

Proof Of Evidence.

Evidence of Nigel Cussen.

Land East of Hawksworth and Northwest of Thoroton,
Nottinghamshire, NG13 9DB.

On behalf of Renewable Energy Systems (RES) Ltd.

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Appeal Ref: APP/P3040/W/23/3330045 | LPA Ref: 22/02241/FUL

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1. Personal Background

- 1.1. This Proof of Evidence has been prepared by Mr Nigel Cussen. I hold a BSC(Hons) in Geography with Economics and a Diploma in Town and Regional Planning.
- 1.2. I am a Chartered Town Planner having been elected over twenty-five years ago and I hold the position of Senior Planning Director at the consultancy Pegasus Group.
- 1.3. I have considerable experience in advising on planning matters arising in respect of a wide range of development sectors, including solar projects.
- 1.4. The evidence that I have prepared and provide for this Section 78 appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions.
- 1.5. I was instructed to provide planning expert witness evidence in respect of the appeal scheme after the appeal had been confirmed for consideration at planning inquiry. My initial instruction was received in February 2024. Prior to accepting the instruction, I reviewed the application documents, consultation responses and the officer's report and satisfied myself that I supported the Appellant's case. I have familiarised myself with the site, the proposals and the process of the Council's decision and I have visited the site and surrounding area, including the villages of Hawksworth and Thoroton.



2. Introduction

2.1. My Planning Proof of Evidence has been prepared on behalf of Renewable Energy Systems (RES) Ltd ('The Appellant') and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning Longhedge Solar Farm, Land East of Hawksworth and Northwest of Thoroton, Nottinghamshire ("the Appeal Site").

2.2. The appeal follows the decision of Rushcliffe Borough Council ("the LPA") to refuse an application for full planning permission (LPA Ref 22/O2241/FUL) ("the Planning Application") for a proposed development ("the Appeal Scheme") comprising the following:

"Installation of renewable energy generating solar farm comprising ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancements."

2.3. The planning application was refused by Planning Officers under delegated powers on 30th March 2023, as confirmed in a Decision Notice (Core Document 2.2), which cited two Reason for Refusal as follows:

"1. The magnitude of the scale and nature of the ground mounted solar proposals would have a significant adverse impact on landscape character and visual amenity, contrary to Policy 22 (Development in the Countryside), Policy 34 (Green Infrastructure, Landscape, Parks and Open Spaces) and Policy 16 (Renewable Energy) of LPP2 which both seek to ensure that new development does not have an adverse impact and that any adverse effects can be adequately mitigated and paragraphs 155 and 180 of the National Planning Policy Framework, which seek to support the use and supply of renewable and low carbon energy provided the adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts).

2. The proposed development does not contribute to the preservation or enhancement of the setting of the Hawksworth and Thoroton Conservation Areas and does not contribute to the preservation of the setting of a number of listed buildings within these conservation areas. The harm to the heritage assets would be 'less than substantial. Whilst the significant benefits of the proposal in terms of renewable energy are acknowledged the public benefits do not outweigh the harm to the assets of national and local heritage value. As such the proposal is contrary to Policy 11 (Historic Environment) and Policy 28 (Conserving and Enhancing Heritage Assets) of LPP1 that seeks to ensure that there is no significant adverse effect on any historic sites and their settings including listed buildings, buildings of local interest, conservation areas, scheduled ancient monuments, and historic parks and gardens. The proposals would also be contrary to Policy 16 which requires that renewable energy schemes must be acceptable in terms the historic environment and paragraphs 200 and 202 of the NPPF which require that 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 and that this harm should be weighed against the public benefits of the proposal."

2.4. My Planning Proof of Evidence addresses the Planning Policy matters raised in the Reasons for Refusal, as well as the overall planning balance. It should be read in conjunction with the



evidence of Mr. Andrew Cook in respect of landscape and visual impacts and of Ms Laura Garcia in respect of heritage matters.

- 2.5. On 9 April 2024, the Council sent an email to the Planning Inspectorate noting that *“following the instruction of an independent town planner and Council, the Council has been advised”* that the assessment of Best and Most Versatile (BMV) agricultural land was not wholly aligned with the guidance contained in the PPG; and that the conclusion expressed in the Officer’s Report as to compliance with the flood risk sequential test was incorrect. Thereafter, the Council submitted a Statement of Case received via email on the 16th of April 2024 which indicated that it wished to “expand” its case to include the loss of BMV and the lack of a flood risk sequential test.
- 2.6. With reference to Article 35, Town and Country Planning (Development Management Procedure) Order 2015, I note that where a local planning authority determines to refuse permission, its decision notice must *“state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision”*.
- 2.7. The decision notice was issued on 30 March 2023. The reasons for refusal do not mention BMV or flood risk. The officer’s report on the application raised no concerns with respect to those matters. The decision notice confirms that other than the two reasons for refusal “there are no other material considerations which are of significant weight in reaching a decision on this application”.
- 2.8. Notwithstanding the appellant’s concerns regarding the Council’s approach in raising these matters at a late stage, I note that the matters of the effect of the proposals on Best and Most Versatile agricultural land and flood risks are identified among the Main Issues for the appeal in the Inspector’s note of the CMC. I address the Main Issues in Section 10 of my evidence.
- 2.9. In respect of BMV I refer to the technical advice of Mr. Kernon which is attached at Appendix 1.1 and 1.2 of my evidence. Mr Kernon has prepared two documents, addressing the matters raised by the Council and Rule 6 party respectively.
- 2.10. On flood risk, I refer to the supplementary flood risk and sequential test technical note which is attached as appendix 2.
- 2.11. The post CMC note also refers to a preliminary issue related to the capacity of the site. I refer to this matter further at section 4, where I outline the appeal proposals and at Section 9 where I consider in more detail the matter of capacity. In doing so I refer to the following technical notes:
- Longhedge Grid Report – Mr P Smart (Appendix 3)
 - Longhedge Technical Report – MR J-C Urbani (Appendix 4).
- 2.12. In addition to that material, the use of a 2km distance from the site to the point of connection is also addressed in the Longhedge Grid Report by Mr Smart.
- 2.13. A Statement of Common Ground has been agreed with the LPA and separately with the Rule 6 Party (Core Document 7.9 and 7.9B) and I therefore rely on the agreement to matters which are not currently disputed between the parties.



3. The Appeal Site and its Surroundings

- 3.1. An agreed description of the Appeal Site and its surroundings is set out in the Statement of Common Ground with the LPA (Core Document 7.9).
- 3.2. I note and refer to of Mr Cook's evidence, where he provides comment on the site and surrounding, as context to the landscape considerations.
- 3.3. Additionally, I note and refer to of Ms Garcia's evidence, where she provides comment on above ground heritage assets surrounding the site, as context to heritage considerations.

4. The Appeal Proposals

- 4.1. The proposal comprises the construction and operation of a solar photovoltaic ('PV') farm comprising ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancement. It is estimated that the solar panels would generate up to 49.9 megawatts ('MW') of renewable energy. Planning permission is being sought to operate for 40 years, at which point it would be decommissioned and the land returned to its previous state with the exception of the DNO substation and the widening of the access, which would remain permanently.
- 4.2. Confirmation of the plans and documents on which the LPA's decision was made, including the Planning Statement and Design and Access Statement, are contained in the Statement of Common Ground with the LPA (Core Document 7.9).
- 4.3. In terms of specific aspects of the design of the scheme, I note the following key points:
- The layout of the scheme has been revised throughout design evolution to reduce the area of panel coverage from 166 acres to 157 acres buildable area
 - Panels orientated for optimum equipment efficiency and energy outputs, with minimum spacing of 2m between the rows to minimise overshadowing and enable maintenance
 - Panels located to ensure drainage buffers of 8m, hedgerow buffers of 5 m, woodland and PRow buffers of 10m
 - The location of the substation centrally to the site, close to the grid connection point
 - Site access to be provided to the southern boundary of the site off Thoroton Road with internal access tracks providing access to the panel fields
 - Boundary deer fencing to the site of 2.4m in height and including 10cm gaps at the bottom of security fencing for small mammals.
 - Landscape enhancement, including woodland planting, native hedgerow and tree planting and the introduction of native grasses.
- 4.4. I note that in correspondence from the Planning Inspectorate, the R6 party raised queries in relation to the output capacity and other technical matters relating to the proposals. In response to these queries the Appellant provided a capacity note. (Appendix 5).
- 4.5. Subsequent to submission of the capacity note, the Planning Inspectorate advised that the appeal would progress in light of the appellant confirming that the capacity of inverters will not exceed 49.9mw. I note however that the post CMC Note provided by the Inspectorate states that "the Inspector would expect evidence responding to the challenges made in the HTAG statement of case and any questions he may have, to be presented at the Inquiry." Accordingly, the Appellant has provided the following two further technical notes which are appended to my evidence:
- Longhedge Grid Report – Mr P Smart (Appendix 3)
 - Longhedge Technical Report – MR J-C Urbani (Appendix 4).
- 4.6. I refer to these statements further at section 11 of my evidence.

- 4.7. The planning application was supported by ecological assessment and ecological enhancements are proposed within the scheme in the form of new species-rich grassland, hedgerows, scrub and trees, and the creation of habitat interest features for protected species. The application also included an assessment of the likely biodiversity net gain which would arise from the proposals.
- 4.8. Due to the time which has elapsed since the original ecological surveys, the appellant has commissioned updated ecological surveys to ensure that the baseline habitat is accurately recorded. The findings of these surveys have also been used to inform an updated biodiversity net gain assessment, utilising the latest metric in accordance with current practice.
- 4.9. Details of the updated survey and metric are included as appendix 4 of my evidence. The Statutory Biodiversity Metric identifies that habitat units will increase from 197.22 to 567.21, an increase of 187.60%, hedgerow units will increase from 21.19 to 38.78, an increase of 83.04%, and watercourse units will increase from 8.88 to 9.93, an increase of 11.85%.

5. Planning History

5.1. A Pre-application enquiry (ref 21/00406/ADVICE) was submitted in respect of the appeal proposals and the Council provided their response to this by letter, dated 25th March 2021 (Appellant Statement of Case, Appx A). The conclusion of this letter states:

5.2. "In principle, the development of renewable energy is supported by policy and, subject to the other material considerations outlined above being made acceptable, it is likely the proposal could be supported at officer level."

5.3. An EIA Screening (22/00638/SCREIA) was received from the LPA on the 7th of September 2022, confirming that the Proposed Development would not constitute EIA development (Appendix 7). The Screening Opinion was based on a site incorporating several fields covering an area of approximately 118 Ha.

5.4. The Screening opinion considered the likely potential impacts of the proposal, including the following, albeit concluded that the proposal would not give rise to any significant environmental effects:

- Flooding – noting that the majority of the site is identified as being within Flood Zone 1 (at little or no risk of fluvial or tidal / coastal flooding), however parts of the site that generally follow the watercourse / field drains within the site are identified as being within Flood Zone 2 and 3 (having a greater risk of flooding)
- Air Quality - noting that the site does not lie in an AQMA
- Ecology – noting that surveys, mitigation and enhancement would be proposed as part of the planning application to ensure that the proposal would not significantly impact on ecological features
- Heritage – There are no designated or non-designated heritage assets recorded within the boundary of the site, therefore it is considered that no direct effects will occur on known designated assets. It is stated that a Cultural Heritage Impact Assessment would be carried out in order to assess potential direct impacts resulting from the proposals (prior to submission), including the potential impacts upon unknown sub-surface archaeology. It is noted from the submission that the actual footprint of solar farms typically results in a surface area of circa 5% of the site and therefore significant impacts upon unknown archaeological remains within the site are limited.
- Landscape and visual – noting that the visual and landscaping effects of the proposal are likely to be localised. It concludes that *"the anticipated landscape and visual affected would not be so significant to define the proposals as EIA development"*.

5.5. Overall, the screening opinion concluded that:

"Given that the site is not located within a sensitive area for the purposes of Environmental Assessment as set out in the Regulations, that the potential environmental affects would be limited, that they can be considered as part of further assessments (as stated in the submitted information), and further mitigation could be provided, it is considered that proposals do not constitute EIA development."



- 5.6. The screening opinion confirms that the site is one where the potential impacts of the development are not likely to have significant environmental effects

6. Planning Policy Framework

6.1. In this section of my evidence, I identify the planning policies and guidance that will be of most relevance to the determination of this Appeal.

The Development Plan

6.2. As agreed in the Statement of Common Ground with the LPA, the statutory Development Plan applying in respect of the Appeal Site comprises:

- Rushcliffe Local Plan Part 1 – Core Strategy (2014)

6.3. I note that the Local Plan Part 1 – Core Strategy is over 5 years old. Paragraph 33 of the NPPF confirms that, in accordance with Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, reviews of 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 changes in national policy.

6.4. With regard to whether the specific policies in the Core Strategy may be considered out of date, I note that the NPPG states that *“Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Due weight should be given to relevant policies in existing plans according to their consistency with the National Planning Policy Framework. It will be up to the decision-maker to decide the weight to give to the policies.”* I consider the policies of the plan as they relate to the proposals in section 9 of my evidence and provide comment on the weight to be applied to these policies.

- Rushcliffe Local Plan Part 2 – Land and Planning Policies (2019)

Rushcliffe Local Plan Parts 1 and 2

6.5. Relevant Local Plan policies are identified in the SoCG (Core Document 7.9), as set out below. Those referred to in the Reasons for Refusal are shown in emboldened text:

- **Core Strategy Policy 11 – Historic Environment**
- Core Strategy Policy 1 – Presumption in Favour of Sustainable Development
- Core Strategy Policy 2 – Climate Change
- Core Strategy Policy 16 – Green Infrastructure, Landscape, Parks and Open Space
- **LPP Policy 16 – Renewable Energy**
- **LPP Policy 22 – Development within the Countryside**
- **LPP Policy 28 – Conserving and Enhancing Heritage Assets**
- LPP Policy 29 – Development Affecting Archaeological Sites
- **LPP Policy 34 – Green Infrastructure and Open Space**

6.6. The Council has recently indicated that the Officer's Report was in error insofar as it confirmed that there were no concerns in respect of BMV and compliance with the flood risk sequential test. The Council's Statement of Case does not identify any policy conflict that is alleged to arise in respect of BMV or flood risk which compounds the Appellant's concern about the way these issues have arisen (as expressed in the Appellant's Addendum Statement of Case). In spite of the Council's silence on the policies that are said to be relevant to these issues, the Appellant anticipates that they may be:

- LPP Policy 1 – Development Requirements
- LPP Policy 17 – Managing Flood Risk
- LPP Policy 18 – Surface Water Management

6.7. I also note that the Council's Statement of Case alleges conflict with LPP1 Policy 10 – Design and Enhancing Local Identity, contrary to the Officer's Report which found compliance with Policy 10.

National Policy and Guidance

6.8. I refer specifically to the following material consideration in my evidence subsequently:

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG);
- Overarching National Policy Statement for Energy (EN-1) as designated on 17 January 2024;
- National Policy Statement for Renewable Energy Infrastructure (EN-3) as designated on 17 January 2024.
- Climate Change Act 2008;
- Climate Change Act (2050 target amendment) Order 2019;
- UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019;
- Energy White Paper: Powering our Net Zero Future published in December 2020;
- 'Achieving Net Zero' published by the National Audit Office in December 2020;
- Net Zero Strategy: Build Back Greener, dated October 2021;
- British Energy Security Strategy, dated 7 April 2022;
- 'Powering up Britain' suite of documentation, dated March 2023;
- The latest version of the 'Digest' of United Kingdom Energy Statistics, July 2023.



Supplementary Planning Guidance

- 6.9. I note the following documents and will refer to the weight to be attached to them later in my Evidence:
- Rushcliffe Borough Climate Change Strategy in 2009, updated in 2021 and further updated in 2023.
 - Rushcliffe Borough Solar Farm Development Planning Guidance, dated November 2022.
- 6.10. I also note that the Council have indicated that they are currently preparing a Solar Sensitivity Study for the Borough. The Council's Statement of Case states that this will be made available to all parties if it has been finalised for public publication by the date of the appeal Inquiry. Accordingly, the Appellant reserves its position to comment further on this document in due course.

7. Need for the development

7.1. The need for solar power is both established and compelling.

UK Policy and Legislation

7.2. The Climate Change Act 2008 (Core Document 3.8) brought in the legislative basis for the United Kingdom (UK) to reduce net greenhouse gas emissions by at least 80% by 2050 from their 1990 levels.

7.3. The target included in the 'Climate Change Act 2008' was strengthened in June 2019 to be a 100% reduction relative to 1990 levels by 2050 (known as "net zero") (Core Document 3.8).

7.4. The '**Clean Growth Strategy**' (Core Document 3.10) was published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017. In respect of the power sector, the Strategy anticipates that by 2050 emissions from this sector need to be close to zero. In the meantime, the Strategy indicates one possible pathway to the interim step of 2032 is for power emissions to fall by 80% compared to 2017 levels which could be achieved by, inter alia, growing low carbon sources such as renewables and nuclear to over 80% of electricity generation, and phasing out unabated coal power. The Strategy also confirms that the "Government want to see more people investing in solar without government support". Attention is drawn in particular to pages 95 – 96 of the Strategy.

7.5. The clear and explicit need to introduce a step change in how the UK reacts to Climate Change has been recognised by UK Parliament who, on 1st May 2019, declared an **Environmental and Climate Change Emergency** (Core Document 3.11).

7.6. In part as response to the climate emergency, the Council published a **Climate Change Strategy** (Core Document 4.5) (first published in November 2021 and updated in November 2023) which recognises that addressing the global climate emergency requires "transformative change and immediate action" by the Council. The Strategy recognises that the global impacts of climate change require "dramatic action on a local level".

7.7. The Government set out its aim for a "fully decarbonised, reliable and low-cost power system by 2035" in its **Energy White Paper: Powering Our Net Future** (December 2020) (Core Document 3.12). In the foreword to the White Paper, the Minister stated:

"The UK has set a world-leading net zero target, the first major economy to do so, but simply setting the target is not enough – we need to achieve it. Failing to act will result in natural catastrophes and changing weather patterns, as well as significant economic damage, supply chain disruption and displacement of populations."

"The way we produce and use energy is therefore at the heart of this. Our success will rest on a decisive shift away from fossil fuels to using clean energy for heat and industrial processes, as much as for electricity generation."

7.8. The White Paper recognises the progress made to increase deployment of renewables and sees the expansion of renewable technologies as a key contributor to achieving an affordable clean electricity system by 2050. The White Paper at page 45 states:



"Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios."

- 7.9. In April 2021, the UK Government committed to set in law by end of June 2021 the world's most ambitious climate change target, cutting emissions by 78% by 2035 compared to 1990 levels.
- 7.10. The Government published its '**Net Zero Strategy: Build Back Greener**' (*Core Document 3.17*) in October 2021 which establishes that the UK will be powered entirely by clean energy by 2035, subject to security of supply (*Core Document 3.17, first bullet point, page 19*).
- 7.11. Specifically in respect of the 'Power' sector, the Net Zero Strategy affirms that one of the Government's key commitments is to accelerate the deployment of low-cost renewable generation, such as wind and solar (*Core Document 3.17, second bullet point, page 94*). The Government identifies the Contracts for Difference funding route is being reviewed, given that this is a support mechanism it can directly lead on, but I note that schemes such as the appeal scheme are self-funded and therefore do not rely on Government support through initiatives such as the CfD auctions.
- 7.12. Another of the key commitments is '*to ensure the planning system can support the deployment of low carbon energy infrastructure*'.
- 7.13. I share the opinion of the National Audit Office (*Core Document 3.16, paragraph 10, page 98*) that the challenge presented here is colossal. On the one hand, the Government requires that by 2035 all our electricity will need to come from low carbon sources, subject to security of supply, bringing forward the government's commitment to a fully decarbonised power system by 15 years from the previous target of 2050 which was envisaged in the Energy White Paper only 10 months previously. On the other hand, the Government is at the same time forecasting a 40-60% increase in demand over the same period.
- 7.14. To meet this challenge, the Government states that a low-cost, net zero consistent electricity system is most likely to be composed predominantly of wind and solar generation, whether in 2035 or 2050 (*Core Document 3.16, paragraph 11, page 98*). It affirms that we need to continue to drive rapid deployment of renewables so we can reach substantially greater capacity beyond 2030 (*Core Document 3.16, paragraph 35, page 103*). The Government further indicates that a sustained increase in the deployment of land-based renewables (and specifically identifying solar) will be required in the 2020s and beyond (*Core Document 3.16, paragraph 36, page 103*).
- 7.15. Given the size of the challenge, the Government states '*we will need to consider how low carbon energy infrastructure can be deployed at an unprecedented scale and pace sympathetically alongside the interests of our communities and consistent with our obligations to a sustainable environment, both land-based and marine.*' (*Core Document 3.16, paragraph 32, pg 102*).
- 7.16. I note the comments of Mr Smart in relation to the Grid Connection and in particular the implication of the availability of suitable connections and the Grid Queue. The site has an agreed and available grid connection, such that the new energy generation capacity can be brought into use immediately following construction. It is my opinion that, if consented, the

Proposed Development will contribute to the deployment of low carbon energy infrastructure in the immediate future and therefore contributing to the scale and pace of deployment that is needed, whilst also being sympathetic to both the interests of the community and the sustainability of the environment in this location.

7.17. The Government also sets out that *“although we need to ensure we can deploy existing low carbon generation technologies at close to their maximum to reach Carbon Budget 6, we also need to de-risk the delivery challenge”* (Core Document 3.16, paragraph 43, pg 105).

7.18. In response to the rising cost of energy and the crisis associated with the commencement of the Ukraine war, the Government updated its **British Energy Security Strategy** in April 2022 (Core Document 3.18). When discussing solar technology, the Strategy notes that the government expects a five-fold increase from the current 14GW of solar capacity in the UK by 2035. Specifically in respect of ground-mounted solar, the Strategy explains that consultation on amending planning rules will take place to strengthen policy in favour of development of non-protected land, while ensuring communities continue to have a say and environmental protections remain in place.

7.19. More recently still, the Government published a suite of documentation under the **Powering Up Britain** in March 2023 (Core Document 3.20). This explains that by March 2023, the UK had reached 14GW of solar installed and that:

“Solar has huge potential to help us decarbonise the power sector. We have ambitions for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. We need to maximise deployment of both ground and rooftop solar to achieve our overall target. Ground-mount solar is one of the cheapest forms of electricity generation and is readily deployable at scale. Government seeks large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low/medium grade agricultural land. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. Government is seeking widespread deployment of rooftop solar in commercial, industrial and domestic properties across the UK. To support our solar ambitions, we are accepting the recommendation from the Independent Review of Net Zero to set up a taskforce to deliver on this ambition.”

7.20. It further explains that it is the Government’s *“mission”* to replace imported fossil fuels with cheaper, cleaner sources of energy, including solar, which will make the UK *“much more energy independent, to protect us from volatile international energy markets, which underpinning our clean energy transition, so the UK becomes a net zero economy by 2050.”*

7.21. The Government’s **Energy Security Plan** (March 2023) (“ESP”) (Core Document 3.20) explains proposals to establish a solar government–industry taskforce and roadmap to ensure a deployment trajectory to achieve 70GW of solar by 2035. It explains that:

“The UK has huge deployment potential for solar power, and we are aiming for 70 gigawatts of ground and rooftop capacity together by 2035. This amounts to a fivefold increase on current installed capacity. We need to maximise deployment of both types of solar to achieve our overall target [...]

7.22. I attach considerable importance to this clear statement, in that the Government is clear that the deployment of ground mounted solar (as well as roof mounted solar) needs to be maximised if the fivefold increase in solar pv deployment is to be met.

7.23. The Energy Security Plan goes on to explain that:

“Ground-mounted solar is one of the cheapest forms of electricity generation and is readily deployable at scale. The Government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. Solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land. 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. We encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. The Government considers that there is a strong need for increased solar deployment, as reflected in the latest draft of the Energy National Policy Statements. We recognise that as with any new development, solar projects may impact on communities and the environment. The planning system allows all views to be taken into account when decision makers balance local impacts with national need.”

7.24. The ESP makes it clear that the Government ‘seeks’ large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. I consider that the Proposed Development would assist in achieving what the Government seeks in the ESP.

7.25. The ESP further encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental management. For reasons that I elaborate on in Section 13 of my Evidence, I conclude that the Proposed Development would assist in delivering both food production through sheep farming, and environmental benefits through delivering a significant increase in Biodiversity Net Gain.

7.26. I agree with the conclusion reached in the ESP that that ‘*the Government considers that there is a strong need for increased solar deployment.*’ I also note the ESP’s comment that the planning system allows all views to be taken into account when decision makers balance local impacts with national need. In the case of this Proposed Development, I consider that the limited extent of local impacts identified are outweighed by this ‘strong’ national need for solar development, for the reasons I explain in Section 13 of my Evidence.

7.27. The Government’s Carbon Budget Delivery Plan (March 2023) (Core Document 3.40) includes a number of measures aimed at facilitating the further deployment of solar generating capacity.

NPPF

7.28. Paragraph 158 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, and take full account of flood risk. It also states *inter alia* that renewable and low carbon energy and associated infrastructure should be supported.

- 7.29. Paragraph 160 provides that *“To help increase 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...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 ...”*.
- 7.30. Paragraph 163 explains that applicants are not required to demonstrate the overall need for renewable or low carbon energy, and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. I am of the opinion that this Proposed Development would make a significant contribution to cutting greenhouse gas emissions.
- 7.31. Paragraph 163 further requires Local Planning Authorities to approve applications for renewable energy development if its impacts are (or can be made) acceptable. The wording of paragraph 163 should be read in the light of the evidence on climate change, the UK’s net zero target and the Government’s clear policy to substantially increase renewable energy, and solar specifically. For the reasons I elaborate in Section 11 of my evidence, I am of the opinion that the impacts arising from the Proposed Development are acceptable with the imposition of suitable planning conditions.
- 7.32. The proposed solar farm has 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 those elements of the proposal which have any limited negative impacts. The retention of established mitigation landscaping after the decommissioning means that the only remaining impacts once the scheme is decommissioned will be overwhelmingly positive.

National Planning Practice Guidance (NPPG) (first published March 2014)

- 7.33. The Government’s web-based NPPG went live in March 2014 (Core Document 3.1) and contains guidance on the planning system and has been subject to periodic updating. The web-based guidance should be read alongside the NPPF and is a material consideration in the consideration of planning applications.
- 7.34. Renewable and Low Carbon Energy forms one of the chapters in the NPPG. Paragraph O13 (ID: 5-013-20150327) is entitled *“What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?”*. It is noted there that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. The guidance goes on to set out matters which planning authorities may wish to consider, including:
- 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 potential to mitigate landscape and visual impacts through, for example, screening with native hedges
- in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.

7.35. I am of the opinion that the above considerations are satisfactorily addressed for the reasons addressed later in my evidence.

7.36. However, I also note that this Guidance dates back to 2015 and therefore predates the more recent policy changes as set out in the NPPF, the suite of energy National Policy Statements designated in January 2024, the Net Zero Strategy requirement to achieve Net Zero by 2050, and the more recent energy policy statements encouraging the deployment of solar pv, as noted most recently in the Powering Up Britain Energy Security Plan (Core Document 3.12). In my view, this reduces the weight that can be afforded to that earlier guidance.

National Policy Statements

7.37. In January 2024, the Government designated a new suite of National Policy Statements (“NPS”) for energy. While these principally establish the policy framework for Nationally Significant Infrastructure Projects, they are also material considerations for applications determined under the Town and Country Planning Act 1990 (see, for example paragraph 1.2.1 of NPS EN-1 and paragraph 5 of the NPPF). The NPSs provide an up-to-date understanding of the Government’s views on matters such as the level and urgency of the need for new solar generating capacity and as such are necessarily material in the determination of this appeal. Of particular relevant to this appeal are NPS EN-1 (Overarching NPS for Energy) and NPS EN-2 (NPS for Renewable Electricity Generation).

7.38. EN-1 (*Core Document 3.3*) sets out national policy for energy infrastructure in the UK.

7.39. I note that fossil fuels still accounted for just over 76% of energy supply in 2020, and that the Government states ‘we need to dramatically increase the volume of energy supplied from low carbon sources’ (*Core Document 3.3, paragraph 2.3.5*).

7.40. EN-1 also highlights in several places that demand for electricity is likely to increase and could more than double by 2050 as large parts of transport, heating and industry decarbonise by switching from fossil fuels to low carbon electricity (*Core Document 3.3, paragraph 2.3.7, 3.3.3*).

7.41. The consequence of this is that if demand for electricity doubles by 2050, EN-1 states that ‘we will need a fourfold increase in low carbon generation....In addition, we committed in the Net Zero Strategy to take action so that by 2035, all our electricity will come from low carbon sources, subject to security of supply, whilst meeting a 40-60% increase in electricity. This means that the majority of new generating capacity needs to be low carbon’. (*Core Document 3.3, paragraph 3.3.16*).

- 7.42. In my opinion, this statement again reinforces the messages from the plethora of recent government announcements that there is a need to substantially increase low carbon energy generation beyond current rates of deployment. The Appeal Scheme would make a meaningful contribution to this objective.
- 7.43. As to the types of new generating capacity needed, EN-1 states 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’*. (Core Document 3.3, paragraph 3.3.20).
- 7.44. Finally, I draw attention to the general framework established in EN-1 with regard to the statements that the government has demonstrated that there is a need for the types of infrastructure identified (which includes solar pv development) which is urgent (Core Document 3.3, paragraph 3.2.6); that substantial weight should be given to this need when considering applications for development consent under the planning Act 2008 (Core Document 3.3, paragraph 3.2.7); and that the government has concluded that there is a ‘critical national priority’ for the provision of nationally significant low carbon infrastructure. Further, it is stated *inter alia* that the Secretary of State will take as a starting point that CNP Infrastructure will meet the very special circumstances test to justify development within the Green Belt (Core Document 3.3, paragraphs 4.2.16 and 4.2.17).
- 7.45. The Appeal Scheme comprises of a solar pv development which although falls just short of the 50MW threshold to be treated as a NSIP project under the Planning Act 2008, it is right on the cusp of the threshold and, in my opinion, the closer the size of a scheme is to the 50MW threshold, the greater the weight should be afforded to the NPS. This view is supported by the statement in the Council’s Solar Farm Development Planning Guidance which confirms the particular relevance of the NPSs as material considerations in respect of developments that are close to the 50mw capacity threshold (Core Document 3.3 – paragraph 3.8). Although, the NPPF also acknowledges that all contributions are important (NPPF Paragraph 163a).
- 7.46. Finally, I draw attention to the implications of this urgent need for the delivery of this ‘Critical National Priority’ (“CNP”) infrastructure when EN-1 advises that other residual impacts should, in general, be outweighed by the energy objectives:
- “Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible.”*** (Core Document 3.3, paragraph 3.3.63).
- 7.47. In terms of the weight to be accorded to the overarching need for new renewable energy infrastructure, EN-1 states:
- The overarching need case for each type of energy infrastructure and the substantial weight which should be given to this need in assessing applications, as set out in paragraphs 3.2.6 to 3.2.8 of EN-1, is the starting point for all assessments of energy infrastructure applications. Core Document 3.3, paragraph 4.2.6)***

7.48. EN-3 (Core Document 3.4) was designated on 17 January 2024 and sets out national policy for energy infrastructure in the UK. A key update to EN-3 is the new introduction of the following paragraph:

“When considering applications for CNP Infrastructure in sites with nationally recognised designations (such as SSSIs, National Nature Reserves, National Parks, the Broads, Areas of Outstanding Natural Beauty, Registered Parks and Gardens, and World Heritage Sites), the Secretary of State will take as the starting point that the relevant tests in Sections 5.4 and 5.10 of EN-1 have been met, and any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by the urgent need for this type of infrastructure.” (Core Document 3.4, paragraph 2.3.6)

7.49. The above nationally recognised designations are all subject to greater planning restrictions than areas outwith such designations, such as the Appeal Site. For example, paragraph 177 of the NPPF provides that major development in National Parks, the Broads and AONBs should only be permitted in ‘exceptional circumstances.’ The instruction of EN-3 to decision-makers that the starting point for renewable energy proposals on sites within nationally recognised designations is that the Critical National Priority outweighs any “significant adverse” effects on the qualities for which those areas are designated underlines the importance attached to the Critical National Priority and is a clear indication that very significant weight must be given to the Critical National Priority in the planning balance.

7.50. Under the specific heading of Solar Photovoltaic Generation at Section 2.10, EN3-confirms 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 by 2050. As such solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector.’* (Core Document 3.4, paragraph 2.10.9).

7.51. I note that the government affirms that *‘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 combined ground and rooftop solar development by 2035 (up to 70GW).’* (Core Document 3.4, paragraph 2.10.10).

7.52. EN-3 further explains that solar farms are one of the most established renewable electricity technologies in the UK, the cheapest form of electricity generation, can be built quickly and with consistent reductions in the cost of materials and improvements in efficiency, are now in some cases viable to deploy subsidy-free. (Core Document 3.4, paragraphs 2.10.13–2.10.14). I note in this regard that the appeal proposal is subsidy free.

7.53. It then explains a number of key considerations involved in the siting of a solar farm, and also technical considerations for the Secretary of State to consider. I have taken these considerations into account as relevant in my Evidence as the specific consideration arises, but would draw attention to the section of ‘Project lifetime and decommissioning’, where EN-3 advises that *‘the time limited nature of the solar farm, where a time limit is sought as a condition of consent, is likely to be an important consideration for the Secretary of State’* (Core Document 3.4, paragraph 2.10.150). I further note that the Appeal Scheme is proposed to be limited for an operational period of up to 40 years from the date of the first export of electricity, and therefore this project lifetime consideration should be given significant weight in the decision.



7.54. EN-3 identifies relevant factors likely to influence site selection and design, including:

- a. Irradiance and site topography;
- b. Network connection;
- c. Proximity to dwellings
- d. Agricultural land classification and type
- e. Accessibility
- f. Public rights of way
- g. Security and lighting

Additional Documentation

7.55. **Appendix 8** to this Statement provides a written summary of a number of additional documents. All are relevant considerations in the determination of the appeal, and it is for the decision maker to apply the appropriate level and relative degree of weight. The content and direction of the documents within **Appendix 8** shows and increasing awareness of the adverse effects of climate change.

7.56. Relevant energy legislation and policy includes:

International Agreements and Obligations

- The COP21 UN Paris Agreement
- The Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (2021), related Press Release and Statements (2021)
- IPCC Second AR6 Report (February 2022)
- IPCC Third AR6 Report (April 2022); and
- IPCC AR6 Synthesis Report (March 2023)

United Kingdom

- The UK's Sixth Carbon Budget: The UK's Path to Net Zero (December 2020)
- Department for Business, Energy and Industrial Strategy (BEIS) Outcome Delivery Plan (2021);
- The Ten Point Plan for a Green Industrial Revolution (2020)
- Industrialisation Decarbonisation Strategy (2021)

7.57. The IPCC, 2023: Summary for Policymakers, in: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the

Intergovernmental Panel on Climate Change summarises the state of knowledge of climate change, its widespread impacts and risks, and climate change mitigation and adaptation.

- 7.58. With regard to the urgency of near-term integrated climate action the report states at Paragraph C1:

"Climate change is a threat to human well-being and planetary health (very high confidence). There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all (very high confidence). Climate resilient development integrates adaptation and mitigation to advance sustainable development for all, and is enabled by increased international cooperation including improved access to adequate financial resources, particularly for vulnerable regions, sectors and groups, and inclusive governance and coordinated policies (high confidence). The choices and actions implemented in this decade will have impacts now and for thousands of years".

- 7.59. Paragraph C3 then sets out mitigation and adaptation options, stressing the necessity for rapid transitions, involving significant upscaling of mitigations, stating:

"Rapid and far-reaching transitions across all sectors and systems are necessary to achieve deep and sustained emissions reductions and secure a liveable and sustainable future for all. These system transitions involve a significant upscaling of a wide portfolio of mitigation and adaptation options. Feasible, effective, and low-cost options for mitigation and adaptation are already available, with differences across systems and regions."

- 7.60. A Press Conference by UN Secretary General in July 2023 states

"According to the data released today, July has already seen the hottest three-week period ever recorded; the three hottest days on record; and the highest-ever ocean temperatures for this time of year. The consequences are clear and they are tragic."

- 7.61. It is clearly government policy that the delivery of renewable energy should be sped up, not only because it is morally right but also because it is economically right and will provide energy security in an unstable worlds. The Prime Minister, speaking at the CPO27 summit in November 2022, said:

".....I can tell you today that the United Kingdom is delivering on our commitment of £11.6 billion. And as part of this – we will now triple our funding on adaptation to £1.5 billion by 2025. Let me tell you why. First, I profoundly believe it is the right thing to do. Listen to Prime Minister Mottley of Barbados, as she describes the existential threat posed by the ravages of climate change. Or look at the devastating floods in Pakistan where the area underwater is the same size as the whole United Kingdom. When you see 33 million people displaced with disease rife and spreading through the water you know it is morally right to honour our promises."

But it is also economically right too. Climate security goes hand in hand with energy security. Putin’s abhorrent war in Ukraine and rising energy prices across the world are not a reason to go slow on climate change. They are a reason to act faster. Because diversifying our energy supplies by investing in renewables is precisely the way to insure ourselves against the risks of energy dependency. It is also a fantastic source of new jobs and growth”

7.62. In a speech of 1st December 2023, ahead of the COP28 summit, the Prime Minister said:

“The world made ambitious pledges at previous COP summits to limit global warming to 1.5 degrees. But the time for pledges is now over – this is the era for action...”

Progress

7.63. In December 2023, the cumulative solar generation capacity in the UK was 15.7GW. In order to reach the 70GW target by 2035, a significant acceleration in the deployment of solar generation is required. Currently, solar deployment is falling significantly short of this. In 2021/22, just 0.7GW of solar energy capacity was built (i.e. over six times less than the yearly requirement to meet the 70GW target).

7.64. The 'Digest of United Kingdom Energy Statistics' is an accurate source of energy information providing figures on the UK's overall energy performance, production and consumption. The Digest is published annually with the latest publication being the July 2023 Digest (Core Document 3.14). In the key headlines to the 'Renewable Sources of Energy' chapter (Core Document 3.14, Chapter 6), I note that renewable capacity increased by 7.7 per cent (3.8 GW), the highest growth rate since 2018. However, this remains lower than the average annual growth rate between 2012 and 2018 which was 20 per cent. Of the 3.8 GW new capacity installed in 2022, 2.7 GW was in offshore wind, 0.7 GW in solar PV, and 0.3 GW in onshore wind. This additional 0.7 GW of installed solar PV in 2022 is an annual figure which is far below that which is required to achieve the 5-fold increase to 70GW by 2035 as stated in the British Energy Security Strategy (2022) and repeated in the Energy Security Plan (2023). I estimate that the deployment per annum needed to meet the 70GW target (which requires an increase of 56GW over 13 years) would be 4.3GW pa on a straight-line trajectory¹. The 0.7GW achieved in 2022 represents only meeting 16% of the equivalent annual target for 2022, and serves to demonstrate the need for a substantial and rapid deployment of new solar pv capacity.

7.65. In terms of local context, I note from the subnational electricity consumption statistics published by the Government², that the total electricity consumption for Rushcliffe district for 2019 (the year before the covid pandemic) was 410 GWh. This 2019 figure does not take account of the anticipated significant increase in electricity requirements projected to 2050.

¹ To illustrate this point another way, the equivalent of x2 solar farms of nearly the size of the Appeal Scheme need to be consented every week over the next 13 years to 2035 to achieve this target.

²

https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F65b0254a1702b1000dcb1116%2FSubnational_electricity_consumption_statistics_2005-2022.ods&wdOrigin=BROWSELINK

- 7.66. I have reviewed the Council's public access and note that planning applications for ground mounted solar schemes approved in Rushcliffe since 2013 have added a net additional generating capacity of approximately 194MW This equates to 0.05% of the total electricity consumption of the district in 2019.
- 7.67. The National Audit Office has recently raised concerns on the progress being made and the achievement of the pre-"net zero" (80%) reduction compared to 1990 levels in their December 2020 'Achieving net zero' report (*Core Document 3.16*). In the summary at page 6, when discussing the scale of the challenge, the NAO noted that achieving net zero is a 'colossal challenge' and is significantly more challenging than the Government's previous target to reduce carbon emissions by 80% by 2050.
- 7.68. The report recognised the progress of the energy sector, but confirms this sector's importance in achieving legislative targets:
- "Reducing emissions further to achieve net zero will require wide-ranging changes to the UK economy, including further investment in renewable electricity generation, as well as changing the way people travel, how land is used and how buildings are heated."***
- 7.69. The Climate Change Committee's most recent Progress Report (June 2023) (*Core Document 3.41, page 20*) expresses concern about the rate of solar deployment, explaining that:
- "Renewable electricity capacity increased in 2022, but not at the rate required to meet the Government's stretching targets, particularly for solar deployment. Given short lead-times, rapid deployment of onshore wind and solar could have helped to mitigate dependence on imported gas during the fossil fuel crisis."***
- 7.70. The Climate Change Committee's report laments to slow deployment of solar energy:
- "Both onshore wind and solar deployment are progressing more slowly than offshore wind, in part due to barriers in the planning system, despite being amongst the cheapest forms of electricity generation.[page 204...] In 2022, 0.7GW of solar was deployed...The deployment of solar capacity is significantly off-track to meet the Government's target of 70GW by 2035. An average annual deployment rate of 4.3GW is required to deliver 70GW of solar by 2035."(page 205)***
- 7.71. It identifies the need for a Minister-led infrastructure delivery group to expedite the removal of barriers for solar generation, particularly around planning and grid connections and advises that:
- "While the policy framework has continued to develop over the past year, this is not happening at the required pace for future targets. The net zero target was legislated in 2019, but there remains a lack of urgency over its delivery. The net zero transition is scheduled to take around three decades, but to do so requires a sustained high-intensity of action. This is required all the more, due to the slow start to policy development so far. Pace should be prioritised over perfection." (page 14)***

7.72. In light of the above, it is clear that there is a compelling case for the deployment of solar generation to achieve the Government's aspirations for the decarbonisation of the energy sector; its targets for 70GW from solar generation by 2035 and the legally binding targets set out in the Climate Change Act. A step-change is required in solar generating capacity if those targets are to be met.

How will the need be met?

7.73. The Council has not been proactive in increasing the supply of renewable energy.

7.74. The Core Strategy was adopted in 2014. Policy 2 provides that the development of renewable energy schemes appropriate for Rushcliffe will be promoted and encouraged, including solar schemes. Its explanatory text (paragraph 3.2.2) explains that climate change is one of the biggest challenges facing Rushcliffe and that it is global problem requiring local action and major changes in attitude and practices. It recognises that national climate change objectives will not be achieved without increased energy generation from renewable sources and explains that *"an important component of meeting carbon reduction targets"* will be through support for renewable energy schemes (paragraph 3.2.11). It goes on to explain that the Council will identify suitable and unsuitable areas for renewable energy schemes in its Local Plan Part 2 and/or a Supplementary Planning Document. Unfortunately, the LPP2 does not identify or allocate any areas for renewable energy schemes and the Council has not adopted any Supplementary Planning Guidance which identifies sites suitable for renewable energy generation.

7.75. As such, renewable energy schemes will only come forward in the Borough through the submission of speculative planning applications.

Summary

7.76. The above matters emphasise the immediate and pressing need for deployment of renewable energy generation in the UK, to assist with meeting the challenging legally binding obligations to reach "net zero" by 2050. It is clear that the continued deployment of Solar PV, and renewable energy technologies more generally, are and have been consistently recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change.

7.77. The NPSs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. Solar is recognised specifically in EN-3 (Core Document 3.4, paragraphs 2.10.13 and 2.10.14) as being the cheapest form of electricity generation and quick to build. The benefits of delivering additional renewable energy capacity, particularly capacity that is capable of early deployment, weight heavily in favour of the Appeal Scheme. The critical importance of such benefits in the public interest are recognised in national policy. Support for solar energy is also clearly identified in Section 14 of the NPPF, which seeks to increase the use and supply of renewable energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.

7.78. The Appellant's case is that climate change and its impacts are central to the urgent and overwhelming need for a step change in the delivery of renewable energy, both in the UK and in Rushcliffe, to control the effects of climate change. Without local actions, local targets will not be met and national targets will be in jeopardy. All areas of the UK must take appropriate



steps to play their full part. This very significant and urgent need for renewable energy is clearly established in national planning policy and is a very significant material consideration. The implications of failing to meet this commitment will be devastating.

8. Consideration of Alternatives

Background

- 8.1. The Council have raised the issue of potential alternative sites in respect of three issues: heritage; BMV and flood risk.
- 8.2. I note at the outset that the compelling need for renewable energy generation is so immediate and so great that decision makers should accept this principle as a matter of established policy. We need as much renewable energy as we can deliver, where it can be delivered.
- 8.3. Continuing to wait and resist acceptable schemes in the hope that somehow preferable alternatives might come forward in the Borough, and suggesting other local authorities across the country would meet the shortfall instead is an abdication of responsibility on the part of the Council, and contrary to its recognition in its Climate Change Strategy that addressing the global climate emergency requires *“transformative change”, “immediate action”* and *“dramatic action on a local level.”*

Whether consideration of alternatives is required

- 8.4. The guiding principles as to the relevance of alternative sites in determining a planning application are well-established. I am advised that the following principles have been established through case-law
 - a) Land may be developed in a way which is acceptable for planning purposes. The fact that other land exists on which the development would be yet more acceptable would not justify the refusal of permission (Trusthouse Forte v Secretary of State for the Environment (1987) 53 P&CR 293).
 - b) Consideration of alternatives sites will only be relevant in *“exceptional circumstances”* (R (Jones) v North Warwickshire Borough Council [2001] PLCR 31);
 - c) Such exceptional circumstances might arise where the proposed development involves such conspicuous adverse effects that the availability of an alternative site lacking such drawbacks becomes relevant (Jones v North Warwickshire; Trusthouse Forte; Westerleigh Group Ltd v SSCLG [2014] EWHC 4313 (Admin)).
- 8.5. These propositions reflect the fact that save for any specific legal (eg. under the EIA or Habitats Regulations) or policy obligation (eg. in respect of flood risk and the sequential test) to consider alternatives, the question for any proposed development is whether it is acceptable on its own merits, applying relevant policy. If it is, the fact that it is possible to identify another location for the same development that would be even better does not provide a reason for refusal.
- 8.6. For a scheme to be acceptable on its own merits does not mean that it must result in no harm whatsoever. That would be a gross and unjustified extension of the principles outlined above, which make it clear that alternatives will only be relevant in exceptional circumstances.

Almost every greenfield development would result in some harm to the landscape of the site; and there are many thousands of heritage assets across the country which are affected to varying degrees by development proposals. In this case, and for the reasons addressed in the evidence, the scheme would not give rise to such significant or conspicuous impacts such as to trigger the requirement to consider alternatives. Furthermore, this is not a case in which the need for renewable solar energy can be met on one or other site. In the government's aspirations are to be met, many sites will be required that are not alternatives, but rather, complementary to one another.

- 8.7. In regard to the heritage matters, the delegated report prepared by Council officers claims that:
- The benefits of the proposed development could be delivered through alternative sites located practically anywhere else nationally, owing to the national nature of the electricity grid;
 - The judgments in Barnwell Manor and Forge Fields indicate that the question of alternative sites is relevant to developments that cause harm to heritage assets.
- 8.8. As to the allegation that the benefits of the appeal scheme could be delivered anywhere else nationally, this betrays a misunderstanding of the pressing national need for renewable energy schemes such as this and the importance of delivering proposals in locations where they are deliverable through the immediate availability of a suitable grid connection.
- 8.9. Unlike cases in which alternatives have been found to be relevant because there is an established need that could be fully met on one of two competing sites. I have set out in my section above the clear and accepted urgent need for a significant step change in the delivery of new renewable energy, acknowledged in national and local policy and this is not a case in which only one or other site is required for solar energy. The grid connection considerations for the scheme are set out in the statement of Mr Smart at my appendix 3.
- 8.10. I am advised that the judgment in Barnwell Manor Wind Energy Ltd v East Northamptonshire Council [2014] EWCA Civ 137 established that pursuant to section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, considerable importance and weight should be given to the desirability of preserving listed buildings and conservation areas. It did not involve consideration of the relevance of alternative sites. It is not controversial between the Council and the Appellant that considerable importance and weight should be attributed to the desirability of conserving and enhancing heritage assets.
- 8.11. I am advised that the judgment in R (The Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin) reaffirmed the principle established in Barnwell Manor.
- 8.12. Insofar as the Council suggests that Forge Field provides authority for the proposition that alternatives are relevant in this appeal, I am advised that Forge Field can readily be distinguished from the facts of this appeal. It concerned a proposed development an Area of Outstanding Natural Beauty; the Metropolitan Green Belt; a conservation area and within the setting of a number of listed buildings. The local authority had identified a need for 5 affordable homes to meet local needs in the parish and was faced with two applications from rival developers, each for 6 new dwellings. Either one of those schemes would have met the identified need for affordable housing in the parish and, not surprisingly, the parties agreed that it was a case in which possible alternative sites should be considered. In that case, the need was for a defined number of affordable housing units to meet a particular local need

and two rival applications to meet that need. By contrast, the national need for new low carbon generation is not constrained in a similar way that would allow for alternative sites to be identified and compared against the appeal site.

- 8.13. At paragraph 61 of the judgment, and before dealing with the separate ground relating to alternatives, I am advised that the Judge made an *en passant* comment to the effect that the presumption in ss.66 and 72 itself implied the need for an assessment of alternative sites. I am further advised that this was an obiter comment, given that it was not required to dispose of the issues in the case, and to the extent that this was intended to mean that any harm to heritage assets triggered a requirement to consider alternative sites, it is unsupported by the Judge's legal reasoning, which referred to the established principles in *Trusthouse Forte*. If this comment were to be applied as a binding principle that any development causing any harm to a designated heritage asset would trigger an obligation to consider alternatives, that would be tantamount to imposing a sequential test in respect of heritage assets that is not reflected in the legislative provisions or national policy and which is unsupported by subsequent caselaw since 2014. As the Court of Appeal recognised in *Palmer v Hertfordshire Council* [2016] EWCA Civ 1061, the statutory duty "*cannot mean that any harm, however minor, would necessarily require planning permission to be refused*" (emphasis in original). Equally, in my view, it cannot mean that any harm, however minor, represents an exceptional circumstance, that requires or justifies consideration of alternative sites.
- 8.14. Similarly I note that there is also no requirement to address alternative sites in respect of agricultural land. This specific issue was considered in the judgement of Mrs Justice Lang in *Bramley Solar Farm Residents Group v DLUHC* [2023] EWHC 2842 (Admin). I am advised that the judge made the following relevant findings:
- The PPG is merely practice guidance which supports the policies in the Framework. It is not a binding code which prescribes the steps that must be taken when planning a solar farm (para 177).
 - Paragraph 013 envisages that there will be proposals involving greenfield land, in which case the local planning authority should consider whether the proposed use of agricultural land has been shown to be necessary, poorer quality land has been used in preference to higher quality land, and whether the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays (para 178).
 - The PPG does not mandate the consideration of alternatives. Still less does it require a sequential test be adopted. Where national policy requires a sequential test to be applied (e.g. sequential tests for town centre uses or flooding in the Framework) it expressly provides as much. (para 179)
 - Draft policy EN-3 cannot be read as mandating a sequential search for alternatives, as it only applies "where possible" and states that "land type should not be a predominating factor in determining the suitability of the site location". (para 180)
- 8.15. I note that in respect of the sequential test for flood risk, NPPF paragraph 165 provides that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but recognises that development may be acceptable in such areas, provided they can be made safe for their lifetime without increasing flood risk elsewhere. Paragraph 169 recognises that in considering whether development could be located in areas of lower flood risk, wider sustainable development



objectives may be taken into account. Wider sustainable development objectives plainly encompass the urgent need for renewable energy projects which benefit from an existing grid connection offer.

- 8.16. A Flood Risk and Drainage Impact Assessment (titled Technical Appendix 4: Flood Risk and Drainage Impact Assessment (Core Document 1.24) was submitted in support of the refused planning application. It provides an assessment of flood risk at the site that falls predominantly within low risk flood zone 1 with small areas of medium risk flood zone 2 and high risk flood zone 3a associated with watercourses and ditches that run through the appeal site. Mitigation measures were also proposed.
- 8.17. Paragraph 4.23 of the Flood Risk Assessment confirmed it has been prepared in accordance with National Planning Policy Guidelines and paragraph 4.25 that the authors of the Flood Risk Assessment are qualified drainage engineers with significant relevant experience. The Sequential Test and Exception Test were considered within this assessment. This document provides sufficient sequential test, exception test as well as flood risk and drainage impact assessment information.
- 8.18. Paragraph 029 of the PPG makes clear that the application of the sequential test is the responsibility of the decision maker. The manner of the application of the test is dependent on the particular circumstances of the site, there being no preset standard for how extensive the search for alternative sites should be. In determining the application, the officers of the Council were satisfied that matters pertaining to flood risk had been appropriately addressed and were acceptable.
- 8.19. Notwithstanding the above, a technical note on the sequential test and consideration of alternative sites is provided by the appellant at Appendix 2 and I have regard to this in my consideration of the main issues for the appeal in section 10 of my evidence.
- 8.20. The Rule 6 party has queried whether the former Corby Steelworks site was considered as an alternative. The Corby Steelworks site lies some 45 miles south of the appeal site. The site also lies outside Rushcliffe District, within North Northamptonshire Council.
- 8.21. Significant parts of the Former Steelworks site remain in occupation by Tata Steel. Closures of other parts of the Corby Steelworks site were not confirmed until January 2023. Therefore the site was not available during the time that the proposals were being worked up.
- 8.22. A review of planning applications in North Northamptonshire indicates that area of the former steelworks site which has been identified as surplus and was granted planning permission for in July 2023 *“Demolition of existing industrial site and redevelopment of site for new industrial/warehouse buildings (Use Classes E(g)(iii)/B2/B8) with associated parking, servicing and landscaping”* (planning application reference NC/22/00311/OUT). The application site extends to 40.26 hectares. This site is therefore clearly intended for redevelopment for employment purposes.
- 8.23. I conclude that the site does not represent a suitable or available alternative to the appeal site for accommodating the appeal proposal.

9. Capacity

- 9.1. Pursuant to the Inspector's request, a technical note on generating capacity was submitted on 16 April 2024. The material contained in that technical note is not repeated here, however I attach the technical note as appendix 5. It confirms that the appeal proposal is below the 50mw NSIP threshold and is to be properly considered under the Town and Country Planning Act 1990.
- 9.2. I note that within the CMC post conference note, under the main issues reference is made to the "preliminary issue related to capacity of the site". The Council confirmed at the CMC that it was not in a position to either dispute or endorse the Appellant's technical note, but would not be challenging the Appellant's position that the Appeal Scheme has a maximum capacity of 49.9MW and is appropriately determined under the Town and Country Planning Act. Furthermore, the Council and Appellant have agreed that the generating capacity can be suitably controlled by condition. A condition has been included in the draft conditions list prepared between the Council and Appellant which ensures that the generating capacity shall be restricted to a maximum of 49.9MW measures as the AC installed capacity
- 9.3. In order to address the matters raised by the R6 party, I append an additional note, prepared by Mr Urbani on technical considerations regarding DC/AC installed Capacity, power factor requirements GCR and other elements that are taken into account in the design of a grid connected solar farm. (Appendix 4).
- 9.4. In confirmation of queries raised by the Rul6 party over total capacity, the planning condition referred to above will ensure that the generating capacity will not exceed 49.9mw. In addition, as Mr Urbani explains, the Grid Offer for the site caps the maximum export capacity and this will be metered and regulated by the inverter capacity.
- 9.5. As identified in the submitted Capacity Note (Appendix 5), the number of panels proposed, the site area and the development density fall within the range anticipated within EN-3, where Paragraph 2.10.17 states:
- "Along with associated infrastructure, a solar farm requires between 2 to 4 acres for each MW of output. A typical 50MW solar farm will consist of around 100,000 to 150,000 panels and cover between 125 to 200 acres. However, this will vary significantly depending on the site, with some being larger and some being smaller. This is also expected to change over time as the technology continues to evolve to become more efficient."***
- 9.6. Mr Urbani's statement also explains the position regarding overplanting. This allows for fluctuations in productivity, arising from factors such as variations in irradiance levels at different times of day and in different seasons and climatic conditions and to allow for cell degradation.
- 9.7. As noted in the extract from EN-3, specific sites will vary. Each site is different in terms of topography and sensitivity. The proposed scheme has taken a balanced approach to ensuring that the potential energy output can be maximised whilst ensuring that impacts are acceptable.
- 9.8. To further summarise, in response to points raised by the Rule 6 parties:



- The inverters can be as small as 1MW and so including 26 inverters within the proposal does not exceed the 49.9 MW capacity
- Panel numbers may vary across different site, as acknowledged by EN-3, with different planning considerations being relevant at each site
- A level of dc overplanting above 49.9MW acceptable with regard to EN-3
- Export capacity is controlled by standard equipment called a power park controller
- Amendments to the appeal scheme has not reduced the maximum 49.9 MWac, the amount of time it reaches that capacity has reduced as the dc overplant has reduced.

10. Case for the Appellant

- 10.1. Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the LPA's full reasons for the refusal, specifying all policies and proposals in the Development Plan which are relevant to the decision. The policies specified in the Reasons for Refusal are Local Plan policies **22** (Development in the Countryside); **34** (Green Infrastructure, Parks and Open Spaces); **16** (Renewable Energy); **11** (Historic Environment); and **28** (Conserving and Enhancing Heritage Assets) and national policy contained in (what are now) paragraphs **135, 160, 180; 206** and **208** of the NPPF (2023).
- 10.2. I note that the Council's Statement of Case also alleges conflict with Local Plan policy **10** (Design and Enhancing Local Identity). The basis for this alleged conflict is entirely unclear given that the Officer's Report contained a full assessment of the scheme against that policy which concluded that "*the development is acceptable and in accordance with Policy 10 (Design and Enhancing Local Identity) of LPP1*" (Core Document 4.1). No explanation for this apparent *volte face* is given in the Council's Statement of Case.

Reason for Refusal

- 10.3. The Council's two Reason for Refusal raises issues relating to alleged harm to landscape character and visual appearance to designated heritage assets.

Main Issues

- 10.4. I consider that the main issues from the Local Planning Authorities decision notice are as follows:
- Issue 1 – The effect on the landscape character and appearance of the area;
 - Issue 2 – The effect on heritage assets, including the Thoroton and Hawksworth Conservation Areas and associated listed buildings;
 - Issue 3 – Compliance with Planning Policy and the Development Plan
- 10.5. However, as noted above, on 9th April 2024, the Council raised additional concerns that were not foreshadowed in the Decision Notice or Officer's Report, namely the impact of the development on BMV and whether it complied with the flood risk sequential test in paragraph 013 of the Planning Practice Guidance.
- 10.6. Consequently, the following are additional main issues as identified in the Inspector's post-CMC Note:
- Issue 4 – The effect of the proposal on Best and Most Versatile Agricultural Land; and
 - Issue 5 – Whether flood risks have been adequately addressed.
- 10.7. The following section of my proof addresses these matters in the order of issue 1, issue 2, issue 4, issue 5 and then issue 3.

Issue 1 – The effect of the proposed development on landscape character and appearance of the area

10.8. Key policy considerations for Issue 1:

- LPP1 Policy 10 – Design and Enhancing Local Identity
- LPP1 Policy 16 – Green Infrastructure, Landscape Parks and Open Spaces
- LPP2 Policy 16 – Renewable Energy
- LPP2 Policy 22 – Development in the Countryside
- LPP2 Policy 34 – Green Infrastructure, Landscape Parks and Open Spaces

10.9. Mr Cook has considered the effect on landscape elements and land cover and noted a moderate adverse effect on land cover resulting from the introduction of the solar panels and introduction of pasture where the lane is currently managed as arable.

10.10. . Landscape effects on arising from additional tree planting and green infrastructure are assessed by Mr Cook as being moderately beneficial. It is also noted that the landscape character of the site formed by the topography, land cover, hedgerows, tree cover and configuration of the fields themselves would remain for the duration of the solar scheme. Upon completion of the decommissioning of the scheme all built infrastructure would be removed both above and below ground across the entirety of the site and the additional planting and mitigations could continue to remain as a positive legacy and contribute positively to the landscape character.

10.11. In overall terms, Mr Cook does not consider that there will be any significant impacts on the landscape character of the site or its immediate environs.

10.12. In terms of visual amenity and effect on appearance of the landscape, Mr Cook notes that the visual envelope of the solar farm and the degree to which this scheme would be seen from the surrounding area would be very limited. It has been identified by Mr Cook that there are a few public rights of way in the locality and some paths in the immediate vicinity, meaning that there would be some opportunity to observe the scheme, however where seen, only small elements of the scheme would be observed, and it would not be possible to appreciate the totality of the scheme from any one viewpoint location.

10.13. From the Public Right of way within the site, Mr Cook notes that there would be a major effect at year one, however as a result of landscape mitigation and planting, this effect would reduce to negligible by year 10.

10.14. Mr Cook notes that policies require careful integration through existing landscape features and new planting to mitigate adverse effects to minimal levels. No policy in the Development Plan specifies absolutely no visibility whatsoever. I consider that setting such a high bar would be impossible to achieve.

10.15. Mr Cook's overall judgement is that the appeal site is not part of any designated landscape; is visually well-contained; and the scheme has been sensitively designed to respect, and in places, enhance local landscape character and that there are no landscape or visual effects associated with this particular scheme that justify refusal of permission.

- 10.16. I set out my consideration of policy compliance in detail in addressing issue 3 below. However in terms of the effect on Landscape character and appearance, I note that the Council's statement of case refers to the proposal being contrary to Policies LPP1 Policy 10, LPP2 Policy 22 (Development in the Countryside), LPP2 Policy 34 (Green Infrastructure, Landscape, Parks and Open Spaces) and LPP2 Policy 16 (Renewable Energy), stating that policies seek to ensure that new development does not have an adverse impact.
- 10.17. I also note that the planning officers in their delegated report similarly conclude, in the section dealing with landscape and visual effects, that the appeal proposal is
"contrary to Policy 34 (Green Infrastructure, Landscape, Parks and Open Spaces) and Policy 16 (Renewable Energy) of LPP2 which both seek to ensure that new development does not have an adverse impact and that any adverse effects can be adequately mitigated."
- 10.18. I disagree that the local plan policies seek that there should be no adverse effects. The Council's statement of case and the officer report conclusion misinterpret the policies.
- 10.19. I note in regard to LPP1 Policy 10, the Council's Officers' delegated report confirms that
"the proposed development has been designed to respect the character of the landscape and uses the strong field pattern to integrate the scheme as far as practicable. Existing landscape features would be retained, protected and strengthened including the retention of all existing field margins (hedgerows and ditches) except where necessary for access and standoffs from boundary habitats. All trees on the site would be retained and additional planting provided, where necessary, to fill gaps in the existing boundary planting. The landscaping and planting proposals associated with the proposed development would bring about significant ecological benefit when compared to the present situation, including upgrading lower-value, biodiversity-poor, arable land to higher value habitats." (Core Document 4.1, Page 9).
- 10.20. The officers concluded that the development is acceptable in this respect and accords with Policy 10.
- 10.21. LPP2 Policy 16 confirms that renewable energy schemes should be acceptable in terms of landscape and visual effects. In light of Mr Cook's considerations I consider that the limited negative effects identified, allied to the beneficial effects from mitigation, are acceptable and this policy is met.
- 10.22. With regard to the other criteria in Policy 16, relating to landscape and appearance, I note that the proposals will not physically affect any green infrastructure, parks or open spaces.
- 10.23. In terms of LPP2 Policy 22, this confirms that renewable energy development which accords with Policy 16 is an acceptable form of development in the Countryside and paragraph (3) of the policy is positively worded stating only that development which conserves and enhances the appearance and character of the countryside. It does not state that development where there is any degree of adverse impact should be refused. In light of the conclusions noted above and in Mr Cook's evidence regarding the benefits of the scheme, including additional planting of trees and hedgerows, I consider that aspects of the scheme do also conserve and enhance the character of and appearance of the countryside.
- 10.24. LPP1 Policy 16 and LPP2 Policy 34 both address Green Infrastructure, Landscape Parks and Open Spaces, the former being the strategic policy and the latter being the detailed

development management policy. Both policies incorporate the need to balance the adverse effects of development with the benefits. Neither policy requires or seeks to ensure that new development does not have an adverse impact at all.

- 10.25. This approach is in accordance with Paragraph 163 (b) of the NPPF which states that planning applications for renewable and low carbon development should be approved if its impacts are (or can be made) acceptable.

Issue 2 - The effect on heritage assets, including the Thoroton and Hawksworth Conservation Areas and associated listed buildings.

- 10.26. Key policy considerations for Issue 2:
- Core Strategy Policy 11 – Historic Environment
 - LPP Policy 16 – Renewable Energy
 - LPP Policy 28 – Conserving and Enhancing Heritage Assets
- 10.27. The comments from the Officer’s Report regarding heritage can be split into three main considerations:
- The potential indirect effects upon the setting of Hawksworth Conservation Area and its Listed Buildings;
 - The potential indirect effects upon the setting of Thoroton Conservation Area and its Listed Buildings; and
 - The environmental and public benefits of the Proposed Development are not sufficient to outweigh the potential indirect effects outlined above
- 10.28. Ms Garcia’s evidence addresses the heritage impacts of the scheme. She finds there will be some less than substantial harm to some heritage assets but that the harms identified are entirely reversible at the decommissioning of the scheme.
- 10.29. Taking account of the above conclusions, I note that policy 11 of LPP1 is a positively worded policy which confirms that proposals will be supported where *“the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance.”*
- 10.30. LPP2 Policy 28 is a detailed development management policy, which seeks to ensure that proposals affecting heritage assets demonstrate an understanding of the significance of assets and their settings and ensure that the impact on them is identified and justified. The proposal provides for the decision maker to assess whether the merits of a proposal and public benefits would outweigh heritage harm arising from the proposals.
- 10.31. Neither LPP1 Policy 11, nor LPP2 Policy 28 seek to ensure that a scheme causes no significant adverse effects.
- 10.32. Policy 16, as referred to above is the policy supporting renewable energy proposals and includes the consideration of whether the proposal is acceptable in terms of the historic environment. The supporting text to this policy states that the policy acts as a checklist to

signpost to specific policies which should be used to determine whether proposals are acceptable or not. (Core Document 4.2, para 5.8.)

- 10.33. Taking account of the conclusions of Ms Garcia on the heritage matters, and for the reasons explained in the planning balance below, I consider that the less than substantial level of harm identified would be outweighed by the public benefits of the scheme, such that the proposal accords with the local plan policies.

Issue 4 – The effect of the proposal on Best and Most Versatile Agricultural Land

- 10.34. BMV comprises land in grades 1, 2 and 3a of the Agricultural Land Classification.
- 10.35. The Council has recently raised queries as to the scheme’s compliance with PPG paragraph 013. That paragraph provides as follows:

What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a wellplanned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors a local planning authority will need to consider include:

- 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. See also a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.*
- 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;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

10.36. I understand that PPG 013 has recently been considered by the High Court in *Bramley Solar Farm Residents' Group v Secretary of State for Levelling Up, Housing and Communities* [2023] EWHC 2842 (Admin). I am advised that in *Bramley*, an Inspector granted permission for a solar farm extending to 85 hectares of agricultural land, of which 53% comprised BMV. In doing so, he dismissed a suggestion that permission should be refused because of the appellant's failure to consider alternative sites which would avoid BMV land. I summarise below the reasons of both the Inspector and the judge, as I understand them:

10.37. The Inspector found that:

- a. PPG 013 identified a range of facts that should be considered including whether the use of agricultural land is necessary; the temporary and reversible nature of the proposal; and the potential to mitigate landscape impacts through screening (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 56);
- b. This will involve a range of inputs, from grid connection to land ownership, landscape and visual effects and mitigation. The submitted details set out the reasons for the selection of the appeal site, including connecting to the national grid (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 56);
- c. There was no legal or policy requirement for a sequential approach to considering alternative sites with developments such as the appeal scheme (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 57);
- d. Planning permission should not be withheld on the basis of a lack of alternative site assessment (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 57);
- e. 53% of the appeal site comprised BMV land, but not all of this land would be covered by PV panels (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 58)
- f. While the use of higher quality agricultural land is discouraged, the proposal is for a temporary period of forty years. The agricultural land would not be permanently or irreversibly lost, particularly as pasture grazing would occur between solar panels. This would allow the land to recover from intensive use, and the soil condition and structure to improve (*Bramley*, paragraph 169 which quotes the Inspector's decision letter, paragraph 59);

- g. It was of note that Natural England, as statutory consultee on agricultural land, had raised no concerns as to the loss of BMV (Bramley, paragraph 169 which quotes the Inspector's decision letter, paragraph 56).

10.38. I am advised that the judge endorsed those findings and that in particular, she found that:

- a. The PPG does not mandate the consideration of alternatives in the context of BMV. Still less does it require a sequential test to be adopted. The Inspector was correct to observe that he had not been directed to any legal or policy requirements which set out a sequential approach in respect of BMV (Bramley, paragraph 79);
- b. Draft policy in NPS EN-3 (which has now been designated in the 2024 NPS) cannot be read as mandating a sequential search for alternatives as it only applies "where possible" and states that "land type should not be a predominating factor in determining the suitability of the site location" (Bramley, paragraph 180);
- c. The Inspector had considered the PPG guidance on the range of factors to be considered. He was entitled to find that the proposal would not be harmful to BMV land; that not all of the BMV land would be covered by panels; that there would be ongoing opportunities for pasture grazing; the improvement of the soil and biodiversity; and the temporary nature of the development (Bramley, paragraph 181);
- d. In view of his conclusion that the appellant was not required to demonstrate a sequential approach to alternative site selection, the Inspector did not have to address allegations raised by objectors as to the inadequacy of the appellant's alternative site search (Bramley, paragraph 185).

10.39. The Officer's Report gave express consideration to the impact of the appeal scheme on BMV and found that it was acceptable. I note that at the CMC, the Council's advocate indicated that this was because the Officer was not aware of the guidance at paragraph O13 of the PPG. That cannot be correct, given that the Officer's Report expressly refers to that guidance (on page 16) (Core Document 2.1).

10.40. In my view, the Officer's analysis and approach appear to be entirely appropriate and in accordance with the principles identified in Bramley. I can see no justification for the Council to now seek to depart from the conclusions in the Officer's Report that BMV considerations did not warrant the refusal of permission. In particular, the officer noted that:

- a. An agricultural land classification report had been submitted in support of the application which indicated that 2% of the appeal site was classified as Grade 2; 36% was classified as Grade 3a and 58% was classified as Grade 3b (i.e. not BMV);
- b. The amount of BMV land equated to some 35.4 hectares, which was above the threshold requiring consultation with Natural England. Natural England had been consulted on the application and had advised that they had no objection to the scheme. In particular, they advised that given the temporary nature of the scheme "*it is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards*";

- c. Secondary agricultural use would be maintained through sheep grazing;
- d. The proposed development is temporary and reversible. It would not result in the permanent loss of good agricultural land and the land would not be permanently unavailable for agricultural use, together with biodiversity enhancements.
- e. While part of the development would remain permanent, such as the base for the grid substation, the overall amount of BMV land lost as a result of the proposal would not be significant; and
- f. Overall, the appeal scheme would not have an unacceptable impact on agricultural land and would comply with relevant local and national policy.

10.41. As far as I can tell, there is no error in the reasoning or conclusion reached by the officer. I agree with both the reasoning and conclusion.

10.42. The area of the solar farm panels has also been reduced although they remain within the red line location plan. As a result of the amended appeal scheme, the proportions of agricultural grade land within the site within the developable area are as follows:

- Grade 2 – 2%
- Grade 3a – 34% (Previously 36%)
- Grade 3b – 60% (previously 58%)
- OTHER (tracks, watercourses, woodland) – 4%

10.43. There is no policy precluding the development of solar farms on BMV land. Rather, relevant policies confirm that renewable energy development on BMV land can be acceptable.

10.44. NPS EN-1, paragraph 5.11.12 says that:

“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).”

10.45. Paragraph 5.11.34 goes on to say that:

“The Secretary of State should ensure that applicants do not site their scheme on the best and most versatile land without justification. Where schemes are to be sited on best and most versatile agricultural land, the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality.” (my emphasis).

10.46. NPS EN-3 provides guidance on agricultural land at paragraphs 2.10.29 – 2.10.32. It states, in part:

“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. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. ‘Best and Most Versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification”.

Whilst the development of ground mounted solar arrays is not prohibited on Best and Most Versatile Agricultural land... the impacts of such are expected to be considered...

It is recognised that at this scale, it is likely that applicants’ development will use some agricultural land. Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land.

Where sites on agricultural land, consideration may be given as to whether the proposal allows for continued agricultural use.” (my emphasis added).

10.47. Far from requiring a sequential approach, EN-3 states in terms that such an approach should not be followed (EN-3, paragraph 2.3.9). The language of ‘preference’ is consistent across national policy.

10.48. I note that the R6 party has made reference to a Written Ministerial Statement from 2015 which says the following:

“Any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.” (emphasis added).

10.49. Relevant material considerations plainly involve more recent expressions of national policy, I consider that the most recent expressions of national policy establish a need for solar generation; expressly contemplate the co-location of solar farms and agricultural land and identifies a preference (only) for non-BMV land, but make it clear that land type should not be a predominating factor in determining the suitability of a site.

10.50. As the Inspector in the Thaxted decision (Core Document 5.28) letter put it, the 2015 WMS:

“...must be read in light of more up to date events. This includes Parliament’s declaration in 2019 that the UK is facing a climate change emergency; the support in the NPPF, most recently in 2023, for renewable development; the statements in several policy documents on energy and climate change issued since 2015...and the draft NPS EN-1 and EN-3. It must also be viewed against the increasing imperative to tackle climate change, and to meet the legally binding Net Zero targets...”

10.51. Those factors, taken together with the circumstances of this case, which comprises a small amount of BMV; the land would only be taken out of arable production for 40 years; the



permanent loss will be minimal; there is no evidence it will have any significant impact on food security or any significant impact on soil quality; and there is no objection from Natural England, provide a compelling justification for the use of BMV land.

- 10.52. Where, as here, the Proposed Development involves use, but no permanent loss of some BMV, it is appropriate to have regard to the effects by reference to the objectives of national policy in this respect. Those objectives can be gleaned from a consideration of the relevant parts of section 15 of the NPPF:
- a. Protecting soils (NPPF 180(a));
 - b. Recognising the wider benefits from natural systems and ecosystem services, including the economic and other benefits of BMV land (NPPF 180(b)); and
 - c. Considering the availability of agricultural land for food production (NPPF footnote 62).
- 10.53. Those objectives would not be harmed through the Proposed Development, given that the agricultural land quality of the majority of the BMV land on site would not be harmed; there is no evidence that the loss of production from the site would cause any notable harm to food security; and any permanent loss of BMV would be minor and not significant.
- 10.54. Notwithstanding that there is no policy requirement to undertake land quality assessment of alternative sites, in order to further inform a response to the Council and Rule 6 party matters on BMV, separate reports have been prepared by Mr Kernon and are appended to my evidence. I note that in considering alternative location, there is no prescriptive policy approach to how site selection should be undertaken.
- 10.55. EN-3 and the NPPG identify factors that influence site selection and design, including irradiation and topography, network connection, proximity to dwellings, agricultural land classification and land type, PRowS and security and lighting. The Design and Access statement explains the approach on these matters.
- 10.56. It is seen from the plans included in Mr Kernon's statement that within the site areas removed from the panel areas through design evolution include areas of higher agricultural quality.
- 10.57. In response to the Council, Mr Kernon has identified that:
- the proportion of agricultural land in Rushcliffe projected to be BMV is 58.5%;
 - that is above the national average of 42%;
 - that is above the proportion of the Site proposed for solar development which is 36.0%.
- 10.58. Further afield, it is concluded that:
- to the north and west the land quality is expected to be generally a higher proportion of BMV than across the appeal Site;
 - to the south and east the land quality is predicted to be a comparable mix of quality to the appeal Site;

- only land near watercourses, including the appeal Site, is predicted to be in the low likelihood of BMV;
- and in general terms the land at the southern end of the Borough, moving into a high clay area, is expected to be the poorest.

10.59. Mr Kernon’s response to the Rule 6 party sets out his conclusions at his section 6. Overall It is concluded that the BMV resource will be unharmed by the proposal.

10.60. Furthermore, this is not a situation where the level of need is so limited that if an alternative site were to be developed for solar in Rushcliffe, it would no longer be necessary to develop more, including the Site. In short, even if another better site were identified there would still be a substantial and urgent need for more and the assessment of the merits of the Appeal Scheme on this site would not be affected.

10.61. Moreover, any alternative site further afield could not make use of the grid connection offer that exists for the Site, and a fresh connection offer would therefore be required. Any such offer would be likely to be 5 years or more into the future. Thus any alternative site would be unable to deliver the same capacity in anything like the same timescale. In view of the tight and challenging timescale for delivering the Government’s ambitious target for the deployment of new solar generating capacity, a delay of anything like that duration would mean that it was not a real alternative at all.

10.62. The Council has not identified any potential alternative site, let alone one that is suitable, available, preferable in terms of impacts and capable of meeting the same urgent need on the same timescale.

10.63. If the Inspector concludes that the adverse impacts of developing a solar farm on this site are outweighed by the benefits so that they are acceptable, the appeal should be allowed. That would remain the case even if the Council was able to show that it is also possible to develop another site elsewhere with fewer impacts. As ever, the issue is whether the proposed development is acceptable on this site, not whether this site is the best possible location for it.

Issue 5 – Whether flood risks have been adequately addressed

10.64. The NPPF addresses flood risk in Chapter 14. That Chapter explains at paragraph 157 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure. Paragraphs 160 and 163 exhort local planning authorities to make positive provision for renewable and low carbon energy schemes and to approve applications where their impacts are, or can be made, acceptable. The very purpose of the appeal scheme is to support reductions in greenhouse gas emissions in the energy sector, thereby contributing to the primary objective expressed in Chapter 14 NPPF and National Policy Statements for energy infrastructure.

10.65. NPPF paragraph 165 provides that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but recognises that development may be acceptable in such areas, provided they can be made safe for their lifetime without increasing flood risk elsewhere. Paragraph 169 recognises that in considering whether development could be located in areas of lower flood risk, wider sustainable

development objectives may be taken into account. Wider sustainable development objectives plainly encompass the urgent need for renewable energy projects which benefit from an existing grid connection offer.

- 10.66. A Flood Risk and Drainage Impact Assessment (titled Technical Appendix 4: Flood Risk and Drainage Impact Assessment) was submitted in support of the refused planning application. It provides an assessment of flood risk at the site that falls predominantly within low risk flood zone 1 with small areas of medium risk flood zone 2 and high risk flood zone 3a associated with watercourses and ditches that run through the appeal site. Mitigation measures were also proposed. 3.15 Paragraph 4.23 of the Flood Risk Assessment confirmed it has been prepared in accordance with National Planning Policy Guidelines and paragraph 4.25 that the authors of the Flood Risk Assessment are qualified drainage engineers with significant relevant experience.
- 10.67. The Local Planning Authorities delegated Officer report considers Flood Risk at the end of page 25 to the first paragraph of page 27 of that report. It clarifies the relevant policies from the local plan are Core Strategy policy 2 (Climate Change) as well as Local Plan Policy 17 (Managing Flood Risk) and 18 (Surface Water Management).
- 10.68. The officer's findings were as follows:
- a. Most of the appeal site lies within Flood Zone 1, defined as land having a less than 1 in 1000 annual probability of river or sea flooding. Small areas of the site falls within Flood Zone 2 and 3a which follow the watercourse/drains within the site. However, only a small area of solar panels are located in flood zone 2 and 3a;
 - b. In relation to Flood Risk Vulnerability and Flood Zone 'Compatibility', the Local Planning Authority accepted the development passed both the Sequential Test and the Exception Test. Furthermore, the Local Planning Authority also accepted a small proportion of the solar array in Flood Zones 2 is compatible with respect to flood risk;
 - c. Rain falling onto the photovoltaic panels would runoff directly to the ground beneath the panels and infiltrate into the ground at the same rate as it does in the site's existing greenfield state. Existing drainage features would be retained, and the site would remain vegetated through construction and operation of the solar installation to prevent soil erosion;
 - d. The photovoltaic panels would not result in a material increase in surface water run-off and proposed Sustainable Drainage Strategy (SuDS) arrangements would result in a betterment in comparison to the sites current drainage arrangement because extreme flows are not currently managed;
 - e. A SuDS was proposed, involving the implementation of sustainable drainage in the form of swales at the low points of the application site to intercept extreme storm run-off flows which may already run offsite and, as previously mentioned, are a betterment in comparison to the sites current drainage arrangement that does not manage or mitigate extreme storm run-off flows. The swales do not form part of a formal drainage scheme for the development but are provided as a form of 'betterment';
 - f. The proposed drainage strategy would ensure that the development would have a negligible impact upon site drainage, and surface water arising from the developed site would mimic the surface water flows arising from the site prior to the proposed

development. The natural drainage regime would be retained except in the extreme storm event when a benefit is achieved by reducing the extreme storm run-off flows;

- g. Nottinghamshire County Council is the Lead Local Flood Authority had raised no objections to the scheme from a surface water or flood risk perspective. It should be noted that under the Flood and Water Management Act of 2010 the LLFA has the duty of leading the coordination of flood risk management from surface water, groundwater and ordinary watercourses in the local area. LLFAs are county councils and unitary authorities. LLFAs are required to prepare and maintain a strategy for local flood risk management in their areas, coordinating views and activity with other local bodies and communities through public consultation and scrutiny, and delivery planning. They must consult Risk Management Authorities and the public about their strategy. LLFAs are also responsible for carrying out work to manage local flood risks in their areas. Under the Land Drainage Act of 1991 they have the power to regulate ordinary watercourses to maintain a proper flow by issuing consents for altering features on ordinary watercourses and enforcing obligations to maintain flows in watercourses. They undertake a statutory consultee role providing technical advice on surface water drainage to local planning authorities regarding major developments (10 or more dwellings) and play a lead role in emergency planning and recovery after a flood event;
- h. The Environment Agency has not objection to the scheme on the basis that finished flood levels would be set no lower than 18.20m AOD and the finished floor levels of other vulnerable infrastructure would be set no lower than 300mm above ground levels; (i) Overall, the development was acceptable in terms of flood risk and drainage and in accordance with relevant planning policy

10.69. Since the Local Planning Authority refused planning permission they have since confirmed in paragraph 7.10 of their Statement of Case that this position has changed on the basis that the Council consider that a sequential test had not been submitted with the refused planning application. Thus, the Local Planning Authority are now of the opinion that their previous conclusion was incorrect when applying National Policy on sequential tests. The Council has requested the Appellant to submit a sequential test either at the Statement of Case or Proof of Evidence stage, and the Council will correspondingly respond as to whether the sequential test is passed at either the Proof of Evidence or Proof rebuttal stages. It suggests that the search area for the sequential test is requested to be Borough-wide, noting the scale of development proposed.

10.70. The Appellant considers this to be unreasonable behaviour by the Local Planning Authority due to the fact flood risk was not raised as a reason for refusal; sequential test and exception test were both consideration and information was provided within the flood risk and drainage impact assessment; Government advice is clear the sequential and exception test information can be presented in any format; the Local Planning Authority confirmed the Sequential Test and Exception Test information provided was accepted and that both tests were past. At no point was additional flood risk, sequential test or exception test information requested by the Local Planning Authority. There are also no objections from statutory consultees Nottinghamshire County Council as Lead Local Flood Authority or the Environment Agency.

10.71. It should be noted that any flood risk to users of the Appeal Site would be low: the site would attract on average one vehicle per month for maintenance when the development is operational. Furthermore, the Scheme would have a negligible effect on flooding on the site.

The proposed panels would be around 0.7m above the ground which in practical terms would raise them out of the flood risk zone, as recognised by the Environment Agency. The panels would be held on racking supported by a steel pile system on support posts of around 0.1m diameter, spaced to allow for the free flow of water and the design would only introduce a small area of impermeable surface. It is also important to note that the scheme would not increase flooding or give rise to detrimental effects elsewhere and indeed, would result in betterment as recognised in the officer's report. Vegetation would grow below the panels which would prevent and reduce the erosion of sediment from the site. A swale system would provide surface water runoff storage. There would be significant benefits in comparison to typical farming activity because the fields would not be ploughed; would retain vegetation throughout the year and would not be regularly traversed by heavy machinery. The likelihood is therefore that runoff rates from the site would be reduced and ground infiltration would be improved.

- 10.72. Furthermore the Local Planning Authority's request to provide a borough wide area of search for the sequential test to be demonstrable disproportionate to the proposed development that is totally reliant on a grid connect that is achieved via an overhead electricity line that is current within the red line of the appeal site.
- 10.73. There is no prescribed guidance or standard on what constitutes a reasonable search area for renewable energy development. Since renewable energy schemes require a viable connection to the existing grid network, it is essential that there is a connection point with sufficient capacity. The grid connection point must be able to offer sufficient capacity and must remain viable for the lifetime of the solar farm (i.e. 40 years). Cable trenching costs and thermal power losses limit the distance of a site from a suitable grid connection to 2km.
- 10.74. As explained in the Planning Statement, obtaining grid capacity is a major challenge for developers across the UK. The District Network Operator has studied its local distribution network and agreed a connection point to the 132kV rated overhead power line located within the site boundary of Field 8. Any assessment of alternative sites at lower risk of flooding should be limited to 2km of that connection point. There is no justification for a sequential assessment covering the entire borough.
- 10.75. Nevertheless, additional sequential test information has been prepared in response to the Council's belated request and is attached at Appendix 2. That assessment concludes that there are no suitable and sequentially preferable sites in which to accommodate the proposed development. I conclude that the Sequential and Exception Tests are passed and the proposal complies with the NPPF, PPG, Core Strategy policy 2 (Climate Change) as well as Local Plan Policy 17 (Managing Flood Risk) and 18 (Surface Water Management) of the development plan on flood matters

Issue 3 – Compliance with the Planning Policy and the Development Plan

- 10.76. In this section I will consider compliance with the relevant policies contained in the Development Plan, and the NPPF, as reference in the LPA's Reason for Refusal and as also cited by the LPA in their Statement of Case (Core Document 7.7).

Rushcliffe Local Plan Part 1 – Core Strategy

- 10.77. I consider the most relevant policies to the determination of this appeal, is in respect of **policy 1** (Presumption in Favour of Sustainable Development), **policy 2** (Climate Change) and

policy 11 (Historic Environment), from the LPP part 1. I have reviewed compliance with the other Local Plan policies at Appendix 9 to my Evidence.

- 10.78. It is also highly relevant to note that the LPP1 identifies a number of spatial objectives that the Council seek to achieve, including “*Environmentally responsible development addressing climate change: to reduce the causes of climate change and to minimise its impacts, through...promoting the use of low carbon technologies*” (LPP1, paragraph 2.4.1).

Policy 1 – Presumption in Favour of Sustainable Development

- 10.79. Policy 1 confirms when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. This policy also confirms the Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

- 10.80. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- b) Specific policies in that Framework indicate that development should be restricted.

- 10.81. Paragraphs 2 and 3 of page 8 within the Local Planning Authorities Planning Committee report state :

“The principle of the proposed development is readily supported by both national and local policy, including adopted local policy support for renewable energy generation provided there are no unacceptable impacts.

In accordance with the NPPF, the adverse impacts of renewable energy generation need to be addressed satisfactorily. It is the impacts of proposals for renewable energy generation that need to be considered rather than the principle of such development. Renewable energy proposals need to be considered favourably within the context that even if a proposal provides no local benefits, the energy produced should be considered a national benefit that can be shared by all communities and therefore this national benefit is a material consideration which should be given significant weight. There is strong in principle support for the proposed renewable energy development. This needs to be considered against the impacts of the proposal and the two are weighed which is a planning judgement subject to other material considerations”.

- 10.82. The Council therefore accept energy produced by the proposed development would be of local as well as national importance achieving the golden thread of economic, social and environmental benefits that attracts significant weight in the planning balance.

10.83. BMV is addressed at Criterion 12 of Local Plan Policy 1 (Development Requirements) and Criterion d of Local Plan Policy 16 (Renewable Energy). Both are considered later in this proof.

10.84. Whilst the Council consider the proposal is in conflict with LPP policy 1, this is only with regards BMV land that is specifically addressed by Criterion 12 of Local Plan Policy 1 (Development Requirements) and Criterion d of Local Plan Policy 16 (Renewable Energy). I refer to the BMV statements provided by Mr Kernon and the fact BMV agricultural land has already been addressed earlier in this proof.

10.85. Informed by my consideration of local plan policies 2 and 16 set out below, I consider that the proposal accords with Policy 1.

Policy 2 – Climate Change

10.86. Part 5 of Policy 2 provides that the:

“development of new decentralised, renewable and low-carbon energy schemes appropriate for Rushcliffe will be promoted and encouraged, including...solar...”.

10.87. Its explanatory text (paragraph 3.2.2) explains that:

“Climate change is one of the biggest challenges facing Rushcliffe. It is a global problem requiring local action. Major changes in attitude and practices are required if we are to make changes to the earth’s climate and reverse the effects of global warming. National objectives to address climate change will not be achieved without substantial efforts to reduce energy consumption and increase energy produced from naturally occurring, renewable sources.”

10.88. Paragraph 3.2.5 of the text goes on to explain that:

“The Local Plan needs to ensure the use and development of land will help slow down the date of climate change and be resilient to its effects. In this respect the Core Strategy’s task is to:

- ***Reduce consumption of natural and non-renewable resources***
- ***Reduce dependence on non-renewable energy sources and promote renewable energy use and development...”***

10.89. Paragraph 3.2.11 provides that:

“Supporting decentralised, renewable and low carbon energy schemes is an important component of meeting carbon reduction targets, and in the short term at least, they are capable of delivering greater carbon savings than achievable through the development of new low carbon buildings..... In accordance with the National Planning Policy Framework, the Council will identify suitable and unsuitable areas for renewable and low carbon energy sources, and supporting infrastructure, through policy in the Local Plan Part 2 (Land and Planning Policies) and/or a Supplementary Planning



Document relevant to renewable and low carbon energy related development.”

- 10.90. Unfortunately, as discussed above, the Council has not identified or allocated any sites for renewable energy generation in its LPP2 or any SPD.
- 10.91. In my view, this policy provides strong support for the Proposed Development. It will assist the Council in addressing one of the biggest challenges facing Rushcliffe.
- 10.92. I note that part 7 of the policy addresses flood risk and the sequential test. As noted under Issue 5 above, additional flood risk information has been provided as part of this Proof of Evidence and in Appendix 2. This confirms the appellant’s position in relation to flood risk. Overall, the proposal complies with Core Strategy Policy 2.

Policy 10 – Design and Enhancing Local Identity

- 10.93. I note that although LLP1 Policy 10 is not referred to in the Council’s reason for refusal, it is highlighted in the Councils Statement of case as a policy which the proposal is contrary to (Core Document 7.7, para 7.13).
- 10.94. Policy 10 states that *“all new development should be designed to make a positive contribution to the public realm and sense of place [and] create an attractive, safe, inclusive and healthy environment”*.
- 10.95. The officer’s report contains a full analysis of the Appeal Scheme’s compliance with that policy (noting that the extent of land comprised in the scheme has further reduced since then). In particular, the officer found that:
- a. In terms of scale the development provided *“the minimal level of development necessary to ensure that the site performs effectively with regard to its main purpose of generating renewable electricity.”*
 - b. The height of panels was such that they *“would not be significantly visible from most viewpoints outside of the site. Even when viewed from nearby vantage points, it is considered that the scale of development would not be overbearing due to its low profile.”*
 - c. The *“highest structures associated with the proposed development would be transformers within the substation compound, at approximately 3.98m high. It is proposed that the majority of the other structures, including the solar panels, would be no more than 3.1m high which is the height of a mature hedgerow. It is therefore considered that the scale of the proposed development is appropriate to the location. The containers/cabins and other small buildings would be appropriately coloured or clad to minimise any visual impact and comply as far as practicable with the local vernacular.”*
 - d. *“the proposed development has been designed to respect the character of the landscape and uses the strong field pattern to integrate the scheme as far as practicable. Existing landscape features would be retained, protected and strengthened including the retention of all existing field margins (hedgerows and ditches) except where necessary for access and standoffs from boundary habitats. All trees on the site would be retained and additional planting provided, where necessary, to fill gaps in the existing boundary planting. The landscaping and planting proposals associated with the proposed development would bring about significant ecological benefit when compared to the*



present situation, including upgrading lower-value, biodiversity-poor, arable land to higher value habitats”.

In light of the above the officer’s assessment and conclusions, the report concludes that the proposal is in accordance with the requirements of Policy 10. I agree with this conclusion.

Policy 11 – Historic Environment

- 10.96. Part 1 of this policy confirms proposals and initiatives will be supported where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance. Planning decisions will have regard to the contribution heritage assets can make to the delivery of wider social, cultural, economic and environmental objectives.
- 10.97. Part 2 confirms elements of Rushcliffe’s historic environment which contribute towards the unique identity of areas and help create a sense of place will be conserved and, where possible, enhanced with further detail set out in later Local Development Documents. Elements of particular importance are identified although the only relevant identified heritage asset in this case is listed buildings.
- 10.98. Part 3 refers to a variety of approaches will be used to assist in the protection and enjoyment of the historic environment. Part A – conservation appraisals, Part D – setting of heritage assets and Part E – significance of an identified historic asset.
- 10.99. Part 4 confirms particular attention will be given to heritage assets at risk of harm or loss of significance, or where a number of heritage assets have significance as a group or give context to a wider area.
- 10.100. Issue 2 earlier in this proof sets out how the proposal complies with this policy. As noted above, Policy 11 does not require that there should be no harm. I have referred to Ms Garcia’s evidence which identifies the level of harm where it occurs to be less than substantial. I consider that the assessment undertaken has had the appropriate regard to the heritage assets identified in Policy 11 and the policy requirement is met.

Rushcliffe Local Plan Part 2 – Land and Planning Policies (LPP) (October 2019)

- 10.101. I consider the most relevant policies to the determination of this appeal, is in respect of **Policy 1** (Development Requirements), **Policy 16** (Renewable Energy), **Policy 17** (Managing Flood Risk), **Policy 18** (Surface Water Management), **Policy 22** (Development in the Countryside), **Policy 28** (Conserving and Enhancing Heritage Assets) and **Policy 34** (Green Infrastructure, Landscape, Parks and Open Spaces) from the LPP part 2. I have reviewed compliance with the other Local Plan policies at Appendix 9 to my Evidence.

Policy 16 – Renewable Energy

- 10.102. **Policy 16** sets out a permissive policy framework to encourage opportunities to generate energy from non-fossil fuels and low carbon sources. The policy confirms that proposals for renewable energy schemes will be granted planning permission where they are “acceptable” in terms of the criteria set out in the policy. It does not however, make specific reference to

the consideration of the planning balance as required by Paragraphs 11 and 163 (parts a and b) of the NPPF.

10.103. Policy 16 does not attempt to define the types of impacts that will be acceptable. That matter is left to the judgment of the decision-maker. In my view, it cannot sensibly be suggested that policy 16 requires proposals for renewable energy to cause no adverse impacts at all. Renewable energy schemes are always likely to result in some adverse impacts, for example, to the landscape or visual amenity of the area in which they are located. If they are to come forward as required to meet the urgent national need, local planning authorities will plainly have to accept that at least some adverse impacts are acceptable.

10.104. When considering compliance with **Policy 16**, each element of the policy can be addressed as follows:

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
a) Compliance with Green Belt Policy.	The proposed development does not involve any greenbelt land.	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 4 • LPP Policy 21
b) Landscape and Visual Effects.	Visual effects of the Proposed Development are very localised due to existing and proposed screening. This is discussed in the Evidence provided by Mr Cook. In my view, these effects are “acceptable” (per the policy wording) given they have been minimised as far as practicable and in light of the need for and benefits of the Proposed Development	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 4 • Core Strategy Policy 16 • LPP Policy 34
c) Ecology and Biodiversity.	There are no designated or non-designated ecology sites within the appeal site and no significant adverse effects on any sites are anticipated as a result of the Proposed Development (Appendix 6). A significant net gain in biodiversity of over 187.60% for habitats, 38.78% for hedgerows and 11.85% for watercourse units will occur with the implementation of the Landscape and Ecological Management Plan measures (Core Document 1.21.12).	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 16 • Core Strategy Policy 17 • LPP Policy 36 • LPP Policy 37 • LPP Policy 38
d) Best and Most Versatile Agricultural Land.	I refer to the evidence of Mr Kernon. 2% of the appeal site is classed as Grade 2, 34% is classed as Grade 3a and 60% of the application site is classed as Grade 3b. The amount of land	<ul style="list-style-type: none"> • Core Strategy Policy 1 • Core Strategy Policy 2

	<p>classified as best and most versatile (BMV) agricultural land is, in total, some 35.4 hectares. The entirety of the appeal site does not form land classified as best and most versatile (BMV) agricultural land (Core Document 1.29). The appeal scheme would use, but not result in any meaningful loss of BMV land. It would not adversely affect the quality of the soil. The land would be restored following 40 years. Grazing of the land would continue during the scheme's operational life.</p>	
e) The Historic Environment.	<p>I refer to the evidence of Ms Garcia. There are no designated heritage assets located within or adjacent to the appeal site that could be physically impacted by the Proposed Development. The effect on heritage assets, including the Thoroton and Hawksworth Conservation Areas and associated listed buildings is acceptable given that any harm is of a low level and is outweighed by the public benefits of the Proposed Development, including its accordance with the national policy imperative to deploy solar generation.</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 11 • LPP Policy 28 • LPP Policy 29
f) Open Space and Other Recreational Uses.	<p>Green infrastructure across the site is retained, protected and enhanced where practicable and PROWs will remain open and fully functional during all stages of the Proposed Development.</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 16 • Core Strategy Policy 17 • LPP Policy 34
g) Amenity of Nearby Properties.	<p>There are no significant impacts on the amenity of nearby properties once mitigation is taken into account.</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2
h) Grid Connection.	<p>The appeal site has a viable Grid Connection. The Appellant has secured 49.9MW (megawatts) of export capacity on the 132kV rated overhead power line located within the red line site boundary in Field 8 (Core Document 7.6).</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2

i) Form and Siting.	The Proposed Development has been designed to respect the character of the landscape and uses the strong field pattern to integrate the scheme as far as practicable. Existing landscape features would be retained, protected and strengthened including the retention of all existing field margins (hedgerows and ditches) except where necessary for access and standoffs from boundary habitats. Most trees on the site would be retained and additional planting provided, where necessary, to fill gaps in the existing boundary planting.	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 4 • Core Strategy Policy 10 • Core Strategy Policy 16
j) Mitigation.	Significant mitigation is provided in the landscape masterplan, as outlined in the evidence of Mr Cook	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 16 • Core Strategy Policy 17 • LPP Policy 36 • LPP Policy 37
k) The Decommissioning and Reinstatement of land at the end of the Operational Life of the Development.	At the end of the operational lifespan (40 years), the solar panels and the majority of other infrastructure would be removed, and the site restored back to agricultural use. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 7.9).	<ul style="list-style-type: none"> • Core Strategy Policy 2
l) Cumulative Impact with existing and proposed development.	There is limited potential for cumulative effects, as outlined in the evidence of Mr Cook.	<ul style="list-style-type: none"> • Core Strategy Policy 2
m) Emission to Ground, Water Course and/or Air.	The development is unlikely to cause any forms of pollution during its operational stage. Effects at the construction phase would relate to construction vehicles and it is considered would not be of a level to cause harm to the environment. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 7.9).	<ul style="list-style-type: none"> • Core Strategy Policy 2 • LPP Policy 17 • LPP Policy 18
n) Odour	The Proposed Development means that no odour would be generated during the operational stage and the proposed is	<ul style="list-style-type: none"> • Core Strategy Policy 2

	acceptable in respects of effects on Air Quality. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 7.9).	
o) Vehicular Access and Traffic	During operation of the solar installation, it is anticipated only infrequent visits would be required for the purposes of equipment maintenance or cleaning of the site on an as required basis. A such, the operational access would be associated with a low number of trips (around one per month). In respect of the construction and operational traffic the Highway Authority do not object to the number of vehicle movements and note that this would be appropriately managed. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 7.9).	<ul style="list-style-type: none"> • Core Strategy Policy 2
p) Proximity of Generating Plants to the Renewable Energy Source	The proposed development is for solar development.	<ul style="list-style-type: none"> • Core Strategy Policy 2

10.105. In light of the above, the Appeal Scheme would not result in any unacceptable impacts and accords with Policy 16.

Policy 17 – Managing Flood Risk

10.106. This policy confirms how flood risk will be managed in Rushcliffe Borough.

10.107. Part 1 confirms planning permission will be granted for development in areas where a risk of flooding or problems of surface water disposal exists provided that: a) the sequential test and exception test are applied and satisfied; or b) where the exception test is not required, for example change of use applications, it has been demonstrated that the development and future occupants will be safe from flood risk over the lifetime of the development; or c) refers to minor development not applicable to this proposal; or d) development does not increase the risk of flooding on the site or elsewhere, including through increased run-off due to areas of hardstanding, or reduction in ground water storage as a result of basements.

10.108. Part 2 confirms development proposals in areas of flood risk will only be considered when accompanied by a site specific flood risk assessment. Proposals will be expected to include mitigation measures which protect the site and manage any residual flood risk, such as flood resistance/resilience measures and the provision of safe access and escape routes.

10.109. As previously stated under issue 5, a Flood Risk and Drainage Impact Assessment was submitted in support of the refused planning application. The assessment confirmed the

proposal does not increase the risk of flooding on the site or elsewhere, including through increased run-off due to areas of hardstanding, or reduction in ground water storage. Mitigation measures were also proposed to protect the site and manage any residual flood risk, such as flood resistance/resilience measures and the provision of safe access and escape routes. The Local Planning Authority, at that time were of the opinion sufficient information had been provided and the proposal complied with Local Plan Policy 17. In addition the planning application and flood risk matters were considered by both the LLFA Nottinghamshire County Council and the Environment Agency, neither of whom suggested any shortfall in the planning application submissions and both statutory consultees have confirmed no objection to the proposal.

- 10.110. Additional flood risk information has been provided as part of this Proof of Evidence Appendix 2 that confirms the appellant's position in relation to flood risk and that the proposal complies with Local Plan Policy 17.

Policy 18 – Surface Water Management

- 10.111. This policy confirms how surface water will be managed within Rushcliffe Borough.
- 10.112. Part 1 of this policy requires developments to identify opportunities to incorporate a range of deliverable Sustainable Drainage Systems, appropriate to the size and type of development. The choice of drainage systems should comply with the drainage hierarchy.
- 10.113. Part 2 is clear planning permission will granted for development which: a) is appropriately located, taking account of the level of flood risk and which promotes the incorporation of appropriate mitigation measures into new development, such as sustainable drainage systems; b) reduces the risk to homes and places of work from flooding; c) delivers a range of community benefits including enhancing amenity (ensuring a safe environment) and providing greater resistance to the impact of climate change; d) contributes positively to the appearance of the area; e) accommodates and enhances biodiversity by making connections to existing Green Infrastructure assets; and f) retains or enhances existing open drainage ditches.
- 10.114. As previously stated under issue 5, a Flood Risk and Drainage Impact Assessment was submitted in support of the refused planning application. It includes a Sustainable Drainage Strategy submitted in support of the refused planning application, involving the implementation of sustainable drainage in the form of swales at the low points of the application site to intercept extreme storm run-off flows which may already run offsite and, as previously mentioned, are a betterment in comparison to the sites current drainage arrangement that does not manage or mitigate extreme storm run-off flows. The strategy comments that the swales do not form part of a formal drainage scheme for the development but are also provided as a form of 'betterment'. The proposed drainage strategy would ensure that the development would have a negligible impact upon site drainage, and surface water arising from the developed site would mimic the surface water flows arising from the site prior to the proposed development. The natural drainage regime would be retained except in the extreme storm event when a benefit is achieved by reducing the extreme storm run-off flows. Neither the LLFA nor the Environment Agency object to the Proposed Development.
- 10.115. The Local Planning Authority, at that time were of the opinion sufficient information had been provided and the proposal complied with Local Plan Policy 18.

10.116. Additional flood risk information has been provided as part of this Proof of Evidence Appendix 2. It is confirmed that the proposal complies with Local Plan Policy 18.

Policy 22 – Development in the Countryside

10.117. Policy 22 explains that all land beyond the Green Belt and physical edge of settlements is identified as countryside. It identifies a number of uses which will be permitted in the countryside, including renewable energy schemes, in accordance with Policy 16. As such, policy 22 offers in-principle support to the Proposed Development.

10.118. Part 3 identifies material planning matters that must be satisfied by appropriate development in the countryside. Part a) the appearance and character of the landscape, including its historic character and features such as habitats, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is conserved and enhanced; b) is not applicable because it refers to residential development; c) is not relevant because the proposal does not create or extend ribbon development; d) built development is well integrated with existing buildings, where appropriate; and e) the development will not seriously undermine the vitality and viability of existing district and local centres, and centres of neighbourhood importance.

10.119. Policy 22 is only referred to by the Council in its first reason for refusal and is addressed earlier in this proof of evidence in issue 1 (the effect of the proposed development on landscape character and appearance of the area).

10.120. I have concluded under Issue 1 that the landscape character and appearance effects of the proposal are acceptable and I have noted above that the requirements of Policy 16 are met.

10.121. Furthermore issue 2 (the effect on heritage assets, including the Thoroton and Hawksworth Conservation Areas and associated listed buildings) covered earlier in this proof of evidenced addresses historic character.

10.122. The other elements of policy 22 are not cited by the Council as a reason for refusal nor are they raised in the Local Planning Authorities Statement of Case.

10.123. I am of the opinion that the proposal complies with policy 22.

Policy 28 – Conserving and Enhancing Heritage Assets

10.124. This policy clarifies how heritage assets would be conserved and enhanced in Rushcliffe Borough.

10.125. Part 1 confirms that proposals that affect heritage assets will be required to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development in order that a decision can be made as to whether the merits of the proposals for the site bring public benefits which decisively outweigh any harm arising from the proposals.

10.126. Part 2 of the policy confirms proposals affecting a heritage asset and/or its setting will be considered against a list of criteria – a) the significance of the asset; b) whether the proposals would be sympathetic to the character and appearance of the asset; c) whether the proposals would conserve or enhance the character and appearance of the heritage asset; d) whether the proposals would respect the asset's relationship; e) whether the

proposals would contribute to the long-term maintenance and management of the asset; and f) whether the proposed use is compatible with the asset.

10.127. I refer to the evidence of Ms Garcia who explains the indirect effects assessed above are not significant, contrary to the statements within the Officer's Report. Specific analysis of the planning balance is set out in the SoC; however, in consideration of the above, the appraisal of settings and level of indirect effects determined for assets within Hawksworth and Thoroton within the CHIA are considered to be accurate and will not result in any significant adverse effects.

10.128. I consider that the proposal complies with policy 28.

Policy 34 – Green Infrastructure, Landscape, Parks and Open Spaces

10.129. This policy clarifies how Green Infrastructure, Landscape, Parks and Open Spaces will be addressed by development proposals.

10.130. Part 1 of this policy identifies green infrastructure that will be protected from development which adversely affects their green infrastructure function, unless the need for the asset is proven to no longer exist and the benefits of development in that location outweigh the adverse effects. The assets listed include public rights of way, which is the only category of asset falling within the scope of the effects of the appeal proposal.

10.131. Part 2 of this policy confirms that development which protects, enhances, or widens their Green Infrastructure importance will be supported, provided it does not adversely affect their primary functions.

10.132. Part 3 identifies when replacement Green Infrastructure is necessary.

10.133. Part 4 confirms planning permission will not be granted for development which would adversely affect access to open spaces and opportunities should be sought to protect or enhance the rights of way network and, where applicable, its open environment.

10.134. Policy 34 is only cited by the Council in its first reason for refusal and addressed earlier in this proof of evidence in issue 1 (the effect of the proposed development on landscape character, visual amenity and appearance of the area).

10.135. I refer to the evidence of Mr Cook which specifically considers the effects on public rights of way. It is noted that of the PRoWs in the vicinity, those lying outside of the site are physically unaffected. Within the site no diversions of PRoWs are required. An additional permissive path is proposed to connect into the existing PRoWs and this will provide a minor beneficial effect.

10.136. Mr Cook also concludes that from a visual impact perspective, the majority of PRoWs outside the site are visually unaffected due to a combination of distance, topography and intervening landscaping. One short length of the public footpath heading westwards from Thoroton is identified as allowing *"northward views such that some parts of the solar farm would be visible to a limited degree"*.

10.137. Mr Cook identifies one PROW which passes across the site itself which is a bridleway broadly orientated east-west linking Main Road to the west with Shelton Road to the east. Although this path would pass through the proposed solar farm, the landscape mitigation proposals

will provide managed green lanes and hedgerows to ensure that that only small areas of the solar farm would be visible along this route from any one location and new hedgerows would visually screen the proposal to a substantial degree having reached maturity and managed at 3 – 4m in height. Mr Cook summarises the level of effect on this route stating that *“Users of this route would have a high susceptibility, value and sensitivity combined with a medium magnitude of change would have a major adverse degree of effect in terms of visual amenity, though these effects would substantially reduce to a minor to negligible level with the maturation of mitigation planting”*

- 10.138. In light of the above, I consider that the PROs will largely be unaffected and the permissive route will provide enhancement. Where there are limited effects these will be acceptable and I conclude that the proposal complies with policy 34.

Supplementary Planning Documents

Rushcliffe Borough Climate Change Strategy in 2009, updated in 2013.

- 10.139. The LPA produced a Climate Change Strategy in 2009 which was later updated in 2013 and states;

“As a Local Authority we are working to reduce Rushcliffe’s carbon footprint, by using planning and other policy levers to ensure that buildings and local infrastructure are energy efficient and resilient to increased risk of flooding, water stress and overheating. We will provide green spaces to keep Rushcliffe cool and to absorb heavy rain. We will ensure an effective emergency response after extreme weather events. We will also continue to look at our own estate and reduce the emissions from our operation.”

- 10.140. Since the production of this document the LPA has made a commitment to work towards becoming carbon neutral by 2030 for its own operations. The LPA is also committed to supporting local residents and businesses reduce their own carbon footprint. In 2020, the LPA released its Council Carbon Management Plan, which details various actions to be taken towards its neutrality goal, with timescales and estimated CO2 savings attached.

- 10.141. In 2021 the Council updated its climate strategy for the next nine years (2021–2030). This is part of its plans to make Rushcliffe a carbon neutral borough by 2050 and to make the LPA operational services carbon neutral by 2030. The Proposed Development will facilitate the LPA achieving the three key areas outlined in the Climate Change strategy; reducing emissions, supporting the community and enabling conservation.

- 10.142. The updated strategy states that *“Rushcliffe Borough Council is committed to tackling climate change and making a major contribution to reducing greenhouse gas emission for the Borough.”*

- 10.143. It is clear from the above that the LPA strongly advocates a transition to a low carbon future. In providing a significant new provision of renewable energy within Rushcliffe, the appeal proposal will assist in meeting these policy objectives.

- 10.144. The planning officers delegated report sets out the in principle support which the Council gives to the provision of new renewable energy, subject to impacts being acceptable (Core Document 2.1 – pages 6–8).

Rushcliffe Borough Solar Farm Development Planning Guidance – November 2022.

- 10.145. In November 2022 Rushcliffe Council published the Solar Farm Development Planning Guidance, with the purpose of providing broad guidance on the planning context for major ground mounted solar schemes not exceeding 50MW, the key material considerations and examples of supporting documents and information required for determination of planning applications for such development.
- 10.146. The Guidance does not identify any preferred sites for major solar farm development.
- 10.147. It is confirmed in the Guidance that the Council’s planning Policy 2 of the LPP1 and Policy 16 of LPP2 provide the in-principle support for development of renewable energy schemes which are acceptable in respect of matters set out in the policies.
- 10.148. The guidance confirms that in accordance with the NPPF, the Council will have regard to NPS EN1 and EN3, noting that with particular regard to proposals that are close to the 50mw threshold the NPSs are likely to be material considerations.
- 10.149. Reference is also made to the Planning Practice Guidance (PPG) in providing guidance on the specific planning considerations that relate to large scale ground-mounted solar PV farms. The Council’s Guidance goes on to quote relevant sections of the PPG, including that in regard to assessing landscape and visual impact of large scale solar farms:
- “in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero”.*
- 10.150. Section 6 of the Guidance sets out the Key Material Planning Considerations, broadly following the criteria of Policy 16 and including consideration of the Green Belt Policy, landscape and visual impacts, ecology and biodiversity, agricultural land quality, the historic environment, green infrastructure, access, grid connection, form and siting, decommissioning, cumulative impacts, amenity, flood risk, minerals safeguarding and site security.
- 10.151. Only in respect of circumstances where proposals result in harm to biodiversity or protected species is it suggested that applicants should be required to demonstrate consideration of alternative sites. It is noted in the delegated Officer report (Core Document 2.1 – pages 14–15) that the proposal would not result in any significant impacts on biodiversity, and conversely there would be a number of benefits as a result of the new habitat that is proposed resulting in a significant biodiversity net gain. It is understood from the Council’s Statement of Case and the SOCG that biodiversity considerations form no part of the Council’s objection to the proposal. Therefore, consideration of alternative sites in this regard is not required to accord with the Council’s Guidance.
- 10.152. In regard to grid connection, the Guidance suggests that the Council may need to be satisfied that there is no reason why, in principle, a grid connection would not be possible. It is stated in the delegated Officers report that the Council were aware from the planning application that the point of connection for the proposed development into the electricity grid is via an overhead line which runs over the site. The delegated Officer report raises no further query in respect of grid connection or location of the proposal. There is no requirement in the guidance for an applicant to evidence the viability of their proposal or other locations further from the grid connection.

Development Plan Policy Conclusions

- 10.153. Policy 16 of the local plan is a positively worded policy, which confirms that the principle of new renewable energy proposals within Rushcliffe District are to be supported and schemes are to be granted planning permission where they are acceptable in respect of the potential impacts considered within the policy. These criteria are also addressed by other policies within the plan. Having regard to the points which I have made above, and in line with the policy matters highlighted in my appendix 9, I consider that the policy requirements have been suitably addressed.
- 10.154. In my view, Policy 16 is the policy of most relevance to this appeal. The scheme complies with Policy 16 and all other policies cited by the Council in its Reasons for Refusal and Statement of Case. While I accept there will be some adverse impacts on the landscape character and appearance, these will be highly localised and reversible. The scheme will also have some minor indirect impacts on heritage assets, which are outweighed by the public benefits of the scheme. The limited harm is not sufficient to trigger any conflict with development plan policy. In light of the above, I consider that the Proposed Development is in accordance with the Development Plan, read as a whole.

11. Other Material Considerations

- 11.1. I have reached the conclusion in Section 7 of my Evidence that the Proposed Development is in accordance with the Development Plan when read as a whole, and therefore that should be approved without delay applying the advice of the NPPF (*paragraph 11*). However, it is necessary to consider whether there are any other material considerations which justify a departure from the development plan, or conversely provide further support for the Proposed Development. Key amongst the other material considerations are the need and policy support for the development, which are discussed in detail above. In my view, that policy provides compelling support for the Proposed Development and further strengthens the case for permission to be granted.

12. Rule 6 Party and Third Party Representations

- 12.1. A number of matters have been variously raised in representations on the Planning Application and the subsequent appeal.
- 12.2. I set out a summary of the comments made and a response to each of the considerations in **Appendix 10** to my evidence.
- 12.3. The Statement of Case provided by HTAG confirms their position in relation to the main issues which I have considered above.
- 12.4. I note that the Inspector's pre-conference note specifically highlighted comments of the Action Group and others as including "effects on highway safety, ecology, and consideration of alternatives and decommissioning". These matters are included in the summary at Appendix 10 and I address those matters further below.

Site capacity

- 12.5. I have addressed the issue of capacity in section 9 above and in doing so have had specific regard to the queries raised by HTAG. In addition, the statement of Mr Urbani provides further technical details. It is confirmed that the proposal falls below the NSIP threshold of 50mw and accords with other capacity guidance, including that provided in EN3.

Archaeology

- 12.6. I refer to section 11 of Ms Garcia's evidence where she specifically addresses the Rule 6 Party's points on archaeology.
- 12.7. I note that there is no objection from statutory consultees in respect of archaeology and nor does it form part of the Council's case or reason for refusal.
- 12.8. There is no national or local policy requirement for archaeological field evaluation prior to determination of applications. Local Plan policy LPP2 Policy 29 merely requires "*appropriate archaeological assessment and evaluation*" to be submitted as part of a planning application. The officers committee report confirmed that the evaluation provided with the application met the requirements of Policy 29 of LPP2 (Core Document 4.2) and I agree with this conclusion.
- 12.9. I consider that the appropriate level of evaluation has been undertaken. The mitigation put forward is appropriate and adequate and further works as required will be secured via condition.

Effects on highway safety

- 12.10. The objection of the Rule 6 party in regard to highways centres upon the effect of large vehicles during the construction phase, as a result of the narrow lanes required to access the site being unsuitable for HGVs.
- 12.11. The arrangements for construction access to the site was subject of consideration with the Highway Authority during consideration of the planning application. I note that it is confirmed in the Officer's delegated report that the highway authority were satisfied with the proposals, following submission of revised details, including drawings and a CTMP, which confirmed the strategy for suitable passing places, a condition survey and commitment for the developer to repair any damage to the highway arising from construction activity.
- 12.12. It is confirmed that there is no objection from the Highway Authority or National Highways.

Effects on protected species and ecology

- 12.13. The Rule 6 party's statement of case suggests that the proposal presents significant risk to otters and bats, species protected under the Conservation of Habitats and Species Regulations 2017. The statement also queries the accuracy of the biodiversity net gain assessment undertaken by the Appellant.
- 12.14. The planning application submission included an Ecological Assessment which assessed the potential impacts on ecology and protected species.
- 12.15. The planning officers report (Core Document 2.1) and the consultation response from the Councils Ecology and Sustainability Officer confirms that the submitted information

satisfactorily addresses ecological matters and there is no objection to the proposal from the officer or Natural England.

12.16. As I have noted in section 4 above, an updated ecological survey and BNG metric have been undertaken. These are included in my appendix 6. The information is consistent with that submitted with the original planning application. Additional points are included within this appendix, specifically addressing the points raised in relation to ecology by the Rule 6 party.

12.17. I note that ecological matters form no part of the Council's reasons for refusal or the matters in dispute between the Council and the appellant.

Consideration of Alternatives

12.18. The rule 6 party has set out in their statement of case that they consider that the appellant has not met the requirement to consider whether there is a more appropriate site elsewhere.

12.19. I have addressed this matter in section 8 of my evidence above.

Decommissioning

12.20. The Rule 6 party has queried the process for decommissioning the solar farm at the end of the 40 year period of the planning permission and whether the proposal accords with LLP2 Policy 16 (5).

12.21. I note that details of the decommissioning strategy for the proposal are set out in the planning statement submitted with the planning application (Core Document 1.3, paragraph 1.65). The proposals are summarised in the officers delegated report which states the following:

"At the end of the operational lifespan (40 years), the solar panels and the majority of other infrastructure would be removed, and the site restored back to agricultural use. A small quantity of foundations, hard surfacing and heavy infrastructure, in combination with retaining the majority of the site as grassland, means that the land would be relatively straightforward to restore. The restoration process would ensure that over time the land is restored to the same quality as it was previously, and in the event that planning permission was granted this could be secured through a suitable condition."

12.22. I note that it is common ground with the Council that this is not a matter in dispute and that a suitable condition is included within the draft planning condition list.

13. The Overall Planning Balance, Summary and Conclusions

13.1. In this section I explain how I believe the decision maker should approach the determination of this appeal, before going on to identify any harms and benefits of the Proposed Development that need to be weighed in the overall planning balance.

The Decision-Making Framework

13.2. The starting point for the determination of this appeal is the Development Plan. The planning system is “plan led” and planning law required that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

13.3. Before reaching a conclusion on this matter I turn to consider whether there are material planning considerations which clearly outweigh any potential harm resulting from the Appeal Scheme.

Material Considerations and Weight

13.4. In considering the weight that should be afforded to each consideration in the overall planning balance, I apply the following scale:

- Substantial
- Significant
- Moderate
- Limited

13.5. Such weight may also be regarded ‘positive’ as a benefit, ‘adverse’ as harm, or where applicable of ‘neutral’ effect.

13.6. Set out below is an assessment of each of these material considerations following be a conclusion on whether the benefits outweigh any adverse impacts identified when taken as a whole.

Material Considerations weighting in favour of the Appeal Scheme

1. The Need for Renewable Energy Generation

13.7. The Appeal scheme would supply up to 49.9MW to the National Grid, providing the equivalent annual electrical need of approximately 13,500³ family homes in Rushcliffe.

13.8. As explained above, there is an urgent and compelling need for this development and very strong policy support for solar development to help increase the supply of renewable energy.

³ 50MW x load factor of 0.118 (11.8%) x 8760/3578

- 13.9. The NPPF says 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. Rushcliffe's local plan does not provide for these proactive steps, meaning that it will be necessary for speculative schemes to come forward to meet this need.
- 13.10. In reviewing appeal decisions (I provide a summary of decisions which I consider relevant at appendix 11.) I note that there is very clearly a consistent approach from the Secretary of State and appointed Inspectors in determining solar farm appeals over the last 2 years that either 'significant' or 'substantial' weight should be given to this benefit. This approach accords with the range of information stressing the urgent and significant need for additional renewable energy generation which I have set out in section 7 above.
- 13.11. Further, the very recent publication of the latest suite of NPS's which I refer to in Section 8 of my Evidence, where the latest published version of EN-1 states that the government has demonstrated that there is a need for those parts of infrastructure which is urgent (which includes solar as part of the new electricity generating plants needed) and that, in addition, **substantial weight** should be given to this need in determining applications for development consent under the Planning Act 2008⁴. Whilst I accept that this policy statement applies to NSIP projects, the policies in the NPS are capable of being a material consideration in determining this Appeal and, given their direct relevance to the Appeal Scheme which is only just under the 50MW threshold, should in my opinion carry substantial weight in the determination of this appeal.
- 13.12. I also note that the Council's delegated Officer report confirms in paragraph 7 on page 28 that *"the principle of the proposed development complies with relevant local and national planning policy. There is an urgent and compelling need for the generation of renewable energy in the UK. Solar energy forms a significant part of the contribution towards the UK becoming carbon net zero, with wind and solar providing the predominant contributor to the UK's electricity. This approach reflects wider Government policy and guidance which is designed to address the potential impacts of climate change, to ensure energy security, economic growth, and the reduction in using natural gas to heat properties. This weights in favour of the development."* Whilst the Council has not specified the amount of weight they have attached it is clear from the information provided the Council have recognised the proposed development has substantial benefits recognised in both local and national policy (Core Document 2.1, paragraph 244).
- 13.13. Taking all the above into account, I am of the opinion that, due to the imperative to deliver renewable energy schemes which can assist in decarbonising the UK's electricity supply, that the benefit of a 49.9MW solar farm's renewable energy generation should be afforded **substantial** weight in determining this appeal.

2. Climate Emergency

- 13.14. A national climate emergency was declared by the UK Parliament in May 2019 (Core Document 3.11).

⁴ Paragraphs 3.2.6 and 3.2.7, EN-1 (Core Document D2B)

- 13.15. In light of the Climate emergency, Rushcliffe Council subsequently published Climate Change Strategy in November 2021 and updated in November 2023 (Core Document 4.5).
- 13.16. Through the generation of renewable energy, I consider that the appeal scheme will contribute towards assessing these declarations of climate emergencies.
- 13.17. By providing a positive, deliverable action on these statements of intent, I consider that the declaration of climate emergencies at both the national and local level is a material consideration which should be afforded **substantial** weight in the planning balance.

3. Energy Security

- 13.18. The Appeal Scheme will supply renewable energy to the National Grid, comprising secure, distributed and diversified energy generation which fully accords with the Government policy on energy security. I have set out earlier in my Evidence in Section 9 a summary of the latest Government energy policy, notably in the British Energy Security Strategy published in 2022 and the Energy Security Plan published in March 2023.
- 13.19. I consider that energy security should be regarded as a material consideration in its own right, one which is separate to the generation of renewable energy per se. In this regard, I draw attention to the latest published version NPS EN-3 (Core Document 3.4A) which, when setting the policy for Solar Photovoltaic Generation at Section 2.10, refers at paragraph 2.1.9 to solar playing a key part of the government's strategy for low-cost decarbonisation of the energy sector in the context of the net zero emission pathway to 2050; but then in a separate following paragraph 2.10.10 goes on to state that
- 'Solar also has an important role in delivering the government's goals for greater energy independence ...'*** (underlining is my emphasis) (Core Document 3.4A, paragraph 2.10.10)
- 13.20. Given the above recent policy statements, I am of the opinion that delivering energy security is both 'urgent' and of 'critical importance' to the country (Core Document 3.4A, page 38), and as such should be afforded very **substantial** weight in the planning balance.

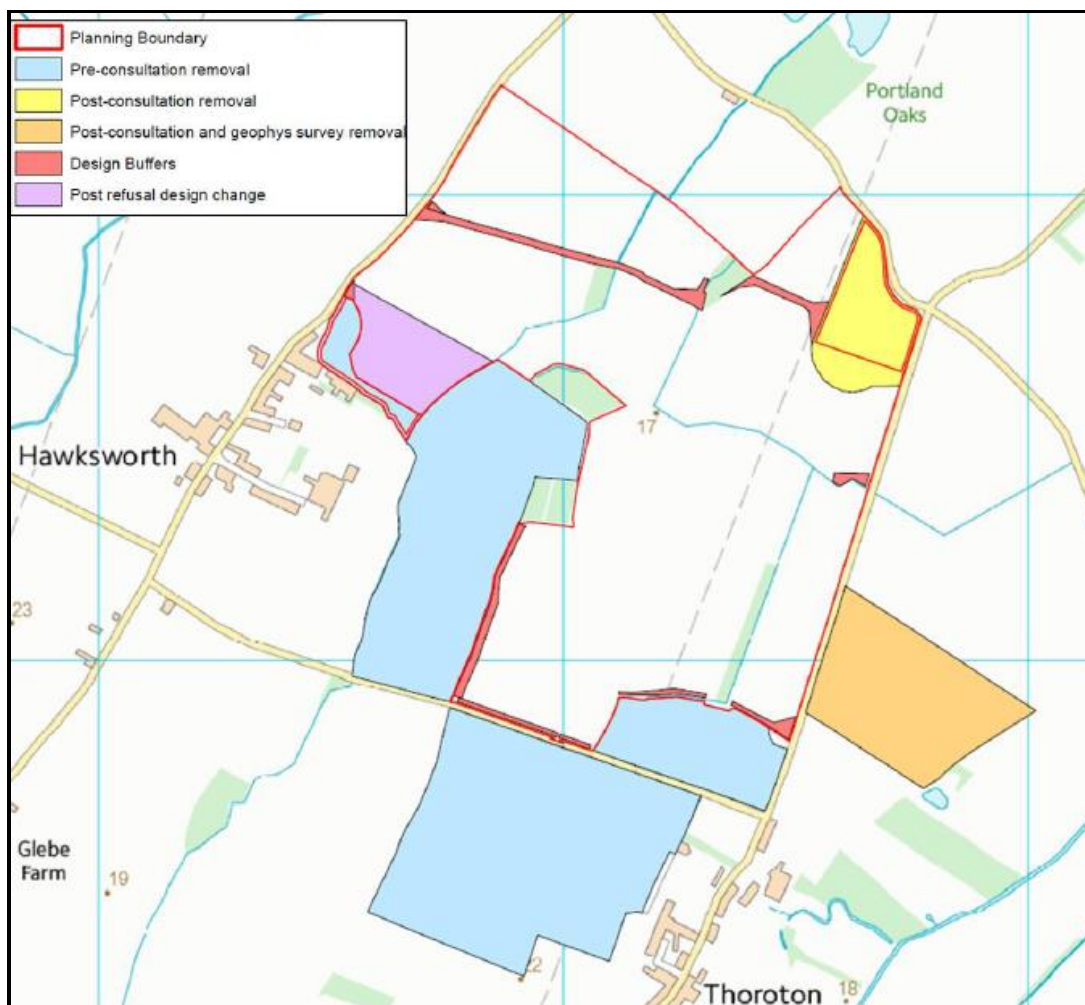
4. Best Available Technology

- 13.21. The appeal scheme will comprise the latest best available technology that delivers greater levels of solar efficiency by utilising bifacial solar panels. Bifacial solar panels are two-sided panel and therefore are able to generate power from both direct light (top of panel) and diffuse light (underside) reflected from the ground below (such as grass). This allows for optimum light absorption and more efficient panels.
- 13.22. It is therefore the case, in my opinion, that the appeal scheme benefits from the proposing the utilisation of the most efficient technology currently available and this is a material consideration of **moderate** beneficial weight in determining this appeal.

5. Good Design

- 13.23. The overall design and layout of the appeal scheme has been designed in collaboration with Rushcliffe Council and their technical advisors to minimise harm within the appeal site and the wider area, whilst providing significant benefits.

- 13.24. In summary – the appeal site is close to a viable grid connection; arable fields across the appeal site benefit from good solar radiation levels; the appeal site lies outside statutory environmental, archaeological or landscape designations; with the proposed Landscape and Ecological Management Plan (LEMP) (which has been updated to reflect design changes following the Refusal, see figure 12a within Appendix F1 – LVAR) and Biodiversity Management Plan (BMP) (Technical Appendix 2.1 of Volume 3 – Planning Reference 22/O2241/FUL), the Appeal Site’s ecology will be significantly enhanced (see also the updated Net Gain Assessment (NGA) within Appendix F2 – LVAR), and during the lifetime of the Appeal Site, sheep grazing can be undertaken alongside the electricity generation use of the Appeal Site using a low intensity grazing regime, which will allow agricultural activities to continue and the Appeal Site to have a dual use.
- 13.25. Throughout the design iteration process and in response to consultation responses received, the following changes (with reference to Figure 1 below) have been made:
- Pre-consultation, the fields shown in blue were removed to protect any potential views from the two Conservation Villages of Thoroton and Hawksworth;
 - The panel height was reduced from 3.5m to 2.8m;
 - Following feedback from the Public Information Days on 20 and 21 of April 2022, the areas in yellow and orange were removed;
 - The area in orange was also removed due to the results of the geophysical survey;
 - Solar panels were excluded from the areas shown in red to allow setbacks and reduce potential views from various visual receptors; and
 - The area in purple was removed after the LPA issued the Refusal, to help allay any concerns from the local community and to respond to comments in the third party review carried out by Wynn-Williams Associates (WWA Report) and from the LPA’s heritage officer.



- 13.26. This positive approach to design chimes with that outlined in NPS EN-1 (Core Document 3.3A), where at Section 4.7 it notes that “the functionality of an object – be it a building or other type of infrastructure – including fitness for purpose and sustainability, is equally important [to aesthetic considerations].” (Core Document 3.3A, paragraph 4.7.1). Equally, EN-1 acknowledges that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area (Core Document 3.3A, paragraph 4.7.2).
- 13.27. An iterative design process was undertaken by the Appellant as set out in the Design and Access Statement which accompanied the original planning application (Core Document 1.2). Mr Cook also explains the design evolution in his evidence in terms of siting relative to existing landscape character land form and vegetation, whilst also seeking to embed opportunities for nature inclusive design as EN-1 advises (Core Document 3.3A, paragraph 4.7.6), Further amendments were made following the refusal of permission to seek to allay some of the concerns that had been raised by consultees and third parties.
- 13.28. Given this positive approach to design and incorporating mitigation measures, I consider that **moderate** weight should be afforded to this consideration in the planning balance.

6. Biodiversity Net Gain

- 13.29. There will be a number of biodiversity benefits delivered through the Appeal Scheme, as shown on the Landscape and Ecological Management Plan (*Core Document 1.21.12*).
- 13.30. In summary, the proposals include a variety of options exist to enhance the biodiversity value of a solar farm site, including the creation of different habitats such as hedgerows, field margins, wildflower meadows, nectar-rich areas and winter bird crops. The range of habitat enhancements that will be incorporated in the appeal scheme include:
- Species-rich grassland;
 - Native hedgerows;
 - Native trees;
 - New native woodland;
 - Bat and bird boxes;
 - Hedgehog houses;
 - Hibernacula;
 - Invertebrate hotels; and
 - Bee banks.
- 13.31. Overall, the appeal scheme will result in a Biodiversity Net Gain over 187.60% for habitats, 83.04% for hedgerows and 11.85% for watercourse units through the implementation of the appeal scheme as confirmed in the revised assessment included at Appendix 6). I further note the size of this net gain will far exceed the national requirements of the Environment Act 2021.
- 13.32. I note that at the solar farm appeal *Copse Lodge, Greatworth* appeal (*Core Document 5.19, paragraph 123*), the Inspector attributed ‘significant weight’ to the BNG enhancements of 70.82% in habitat units and 32.68% in hedgerow units.
- 13.33. This weight is similar to that applied in other recent solar farm appeals – for example at *Crays Hill*, a BNG of 94% in area habitats and 53% linear habitats attracted ‘substantial weight’ (*Core Document 5.11, paragraph 25*); at *Halloughton* a net gain of 73% was given ‘significant weight’ appeal (*Core Document 5.1, paragraph 59*); at *Langford*, the Secretary of State concluded that the BNG benefit was a ‘substantial benefit, which he attributed ‘significant weight’ in determining the appeal (*Core Document 5.2, paragraph 23*); at *Bramley*, the Inspector gave ‘significant weight to a biodiversity net gain of 100% “ (*Core Document 5.17, paragraph 78*); and at *Bishops Itchington* the level of BNG (which was unspecified) attracted ‘significant weight’ (*Core Document 5.8, paragraph 34*).
- 13.34. I note that the LPA delegated Officer report (*Core Document 2.1*) states at paragraph 8 page 15 states “*the proposal would not result in any significant impacts on biodiversity, and conversely there would be a number of benefits as a result of the new habitat that is proposed resulting in a significant biodiversity net gain. As such it is considered that the proposed development complies with policy 17 of LPP1 and policy 37 of LPP2*”.

13.35. I consider that this very significant increase in BNG should also be afforded **significant** weight in the planning balance.

7. Soil Regeneration

13.36. An agricultural land classification report was submitted in support of the planning application. It states that 2% is classed as Grade 2, 34% is classed as Grade 3a and 60% of the application site is classed as Grade 3b. The amount of land classified as best and most versatile (BMV) agricultural land is total some 35.4 hectares which is above the threshold (20ha of BMV) requiring consultation with Natural England.

13.37. The consultation response from Natural England states that they consider "*the proposed development will not have significant adverse impacts on designated sites and has no objection.*" They also comment that they consider the proposed development as temporary and that "*it is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards*".

13.38. As detailed within the submitted Planning Statement (Core Document 1.3, paragraphs 1.279–1.288) the Application Site is predominately Grade 3b agricultural quality and the design layout includes solar PV panels on poorer quality land. Furthermore, during operation the Proposed Development has been designed to retain agriculture usage. Traditional arable farming can continue in Field 5 and an area south of Field 1, retaining the current day-to-day arable farming activities, and seasonal changes associated with it. The remainder of the Application Site has been designed for the dual use of energy production and sheep grazing. Following decommissioning, the Application Site will be restored to its former arable use. It is also the case that taking fields out of traditional arable use for a period of time will give the site the opportunity to recover its fertility and productivity.

13.39. At *Crays Hall*, I note that the Inspector accepted that the longer term benefits to soil structure added weight to the environmental benefits of the project overall (*Core Document 1.3, paragraph 25*). At *Copse Lodge*, the Inspector accepted that the construction and decommissioning of the solar farm is capable of taking place without significant disturbance to soils and the likely outcome would be soil improvement with the short and relatively light-touch construction required and the long period when the land would be left with limited or no artificial inputs – i.e. worked by machinery and use of fertilizers. The land quality would remain at existing levels or even experience some improvement (*Core Document 5.11, paragraphs 126 and 127*).

13.40. I attach **moderate** weight to this consideration as a benefit of the Appeal Scheme.

8. Green Infrastructure

13.41. The proposed enhancements to the existing landscape structure will greatly improve green infrastructure, as set out in section 3 of Mr Cook's evidence.

13.42. The benefits of the green infrastructure noted include:

- Climate change adaptation and mitigation

- Investment in the proposed green infrastructure bringing benefit to wildlife and the environment generally
- Protecting and enhancing landscape character and biodiversity by using land improvements and management to deliver biodiversity gain and overall landscape enhancement
- Provision of a new permissive path

13.43. I attached **moderate** weight to this consideration as a benefit of the Appeal Scheme.

9. Farm Diversification

13.44. The NPPF at paragraph 84 acknowledges that the diversification of agricultural businesses should be enabled.

13.45. The diversification of the agricultural farmland increases the profitability of the landowner's farming business with the ability to continue a reduced level of agricultural use on the appeal site.

13.46. The National Farmers Union see renewable energy as an important step towards making British agriculture neutral within two decade, an important consideration as farming is responsible for around on tenth of the UK greenhouse gas emissions.

13.47. I attach **moderate** weight to this consideration as a benefit of the Appeal Scheme.

10. Economic Benefits

13.48. The appeal scheme also represents a significant financial investment, with benefits to the local economy during the construction period including from the temporary jobs created (both direct jobs on-site and indirect/induced roles in the wider economy).

13.49. Annual business rate contributions in the region of £164,000 pa will also benefit the local economy through income to the local area over the 40 year life of the project.

13.50. At *Bramley*, I note that the Inspector afforded '**significant**' weight to economic benefits associated with that solar farm scheme (Core Document 5.17, paragraph 79), whereas at *Copse Lodge* the Inspector gave '**moderate**' weight to the temporary construction jobs and longer term business rate benefits. However, most recently at *Graveley Lane* the economic benefits of the scheme were afforded '**limited**' weight.

13.51. I also attach **limited** weight to this consideration as a benefit of the Appeal Scheme.

Material Considerations weighing against the Appeal Scheme

1. Effect on Landscape

13.52. In respect of Landscape and Visual matters, which Mr Cook explains in his evidence that there are some beneficial effects of the proposal on the landscape. Adverse impacts on character and appearance are highly localised and limited to the immediate site, due to the topography

and existing woodland. Those impacts have been mitigated and minimised as far as practicable.

- 13.53. The appeal scheme has a proposed operational lifespan of 40 years, and that at the end of this period the appeal scheme would be decommissioned, the equipment removed from the site and the restored site would then continue in agricultural use. The appeal scheme is therefore considered to be a temporary development.
- 13.54. Whilst I acknowledge that the duration of 40 years is a significant period of time, it is nevertheless not permanent and will be reversible when the planning permission expires. This is in notable contrast to many other forms of development, such as housing or commercial buildings, where such development would be a form of built development that would endure in perpetuity.
- 13.55. Having regard to all the foregoing, and given Mr Cook's evidence on the nature and extent of landscape and visual effects in which he concludes that there would be some adverse visual effects affecting public rights of way through the site, although these would reduce once mitigation planting has matured. There would be no significant adverse effects in terms of landscape character of the site itself and the immediate environs and no change to the character of the wider area. I consider that these matters should be afforded **limited** weight.

2. Effect on Public Rights of Way

- 13.56. In respect of Public Rights of Way (PROW), Mr Cook explains the effect of the appeal scheme on the users of this network. The impact of the proposal on the users of the public rights of way will be limited to a small section of the bridleway close to the proposal and in this location the impact will be mitigated by appropriate enhanced hedgerow planting.
- 13.57. All existing PROWs will be protected and enhanced where possible, and PROW widths will remain, or be wider than stated in the Definitive Mapping supplied by Nottinghamshire County Council.
- 13.58. Furthermore, the proposed development will introduce a new Permissive Path to the area enhancing public access. In the case of *Graveley Lane*, the Inspector and Secretary of State agreed that the provision of permissive paths within the scheme should be afforded moderate positive weight as they would provide a benefit to local residents and other walkers in the countryside (*Core Document 5.20, paragraph 33*).
- 13.59. Having regard to all the foregoing, and given Mr Cook's evidence presented, I consider that these matters should be afforded **limited** weight.

3. Effect on Heritage Assets

- 13.60. In terms of heritage assets, Ms Garcia's explains the proposals effect, in particular to Thoroton and Hawksworth Conservation Areas and associated listed buildings. The indirect effects assessed are not significant and are outweighed by the public benefits of the Appeal Scheme.
- 13.61. Having regard to all the foregoing, and given Ms Garcia's evidence presented, I consider that these matters should be afforded **limited** weight.

Material Considerations with are Neutral



- 13.62. I consider that the following material considerations should be afforded neutral weight in the overall planning balance.
- 13.63. In respect of Flood Risk, additional information has been submitted in response to the Council's request which demonstrates compliance with the sequential test. Flood Risk mitigation measures can be condition as requested by the Environment Agency in their no objection consultee response should this appeal succeed and be considered necessary by the Planning Inspector. Therefore I consider that there is no material harm to weigh in this regard.
- 13.64. In respect of drainage the proposal incorporates SuDS into the drainage design, which not only adequately mitigated the increased flow rates as a result on the minor increase in impermeable areas of the development, but provides a significant improvement. The Acceptable surface water drainage details submitted to and agreed with the Local Planning Authority can be secured by a planning condition should this appeal succeed and be considered necessary by the Planning Inspector. Therefore I consider that there is no material harm to weigh in this regard.
- 13.65. In respect of residential and visual amenity, I consider that there would not be unacceptable visual effects to private residential properties; from potential glint and glare; nor noise or air emission effects arising from the appeal scheme. Construction activities can also be controlled through condition, such as a Construction Environmental Management Plan, should this appeal succeed and be considered necessary by the Planning Inspector. Therefore I consider that there is no material harm to weigh in this regard.
- 13.66. In respect of vehicular access for construction and operation, I consider that acceptable traffic and access arrangements can be achieved during the construction and operational phases of the appeal scheme. Details of the new site access as well as construction matters such as haulage routes and wheel wash facilities can be secured by a condition should this appeal succeed and be considered necessary by the Planning Inspector. Therefore I consider that there is no material harm to weigh in this regard.
- 13.67. I therefore consider that the appeal scheme is acceptable in all of the above matters. I note that the acceptability of impacts identified above supports the overall suitability of the site for the development and, in the context of Paragraph 163 (b) of the NPPF (Core Document 3.1), provides positive weight in favour of granting planning permission for the proposal.

Overall Conclusions

- 13.68. I have given consideration to the reasons for refusal, relevant planning policy and other material considerations. Having examined the benefits outlined above, and also the limited harm to Landscape character and appearance of the area, the effect on heritage assets, Best and Most Versatile (BMV) Agricultural Land and Flood Risk, I consider that substantial benefits arise from the proposed scheme that outweigh the limited harm identified.
- 13.69. I have assessed the proposal in respect of the relevant policy. I note that the site is not within the Green Belt and not affected by other designations such as valued landscape. In the context of the wider area of Rushcliffe, where a large proportion of the district is affected by the Green Belt, the site presents a significant opportunity to deliver much needed renewable energy generation, meeting both local and national objectives in this regard.

13.70. I have concluded that the proposals accord with the relevant Local and National planning policy and I have identified that there are material considerations that weigh in favour of granting planning permission. There are no material considerations which indicate planning permission be refused. In light of the above assessment, it is my firm view that this appeal should be allowed and planning permission granted.

Planning Balance Summary Table

Material Considerations which are Benefits	Weight (Positive)
Generation of 49.9MW of renewable energy and subsequent reduction in carbon emissions	Substantial Positive Weight
Climate Emergency	Substantial Positive Weight
Energy Security	Substantial Positive Weight
Best Available Technology	Moderate Positive Weight
Good Design	Moderate Positive Weight
Lack of Alternative Sites	Significant Positive Weight
Biodiversity Net Gain	Significant Positive Weight
Soil Regeneration including BMV Agricultural Land	Moderate Positive Weight
Green Infrastructure Enhancements	Moderate Positive Weight
Farm Diversification	Moderate Positive Weight
Economic Benefits	Limited Positive Weight
Material Considerations which are Neutral	Weight (Neutral)
Flood Risk and Drainage	Neutral Weight
Highways and Transport	
Noise	
Glint and Glare	
Material Considerations which are Adverse	Weight (Adverse)
Effect on Landscape Character and Visual Amenity	Limited Adverse Weight
Effect on Public Rights of Way	Limited Adverse Weight
Cultural Heritage and Archaeology	Limited Adverse Weight



14. Planning Conditions

- 14.1. I am of the opinion that appropriate control over the form of the Proposed Development can be achieved through the imposition of planning conditions.
- 14.2. A set of conditions on a without prejudice basis is being agreed with the LPA.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

Leeds

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