IN THE MATTER OF

LONGHEDGE SOLAR FARM

APPEAL REFERENCE: APP/P3040/W/23/3330045

OPENING STATEMENT

ON BEHALF OF THE APPELLANT

Introduction

1. The Appellant, Renewable Energy Systems Limited ("**RES**"), is one of the leading renewable energy companies in the UK and the world's largest independent renewable energy company, with over 40 years' experience in designing, consenting, constructing and operating renewable energy schemes, primarily wind and solar. It has delivered over 23GW of renewable energy capacity across the world.

2. There is an immediate and pressing need for the deployment of renewable energy generation in the UK if the legally binding net zero targets are to be met by 2050. An important part of meeting that target is the Government's commitment to fully decarbonise the UK's power system by 2035. The challenge of achieving that objective is, in the words of the National Audit Office, "*colossal*".[1] It requires low carbon and renewable generating capacity to be deployed at an unprecedented scale and pace[2] and a five-fold increase in solar capacity in the UK by 2035.[3] The Council itself recognises the global climate emergency and acknowledges that the global impacts of climate change require transformative change and immediate and dramatic action at local level by the Council.[4]

3. The Government has identified solar generation, in particular, as having huge potential to assist in the decarbonisation of the power sector.[5] Ground-mounted solar is one of the

[1] **CD 3.16, para 10**
[2] **CD 3.16, para 32**
[3] British Energy Security Strategy, April 2022, **CD 3.18**; Powering Up Britain, March 203, **CD 3.20**
[4] Council's Climate Change Strategy, November 2023, **CD 4.5**
[5] Powering Up Britain, March 2023, **CD 3.20**

cheapest forms of electricity generation and is readily deployable at scale.[6] Indeed, such is the need for this type of infrastructure that the Government has recently[7] designated solar schemes with capacity only marginally above the appeal scheme as a "*Critical National Priority"* where the starting point will be that such development satisfies the very special circumstances Green Belt test; clearly outweighs impacts on SSSIs; is justified by exceptional circumstances in nationally designated landscapes; and by wholly exceptional circumstances justifying substantial harm to heritage assets. While the appeal scheme is marginally below the threshold for Nationally Significant Infrastructure Projects, it plainly meets the same urgent need identified in the National Policy Statements.

4. The Climate Change Committee's most recent Progress Report[8] laments the slow progress in solar deployment which is "*significantly off-track to meet the Government's target"* by 2035, partly because of barriers in the planning system. Schemes such as this will often engender strong local opposition, and this case is no exception, but they are essential if the UK is to achieve its net zero targets in the national interest.

5. The appeal site does not lie in a designated landscape; is not a valued landscape; is not in the Green Belt; is not subject to any ecological designation; and would not result in any substantial harm to any heritage assets. Importantly, it benefits from an existing grid connection offer which means it is capable of rapid deployment which is highly relevant given the urgency of the need for renewable energy. An available, technically suitable and relatively unconstrained site such as this presents a valuable opportunity to make a significant contribution to meeting the established urgent need for solar generating capacity which should not be squandered.

6. When set against the scale, importance and urgency of the need, very good reasons would be needed to turn that opportunity down. The Appellant's evidence will show that there are no such reasons in this case. Permission was refused on two grounds: landscape and visual amenity and heritage impacts. The landscape and visual impacts are localised and temporary. The heritage impacts are agreed between the Council and the Appellant to be

[6] Powering Up Britain, March 2023, **CD 3.20**; NPS EN-1, para 3.3.20, **CD 3.3A**
[7] EN-1, **CD 3.3A**
[8] CCC Progress Report, June 2023, **CD 3.41**

less than substantial. On the Council's case, at worst they are in the lower-middle quartile of that range. Over a year after the refusal of permission, and unprompted by any change in policy, the Council raised two additional matters, namely the scheme's impacts on Best and Most Versatile ("**BMV**") agricultural land and flood risk. The evidence will show that those concerns are ill-founded.

7. The Rule 6 party has raised a number of concerns which go beyond the reasons for refusal of the application. They are without substance, lack any credible evidential support and are unsupported by, in most cases, the relevant statutory consultee or the Council. The Appellant will show that none of those additional reasons justify the refusal of permission.

Landscape character and visual amenity

8. It is worth noting at the outset the extent of common ground between the Appellant and the Council on landscape and visual impacts. It is agreed that the appeal site is not a valued landscape;[9] the appeal site is of medium value and sensitivity; [10] that adverse impacts on both landscape and visual receptors would be localised and reversible;[11] and the scheme would deliver lasting benefits in the form of hedgerow and tree planting.[12]

9. As to landscape character, Mr Cook accepts that there will be some adverse impacts on the site itself arising from the land cover element of its character. That is an inevitable consequence of any large-scale solar development, but one which is fully reversible at the end of the scheme's operational life. That temporary impact is a cost that must be borne if the UK is to achieve its net zero targets. Aside from land cover, the appeal scheme will either have negligible impacts on other landscape features (eg. on topography and water features) or will result in beneficial effects (eg. in respect of tree cover and hedgerows). The character of the landscape beyond the immediate boundaries of the appeal site will be unchanged and the impacts within the site would give rise to only a minor impact on the Aslockton Village Farmlands Landscape Character Area, of which

[9] SoCG, para 7.1(g), **CD 7.9**
[10] Landscape SoCG, para 2.6, **CD 7.9C**
[11] SoCG, para 7.1(d), (e), (g), **CD 7.9**
[12] SoCG, para 7.1(f), **CD 7.9**

the appeal scheme forms a very small part, even prior to the establishment of mitigation planting.

10. Visual impacts will also be limited and localised due to a combination of topography, existing vegetation and the low-lying nature of solar infrastructure. Additional planting, of a type which is already characteristic of the area, will further mitigate the impacts and leave a positive and a permanent legacy on the landscape character of the site.

Heritage impacts

11. There are six heritage assets which are said by the Council to be adversely affected by the appeal scheme, albeit one of those is said to experience "*almost no harm"* which is unlikely to be determinative in this appeal. The other five assets are said to experience less than substantial harm in the lower middle quartile of that range.[13] Ms Garcia will explain that only three of the assets will experience any impact as a result of the scheme.[14] In each case, impacts will be at the lower end of the range of less than substantial harm and will be reversible. The scheme will also deliver heritage benefits through the reinstatement of historic hedgerows.

12. In reality, the differences of judgment on heritage impacts are relatively minor. The real issue is whether, having regard to paragraph 208 of the NPPF, the heritage harm is outweighed by public benefits. The Appellant's case is that the limited heritage harm is plainly outweighed by the substantial public benefits of renewable energy generation, even before other benefits, such as the significant BNG are accounted for.

13. The Rule 6 party raises a separate issue relating to archeology but that concern is without substance. Archeology formed no part of the Council's reason for refusal. The Council and the Appellant are in agreement that there are no archaeological concerns arising from the appeal scheme subject to the imposition of suitable conditions, which have been agreed between them.

[13] Mr Bate's proof, para 5.16
[14] The Hawksworth CA; Thoroton CA; and Church of St Helena

BMV agricultural land

14. The appeal scheme predominantly comprises of non-BMV land.[15] Of the 38% which is BMV, 36% is Grade 3(a) (good quality) and just 2% is Grade 2 (very good quality). The areas of proposed development encompass 28.7 hectares of Grade 3a and 1.5 hectares of Grade 2 land. There is no Grade 1 (excellent quality) land within the appeal site.

15. Both the Council and R6 party suggest that the use of BMV land can only be justified through a sequential approach whereby lower quality land is first discounted. There is no basis in policy for that approach, as the High Court confirmed in ***Bramley Solar Farm Residents' Group v Secretary of State for Levelling Up, Housing and Communities*** [2023] EWHC 2842 (Admin). Neither National Policy Statements; the NPPF or the PPG mandate a sequential search for alternatives. Indeed, NPS EN-3 expressly provides that land type should not be a predominating factor in determining the suitability of the site's location. The recent Written Ministerial Statement, which the R6 party relies upon does not alter that position.

16. As Mr Kernon explains, the majority of agricultural land in Rushcliffe Borough is of BMV quality. The proportion of BMV land within the appeal site is below both the Borough and national averages. Furthermore, while the proposed inverters, associated hardstanding and tracks will temporarily affect 0.6ha of BMV land, those areas will be restored following the scheme's operational life. The BMV land will not be lost or adversely affected in the long term. The substation will remain as a permanent feature but is not located on BMV land. Mr Kernon points to a number of appeal decisions where Inspectors have found that solar schemes would not result in the permanent or irreversible loss of BMV land, particularly when combined with sheep grazing, as proposed here, and indeed would be likely to improve soil quality as the land rests from intensive arable farming.[16]

17. There is no evidence before this inquiry to suggest that taking 31.3ha of BMV land out of arable production for a 40-year period will have any material impact on food production or security in the UK. Indeed, it is widely recognised that the greatest threat

[15] 62% of the site is not BMV land
[16] Appendix 1.2 to Mr Cussen's planning proof

to food production is the effects of climate change, which the scheme is designed to mitigate.

18. Solar schemes currently account for just 0.1% of the UK's land surface. Even on the Government's most ambitious scenarios for solar deployment, such schemes would still occupy less than 1% of the UK's agricultural land and even less BMV agricultural land.

19. Notably, Natural England has raised no concern about the impacts of the appeal scheme on BMV land. Its consultation response notes that the scheme is unlikely to lead to any significant loss of BMV land as a resource for future generations given that the panels would be secured to the ground by steel piles with limited soil disturbance and could be removed with no permanent loss of land quality.[17]

20. Once national and local policy requirements are properly understood and applied, there is no basis upon which BMV agricultural land considerations give rise to any basis for refusing permission for this scheme.

Flood Risk

21. In response to the late-raised concern from the Council, the Appellant has provided additional information which demonstrates that there are no sequentially preferable sites at lower risk of flooding which could accommodate the proposed development. While it will always be possible for an objector to suggest that the search area should have been broader; or that land ownership constraints could be overcome; or that separation distances and buffers from sensitive receptors could be reduced on the alternative sites, it is important not to lose sight of realism.

22. There is no national or local policy which dictates the approach to assessing alternative sites. The Appellant has adopted a proportionate approach by identifying sites within an appropriate distance of the grid connection of a comparable size to the appeal scheme. Grid connection is an important constraint, given the length of the "*queue"* to secure an alternative connection and the pressing and urgent need for solar generation. Site size is also an important consideration if the benefits of renewable energy generation are to be

[17] Officer's Report, **CD 2.1**

maximized and adverse impacts minimised as far as practicable. Splitting a scheme into smaller component parts and dotting them around different sites would inevitably give rise to additional impacts.

23. Even if the Appellant has failed to comply with the sequential test, which is denied, no harm arises. This new concern raised by the Council is a complaint without substance in circumstances where the Council agrees that the appeal scheme will not be at risk of flooding and will not give rise to any increased risk elsewhere.[18] Unsurprisingly, in those circumstances, neither the Lead Local Flood Authority nor the Environment Agency have objected to the scheme on the grounds of flood risk. In those circumstances, there is no flood risk basis for dismissing the appeal.

Planning balance

24. The Appellant's evidence will demonstrate that the appeal scheme accords with the development plan, when read as a whole, and should be approved without delay. Furthermore, even if the Inspector were to accept all of the harms and resulting policy conflicts alleged by the Council, this is still a scheme that should be allowed given the limited nature of those harms, even on the Council's evidence. In the context of a global climate emergency and the pressing need for renewable energy, the limited and localised impacts of this scheme do not come close to outweighing the substantial benefits that it would deliver. Planning policy at every level recognises the need for, and benefits of, renewable energy, which should be afforded substantial weight in the planning balance.

Conclusion

25. For the reasons summarised above, which will be explored through the evidence to this inquiry, in due course the Appellant will invite the Inspector to allow the appeal.

ISABELLA TAFUR
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10th June 2024

[18] SoCG para 7.1(rr)-(ss), **CD 7.9**

LIST OF APPEARANCES

Ms. Isabella Tafur and Mr. Mark O'Brien O'Reilly of counsel, instructed by Mr Patrick Robinson of Burges Salmon LLP, will call:

1. Mr. Andrew Cook, Executive Director, Pegasus Group
2. Ms. Laura Garcia, Senior Director, Pegasus Group
3. Mr. Jean-Christophe Urbani, Global Solar Lead, RES
4. Mr. Patrick Smart, Energy Networks Director, RES
5. Mr. Thomas Hill, Senior Ecologist, Neo Environmental Ltd
6. Mr. Tony Kernon, Director, Kerson Countryside Consultants Ltd
7. Mr. Nigel Cussen, Senior Planning Director, Pegasus Group