any displaced individual birds to relocate to that area. The overall approach has been widely used elsewhere and nothing which I have read or heard persuades me that it would not be appropriate in this case.

36. I will return to the dual mechanism for ensuring the provision of this mitigation area later, but note that I consider that it is robust.

37. Overall, although there would be potential short term harm to individual birds, this would be outweighed by the SMS. There would therefore be no harm to the biodiversity of the site and the wider area, with particular regard to skylarks, and the proposal complies with LP policies EE2 and EE3.

Conditions and planning obligations

38. The appellant and the Council agreed a set of conditions before the close of the inquiry, taking on board the discussion which we had at the event. I have indicated the reason for each condition beneath the relevant text, but one needs slightly fuller explanation.

39. Condition 17 deals with the SMS, and requires a full SMS, following the principles of the original SMS, to be submitted for approval. The final SMS would include the identification of the mitigation area, its delivery, management, monitoring and maintenance. This condition complies with all the tests of conditions.

40. In addition, as noted above, two Unilateral Obligations have been completed. The Skylark Mitigation obligation identifies the area in question, requires implementation of the approved SMS before the solar farm is brought into use, and requires its maintenance. (The Monitoring obligation deals with the payment of a monitoring fee.) In effect the obligations give teeth to the provisions of the condition and both obligations meet all the relevant tests.

Planning balance and conclusion

41. In ascribing weight to various positive and negative factors I use the following scale: limited, moderate, significant, substantial. There was some discussion at the inquiry as to the terms 'substantial' and 'significant' which appear to have been used almost interchangeability - I do not think this debate takes the decision-making process any further, and I have stated the scale which I have used.

42. As can be seen above, I ascribe limited harm to the effect on landscape character.

43. The main factor weighing in favour of the proposal relates to the provision of renewable energy. In the light of LP policies SP2, CC1 and CC2 I ascribe substantial weight to this matter – which is in line with existing national policy and the direction of travel of draft national policy. Within that I attach moderate weight to the existence of an existing on-site grid connection, which has the potential to realise the energy benefit at an early stage.

44. I also ascribe moderate weight to the ecological enhancements and Biodiversity Net Gain – not a matter which has been substantially challenged.

45. For the avoidance of doubt I give very limited weight to the fact that the proposal is for a limited period. This is in view of the length of the limited period in relation to a human lifespan.

46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the proposal complies with the development plan taken as a whole.

47. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following plans and drawings except where required otherwise by separate condition(s) of this permission:

   Plans and Drawings
   - Site Location Plan – 3759-REP-021
   - Rack and Solar Panel Elevation – 3759-FIG-REP-0001
   - DNO Switching Station Elevation – 3759-FIG-REP-0002
   - Client Switching Station Elevation – 3759-FIG-REP-0003
   - Inverter Elevation – 3759-FIG-REP-0004
   - Battery Elevation – 3759-FIG-REP-0005
   - General Storage Container Elevation – 3759-FIG-REP-0006
   - Gate Fence CCTV Road Elevation – 3759-FIG-REP-0007
   - Solar Array Foundation System – 3759-FIG-REP-0008
   - 1 Construction Compound Plan – SOL20010_001 Rev A
   - 2 Construction Compound Plan – SOL20010_002 Rev A
   - Proposed Landscape Masterplan for the Solar Park (Sheet 1) (with field numbers) – P23-2040_EN_8 Rev A
   - Proposed Landscape Masterplan for the Solar Park (Sheets 2-4) – P23-2040_EN_8 Rev A

   REASON: For the avoidance of doubt

2. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission. Written notification of the date of commencement shall be sent to the Local Planning Authority within 7 calendar days of such commencement.

   REASON: To comply with section 91 (as amended) of the Town and Country Planning Act 1990

3. (a) Within 1 month of the date of first commercial export of electricity to the National Grid (the "date of first export") confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 35 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

   (b) The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 34 years from the date of first export and subsequently implemented as approved.

   (c) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site

requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

REASON: To ensure that the development is decommissioned, and that the site is returned to a suitable condition.

4. No development shall take place unless and until the following components of a remediation strategy to deal with the risks associated with contamination of the site have each been submitted to and approved in writing by the Local Planning Authority:

   (a) A Preliminary Risk Assessment ('the PRA') including a Conceptual Site Model ('the CSM') of the site indicating potential sources, pathways and receptors, including those off-site;

   (b) The results of a site investigation based on part (a) of this condition and a detailed risk assessment, including a revised CSM;

   (c) Based on the risk assessment in part (b) of this condition, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete, arrangements for contingency actions and details of a long-term monitoring and maintenance plan;

   Before the First Export Date, a verification report demonstrating completion of works set out in the approved remediation strategy under part (c) of this condition, and an updated long-term monitoring and maintenance plan, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the updated long-term monitoring and maintenance plan shall be implemented as approved.

   REASON: To prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses

5. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the remediation strategy shall be as approved.

   REASON: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses

6. There shall be no construction traffic movements to and from the site unless and until access visibility splays at the junction of the site access with the public highway (C94, Woburn Road) have been cleared of all obstructions

above the adjacent carriageway level. The minimum dimensions to provide the required splay lines shall be:

(a) 2.4 metres measured along the centre line of the site access from its junction with the channel of the carriageway; and

(b) 215 metres measured along the centre line of the site access along the line of the nearside channel of the carriageway (north and south sides of the site access).

Throughout the construction period, the required vision splays shall be kept free of all obstructions above the adjacent carriageway level.

REASON: In the interests of highway safety

7. Notwithstanding the approved plans and drawings contained in condition 1, no development authorised by this permission shall take place unless and until a Construction Environmental Management Plan (Biodiversity) ('the CEMP (Biodiversity') has been submitted to and approved in writing by the Local Planning Authority. This shall contain the following information:

(a) risk assessment of potentially damaging construction activities and identification of biodiversity, habitat and species protection zones and mitigation plans;

(b) practical measures (both physical measures and sensitive working practices) to protect biodiversity features, habitats and species during construction, including use of protective fencing, exclusion barriers and warning / instruction signage;

(c) final details for the protection of statutorily protected species and nesting birds, prior to and during the construction period including re-checking surveys;

(d) procedures for reporting species survey results to the Local Planning Authority;

(e) the times during the construction period when specialist ecologists need to be present on site to oversee works and responsible persons and lines of communication;

(f) the role and responsibilities of an ecological clerk of works (ECoW) or similar competent person;

(g) specific details of soil stripping footprints, locations and depths; scheme of measures to prevent soil compaction, avoid unnecessary ground disturbance by vehicles, plant or equipment and provision for the timely reinstatement / repair of disturbed ground.

(h) an Arboricultural Method Statement in accordance with BS:5837 2012 (as amended) including:

(i) measures for the protection of trees and hedges on or adjacent to the site that are to be retained;

(ii) details of construction measures within the 'Root Protection Area' (defined by a radius of dbh x 12 where dbh is the diameter of the trunk measured at a height of 1.5 metres above ground level) of those trees on or adjacent to the site which are to be retained specifying the position, depth, and method of construction / installation / excavation of service trenches, building foundations, hardstanding, roads and footpaths (where applicable); and

(iii) a schedule of proposed surgery works to be undertaken to those trees and hedges on or adjacent to the site which are to be retained (where applicable).

The CEMP (Biodiversity) as may be approved in writing shall be implemented and adhered to throughout the construction period of the development hereby permitted.

REASON: To ensure that appropriate biodiversity, habitat and species protection measures and procedures are in place throughout the construction phase

8. Notwithstanding the approved plans and drawings contained in condition 1, no development shall take place unless and until a Construction Environmental Management Plan (Highways and Rights of Way) ('the CEMP (Highways and Rights of Way') has been submitted to and approved in writing by the Local Planning Authority. This shall contain the following information:

(a) specific details of contactors' compounds;

(b) provision for contractor / staff parking, on-site turning of operative and construction vehicles, off-loading and storage of materials;

(c) phasing of the works;

(d) measures to be adopted and equipment to be used to prevent the trafficking of mud and debris on to the public highway;

(e) dust management measures;

(f) measures for the control of noise and vibration;

(g) a plan of action for minimising or avoiding direct or indirect impacts on pedestrians, equestrians and cyclists on the site's existing or committed public rights of way;

(h) details of safety fencing and suitable signage warning rights of way users of site traffic and vice versa;

(i) a justification for any proposed temporary rights of way closures and temporary diversion route(s) and timeframes;

(j) how existing or committed public rights of way will be protected from damage and reinstatement of any crossing points; and

(k) procedures to deal with and resolve any complaints.

The CEMP (Highways and Rights of Way) as may be approved in writing shall be implemented and adhered to throughout the development's construction period.

REASON: To ensure that appropriate environmental safeguards are in place during the construction phase

9. In accordance with the results of the BS4142:2014 day-time and night-time noise assessments in the Noise Technical Note produced by Noise & Vibration Consultants Ltd dated 16 December 2022 (ref. R22.1203/DRK), the rating level (LAeq, 1hr) of noise attributable to the operation of plant, equipment and machinery associated with the development hereby permitted shall not exceed the existing daytime and night-time background sound levels (L90) at the noise-sensitive receptors identified when measured or calculated according to the provisions of BS4142:2014 (as amended) inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics.

REASON: To minimise nuisance to nearby occupiers by reason of noise

10. Notwithstanding the approved plans and documents contained in condition 1, no development shall take place unless and until details with respect to:

(a) The precise final layout of the supporting operational compounds and the external finish of materials for the client side of the switching station, DNO switching station, battery energy storage system containers and transformers and general storage containers;

(b) The precise location and orientation of the Battery Energy Storage System containers and cooling system, the inverter for the Battery Energy Storage System, transformers and solar siting inverters a suitable distance away from existing or committed rights of way corridors, and the use of sound insulations where those items of plant and equipment cannot be sited a suitable distance away from existing or committed rights of way corridors; and

(c) The colour of all solar panels and their supporting frames/ racking

Have been submitted to the Local Planning Authority for its approval in writing. The development shall only be carried out in accordance with the approved details and shall be maintained as such for the lifetime of the development.

REASON: To minimise impacts on the amenity of rights of way users

11. Prior to the First Export Date, a scheme for the monitoring and control of operational noise ('the operational noise scheme') associated with the development hereby permitted shall have been submitted to and

approved in writing by the Local Planning Authority. The operational noise scheme shall include details of and make provision for:

(a) an initial programme of noise monitoring following the First Export Date to assess compliance with condition 9 of this permission;

(b) monitoring and recording procedures;

(c) presentation of monitoring results to the Local Planning Authority;

(d) procedures to be adopted in the event of the daytime and night-time noise limits referred to in condition 9 of this permission being exceeded; and

(e) procedures to be adopted in the event of any noise-related complaint received during the operational life of the site which is substantiated by an officer of the Local Planning Authority.

Thereafter, the scheme as may be approved shall be implemented and adhered to at all times.

REASON: To enable initial monitoring and reporting of operational noise impacts

12. No development shall take place until a detailed scheme in relation to the external lighting to be installed on site ('the lighting scheme') has first been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be designed to minimise light spill and glare and avoid impacts on sensitive ecological receptors. Proposals for controls on times of usage of the lighting shall also be set out. The scheme shall thereafter be installed and operated in accordance with details as may be approved for the lifetime of the development.

REASON: To prevent light pollution and maintain dark areas / corridors around the site to protect local amenity and ecological receptors

13. No development shall take place unless and until full details of the CCTV camera system to be installed on site has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the number, siting and colour of the columns; specification of the cameras to be used and direction and field of view. The details as may be approved in writing shall be implemented in full prior to the First Export Date and thereafter complied with at all times.

REASON: In the interests of visual amenity and to control the appearance of the buildings

14. No cabling installation works, including the excavation of trenches, shall take place on or beneath any section of existing or committed public rights of way unless details have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, no cabling installation works shall take place except in accordance with the approved details.

REASON: To ensure that disturbance to rights of way is kept to a minimum and appropriately controlled

15. Notwithstanding the approved plans and documents contained in condition 1, no development shall take place unless and until a detailed scheme of on-site Landscape Mitigation and Enhancement ('the LMEP') has been submitted to and approved in writing by the Local Planning Authority. The LMEP shall cover both soft and hard landscaping and contain the following details:

    (a) integration of existing and evolving habitats;

    (b) the creation of an 'eco-tone' along the northern and north-eastern sides of the site, incorporating linear belts and copses of new tree and shrub planting;

    (c) new tree and shrub planting comprising linear belts and copses along the southern half of the western side of the site;

    (d) new hedgerow planting;

    (e) creation of open ground scrapes to achieve ephemeral pools around the perimeter of the site;

    (f) new planting to the ancillary compounds on the east side of the site;

    (g) landscaping plans at a scale of 1:500;

    (h) cross section drawings at a scale of 1:500 illustrating the physical proximity and layout of the development in relation to the existing / committed public rights of way laid out on site and delineated by stock fencing. The sections shall show the path fencing, solar arrays, fencing for solar arrays, proposed / existing tree, shrub and hedgerow planting and operational maintenance tracks;

    (i) the specification(s) of deer fencing to be installed to enclose the solar arrays;

    (j) provision of mammal gates at 50 metre intervals;

    (k) hard surfacing materials;

    (l) all other boundary treatments and means of enclosure;

    (m) proposed finished levels and contours;

    (n) proposed and existing services above and below ground;

    (o) details of maintenance and management;

(p) planting plans;

(q) written specifications, including soil preparation, cultivation and other operations associated with plant and other operations associated with plant and grass establishment of soft landscape works (in accordance with British Standards and National Plant Specifications);

(r) schedules of plants noting species, size, density, breaks and spacing of all trees, shrubs and hedgerows to be planted;

(s) any areas to be grass / wildflower seeded, including soil preparation, cultivation and other operations associated with plant and grass establishment; and

(t) details of how the Biodiversity Net Gain articulated in Paragraph 5.1.8(3) and scenario 3 in Table 1 of the Final Response: Ecology by Howard Fearn produced by Avian Ecology shall be achieved.

The LMEP as may be approved in writing shall be implemented not later than the first available planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within 5 years of planting, shall be replaced with species of the same type, size and in an agreed location, in the first available planting season following removal.

REASON: In the interests of landscape character and visual amenity of the area.

16. No development authorised by this permission shall take place unless and until a Soils Management Plan ('the SMP') has been submitted to and approved in writing by the local plan authority. The SMP shall include:

(a) A method statement to ensure soil is stable and in a condition to promote sufficient aeration drainage, fertility and root growth to sustain the proposed landscape measures including how such materials will be sourced;

(b) The scope of any ameliorative work, established via soil testing, in order to identify any incoming soils intended for the landscape measures that require treatment;

(c) Presentation of results of laboratory testing of samples of soils to demonstrate their suitability;

(d) Standard of topsoil proposed for tree / shrub planting areas, together with details of ripping and other soil amelioration treatments, if required; and

(e) Proposals for adhering to relevant guidance set out within the 'Good Practice Guide for Handling Soils' produced by MAFF (now DEFRA).

The SMP as may be approved shall be carried out in full and complied with at all times.

REASON: To secure biodiversity enhancements

17. No development shall take place until a Skylark Mitigation Strategy ("the Skylark Mitigation Strategy") has been submitted to and approved by the Local Planning Authority. The Skylark Mitigation Strategy shall follow the principles set out in the Outline Skylark Mitigation Strategy produced by Avian Ecology dated 9 May 2024 and shall include:

(a) Identification of the areas for the implementation of mitigation (including a mechanism for the identification and use of alternative land providing always that such land is of equivalent ecological value and also complies with the principles set out in the Outline Skylark Mitigation Strategy);

(b) Details of how the mitigation areas will be managed;

(c) The provision of evidence of arrangements to secure the delivery of proposed measures, including a timetable of delivery;

(d) Long term monitoring for the lifetime of the development or for a period not exceeding 35 years from the date of commencement of the mitigation area;

(e) The inclusion of a feedback mechanism to the Council before the end of the first 5 year period allowing for the alteration of working methods/management prescriptions, should monitoring deem it necessary; and

(f) Identification of persons responsible for implementing the works.

The Skylark Mitigation Strategy as may be approved shall be carried out in full and complied with at all times.

REASON: As discussed in the text of the decision

APPEARANCES

INFINIS SOLAR DEVELOPMENTS LTD

David Hardy, counsel for the appellant He called:	
Andrew Cook BA(Hons) MLD CMI MIEMA CEnv	Executive Director, Pegasus Group
Howard Fearn MSc MCIEEM	Director, Avian Ecology
Christopher Calvert BSc MA(Hons) MRTPI	Executive Director, Pegasus Group

CENTRAL BEDFORDSHIRE COUNCIL

Flora Curtis, counsel for the local planning authority

INTERESTED PERSONS WHO SPOKE AND SUBMITTED STATEMENTS

Heather Webb BSc (Hons) MSc CIEEM	Local resident
Delise Ball	Chair, Cranfield Parish Council
Sue Clark	Ward Councillor
Lizzie Barnicoat	Lidlington, Brogburgh, Hulford and Salford Parish Councils
Jemma Abate	Cranfield Parish Council
Peter Nash	Local resident and ornithologist
Darren Woodward	Forest of Marston Vale Trust

INQUIRY DOCUMENTS

Doc 1	Opening submissions on behalf of the appellant
Doc 2	Opening submissions on behalf of the Council
Doc 3	Statement by Heather Webb
Doc 4	Statement by Delise Ball
Doc 5	Statement by Sue Clark
Doc 6	Statements by Lizzie Barnicoat
Doc 7	Statement by Jemma Abate
Doc 8	Statement by Peter Nash
Doc 9	Statement by Darren Woodward
Doc 10	Agreed conditions
Doc 11	Closing submissions on behalf of the appellant
Doc 12	Unilateral Obligation – Skylark Mitigation
Doc 13	Unilateral Obligation - Monitoring

Appendix 7 – Legal Opinion pertaining to archaeological matters

LEGAL OPINION

for

Postcombe and Lewknor Solar Farm Limited
111 Park Street, Mayfair, London W1K 7JF

relating to

Archaeological matters arising in connection with a Postcombe and Lewknor Solar Farm on land bordering the M40 to the north-west of Lewknor, Oxfordshire

Ref: SY03/CY02
Burges Salmon LLP
www.burges-salmon.com
Tel: +44 (0)117 939 2000
Fax: +44 (0)117 902 4400

Burges Salmon

1 INTRODUCTION

1.1 We understand that you, Postcombe and Lewknor Solar Farm Limited, are proposing to develop a solar photovoltaic array on land bordering the M40 to the north-west of Lewknor, Oxfordshire (the "**Development**").

1.2 South Oxfordshire District Council, as Local Planning Authority (the "**LPA**"), have issued a screening opinion dated 25 July 2022 (reference P22/S2431/SCR) stating that they are of the opinion that the Development is an EIA development, and that an Environmental Statement will therefore be required in respect of any planning application for the Development. As such, you have obtained a scoping opinion from the LPA dated March 2023 (reference P23/S0203/SCO).

1.3 In their consultation response for the scoping opinion dated 31 January 2023, Oxfordshire County Council's archaeologist, as archaeological advisor to the LPA, noted that trial trenching may be required, depending upon the results of the desk-based assessment and geophysical survey undertaken. They further advised that:

> *"…it is likely that a programme of archaeological evaluation will need to be undertaken in advance of the determination of any planning application for this site…It is therefore very likely that a programme of archaeological trenched evaluation will need to be undertaken on this site, the results of which should be incorporated into the Cultural Heritage chapter of the EIA. The provision of such will allow for a suitably informed assessment of the potential archaeological resource within the site, an understanding as to its significance, and the likely effects of proposed development on that significance, to enable its appropriate determination."*

1.4 You have concerns around the requirement to undertake an extensive programme of intrusive archaeological fieldwork in advance of any planning application being determined by the LPA, as well as the justification for this provided by their archaeological advisor. You have requested advice from us in respect of these matters.

1.5 In our view:

(a) a requirement that intrusive archaeological fieldwork be carried out prior to the determination of any planning application for the Development is not supported by policy, would not be reasonable in the circumstances, and may (if it reflected a wider policy position) raise legal concerns; and

(b) a negative suspensive condition requiring that any intrusive archaeological fieldwork identified as necessary in the desk-based assessment and geophysical

survey would be legally competent, and would meet the six policy tests for a valid planning condition.

1.6 At Annex A we have included suggested wording for a suspensive condition. We would recommend that the LPA apply such a condition to the permission.

2 POLICY CONTEXT

National Planning Policy Framework

2.1 The National Planning Policy Framework ("**NPPF**") sets out the Government's planning policies for England, and how these are expected to be applied.

2.2 Heritage assets such as archaeological deposits are, as paragraph 202 of NPPF notes, an *"irreplaceable resource"*, and should be conserved in a manner appropriate to their significance.

2.3 Paragraph 207 of NPPF states that, in determining planning applications, Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected by the proposed development. The level of detail in this assessment *"should be proportionate"* to the assets' importance, and *"no more than is sufficient"* to understand the potential impact of the proposal on their significance.

2.4 It further provides that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a *"field evaluation"*.

2.5 Paragraph 208 of NPPF goes on to provide that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and any necessary expertise.

2.6 Paragraph 215 of NPPF describes the balancing exercise that Local Planning Authorities should undertake where less than substantial harm is identified to the significance of a designated heritage asset (or paragraph 214 of the NPPF if substantial harm).

National Policy Statement for Renewable Energy Infrastructure

2.7 National Policy Statement for Renewable Energy Infrastructure ("**EN-3**") (January 2024) is the most up-to-date policy position from the government regarding the assessment of buried archaeological remains for solar farm applications over 50MW. Whilst its application is intended for the largest of solar farms (via the Nationally Significant Infrastructure Projects ("NSIPs"), its is able to be a material consideration in the

determination of other applications. As such, the policy position presented within the EN-3 (and EN-1)[1] is being given weight in decision-making. [2]

2.8 EN-3 notes that below ground impacts for solar developments are "*generally limited*" [3] and the applicant should submit an appropriate desk-based assessment and, "*where necessary, a field evaluation*". [4] Whilst in "*some instances, field studies may include investigative work*", [5] EN-3 makes it clear that the extent of investigative work *"should be proportionate to the sensitivity of, and extent of, proposed ground disturbance in the associated study area"* [6] and impacts on the historic environment requires expert assessment. [7]

South Oxfordshire Local Plan

2.9 The South Oxfordshire Local Plan (the "**Local Plan**") was adopted by the Local Planning Authority on 10 December 2020.

2.10 Policy ENV6 (*Historic Environment*) provides that applicants will be required to describe, in line with best practice and relevant national guidance, the significance of any heritage assets affected by a proposed development, including any contribution made by their setting. The level of detail *"should be proportionate"* to the asset's importance. In some circumstances further survey, analysis and/or recording will be made a condition of consent.

2.11 Policy ENV9 (*Archaeology and Scheduled Monuments*) provides that applicants will be expected to undertake an assessment of *"appropriate detail"* to determine whether the development site is known to, or is likely to, contain archaeological remains. Where the assessment indicates archaeological remains on site, and development could disturb or adversely affect archaeological remains and/or their setting, applicants will be expected to (i) submit an appropriate archaeological desk-based assessment, or (ii) undertake a *"field evaluation"* (conducted by a suitably qualified archaeological organisation) *"where necessary"*.

2.12 Where a proposed development will lead to substantial harm to or total loss of significance of nationally important archaeological remains (whether scheduled or demonstrably of

[1] Department for Energy Security & Net Zero, Overarching National Policy Statement for Energy (EN-1): November 2023
[2] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 2.1
[3] Department for Energy Security & Net Zero, National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023), para 2.10.109
[4] Department for Energy Security & Net Zero, National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023, para 2.10.113
[5] Department for Energy Security & Net Zero, National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023, para 2.10.114
[6] Department for Energy Security & Net Zero, National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023, para 2.10.115
[7] Department for Energy Security & Net Zero, National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023, para 2.10.107

equivalent significance), consent will only be permitted where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of such remains, this harm will be weighed against the public benefits of the proposal.

2.13 For archaeological remains which are not of national importance, the effect of a development proposal on the significance of the remains, either directly or indirectly, will be taken into account in determining the application.

2.14 In *"exceptional cases"*, where harm to or loss of significance to the asset is considered to be justified, the harm should be minimised, and mitigated by a programme of archaeological investigation, including excavation, recording and analysis. Planning permission will not be granted until this programme has been *"submitted to, and approved by"* the Local Planning Authority and *"development should not commence"* until these works have been satisfactorily undertaken by an appropriately qualified organisation.

3 APPLICATION OF RELEVANT POLICY

3.1 Whilst the application of planning policies to particular sites is a matter of planning judgement, the interpretation of planning policies in a development plan is a matter of law.[8] The decision-maker must proceed on the basis of a proper interpretation of the development plan; they cannot simply make this mean whatever they, or any individual consultee, would like it to mean.[9]

3.2 The term *"field evaluation"* is not defined in the NPPF, or in the Local Plan. A definition is, however, provided in guidance from the relevant professional body, the Chartered Institute for Archaeologists (CIfA).[10] It notes that the term refers to a *"programme of non-intrusive **and/or** intrusive fieldwork"* (emphasis added) to determine the presence of archaeological deposits. The purpose of such fieldwork is, it states, to seek to determine, record and report on the nature, extent, preservation and significance of archaeological remains within a defined area. [11]

3.3 The guidance provides that the scope of the work will be described in a project design [12] which should be specific to the project and advocate methods of investigation that reflects the "*nature, extent, presentation and significance*" of archaeological remains likely to be found [13] and consider "*all available practicable methods of investigation*" and decide upon the "*most appropriate*" to meet the purpose of the work. [14]

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[8] *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] UKSC 37, paras [22] - [26]
[9] *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, paras [18] - [19]
[10] CIfA, 'Standard for archaeological field evaluation" (December 2023)
[11] CIfA, 'Standard for archaeological field evaluation" (December 2023)
[12] CIfA, 'Standard for archaeological field evaluation" (December 2023)
[13] CIfA, 'Universal guidance for archaeological field evaluation" (December 2023), para 2.2
[14] CIfA, 'Universal guidance for archaeological field evaluation" (December 2023), para 2.7

3.4 In addition, guidance provided by Solar Energy UK, the solar industry's trade association, emphasises the "*great care*" that needs to be employed before deciding whether trial trenching should be employed at the pre-determination stage. [15] The guidance makes it clear that "e*mphasis*" should be given to the "*advantage of undertaking any necessary work as a condition*" particularly where mitigation options can adequately manage the risks of unexcepted discoveries post-consent. [16] Solar Energy UK promote the use of detailed and site-specific conditions to control such matters. [17]

3.5 This point is further reinforced by the acknowledgement that solar farms have a "*generally limited*" impact on buried archaeological remains [18] and desk-based assessment and geophysical survey are considered to be "*proportionate*" means to assess the likely extent and significance of the buried remains. [19]

3.6 On the point of proportionality, the guidance further explains that requiring solar farms to carry out intrusive methods of investigations such as trial trenching that simply mirror the scope and scale as those employed by other developments (and cause vastly greater areas of ground disturbance) "*would be contrary to government policy that strives for a proportionate response*". [20] Indeed, archaeological assessments need to be "*bespoke*" and "*tailored*" in order to support the planning decision-making process. [21]

3.7 It is clear, therefore, that neither EN-3, NPPF, the Local Plan nor the industry guidance mentioned above require intrusive archaeological fieldwork as a matter of course, in order to satisfy the requirement to undertake field evaluation. Indeed, as noted in Planning Policy Guidance, only a small proportion of all planning applications justify a requirement for detailed assessment following the initial consideration of archaeological interest.[22]

3.8 Rather, the terms of NPPF and the Local Plan would suggest that intrusive field evaluation should only be undertaken where this is strictly necessary, and where this is a proportionate means of obtaining an *"appropriate"* level of detail regarding any archaeological deposits on site; namely, one that is no more than sufficient to understanding the potential impacts that the Development may have upon their significance.

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[15] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.5
[16] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.5
[17] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.5
[18] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.1
[19] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.2
[20] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.3
[21] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.3
[22] Planning Policy Guidance, 'Historic Environment'

3.9 It is for the LPA to provide clear evidence demonstrating that a desk-based assessment and geophysical survey would not provide an appropriate level of detail in the circumstances and that, without trial trenching being undertaker pre-determination, it is not possible to ascertain the significance of the archaeological remains which is necessary in order for the LPA to assess potential harm and carry out the balancing exercise at paragraphs 214 and 215. [23] As had been established in previous planning appeals, where there is no evidence that the scale or quality of any archaeological deposits are likely to be greater than those under any other typical agricultural field in the area, or that there are nationally important archaeological remains for which preservation in situ may be justified, it is for the local authority to demonstrate that pre-application intrusive archaeological fieldwork is necessary and proportionate.[24] By contrast, the approach requested by the archaeological advisor to the LPA risks causing harm. Intrusive archaeological fieldwork is, by its very nature, a destructive survey method; this is acknowledged in the CIfA guidance referred to above, which further states that (wherever possible) *"non-intrusive methods **should** be considered as the **first option**",* with intrusive techniques used only where *"necessary to achieve the purpose of the archaeological field evaluation*" [25]. To require destructive surveys at a pre-determination stage without the certainty of planning permission involves unnecessary damage being inflicted without any of the associated public benefits being secured. In addition, the guidance provided by Solar Energy UK notes that another issue to note is the environmental effects of intrusive methods of groundwork that disturbs the ploughsoils such as excavation of trial trenches. The guidance concludes that such methods should be kept to the "*absolute minimum to reduce carbon emissions*". [26]

3.10 On this point in particular, Policy ENV9 of the Local Plan clearly envisages planning permission being granted in advance of intrusive archaeological fieldwork. Whilst a programme for such fieldwork is to be submitted to, and approved by, the LPA in advance of determination, *"development should not commence"* until it has been carried out – i.e. pursuant to a negative suspensive condition.

3.11 Accordingly, we are of the view that any requirement to undertake intrusive archaeological fieldwork prior to determination of the planning application for the Development would not be supported by policy (unless the LPA is able to demonstrate that a desk-based assessment and geophysical survey would not provide an appropriate level of detail in the circumstances and that, without trial trenching being undertaker pre-determination, it is not possible to ascertain the significance of the archaeological remains). It would be neither necessary nor proportionate, and would be contrary to both

[23] R (Low Carbon Solar Park 6 Ltd) v Secretary of State for Levelling Up Housing and Communities and another [2024] EWHC 770 (Admin)
[24] See, for example, the position adopted by the Inspector and Secretary of State in APP/C3810/A/14/2228260
[25] CIfA, 'Universal guidance for archaeological field evaluation" (December 2023), para 2.8
[26] Solar Energy UK, Position Statement: Solar farms and the assessment of buries archaeological remains (June, 2024), para 4.4

the Local Plan and NPPF. Nor would it, in view of the points noted above, be an action of a reasonable Local Planning Authority.

3.12 Moreover, we would have concerns as to the legal competency of requiring intrusive fieldwork "as a matter of course". The exercise of planning powers, as with any other discretionary power, requires the decision-maker to bring their mind to bear on every case; they cannot blindly follow a pre-existing policy without considering anything said to persuade them that the case in hand is an exception.[27]

3.13 The policies in both NPPF and the Local Plan are clear that this issue has to be considered on the facts and circumstances of each application. It is not consistent with policy, therefore, to require intrusive archaeological fieldwork prior to determination of a planning application simply because this is said to reflect a more general policy position. In our view, this would not represent a proper reason to refuse planning permission.

4 NEGATIVE SUSPENSIVE CONDITION

4.1 Where an application for planning permission is made to a Local Planning Authority, they may grant planning permission either unconditionally or subject to such conditions as they think fit.[28] The power to impose conditions is wide-reaching and, provided that a condition is imposed for a planning purpose, fairly and reasonably relates to the development permitted, and is not so unreasonable that no reasonable planning authority could have imposed it, it will be competent as a matter of law.[29]

4.2 As a matter of policy, planning conditions allow for development to proceed where it may have otherwise been necessary for the Local Planning Authority to refuse planning permission.[30] Paragraph 57 of NPPF sets out the six tests that planning conditions must meet, noting that they should only be imposed where they are (i) necessary; (ii) relevant to planning; (iii) relevant to the development to be permitted; (iv) enforceable; (v) precise, and (vi) reasonable in all other respects.

4.3 A planning condition may be worded in a negative form, preventing development from commencing until an action has been taken.[31]

4.4 Such conditions are frequently used in the context of archaeological investigations, and may be used where the relevant legal and policy tests have been met.[32] As set out in Historic England's Advice Note for planning and archaeology,[33] pre-commencement

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[27] *Secretary of State for Communities and Local Government v West Berkshire District Council* [2016] EWCA Civ 441, para [16]
[28] Town and Country Planning Act 1990, Section 70(1)(a)
[29] *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at 599-600
[30] Planning Practice Guidance, 'Use of Conditions'
[31] *Grampian Regional Council v Secretary of State for Scotland* 1984 SC (HL) 58 at 67
[32] Historic England Good Practice Advice in Planning 2, 'Managing Significance in Decision-Taking in the Historic Environment' (July 2015)
[33] Historic England Advice Note 17, 'Planning and Archaeology' (November 2022)

conditions prevent any ground disturbance authorised by a planning permission from beginning until the condition has been complied with. From an archaeological perspective, they are *"normally used when investigation is needed (supported by clear justification) before work starts on site"*.

4.5 As such, we have prepared the conditions shown listed in Annex A (the "**Proposed Conditions**"), which address any archaeological concerns that the LPA may have regarding the Development, and which – as outlined more fully below – meet both the legal and policy tests for planning conditions. The Proposed Conditions would, at least in part, take the form of negative suspensive conditions, preventing development from commencing until a Written Scheme of Investigation has been submitted to, and approved by, the LPA in respect of any intrusive archaeological works that are deemed necessary following the completion of the desk-based assessment and geophysical survey.

4.6 This approach, using pre-commencement conditions, has been accepted by the Planning Inspectorate in the context of similar proposals for a solar farm, where the development had the potential to have direct and medium adverse impacts on archaeological deposits, permanent effects of minor adverse significance on late Iron Age to Roman and post-Medieval archaeological deposits, and permanent effects of up to moderate adverse significance on early Medieval and Medieval archaeological deposits.[34]

Legality of condition

4.7 The Proposed Conditions would evidently be competent as a matter of law:

(a) They would be imposed **for a planning purpose**, namely to ensure the appropriate investigation of archaeological deposits on the site of the Development.

(b) They would **fairly and reasonably relate to the Development**, in that the Development has the potential to impact upon those archaeological deposits.

(c) They would be **reasonable** in a *Wednesbury* sense, in that conditions of this nature are commonly imposed by Local Planning Authorities and represent a rational response to archaeological concerns.

Six policy tests

4.8 The Proposed Conditions would similarly meet the six policy tests set out in the NPPF:

[34] S62A/22/0006

(a) They would be **necessary**, in that they would respond to a clearly defined need to identify and address the potential impact of the Development on archaeological deposits.

(b) They would be **relevant to planning**, in that ensuring the appropriate investigation of archaeological deposits is a relevant planning concern.

(c) They would be **relevant to the Development**, in that the Development has the potential to impact upon archaeological deposits on the site.

(d) They would be **enforceable**, in that the applicant can reasonably be expected to comply with them, and the LPA would be able to secure compliance.[35]

(e) They would be **precise**, in that they are sufficiently clear to enable both the applicant and the LPA to ascertain what must be done to comply with them.

(f) They would be **reasonable** in all other respects.

4.9 It is clear, therefore, that the Proposed Conditions are legally competent, acceptable in policy terms and a proportionate means of safeguarding archaeological heritage on the site of the Development.

4.10 Moreover, as planning conditions which relate to the investigation of the archaeological potential of land, the Proposed Conditions would be exempt from deemed discharge.[36] As such, the LPA would retain a significant element of control over compliance with (and, ultimately, the satisfaction and discharge of) the Proposed Conditions.

5 CONCLUSION

5.1 A pre-commencement condition can properly and validly be applied to any planning permission in this case to secure the carrying out of intrusive archaeological fieldwork. This approach would be consistent with both NPPF and the relevant Local Plan policies.

5.2 We do not consider there to be a proper basis to insist on intrusive archaeological fieldwork before planning permission is granted. Indeed, given the use of a planning condition would be consistent with policy, this would not be a proper reason to refuse planning permission.

Burges Salmon LLP

14 May 2025

[35] *Grampian* at 67

[36] Town and Country Planning (Development Management Procedure) (England) Order 2015, Article 30 and Schedule 6

Annex A – Proposed Conditions

1 No development shall take place until a written scheme of investigation for archaeological evaluation has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To ensure suitable investigations of archaeological deposits on the site, in accordance with Policy ENV9 of the South Oxfordshire Local Plan (2020) and the National Planning Policy Framework.

2 A mitigation strategy detailing an excavation and preservation strategy shall be submitted to the Local Planning Authority following the completion of the archaeological evaluation. The agreed mitigation strategy once approved shall be fully implemented.

Reason: To ensure suitable investigations of archaeological deposits on the site, in accordance with Policy ENV9 of the South Oxfordshire Local Plan (2020) and the National Planning Policy Framework.

3 No development shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy which has been approved in writing by the Local Planning Authority.

Reason: To ensure suitable investigations of archaeological deposits on the site, in accordance with Policy ENV9 of the South Oxfordshire Local Plan (2020) and the National Planning Policy Framework

Appendix 8 - Appeal Decision APP/U2235/W/23/3321094

The Planning Inspectorate

Appeal Decision

Inquiry opened on 16 January 2024

Accompanied site visit made on 24 January 2024

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2024

Appeal Ref: APP/U2235/W/23/3321094
Land north of Little Cheveney Farm, Sheephurst Lane, Marden, Kent

- 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 Statkraft UK Ltd against the decision of Maidstone Borough Council.
- The application Ref: 22/501335/FULL, dated 20 May 2022, was refused by notice dated 28 October 2022.
- The development proposed is the installation of a renewable energy led generating station comprising of ground-mounted solar arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements.

Preliminary Matters

1. The inquiry sat in person for 6 days from 16 to 24 January 2024, with closing submissions delivered by electronic link on 26 January, after which I closed the inquiry. I carried out an accompanied site visit as set out about, and unaccompanied visits to the site and surrounding area between 15 and 23 January.

2. I held a case management conference (CMC) prior to the inquiry, on 10 November 2023. At the CMC I agreed that the Appellant could rely on amended details of the proposed development in view of the fact that the amendments were minor in nature, and subject to a reconsultation exercise being carried out. That reconsultation took place and a significant number of responses was received. I am therefore satisfied that the proposal has been properly brought to the attention of all interested parties and that no prejudice results from my consideration of the amended scheme. At the inquiry itself an additional plan was submitted which amends a very short stretch of fence line by 1m. In light of the exceptionally minor nature of this change the Council had already agreed that it could be accepted without prejudice. I have no reason to disagree.

3. The proposal as originally submitted would have generated up to 49.9MW of electricity. The amendments, which reduce the number of proposed panels, would reduce the likely output to about 47MW. The scheme seeks permission for 37 years from first export of electricity to the grid.

4. The Council refused planning permission for the proposal for 5 reasons. In the intervening period before the inquiry those matters relating to ecology and noise have been discussed and a way forward agreed. These can be addressed by condition in the event of planning permission being granted. Hence the Council has not contested reasons for refusal 4 and 5.

Decision

5. The appeal is allowed and planning permission is granted for the installation of a renewable energy led generating station comprising of ground-mounted solar arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements at land north of Little Cheveney Farm, Sheephurst Lane, Marden, Kent in accordance with the terms of the application, Ref: 22/501335/FULL, dated 20 May 2022, subject to the conditions set out in the attached schedule.

Main Issues

6. The main issues in the appeal are:
   (a) The impact of the proposal on the character and appearance of the surrounding area;
   (b) The impact of the proposal on the setting of nearby heritage assets;
   (c) Whether it has been demonstrated that the development is appropriately sited given the presence of best and most versatile agricultural land (BMV);
   (d) Whether, in light of the above issues, and the other matters identified below, the planning balance falls in favour of, or against, planning permission being granted.

Policy and Guidance

7. The development plan for the area includes the Maidstone Local Plan (LP) adopted in 2017. This is currently being updated in an emerging Local Plan Review (eLP).

8. The most important policies for determining the application are set out in the Statement of Common Ground (SoCG). These are LP Policies SP17, SP18, DM1, DM3, DM4, DM24 and DM30. Of those DM 24 deals specifically with renewable and low carbon energy schemes. It is a matter of agreement that these policies are up to date and accord with the advice of the National Planning Policy Framework (NPPF).

9. The eLP has reached a relatively advanced stage. Policy LPRINF3 rolls forward LP Policy DM24 and is not subject to potential modifications. It can carry significant weight. I deal with policies in more detail in the issues below.

10. The Council has also produced a planning policy advice note – Large Scale (>50kW) Solar PV Arrays.

Other Guidance

11. The NPPF is supportive of renewable energy schemes where its impacts are, or can be made, acceptable. The NPPF also advises that reference should be

given to the use of lower grade land before the use of BMV, albeit that the use of such land is not ruled out. These are important material considerations.

12. Also material are the recent National Policy Statements (NPS) EN-1 and EN-3, which deal with the overarching policy for energy and the national policy for renewable energy infrastructure. Whilst these documents are produced for use in assessing nationally significant infrastructure projects (NSIPs) EN-1 also makes it clear that the NPSs may be a material consideration in dealing with cases such as that before me. EN-3 states that the government expects[1] a five-fold increase in combined ground and rooftop solar deployment by 2035.

13. A raft of other documents have been referred to in the SoCG and core documents which encompass the background to the various current objectives and obligations for encouraging low carbon energy development in order to seek to reduce the impact of climate change. I do not need to list them all here, but they include Powering Up Britain[2] (March 2023), the British Energy Security Strategy[3] (April 2022), the Net Zero Strategy[4] (October 2021) and Powering Our Net Zero Future[5] (December 2020).

Reasons

Character and Appearance

14. The appeal site covers some 74.5 hectares of land, most of which is currently used for arable crop production. It is located in the Low Weald National Landscape Character Area (LCA), with this being further subdivided in the finer grained Kent (Low Weald Fruit Belt) and Maidstone (Laddingford Low Weald and Teise Valley) studies. The appeal site straddles the boundary of the Laddingford Low Weald and Teise Valley areas. These various landscape assessments all reflect characteristics which are seen on the appeal site, such as its overall low lying and relatively flat rural nature, with a patchwork of fields separated by hedgerows, trees, ditches and other watercourses, in amongst a scattered pattern of country lanes and settlements.

15. A closer assessment reveals that the site has been subject to some hedgerow removal and field amalgamation, resulting in a more open character, particularly in the eastern part of the site. The Low Weald Fruit Belt study seeks to conserve the scale of the landscape, which it describes overall as small-medium, as well as to reinforce enclosure patterns. In a similar vein, the Laddingford Low Weald and Teise Valley documents identify opportunities to conserve the landscape including the restoration of lost hedgerow boundaries and extending native woodland blocks.

16. Against this context it can be noted that the appeal site does not fall within any designated landscape, either scenic or ecological. Nonetheless it is pleasant and relatively unspoilt. There is a railway line immediately to the north, which forms the northern boundary of the proposal, and this inevitably impacts upon, and reduces, the sense of tranquillity which is otherwise experienced on the public right of way (PRoW) which crosses the land there. The experience of the land is also diminished to an extent by the high voltage line which crosses the

[1] As expressed in the British Energy Security Strategy, April 2022
[2] CD 3.10
[3] CD 3.9
[4] CD 3.8
[5] CD 3.7

site. As a landscape without formal designation, and without identified features, notable condition or other factors which lead to it being out of the ordinary, it cannot be said to be a valued landscape as such. But that does not mean it has no value.

17. The expert analyses provided on behalf of the Appellant and Council agree in part on the susceptibility of the landscape to change, and the value of the various elements of the landscape. However, I prefer the evidence of the Appellant in relation to the susceptibility of the arable land here. Although the land confers some openness as identified by the Council, the land is not a particularly valuable or distinctive feature in its own right. I agree that its susceptibility to change should be lower than the level suggested by the Council. Despite this and other differences in the respective assessments the sensitivity of the appeal site is in many areas assessed at a similar level and the overall conclusions are not markedly at odds with each other. Although the Council argues for medium to high sensitivity overall, I am satisfied that the Appellant's evidence of an overall sensitivity of medium is more appropriate here. With that in mind I turn to the impacts of the development on the landscape.

18. I have noted above some of the characteristics of the site which are listed in the various landscape assessments nationally and locally. I have also noted some of the objectives for the landscapes. In this case there would be an undoubted change to the characteristics of the landscape on site. The introduction of banks of solar panels could hardly result in anything other than change. In place of arable land there would be pasture with rows of 3m high solar arrays (at their highest) supported on frameworks sunk into the ground. The arrays would be surrounded by 2.4m high fencing (at its highest) with occasional CCTV installations somewhat higher. The proposed substation and connection point to the power grid would add further change.

19. It was suggested at the inquiry that solar farms are inherently of a rural character (and I accept that most are located in rural areas, of necessity). But this does not make them an integral part of rural character any more than other forms of infrastructure. In being located in rural areas they do not become part of the wider rural character, but rather become part of the distinguishing features of a particular location. That is reflected in the undisputed finding that the change in landscape in this case, although extensive, would be localised in that its influence would not extend far beyond the site boundaries. There is agreement from the Council that the extent of the impact would lie within a 1km radius at worst. It has been suggested that the site would be visible from the greensand ridge to the north, but in my judgement it would be barely discernible in a vista which includes extensive industrial premises and significant areas of polytunnel development.

20. In order to minimise the impact an extensive mitigation strategy has been drawn up. This includes native hedgerows, native woodland, and meadows planted with wildflowers. The planting of native species would accord with the general aims of the local landscape character assessments noted above, albeit that the structure of the landscape would not be returned to its historic form in all areas. But gapping up existing hedgerows would certainly return the landscape to something more akin to its historic state. In my judgement the mitigation planting proposed would be appropriate to the locality (and would significantly improve biodiversity - a matter not contested and which I deal

with briefly later). There would be loss of openness in some areas of the site which is experienced from PRoWs but this would be principally in the northern part of the site adjacent to the main line railway, where site character is impacted by the very presence of the railway.

21. The Council has sought to argue that some of the mitigation proposed would, in itself, be harmful to the landscape because of the change it would bring to its structure, principally in the loss of openness and increase in enclosure. I do not agree with that suggestion. As I have indicated, the planting of hedgerows and trees goes some way to meeting the objectives of landscape assessments, and I agree that in the longer term the mitigation will add some beneficial elements. Although there would be some long straight hedgerows these would not be wholly out of place here, and they would reduce the size of some of the land parcels at the site, bringing them more in line with those in the wider area. The enclosure of the land to the north would result in loss of openness at that point, but even were I to consider this a harmful change (which I do not) the resultant harm to the character of the site and the surrounding area would be minor.

22. My overall assessment of the impact of the proposal on the character of the wider landscape is that it would not introduce any more than moderate localised harm, and over time would bring some benefits in line with the intentions of relevant landscape assessments. There would initially be significant adverse harm within the site itself, not least because of the extent of the development. But as mitigation matures the harm would reduce and by year 10 I agree with the Appellant that this can best be summarised as a low level of impact. However, I would not go so far as to agree that it would be beneficial to landscape character, as suggested. In my judgement the longer-term impact is more correctly described as negligible, and reversible, in relation to the Low Weald.

23. Visually the site would change over time as the landscaping matures. That is common ground. It is also common ground that on completion and in year 1 the solar farm would have an adverse visual impact, but that this would reduce as vegetation becomes established. The PRoWs which cross the site are likely to be used by recreational walkers, and these are agreed as highly sensitive receptors to change.

24. As I have noted the northern part of the site would be enclosed by fencing and a new hedgerow. Although this would narrow the field of view for users of that footpath it would not become so narrow as to be an unattractive feature. It would be akin to walking in a long and narrow field. However, it cannot be denied that for a time after installation the array of panels to the south would be a significantly harmful visual element in the landscape. The view would be of the rear of panels and their framework, with an intervening security fence and occasional CCTV installation.

25. From other viewpoints along existing public footpaths the views into the site would be of a lesser intensity, and frequently at a greater distance. From the footpaths which leads from Marden to Sheephurst Lane, and from Turkey Farm when walking west, these views would also be filtered by existing vegetation. Despite the slight dilution of these views they would still be correctly assessed as being moderately to significantly adverse.

26. Residents enjoying their own properties are rightly assessed as sensitive receptors too, whether indoors or enjoying their gardens. My site visit enabled me to recognise that the visual impact experienced by residents in the cluster of properties at Little Cheveney Farm (including Willow Barn and Cottage which lie close to the site boundary) would, in the early part of the development period, experience significant adverse impacts when looking towards the solar farm. However, these impacts would be mitigated to some extent by the distances to the nearest solar panels. The residents of properties along Sheephurst Lane itself, and along Burtons Lane to the north-west, would have limited visibility of the development such that the impact, although adverse, would be no more than moderate.

27. I know that the area described as parkland to the north of Little Cheveney Farm is much valued by the nearby residents, and this land is surrounded on 3 sides by the proposed development. Visual impact from the parkland would be significant and adverse initially, but would be reduced over time by the planting of woodland and native hedgerows. This would eliminate most if not all of the harmful impact.

28. Sheephurst Lane is not conducive to walking and I find it unlikely that there would be any more than minimal impact from the solar farm on those choosing to walk along it. It is necessary to concentrate on traffic and safety rather than take in the surroundings when using that lane because of its configuration and lack of overall width. The same would apply to cyclists. Similarly, drivers along this route require their attention to be on the road and not the surroundings. Hence any visual impact experienced by road users of any kind here would be minimal. Train passengers would have a fleeting impression of the development as they briefly passed to the north, but this would be unlikely to result in any more than minimal visual intrusion. It is also fair to record that people who see solar farms can be encouraged by their presence, as a sign that climate change is being addressed. For some people, therefore, they are a positive experience.

29. Taken in the round it is my judgement that the proposed development would lead to some significant adverse visual impact until mitigation planting matures. But this adverse visual impact would not be consistent around the site. It would be limited to those areas currently accessible to the public along PRoWs and to the environs of private residences. The extensive areas of planting proposed as part of the proposal would do much to alleviate the adverse impact. I therefore find that the longer-term visual impact of the proposal would reduce to slight adverse at its worst, but over the majority of the site any impact would be negligible.

30. I note that permissive paths are proposed along the eastern and western sides of the site which would link with existing PRoWs. These are not currently publicly accessible areas and I have assessed the impacts of the development based on those areas where the public has right of access, and in light of the proximity of private residences.

31. As a final point on this issue it is notable that the Council's witness on landscape matters has fairly accepted that the harm to landscape and visual amenity, if found by the decision maker to be at a minor adverse level, would not of itself be likely to be a sufficient reason to refuse planning permission.

32. On this issue as a whole I find that there would be some harm to the character and appearance of the area, but the area in which the harm would be experienced would be limited, and the harm itself would reduce to a minor level after 10 years. Planting would in due course help to improve local distinctiveness and any impacts on the character and appearance of the countryside would be appropriately mitigated in line with LP Policy DM30 i and ii. The proposal would also follow the objectives of Policy DM3(1) i and vi in that it would protect existing landscape features and enhance them over time, whilst mitigating the effects of climate change. The distinctive landscape of the Low Weald would be conserved and in part enhanced in the longer term, in accordance with the objectives of Policy SP17(6).

Heritage

33. I start from the position that my duty under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

34. The Council's case against the proposal on this issue surrounds the impact of the proposal on the setting of a limited number of heritage assets. These are Little Long End, located on Burtons Lane, and the cluster of buildings at Little Cheveney Farm, comprising the farmhouse, two former oasthouses, and a barn. It is an agreed position that setting is the surroundings in which a heritage asset is experienced, but that it is not fixed. All the buildings are listed as Grade II. I deal with these in turn.

35. Little Long End is located to the north-west of the site. It clearly has had a relationship with the agricultural nature of the locality in that it is described as a cottage said to have been converted from a barn. Its agricultural roots are not particularly apparent in its present residential use and form, though it is clearly an historic building. I agree with the Appellant's evidence that its significance lies in its architectural value and historical relationship with the surroundings. Its immediate setting is its own enclosed garden. The wider setting includes the rural landscape, and this assists to a minor degree in understanding the building's former relationship with the area.

36. However, there is no notable physical link between the building and the fields to the south and east which form part of the appeal site. Each is a separate entity with no direct connection. The strongest appreciation of the setting of the asset is from its own immediate surroundings – the garden and lane from which it takes access, and the nearby buildings also serviced from the lane. The nearest element of the solar array would be some 199m from the building and intervisibility would be almost nil. Certainly, when planting is established there would be no views from one to the other. The appreciation of the setting of Little Long End would continue to be as it is today and none of its significance as a heritage asset would be lost. Hence, I find that there would be no harm to the setting of Little Long End.

37. Turning to the group of buildings at Little Cheveney Farm there is agreement that they are experienced as a group, albeit that their former interaction as farm buildings is largely lost as they now have individual curtilages. Because they are no longer conjoined in agricultural use as such this also impacts on their relationship with the wider setting. The link to the surrounding land has been weakened but can still be appreciated. That said, I agree that the

buildings are best experienced from within or in close proximity to the group. This is where the agricultural antecedence is strongest.

38. Because two of the group are former oasthouses they are prominent architecturally, and they can be seen from further afield, notably the footpaths towards Marden. There is an obvious link between the buildings and their former use in connection with the surrounding land. To that extent the wider setting has some influence on their significance. But the significance would be little changed by the development. The views of the buildings from the footpaths from Marden would not include the solar farm because of intervening vegetation and the configuration of the solar farm itself. The existing glimpses of oasthouses and other buildings would remain and would not be impacted by the solar array. The oasthouses are just visible from the northern extremity of the site, over what would be solar panels and the mitigating planting, but this is such a limited vista that it would have no material impact on the significance of the assets or their setting.

39. Taking these findings together I find that there would be no harm to the significance of the heritage assets or their settings from the proposed development. Their settings would be preserved. The proposal would accord with LP Policy SP18, Policy DM4, and Policy DM1ii, which taken together seek to protect, and where possible enhance, heritage assets within the Borough.

40. It is worth noting here that had I agreed with the Council that there would be harm to the setting of the buildings in question, that harm, as assessed by the Council, would be at the lower end of the spectrum of 'less than substantial'. Great weight attaches to any harm to heritage assets, but that harm would, under a heritage balance alone, be clearly outweighed by the benefits of the proposal (which are set out later).

Best and Most Versatile Agricultural Land

41. Some 47% of the appeal site is classified as best and most versatile (BMV). This breaks down as 9% grade 2 and 38% grade 3a. The remaining 53% is therefore not classified as BMV and is of lower quality. It is agreed that if the development proceeds the land would be taken out of arable crop production for a period of at least 37 years.

42. There is no compunction on landowners to use agricultural land in any particular way, though it would, of course, be unusual for land of good and medium quality not to be used productively. A raft of policies and guidance indicate a preference for the use of land other than BMV for this type of development. It is agreed, however, that for solar farm development of the scale proposed it is almost inevitable that agricultural land will be used. There are likely to be few areas of previously developed land, contaminated or industrial land which are capable of accommodating such proposals, and neither the Council nor the Appellant has identified any in this case.

43. On behalf of the Council it was suggested that the expressed preference for the use of lower quality land should be interpreted as giving precedence to the use of that land. In turn it was argued that this would require an assessment akin to a sequential assessment to enable the best choice to be made. That is not an interpretation accepted by the Appellant, and I also do not agree that preference can be equated with precedence in this context. In support of the position the Appellant quotes from the advice of NPS EN-3, which states that

"While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land." Although this advice is primarily intended for use in the considerations of NSIP schemes, as I have noted above the contents of NPSs can be a material consideration in other casework. I consider that to be the case here, in part because the proposed output of the solar farm is close to the NSIP threshold.

44. LP Policy DM24 requires that a number of matters have been taken into account, and also requires, at DM24(2) that preference be given to locations on lower quality land (that is, not BMV). The supporting text to the policy also accepts that parts of Maidstone Borough are technically suitable for the construction of low carbon energy schemes, including solar. In 2014 the Council adopted a policy advice note relating to larger scale solar farms (as identified above). The advice note recognises that Kent is one of the best locations for solar generation in the UK. The note accepts that such development will look to land currently in agricultural use, although expressing a preference for non-agricultural land.

45. The most recent iteration of advice in the NPPF also expresses a preference for the use of lower quality land and indicates that the availability of agricultural land used for food production should be considered alongside other policies in the Framework. I also mention here the Written Ministerial Statement (WMS) of March 2015, in which the then Secretary of State also expressed a preference for the use of poorer quality land for solar farms. The statement also advised that the use of BMV for solar farms should be justified by the most compelling evidence.

46. This clear and consistent message that poorer quality land (of whatever type) is to be preferred remains essentially unchanged. The WMS of 2015 did not alter the underlying message that the use of BMV must be properly justified. Advice and policy issued after the WMS has clearly reiterated the message that the use of BMV is an important material consideration, but does not prohibit such use. The use of poorer quality land is still a preference expressed in policy and guidance, but that does not dictate the avoidance of such areas if it is demonstrated to be necessary and acceptable in a particular case.

47. There is no requirement to carry out a sequential analysis of alternative sites as suggested by the Council. Had there been such a requirement in policy or advice it would surely have said so. The recent judgement in *Bramley Solar Farm v SOS for Levelling Up, Housing and Communities*[6] says just that in finding that PPG does not mandate the consideration of alternatives, still less that a sequential test be adopted. The best that can be said is that in cases such as this it should be shown that the use of agricultural land has been demonstrated to be necessary, and that could involve an assessment of potential alternatives.

48. In any event the Appellant has carried out a search of the area which lies close to the existing 132kV line which runs roughly north to south through the Borough and beyond. Although evidence of earlier searches is limited, I take at face value the fact that an area beyond Maidstone Borough was involved. There have been other locations identified for potential development and those

[6] CD 7.11

alternatives were not pursued for good reason. However, this is something of a moot point as I am not considering competing alternative locations. I must make my decision based on the circumstances of this case.

49. The Council accepts that the Borough in general has a higher than national average proportion of BMV, and I accept that it would be difficult to find an alternative site which was entirely made up of lesser quality land. Criticism was levied at the Appellant's lack of detailed land quality assessment studies at alternative sites. But requiring such extensive, time consuming and no doubt expensive analysis (even if permission was granted by the landowner) would be a disproportionate and unreasonable burden on prospective developers. In the light of the climate change emergency declared in 2019 and the UK's binding net zero targets, alongside the fact that this land has not been identified for its high environmental value, I am left in no doubt that it has been demonstrated that the use of agricultural land is justified in this case.

50. The development would include the use of some 6.9ha of grade 2 land, a relatively minor proportion overall, and this would be almost entirely free of solar panels. The remaining BMV would have some solar panels present but overall the majority of the array would be located on grade 3b land (that is non BMV). I include the access tracks as part of the arrays in this context. Those areas from which the panels would be excluded would be used primarily for landscape mitigation and biodiversity enhancements, with the exception of the substation and other necessary control mechanisms. But in any event the land beneath and around the panels would be retained as grazing land so would not be lost to agricultural use as such. The loss of this limited area of BMV would be relatively insignificant given the amount of such land in the locality. For that reason the impact on food production would also be likely to be correspondingly insignificant, especially as grazing by sheep as intended would retain some food production capacity on the land.

51. It is accepted by the Council that the provision of renewable energy from this scheme carries substantial weight. When taken alongside the imperative to ramp up the provision of electricity from solar farms, and the urgent need to address the effects of climate change, I am satisfied that there is ample compelling evidence for the use of this land, including the proportion of BMV, for the proposed development. In reaching this judgement I also bear in mind that the proposal is for a time limited period (albeit of significant longevity) and that there is nothing to contradict the Appellant's evidence that the land would benefit from a change in the nature of its use – essentially that a 'rest' from intensive arable production would enhance land quality. At the end of the life of the solar farm the operational land could be returned to other forms of use, including arable production if that was deemed appropriate. The temporary loss of BMV is therefore of limited weight.

52. Taking this issue in the round I am satisfied that the use of agricultural land has been demonstrated to be necessary here. Furthermore, I have found no persuasive evidence to suggest that BMV land should be precluded from the proposed use. The presence of BMV at the quantities identified here is not, in my judgment, a predominating factor in determining whether the land is suitable for the proposed use. Rather the opposite is true, and there is compelling evidence that its use would be acceptable, especially in light of the opportunity to reverse the impacts of development in due course. There would

therefore be no conflict with the objectives of LP Policy DM24 (2) or (3) in this regard, nor with national policy and guidance.

Other Matters

Flooding

53. The appeal site is located largely in flood zone 3 and therefore there is an expectation that there will be periods of fluvial flooding. I heard from local residents at the inquiry of the increasing frequency with which the adjacent Lesser Teise river breaks its banks. At the appeal site this results in some of the land being inundated as evidenced by submitted photographs. Flooding also occurs downstream in the vicinity of Brook Farm.

54. The Appellant has submitted a flood risk assessment and addendum, as well as producing a surface water drainage strategy. In addition a revised and minor change to a short stretch of the proposed boundary fence would retain the required distance between the fence and the Lesser Teise. There are no objections from the Environment Agency or the Local Lead Flood Authority. I also have no reason to believe that any other permits for, for example, the bridging of ditches, are not achievable.

55. I acknowledge the concerns of local people that any impedance by site fencing of the transmission of debris along the river could lead to a reduction in the ability to accommodate flood water on site – effectively narrowing the floodplain. But there is no substantive evidence that this is likely, especially as I am aware of the standoff distance of the fence being substantial in the locality where photographic evidence shows the likeliest location of flooding. The expert evidence of the Appellant is that flood water would still find its natural level on the appeal site with no added detriment to those downstream.

56. So far as runoff from the panels is concerned, this would fall directly on to pasture and would be likely to be quickly absorbed, as it is currently. Any damage to land drains by the piling necessary to support solar panels may impede runoff from the site, but this would logically lessen the potential for downstream impact. In any event this is likely to be a minor effect with no material consequence for runoff.

57. Solar panels would stand above any worst case predicted flood levels and would not in themselves be at risk. The hard standing associated with the substation and control buildings would drain to a swale which would release water gradually. Taking all this into account I am satisfied that it has been properly demonstrated that this proposal would not create unacceptable risk of flooding or exacerbate any impacts of flooding which took place.

Biodiversity Net Gain and Ecology

58. There is no dispute that the landscape mitigation for the solar farm would add significantly to green infrastructure locally. It would encompass not only hedgerows and trees, but include wildflower meadows in other areas around the site. There would be an acknowledged level of biodiversity net gain (described as over 20% in the SoCG) which is likely to reach over 50% for area-based habitats and over 35% for linear habitats.

59. The SoCG also confirms that there is agreement in relation to the provision of access for mammals such as badger, and that such provision and other

requirements, including a skylark mitigation strategy can be required by condition. Permissive paths are envisaged within the site and it is agreed that the position of the path to the west of the site, which would protect the adjacent ancient woodland, could also be required by condition. The permissive paths would create linkages to existing PRoWs and would enhance accessibility for recreational walkers.

60. Hence there is nothing before me which would suggest that the proposal would be unacceptable in biodiversity or ecological terms. There is no conflict with policy or guidance in this respect.

Residential amenity

61. The original plans were of concern as it could have led to some noise disturbance for residents to the south. The relocation of the substation has allayed the principal concerns of the Council, but it would still be possible, and reasonable, to ensure that future noise emissions are not unacceptable by imposing a suitable condition.

62. A glint and glare study was submitted by the Appellant and this has been accepted by the Council as an indication that glint and glare would not be unacceptable. I agree with that position, albeit that there may be occasional impact at a minor intensity until landscaping is established for a limited number of properties. As such there would be little risk of material disturbance from any reflections from the solar panels.

Overall Comments by Third Parties

63. There has been considerable opposition to the scheme from local people, which I acknowledge and do not take lightly. Apart from the individual matters which I address above it is argued that this is the wrong development in the wrong place. I respectfully disagree. The nearest residents were ably represented at the inquiry with cogent and structured representations, and I have taken them fully into account along with all other submissions in addressing the planning balance below.

The Planning Balance

64. I turn then to the planning balance. There is agreement between the Council and the Appellant that the provision of renewable energy carries substantial weight in this case. That is a position with which I wholly agree. Renewable schemes of this nature are fundamental to combatting climate change if any adverse impacts of a scheme can be made acceptable, as here. There is also significant weight to be attributed to the high level of biodiversity net gain. Further positive weight (not contested in principle) flows from the economic benefits of farm diversification and the general economic benefits of the construction and operation of the solar farm. These benefits attract moderate weight. The provision of permissive paths across the site would benefit those using the countryside for recreation and attracts limited weight in this case. The fact that the Appellant has a grid connection agreement in place is material in that the scheme could be delivered quickly, but this is a neutral point as other schemes could no doubt be connected in its place, if not in this exact location.

65. Set against these benefits are the negative effects on landscape character and appearance, but these would be limited as mitigation planting would reduce

their impact over time to acceptable levels. As such this attracts no more than moderate weight. I afford no weight to the asserted harm to heritage assets. The temporary loss of BMV from productive arable farming is of limited weight.

66. In my judgement the impacts of the proposed development can be made acceptable and in these circumstances the substantial weight attached to the provision of renewable energy on its own would be sufficient to outweigh the limited adverse impacts identified. The other benefits identified simply add to the balance of positive matters in this case.

67. I have set out under each issue my assessment of the proposal against the relevant policies of the adopted development plan. Policy DM1 is an overarching policy dealing with the principles of good design. It applies across all the issues in this case. This proposal would accord with criterion ii, being a positive response to local, natural and historic character; criteria v and vi, by responding to existing natural features, heritage and landscape; and criterion viii, through the enhancement of biodiversity. The scheme has properly taken into account the criteria and requirements of Policy DM24, which relates to renewable and low carbon energy, and I am satisfied that it would accord with the policy. As DM24 is essentially rolled forward into the eLP there is compliance with the eLP in that respect. The proposal accords with the most important policies relating to this development and it therefore also complies with part 1 of countryside policy SP17. Consequently I am satisfied that the proposal complies with the development plan as a whole, and as such the proposed development should be allowed.

Conditions

68. I have mentioned above some of the matters which can be controlled by condition to ensure that the development is acceptable. A list of conditions largely agree by the parties was helpfully provided during the inquiry.

69. A condition identifying all of the plans on which the proposal is determined is necessary to accurately define the permission. Conditions are also necessary and reasonable in dealing with the following matters:

    (a) Detailed design, layout, finish and colour of solar panels, in order to ensure a suitable development is achieved;

    (b) Conditions limiting the time period over which the solar farm can be used, together with requirements to decommission the site in accordance with an approved scheme at the appropriate time;

    (c) Conditions requiring the submission of full landscaping details including a timetable for implementation, management and maintenance so that the mitigation proposed is properly delivered, together with retention and protection of existing vegetation and approval of an arboricultural method statement;

    (d) The approval of Landscape and Ecological Management, and Construction Environment Management Plans (LEMP) and (CEMP) and accordance with the construction traffic management plan (CTMP) in order to ensure that the development takes place in a satisfactory manner;

    (e) Conditions requiring schemes for the protection of wildlife, of ecological protection, of sustainable drainage measures, provision

of a river buffer zone, and the location of permissive paths, in order to ensure the development is of a suitable standard;

(f) A condition requiring archaeological field evaluation to ensure any finds are properly recorded;

(g) A condition requiring the approval of a soil management plan, to ensure soil quality is retained;

(h) A condition to ensure any identified contamination is adequately dealt with to avoid any potential for such contamination to adversely affect the local environment;

(i) Conditions requiring the approval of details of fencing and cctv to ensure the site is safe and secure;

(j) Conditions controlling access, the use of vehicles on site, any external lighting, and storage of materials on site, to ensure that the proposal does not adversely affect the amenities of the locality;

(k) A condition requiring noise monitoring and, if necessary, mitigation, to ensure that local amenities are protected.

70. There is some disagreement about the terms of the landscaping condition to be applied. This is primarily concerned with what is planted and when, and whether any landscaping should be removed during decommissioning. In my judgement it is reasonable to require as much landscaping as possible as early as possible, in line with the Council's suggestion. However, given that any decommissioning would be likely to be years away, and bearing in mind that we cannot know what the situation will be at that time, I do not consider that it would be reasonable or necessary to require any landscape removal at this stage. It is likely that the planting will have become part of the accepted character of the landscape by then. However, if it were deemed necessary to remove any landscaping in the future it could become part of the required decommissioning agreement. Where necessary I have amended conditions to meet the required tests as set out in the NPPF.

Conclusion

71. have taken account of all other matters raised at the inquiry and in writing, but none is sufficient to outweigh the matters which have led me to my overall conclusion.

72. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in all respects in accordance with the following plans/drawings:

   - 27899/150 Rev C: Proposed Solar Farm Site Location Plan

   - 27899/051 Rev A: Proposed Solar Farm Aerial Site Location Plan

   - 27899/053 Rev A: Proposed Solar Farm Footpath and Boundary Layout

   - SCUKK-SHEEP-000 100(Q) General PV Layout

   - AW0143-PL-003: Proposed Mitigation, Landscape & Ecology Enhancements – with Appeal Amendments

   - 21-0354 SP02 Rev A: Plain Road / B2079 West End / Goudhurst Road / Sheephurst Lane Swept Path Analysis

   - 21-0354 SP01 Rev B: Sheephurst Lane Primary Site Access Swept Path Analysis

   - 21-0354 SK03 Rev A: Construction Traffic Routing

   - 21-0354 SL04: Sheephurst Lane Proposed Site Compound

   - SKUKK-SHEEP-000-MCS 206: CCTV Elevation

   - SCUKK-SHEEP-001-HVG 465: Main Building Plant

   - SCUKK-SHEEP-001HVG-466 Rev A: Main Building Elevation

   - SKUKK-SHEEP-000-HVG-104: Monitoring Cabin

   - SKUKK-SHEEP-000-MCS-201: Internal Tracks

   - SKUKK-SHEEP-000-MCS-203: Perimeter Fence Detail

   - SKUKK-SHEEP-000-MCS-204: Access Gate Elevation

   - SKUKK-SHEEP-000-MCS-205: Framework Elevation

   - SKUKK-SHEEP-000-MCS-252: Transformation Station
   - SKUKK-SHEEP-000-MCS-253: Edge of Park Switchgear Station

3) Prior to their erection on site, details of the proposed layout, materials and finish including colour of all solar panels, frames, ancillary buildings, equipment and enclosures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such for the lifetime of the proposed development.

4) No development, other than the access shown on the submitted plans drawing no. 21-0354 SP01 rev B shall take place until the access has been completed and the visibility splays have been provided in accordance with drawing 21-0354 SK01 Rev A entitled 'Sheephurst Lane Primary Site Access. The access shall thereafter be retained for the lifetime of the development. In addition the visibility splays shall thereafter be retained for the lifetime of the development, free of all obstruction to visibility above 0.9 metres.

5) The planning permission hereby granted is for a period of 37 years from the date of first export of electricity from the development to the grid (First Export Date), after which the development hereby permitted shall be removed. Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event.

6) Not less than 12 months before the expiry of this permission, a Decommissioning Method Statement (DMS) shall be submitted for the approval in writing by the Local Planning Authority. The DMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable. The development shall be decommissioned in accordance with the approved DMS.

7) Within 3 months of the development, or part thereof, ceasing to generate electricity for a period of 12 months prior to the 37 year period, a statement of decommissioning works (Early Decommissioning Method Statement (EDMS)) shall be submitted for the approval in writing by the Local Planning Authority. The EDMS shall include details of the removal of the arrays, cables, fencing, tracks and buildings together with the repair of damage that may have occurred, restoration of the site, protection of biodiversity during removal and the management of traffic during the decommissioning process and a decommissioning timetable. The development shall be decommissioned in accordance with the EDMS.

8) No development shall commence at the site until a fully detailed scheme of landscaping proposals including a timetable for the implementation of all landscaping works and a programme for its management and maintenance have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details during the planting season (October to March) and completed in accordance with the approved timetable. The timetable shall include advance planting and phased planting as part of the scheme to be agreed. The approved scheme shall be fully completed no later than the first planting season following completion of the installation of the PV arrays hereby permitted.

9) All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved plans as being removed. All retained trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long-term amenity value has been adversely affected shall be replaced not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.

10) No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take

account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

11) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include that:

(1) Prior to commencement of the development and prior to the First Export Date, highway condition surveys for highway access routes should be undertaken and submitted to the Local Planning and Highway Authorities.

(2) Details of the routing of construction traffic to the site and any traffic management measure.

(3) Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.

(4) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

(5) Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

(6) Provision of measures to prevent the discharge of surface water onto the highway.

(7) Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

The CEMP shall be implemented in accordance with the approved details.

12) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the First Export Date. The content of the LEMP shall include the following:

(1) Description and evaluation of features to be managed.

(2) Ecological trends and constraints on site that might influence management.

(3) Aims and objectives of management.

(4) Appropriate management options for achieving aims and objectives.

(5) Prescriptions for management actions.

(6) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

(7) Details of the body or organisation responsible for implementation of the plan.

(8) Details of annual habitat and species monitoring.

(9) Details of how the monitoring will inform updates of the management plan.

The LEMP shall also include details of the mechanism(s) by which the long term implementation of the plan will be secured by the developer.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved LEMP shall be implemented in accordance with the approved details.

13) Prior to commencement of the development, a Skylark Mitigation Strategy for delivery of mitigation measures within 8km of the site shall be submitted to and approved in writing by the Local Planning Authority. The content of the Skylark Mitigation Strategy shall include the following:

a) purpose and conservation objectives for the proposed skylark nest plots;

b) detailed methodology for the skylark nest plots following Countryside Stewardship Scheme option: 'AB4 Skylark Plots';

c) locations of the compensation measures by appropriate maps and/or plans;

d) persons responsible for implementing the mitigation measures;

e) an annual monitoring schedule to certify the delivery of the Skylark Mitigation Strategy for the first five years of operation;

f) a timetable for an assessment of the efficacy of the mitigation measures to be submitted for the approval of the Local Planning Authority;

g) review, and if necessary, update of the Skylark Mitigation Strategy if indicated as necessary by the assessment of the efficacy of the mitigation measures including any need for further monitoring beyond 5 years.

The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for the lifetime of the development.

14) No development shall commence until a scheme detailing the protection of kingfishers (a protected species under The Wildlife and Countryside Act 1981 (as amended)) and their associated habitat has been submitted to and approved by the Local Planning Authority. The plan must consider the whole duration of the development, from the construction phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to and approved in writing by the Local Planning Authority. The kingfisher protection plan shall be carried out in accordance with a timetable for implementation as approved.

The scheme shall include the following elements:

1) Details of pre-commencement nesting bird surveys for Kingfisher;

2) Sufficient buffer zones around any suspected nest sites;

3) Any works within 10m of known nesting sites must be overseen by a suitable qualified and experienced Ecological Clerk of Works (ECoW).

15) No development shall take place (including any ground works, site or vegetation clearance) until a Method Statement for ecological mitigation and enhancement has been submitted to and approved in writing by the local planning authority which shall accord with verification/update ecological surveys carried out within 3 years prior to commencement of development, presently being AW0143-PL003 Proposed Mitigation, Landscape & Ecology Enhancements, the Biodiversity Net Gain Report April 2023, Ecological Impact Assessment April 2023. The content of the Method Statement shall set out the following:

1) Purpose and objectives for the proposed works;
2) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
3) Extent and location of proposed works, shown on appropriate scale maps and plans;
4) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
5) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works;
6) Use of protective fences, exclusion barriers and warning signs;
7) Initial aftercare and long-term maintenance (where relevant);
8) Disposal of any wastes for implementing works;
9) Enhancement measures shall include the installation of log piles, bug hotels, bat boxes and bird nesting boxes,, wildlife friendly gullies, fencing designed to enable wildlife movement, along with provision of generous native planting including suitable pollinators.

The Statement shall be implemented as approved and thereafter retained.

16) No development shall take place until a scheme for the provision and management of a river buffer zone alongside the watercourse has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Buffer zones must be free from built development including formal landscaping and community orchards. The scheme shall include:

1. plans showing the extent and layout of the buffer zone which shall be at least 8m in width;

2. details of any proposed native planting scheme;

3. details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan;

4. details of any proposed footpaths, fencing, lighting and any other infrastructure;

5. details of the timings of any proposed works within the buffer zone, including the development of the footpaths and any future landscaping/management;

6. details of how any of the identified sensitive ecological features will be protected during and after works.

17) Development shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Outline Surface Water Drainage Strategy Final Report prepared by JBA Consulting dated April 2023 and the Flood Risk Assessment Final Report prepared by JBA Consulting dated March 2022 and Addendum dated December 2023 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall demonstrate (with reference to published guidance);

1. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters;

2. appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

18) Prior to the commencement of development details of a specification and written timetable for archaeological and geo-archaeological field evaluation works shall be submitted to and approved in writing by the Local Planning Authority. The evaluation shall be carried out in accordance with the agreed specification and timetable. Should the results of the evaluation require further archaeological, geo-archaeological and Palaeolithic investigation, recording and reporting, a specification and timetable shall be submitted to and approved in writing by the Local Planning Authority prior to such investigation, and a programme for the post excavation assessment and its publication shall have been submitted to and approved in writing by the Local Planning Authority. Any further investigation shall be carried out in accordance with the agreed specification and timetable.

19) No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no material loss of soil quality within the operational lifetime of the site and provides details of any movement of soils within the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved.

20) No development shall take place until a scheme of measures to minimise the risk of crime that shall include details of the location and design of CCTV cameras has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented

before the development is first brought in to use and thereafter retained and maintained for the lifetime of the development.

21) Prior to the erection of temporary or long-term perimeter security fencing, details shall be submitted to and approved by the Local Planning Authority. The details shall show the incorporation of badger gates/gaps in the fencing aligned with the main and outlier setts as detailed in the Ecological Impact Assessment by Riverdale Ecology dated April 2023. The fencing shall be installed as approved and all badger gates/gaps retained during the construction, operation and decommissioning of the PV generating station. There shall be no soil storage bunds located between the main and outlier setts at any time.

22) No development shall take place until an order made pursuant to section 257 of the Town and Country Planning Act 1990 to divert the part of PRoW KM248/2 shown inside the approved solar farm on approved layout SCUKK-SHEEP-000 100(Q) to a new route around the north-east perimeter of the solar farm has been confirmed and the route as diverted has been made available in accordance with the terms of the order.

23) Prior to the commencement of the development, details including an implementation timetable of how the development will enhance biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved implementation timetable and be retained for the lifetime of the development.

24) Notwithstanding the layout hereby approved, the proposed permissive path on the western part of the site shall be a marked or mown route only (not a sealed or otherwise engineered surface) and shall be aligned at least 15m from the boundary with the Ancient Woodland. Prior to commencement of development, details of the alignment of the permissive path shall be submitted to and approved in writing by the Local Planning Authority. A vegetated buffer shall be maintained between the permissive footpath and the Ancient Woodland in accordance with the Drawing Number SCUKK-SHEEP-000 100(Q) General PV Layout comprising wildflower meadow grassland and retention of existing natural scrub directly adjacent to the Ancient Woodland. Management of the buffer will be detailed through the Landscape and Ecological Management Plan but will comprise low intensity management, specifically where directly adjacent to the Ancient Woodland, avoiding any management actions which could adversely affect the integrity of the Ancient Woodland.

25) The construction of the development shall be carried out in accordance with the approved construction traffic management plan (CTMP) (Cotswold Transport Planning, March 2022), in all respects other than the traffic routing. All construction traffic shall use the A229, B2079, Underlyn Lane, Green Lane, B2162, Sheephurst Lane (northern end), unless otherwise agreed in writing by the Local Planning Authority.

26) If during works of construction contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination

will be dealt with has been submitted to and approved in writing by the Local Planning Authority.

The remediation strategy shall be implemented as approved.

27) No lighting shall be installed unless a lighting design scheme including details of operation for the whole site has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The colour temperature of the lighting shall be at the red end of the spectrum.

Any external lighting shall be installed in accordance with the specifications and locations set out in the approved plan and shall be retained thereafter.

28) No vehicles except for light vehicles (maximum or 3.5 tonnes) associated with the essential maintenance of the development during operation shall enter or leave the site on Sundays or Public or Bank Holidays or outside of the following hours:

0730 to 1800 Monday to Friday

0800 to 1300 on Saturdays

29) There shall be no storage of any materials including soil or raising of ground levels within that part of the site affected by the modelled fluvial flood events (including a 35% allowance for climate change) as shown on PFA Consulting Drawing No. S714/07A.

30) Within 1 month of the first export of electricity from the development to the grid post installation sound level assessments shall be undertaken and the results submitted to the Local Planning Authority in accordance with a scheme of assessment agreed in writing by the Local Planning Authority.

If the results of the post installation sound level assessments show the specified sound levels at the specified receptors of the dB Consultation Limited Report (Document Reference: dBC/Origin/10253/ML/04) are exceeded, details of proposed mitigation and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of first export of electricity from the development to the grid. The approved mitigation details shall be implemented in accordance with the approved timetable and retained thereafter.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Kimberley Ziya	Counsel for the Local Planning Authority
She called:	
Mr Peter Radmall MA BPhil CMLI	Chartered Landscape Architect
Mr Jeremy Fazzalaro BA(Hons) MSc IHBC SPAB AMCIA	Conservation Officer, Maidstone Borough Council
Mr Martin Robeson BA FRTPI FRICS FRSA	Managing Director, Martin Robeson & Partners Ltd

FOR THE APPELLANT:

Mr Hereward Phillpot KC	Counsel for the Appellant
He called:	
Ms Allison Walters BSc(Hons) PGDipLA CMLI	Founding Director, Awscape Ltd
Mr Rob Sutton MCIfA	Director of Heritage Consultancy, Cotswold Archaeology
Mr Tony Kernon BSc(Hons) MRICS MBIAC	Kernon Countryside Consultants Ltd
Mr Ben Fox BSc(Hons) MCIWEM CWEM CEnv	Associate, PFA Consulting Ltd
Mr Chris Cox BSc(Hons) MA MRTPI	Associate Planner, Pegasus Group

INTERESTED PERSONS:

Mrs C Russell	Local resident
Mrs Sarah Springhall	Local resident, representing herself and neighbours

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening submissions of Mr Phillpot
2. Opening submissions of Miss Ziya
3. Drawing Number SCUKK-SHEEP-000 100 (Q) General PV Layout (CD 14.1)
4. Drawing Number P22-2992_0021 132KV Overhead Lines (CD 14.2)
5. Appellant's Noise Response to Mr Peter Radmall's Proof of Evidence paragraph 5.15 (CD 14.3)

6 Measurements from the red line boundary to the proposed hedgerow along the northern boundary of the site (CD 14.4)
7 Updated Table of Conditions as agreed at 23 January 2024 (CD 14.5)
8 Plan showing distances from listed buildings to the PV arrays (CD 14.6)
9 Biodiversity and Climate Change Action Plan Update (CD 14.7)
10 PFA response to representations made by Vickey Petrie (CD 14.8)
11 Closing submissions of Miss Ziya
12 Closing submissions of Mr Phillpot
13 City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government and others [2021] EWCA Civ 320 (CD14.9 – entered with closing submissions)
14 R (on the application of Kinsey) v Lewisham London Borough Council [2021] EWHC 1286 (Admin) (CD14.10 – entered with closing submissions)