Little Covenhope, Aymestrey, Herefordshire, HR6 9SY

APPEAL REF. APP/P3040/W/23/3330045

Land East Of Hawksworth and Northwest Of Thoroton, Nottinghamshire, NG13 9DB

CLOSING STATEMENT ON BEHALF OF THE RULE 6(6) PARTY, THE HAWKSWORTH AND THOROTON ACTION GROUP (HTAG)

1. From the outset of this Appeal, the Rule 6(6) Party's position has been that the Appeal Proposals far exceed the threshold for a Nationally Significant Infrastructure Project (NSIP) and are not capable of determination under s.78 of the Town and Country Planning Act 1990.
2. The evidence provided by the Appellant throughout the Inquiry has confirmed the R6P's position.
3. The Appellant's witness Mr Urbani disclosed that the proposals include very substantial overplanting of solar panels, to provide some 60% more capacity than required to deliver 49.9MW of energy. In fact, the level of overplanting, on the Appellant's own evidence, would be significantly greater than this.
4. The Appellant has not disclosed the capacity of either inverters or panels, and the number of panels proposed ranges from c.128,000 to c.150,000.
5. Mr Urbani's evidence is based on 128,752 panels. This is fewer than the 139,568 stated in the Appellant's Statement of Case and other documents, and 150,304 in the Statements of Common Ground. The Appellant now says, despite having agreed a fixed number of panels in the SoCG, that the number of panels is yet to be determined.
6. Mr Urbani did not explain why, despite the assertion of the Appellant's planning witness that the Best Available Technology would be used, he assessed capacity based on 610W panels.
7. Current best available technology is panels with capacity of 750W and inverters with capacity of up to 6MW. The capacity and efficiency of solar technology is continually improving with advancements every year – and indeed this was the reason the

Appellant gave for not providing information about the proposed technology. (See footnote 2 to the capacity note (CD 7.5.7).

8. Ms Tarfur on behalf of the Appellant sought to argue that there was a distinction between capacity and efficiency, but since the performance of panels is determined under the same Standard Test Conditions, it is unclear how this could be the case. The use of higher capacity panels would enable more energy to be produced from a smaller area of land.
9. The total capacity of the site very significantly exceeds the NSIP threshold and would be capable of delivering more than three times the current threshold if 26 inverters of currently available 6MW capacity were installed. (This would give site capacity of 156MW AC.)
10. Mr Urbani's evidence was that the Appellant may have to source bespoke-sized inverters to ensure that the site remains below the NSIP capacity threshold. He did not explain why the Appellant would do this, rather than using off-the-shelf technology.
11. Mr Urbani also argued that the number of inverters could not be reduced because they needed to be within a specified distance of the solar panels. However, this does not appear to make sense because the inverters are to be installed in pairs across the site.

Application of EN-3

12. As Mr Stedman-Jones explains in his submission on behalf of the R6P, while National Energy Policy Statement EN-3 says that solar site capacity should be determined by the combined capacity of the inverters in AC, the number and capacity of solar panels is an important component in the assessment of overall site capacity.
13. In Galloway v Durham, Fordham J. held that there are (at least) two lawful methods of calculating the 50MW NSIP threshold: the Combined Panels method or the Combined Inverters method. Each has its "accompanying proviso" in EN-3:

    "The Combined-Panels Method has what I will call an "Accompanying Proviso". It involves a recognition that a degree of "Overplanting" can be acceptable. Overplanting

means installing 'spare' solar panels for necessary future use, as a 'back-up' so as to address light-induced degradation of solar panels." (at paragraph 17)

"The Combined-Inverters Method has its own "Accompanying Proviso". It is the recognition that inverter capacity is not sufficient to address planning acceptability, and consideration should be given to panel size, total area and percentage of ground cover." (at paragraph 20)

14. Degradation of the solar panels is the only justification for overplanting under EN-3 as confirmed by the Department for Energy Security and Net Zero. (CD10.2A).
15. The condition agreed between the LPA and the Appellant, which would control only the capacity of the inverters, would result in significant overplanting well in excess of that required to compensate for degradation.
16. Furthermore, the condition does not propose any mechanism by which the Appellant would notify the LPA of the inverters used or to control the capacity of the inverters throughout the lifetime of the development. The LPA advised the Inquiry that it did not have the expertise to consider whether the appeal proposals exceeded the NSIP threshold. It presumably would not be able to determine whether this condition was complied with.
17. The Appellant resisted a condition proposed by the R6P to control the capacity of both the inverters and the solar panels, leaving an allowance for overplanting to compensate for degradation.
18. The Appellant's proposal to generate 49.9MW for longer periods, is not permitted by EN-3 and would necessitate the wastage of a large proportion of the energy generated.
19. While the R6P's proposed condition would enable the Inspector to ensure the development remains below the NSIP threshold, this would not represent best use of the land. The site could deliver more energy without the need for clipping and wastage if it were to obtain a development consent order.
20. The Appellant's witnesses to the Inquiry, Mr Cussen and Mr Urbani, attested that the Appellant did not wish to engage with the NSIP process, in large part due to cost. Mr

Cussen and Ms Tarfur nevertheless invited the Inspector to adopt the policy presumptions in favour of Critical National Infrastructure to the appeal proposals, although these are not applicable to non-NSIP applications.

21. Mr Stedman-Jones has explained that it would be unlawful to grant planning permission for NSIP development.

Network Connection Agreement

22. The Appellant asserted that the capacity of the site is constrained by an agreement with the network operator, but did not provide evidence of such a constraint.
23. A novation agreement appended as Appendix B to Mr Urbani's statement included a reference to 49.9MW, but this had been cut and pasted into the document and Mr Urbani confirmed that it did not form part of this agreement. He could not say what the source of the information was.
24. Further "evidence" provided by the Appellant is part of an offer letter from Western Power Distribution dated 7th September 2020 (INQ22). This document provides no information about export capacity or limitation and the "specific conditions for connection works" were withheld. There is no evidence that the offer was accepted and nothing in the letter suggests that the terms of offer (details of which were not anyway disclosed) could not be updated or superseded.
25. Given Mr Smart's evidence that the local grid network is to be upgraded with the addition of a new supergrid transformer and that constraints on supply would be lifted, it seems highly likely that the local grid network would have capacity to accept more than 49.9MW from the proposed development.
26. The effect of planning conditions 2 and 3 agreed between the Appellant and the LPA leave the number of panels and the capacity, size, scale and appearance of the infrastructure over to discharge of conditions would, in the R6P's view, amount to the granting of an outline planning permission.
27. The consequence is that the full impacts of the appeal proposals have not been assessed through this planning appeal.

EN-3 says at paragraphs 2.61 and 2.62

> *"Where details are still to be finalised, applicants should explain in the application which elements of the proposal have yet to be finalised, and the reason why this is the case. Where flexibility is sought in the consent as a result, applicants should, to the best of their knowledge, assess the likely worst case environmental, social and economic effects of the proposed development to ensure that the impacts of the project as it may be constructed have been properly assessed."*

28. In Galloway (CD 5.9), Fordham J. explained that *"depending on commercial agreements under consideration, a solar farm operator "may not" know "precisely" which panels would be procured for the site until sometime after consent had been granted"* (at paragraph 50).

29. Ms Tarfur asserted during the inquiry that the Appellant has an agreement with the network operator that would enable a connection to the grid in the current year. The Appellant nevertheless cannot specify the type or capacity of the panels or inverters, the number of solar panels or the means of connection to the grid. The R6P considers this to be implausible: if the Appeal were allowed, the Appellant would be in a position to commence development as soon as conditions were discharged and orders for delivery of the infrastructure would have to be placed well in advance of commencement.

30. Given the flexibility of the proposed planning conditions, the panels, inverters and other infrastructure may be larger or otherwise more prominent than assessed and the site more densely planted, with different potential adverse landscape, visual, glint and glare, ecology, and recreational impacts. The amount of energy generated and the level of clipping required remains undetermined. The Appellant cannot be said to have carried out a "*worst-case scenario"* assessment of the proposed development.

REASONS FOR DISMISSAL OF THE APPEAL

1) LANDSCAPE AND VISUAL IMPACTS

31. The R6P agrees with the Local Planning Authority that the appeal proposals would have significant adverse effects on landscape character and visual amenity, contrary to policies 16, 22 and 34 of LPP2.
32. The published national and local landscape character area profiles emphasise that the area's character is "*strong rural tranquil… traditional agricultural… remote undeveloped…* with *Expansive long-distance views across the landscape to the Belvoir Ridge to the south in Leicestershire."* Such views would be lost in their entirety from the Appeal site.
33. Neither the Appellant's assessments nor the evidence of the Appellant's landscape witness Mr Cook took into account the high value of the recreational resource and high sensitivity of receptors, arising mainly from the abundance of positive landscape qualities, especially scenic beauty, tranquillity, historic villages and lightly trafficked lanes.
34. The R6P's landscape witness Ms Tinkler concluded that the proposals would result in damage to or loss of these positive qualities, and many of the important and highly-valued landscape and visual functions that the site performs, including forming the setting of designated heritage assets.
35. Mr Cook did not consider either the contribution that heritage assets make to the present-day landscape context and visual amenity, or the contribution of the landscape to the settings of the heritage assets.
36. In addition, Ms Tinkler explained that the Appellant's glint and glare study, and cumulative effects assessment, are flawed.
37. Ms Tinkler's evidence is that the overall level of direct effect on the character of the Appeal site would be Major to Moderate Negative for the duration of the operation, and the overall level of indirect effect on the character of the site's contextual landscapes would gradually decrease with distance from the site (i.e. from between

Major to Moderate and Moderate Negative, to None), and would also endure for the duration of the operation.

38. Mr Cook concluded that by Year 10, the overall level of direct effect on the character of the Appeal site would be Minor and would remain so for the duration of the operation.
39. Ms Tinkler's assessment concluded that levels of visual effects would also decrease with distance, with the highest levels of visual effects being experienced on and in close proximity to the site; major adverse visual effects would be experienced along the bridleway crossing the site for the duration of the operation (LVIA VP6 and associated view route).
40. Mr Cook's assessment concluded that by Year 10, levels of visual effects at VP6 and along the bridleway would be Negligible.
41. Mr Cook asserted in his proof that, from all viewpoints, visual effects would be lower than those found by the Appellant's earlier Landscape and Visual Assessment (LVA) of the Appeal proposals, by Neo Environmental. This difference in conclusions was not fully explained and did not become clear during the roundtable discussions of landscape and visual impacts.
42. The R6P concludes that Mr Cook reported levels of effects as lower than they would be due mainly to flaws in the assessment process. For example, his erroneous assumptions that i) the direct effect of development on character can be mitigated; ii) screen planting reduces levels of effects on character; and iii) mitigating screen planting can be counted as a landscape and visual benefit (see references to the published guidance in Ms Tinkler's evidence, which are relevant to both Mr Cook's assessments and Neo Environmental's earlier assessments).
43. In addition, Ms Tinkler noted that the proposed mitigating measures, or so-called enhancements, would in themselves give rise to adverse landscape and visual effects. In some cases, screen planting would result in the total loss of a fine open view. This is especially the case for the public right of way across the site and the proposed permissive bridleways, which would be along enclosed corridors. Ms Tinkler concluded that this and other aspects of the proposals would give rise to adverse

effects on recreational and social amenity, both on and beyond the Appeal site: matters not considered in the Appellant's assessments.

44. Furthermore, the Appellant has failed to corroborate Mr Cook's claim that the planting proposals would result in a 'lasting landscape legacy'. Notwithstanding the fact that these are proposed as mitigation, so not enhancement or benefit, it is unclear whether the planting would remain after the expiry of the planning permission. No mechanism has been offered to secure this and retention of the planting scheme is likely to conflict with the aim of restoring the site to agricultural use.

2.) ADVERSE IMPACTS ON THE SETTINGS OF HERITAGE ASSETS

45. The Appellant's heritage witness Ms Garcia sought to downplay the impact of the appeal proposals on the Hawksworth and Thoroton Conservation Areas and the designated heritage assets within them.
46. Her approach relied primarily on denying the importance of the rural setting of the heritage assets to their significance. As with Mr Cook, Ms Garcia downgraded levels of harm to the settings of heritage assets from those found in the heritage assessment submitted with the Appeal.
47. Ms Garcia made much of the proposed landscape planting, asserting that because the appeal proposals would be screened from views from heritage assets, harm would be mitigated or avoided entirely (for example, she asserted that because the panels would not be seen from the lower storeys of Hawksworth Manor there would be no harm to its setting).
48. Her assessment was based wholly on assessment of the landscape planting once mature, despite the Appellant's own assumption that the mitigation planting would not be fully effective for ten years. There was no assessment of the impact of the appeal proposals on the settings of heritage assets for the first quarter of the proposed development's lifetime.
49. Ms Garcia also failed to recognise that not all elements of the appeal proposals would be capable of screening and this includes the truly permanent elements of the

proposals, such as the Distribution Network Operator (DNO) substation and the, as yet undetermined, means of connection to the grid.

50. Importantly, her assessment failed to consider changes to how the asset would be experienced, as opposed to seen.
51. Ms Garcia sought to argue that the proposed hedge planting offered benefits by reintroducing historic field boundaries. However, the boundaries she suggested would be replicated as shown on late 19th and early 20th century Ordnance Survey maps were in fact short-lived post-Enclosure features, uncharacteristic of the historic open field patterns.
52. This was clear from the 1820 Henry Stevens map (CD 1.23.3) and Natural England's National Character Area Profile (CD-328), which says: "*The dispersed farmsteads and much of the field pattern and hedgerow network reflect the changes in agricultural land management that commenced during the enclosure and reorganisation of the landscape in the 18th and 19th centuries.*"
53. Ms Garcia also sought to dismiss the historic connections between Thoroton and Hawksworth, arguing that the villages developed as different parishes under different ownerships. This was to disregard the fact that the villages are close in age, size, form, construction styles and materials, that the two settlements demonstrated a shared evolution, entirely bound up in the surrounding agricultural landscape and connected by historic and well-used public rights of way. There is clear historic symbiosis between the two villages.
54. In fact, Thoroton and Hawksworth Manors were owned by the same family, the Storers, during the 18th and most of the 19th century, contrary to Ms Garcia's evidence.
55. Ms Garcia also sought to argue that the bridleway across the site was not on its historic line – and in her view of lesser value for that reason. Her only evidence for this claim was three historic maps, none of which purported to show public rights of way and would not have been accepted as definitive evidence of public highway rights (or lack of them) in a modification order inquiry.
56. The R6P remains of the view that the proposed development would create an incongruous, industrialising change to the landscape, which would dominate and

cause significant harm to the settings of the two Conservation Areas and the heritage assets within them

3) ARCHAEOLOGY

57. Ms Garcia confirmed that no assessment of the significance of the archaeological finds on the Appeal Site had been carried out and, consequently, no mitigation scheme has been proposed or assessed.
58. Ms Garcia accepted that the County Archaeologist had advised that archaeological finds on the site may be of schedulable status and that "*the effectiveness of no-dig mitigation options and avoidance are not yet proven*." (CD 61B)
59. She asserted in evidence that other mitigation options were potentially available but provided no information about what these might be or whether they had been discussed with the County Archaeologist.
60. There is no information about the extent of the mitigation required, although the largest area of finds was in field three immediately south of the public right of way. Even if it can be established that impacts on archaeological assets can be mitigated, mitigation options create potential for increased visual impacts, alterations to planting proposals, the design of the scheme and impacts on the settings of heritage assets.
61. The R6P maintains its position that the failure to investigate and assess the significance of archaeological features on the site resulted in a conflict with LPP2 Policy 29. This requires:

    "Where development proposals affect sites of known or potential archaeological interest, an appropriate archaeological assessment and evaluation will be required to be submitted as part of the planning application. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the development is likely to affect them." (Our emphasis)

4) LOSS OF BEST AND MOST VERSATILE AGRICULTURAL LAND

62. The appeal proposals would result in the loss of 34.4 hectares of Best and Most Versatile agricultural land along with more than 50 hectares of land in productive agricultural use.
63. Interested parties attested to the productive nature of the land.
64. The Appellant seeks to assert the site would be in continued agricultural use because there would be some sheep grazing on site. The LPA has supported this position with a proposed planning condition requiring sheep grazing.
65. The R6P is concerned that this condition could be satisfied by the Appellant purchasing sheep and turning them out on the site without any supervision or care, posing the risk of significant harm to the animals. Ms Ross (Inq. 23.1) explained that sheep require close supervision.
66. The Appellant's witnesses confirmed that the Appellant does not own any sheep and does not have any arrangement with a local grazier. Mr Kernon also said he is unaware of any water supply to the site for drinking troughs. Mr Cussen was unable to direct the inspector to any of the Appellant's sites where sheep were being grazed and Mr Kernon has not replied to repeated requests from Ms Tinkler to provide an example of a solar site where sheep grazing is taking place.
67. The LPA's planning witness argued that it would be inappropriate to attach a planning condition requiring a competent person be responsible for the welfare of sheep on site on the ground that animal welfare is monitored by the Department for the Environment, Food and Rural Affairs (DEFRA). This advice was incorrect: local Authorities are responsible for inspecting farms for animal welfare compliance under the Animal Welfare Act 2006.
68. Because most local authorities carry out inspections only in response to complaints, the welfare of any sheep on site would be reliant on local people being able to see that animals were injured, ill or in distress and reporting this to the animal welfare

officer. Given the proposals to screen the site, this is unlikely to be practicable or possible.

69. The purpose of the planning condition is to enable the Appellant to claim that the site would remain in agricultural use. This is not credible: grazing would be at such a low density as to constitute partial vegetation management, not agricultural use, and the land, currently in intensive arable production, could not be put to any other agricultural purpose.

70. Mr Clayton (Inq. 7) explained that the low stocking density possible on solar sites means that sheep are of "*zero economic value to the developer or the landowner. Indeed, they may well have to pay a grazier to provide sheep for the site for this purpose."*

5) ECOLOGY

71. The R6P raised significant concerns about the potential impact of the appeal proposals on biodiversity, including protected species, and the deliverability of the claimed biodiversity net gains.

72. The Appellant's ecology witness, Mr Hill, disputed the findings of the Bristol University Research (CD 7.8.3), which found significant declines in bat numbers on and around solar sites. Mr Hill argued that the appeal site was not comparable because it was currently arable land. This was a misreading of the research.

73. The Research compared established solar sites with control sites. It says at paragraph 2.1:

The control sites were within the same land management boundary as the solar PV site, and matched as closely as possible in plot size, habitat type, land use and boundary habitats. We also included in the models landscape variables that could potentially affect bat activity in agricultural landscapes, including the proportion of urban, arable land, grassland and broadleaf woodland, and the Euclidean distance to the nearest watercourse.

74. The research including boundary treatments such as trees and hedgerows as explained in paragraph 2.1:

All solar PV sites were on grassland that was either grazed or managed through mowing or were on cut arable crops. Field boundaries corresponded to hedgerows, treelines, woodland or vegetated ditches and were exactly matched. The paired fields were a minimum of 500 m apart and not adjacent to each other to maximise the chances of obtaining independent data within comparable landscapes (Froidevaux, Louboutin, et al., 2017).

75. The research findings included:

Solar PV sites had a significant, negative effect on six out of the eight bat species and species groups analysed…

We found that bat species that feed in both cluttered (some Myotis species) and edge habitats (E. serotinus) were affected along boundary habitats, and that species that feed in open space (Nyctalus spp.), cluttered (Plecotus spp.) and edge habitats (P.pipistrellus, P. pygmaeus) (Denzinger & Schnitzler, 2013) were negatively affected by the presence of solar."

76. The findings were clearly relevant to the appeal site. Mr Hill confirmed trees and hedgerows are present on and around the appeal site providing good habitat for bats and that watercourses across the site would provide bat foraging habitat. He also agreed that there are numerous records in the search area of Noctule bats (Nyctalus noctule), which forage across open land and are a Nottinghamshire priority species.
77. Having wrongly dismissed the research as irrelevant to the appeal site, Mr Hill was therefore also wrong to assert that the development would not have an adverse impact on the range and abundance of bat species on and around the appeal site.
78. Mr Hill agreed that the flood risk assessment proposes the culverting of watercourses on the site, details of which have not been provided. He took the view that the culverting would be of a small proportion of the watercourses, although there is no evidence whether this is the case.
79. Mr Hill was also unaware that culverting poses a drowning risk to otters, which can get trapped in culverts when water levels rise rapidly, as is likely to occur across the

Site, parts of which is prone to flooding. Interested parties provided photographs of large areas of the site underwater in recent years.

80. Mr Hill appeared to be unaware that culverting had been proposed and the culverting is not mentioned in any assessment other than the FRA. This is one example of many in which there is a lack of cross referencing between elements of the appeal proposals.
81. Mr Hill also appeared reluctant to acknowledge that there was conflict between the ecology proposal claiming the proposed hedges will benefit birds and the Bird Hazard Management Plan (BHMP), which actively seeks to deter birds from the site. He argued that the plan was aimed only at gatherings of large birds, but did not have any answer to the plan's references to deterring birds through the use of gas cannons, netting, stringing, use of anti-bird spikes, or floating balls.
82. The BHMP advises that existing and proposed hedges will be managed to prevent berry production. Mr Hill argued that the hedges are already managed in this way, but this is contradicted by Appellant's reliance on hedges of 3-4m high for landscape screening. Establishing and maintaining hedges at 3-4m assumes they are not cut regularly. The BHMP measures would also adversely affect non-bird species, including otters and dormice.
83. There is further lack of consistency in the Appellant's case in the claim that the development would result in significant biodiversity net gains. The Appellant's ecology and soils witnesses both advised that soil inversion as proposed in the Biodiversity Management Plan is no longer under consideration, but neither could properly explain how a neutral or species-rich grassland would be established without this.
84. Mr Hill said there would be a requirement to use herbicides to control invasive species and in response to a question about the credibility of the BMP proposal to use sit-on mowers and scything to manage weeds, he advised that these would not be required because sheep would keep the sward down.
85. The R6P provided evidence that insurance companies require security fencing and raised concern about the impacts on ecology of the use of this type of enclosure. While a planning condition could ensure that planning permission is required if the Appellant

wishes to change the fencing, the local planning authority will have to weigh a different balance than had the fencing been part of the appeal scheme.

86. The balance may be whether to grant permission for an existing development to continue operating against the impact on protected species, the landscape and heritage harms. Clearly the significant cost of dismantling the site and the loss of renewable energy generation would weigh heavily in the balance for granting permission.

OTHER MATTERS

Consultation on NPPF Revisions and July 2024 WMS

87. The Appellant has asked that the government's consultation on revisions to the National Planning Policy Framework (NPPF) and the Written Ministerial Statement (WMS) dated 30th July 2024 be taken into account in the Appeal decision.
88. The proposed NPPF revisions are under consultation and may be subject to substantial change, limiting the weight that may be attached to them.
89. The WMS is evidence of the government's intentions, but the section on renewable energy, on which the Appellant seeks to rely, refers to the draft changes to the NPPF and does not constitute any final decision or policy.
90. The WMS says that it is planning policies – not planning decisions – which should attach significant weight to the benefits associated with renewables. It says: "*we are proposing to: boost the weight that planning policy gives to the benefits associated with renewables*." The remainder of the paragraph refers to changes to the NSIP thresholds to *"reflect developments in solar technology."*
91. Paragraph 8 of the explanatory note to the NPPF consultation says that paragraph 160 of the NPPF will be amended to create a stronger expectation that authorities proactively identify sites for renewable energy development.
92. Draft paragraph 164A does refer to planning decisions, saying planning authorities should give "*significant weight to (a) proposal's contribution to renewable energy*

generation and a net zero future." However, paragraph 9 of the explanatory note says that the policy requirements of the NPPF will still apply along with other environmental safeguards.

93. The R6P agrees that the proposed amendment to paragraph 164A emphasises that significant weight should be attached to the renewable energy benefits in determining planning applications. However, the NPPF already gives strong support to such proposals. For example, paragraph 156 says that the environmental benefit of renewable energy may constitute very special circumstances justifying development in the Green Belt. The benefits of renewable energy are already routinely cited as attracting great weight in planning and appeal decisions.
94. In the R6P's view, the proposed changes to the NPPF do not assist the Appellant because the appeal site is unlikely to be adopted as a site suitable for renewable energy development in any development plan, due to its significant constraints, including flood risk and proximity to and relationship with nearby heritage assets.
95. Paragraph 13 of the explanatory note refers to the market distortion created by the current NSIP threshold, with a large proportion of solar planning applications clustered at just below the 50 MW NSIP threshold. The evidence of Galloway and this appeal is that developers are avoiding the Development Consent Order procedure by claiming that their sites would be below the NSIP threshold. In reality, significant overplanting is routinely proposed to maximise energy generation (and profit).
96. The WMS and proposed revisions are consistent with the new government's focus on rooftop and "larger field solar", as set out in its "Energy Bills Plan" and reflected in its immediate approval of three large solar NSIPs.
97. The Appellant may benefit if the NSIP threshold is raised – and the R6P would not be surprised to see a s.73 application to remove the constraint on capacity if the Appeal is allowed and the threshold raised.
98. However, the R6P's view is that the proposals do not constitute best use of land, given that the site is capable of delivering significantly more than the NSIP capacity (and potentially more than the proposed 150MW NSIP threshold). As proposed, a significant proportion of the energy generated would be wasted.

99. The R6P's view is that neither the WMS, nor the draft NPPF and explanatory text significantly alter the planning balance in favour of the appeal proposals.

National solar supply – grid connection improvements

100. The new government is committed to tripling the amount of solar energy in the UK to 50GW by 2030. Data from National Grid (CD 10.2C) shows that there is already substantially more capacity than this – some 130GW – in the pipeline for grid connections.

101. The biggest stumbling block for the renewables industry is the delay in obtaining connections to the Grid. According to National Grid, the delays are being addressed by changing the queuing system for connections and removing "zombie projects" from the pipeline. The government is committed to upgrading the national transmission infrastructure and made this one of the first priorities of government with the creation of GB energy.

102. The Appellant argues that the appeal proposals would be given priority because there is an existing agreement with the energy distributor, but has declined to provide credible proof of such an agreement.

103. Given the changes to National Grid procedures and the government's actions to speed up grid connections, no weight should be attached the Appellant's unevidenced claim of a prioritised grid connection.

Highway Impacts

104. The R6P and interested parties have raised concern about the highway impacts of the development during the construction period.

105. The proposed haul route from Fosse Way is characterised by single track roads with blind bends and summits and few passing places. These are currently lightly

trafficked and well-used by pedestrians, cyclists and horse riders, whose safety and amenity will be harmed by several months of construction traffic.

106. The traffic is also likely to cause damage to the wide road verges, a characteristic and cherished feature of the area and an important wildlife resource.

107. The Appellant's Construction Traffic Management Plan asserts there are a number of passing places along Thoroton Road. These are in fact private and field gateways that could accommodate only small vehicles. There is nowhere for two HGVs to pass.

108. The Appellant's proposed passing bay is within the appeal site and screened from the road by boundary hedges. The proposals do not explain how vehicles leaving or approaching the site would be made aware of one another or how non-site traffic would be able to use the passing bay.

109. On the final day of the inquiry, the R6P asked for a more robust CTMP, including route and traffic management and the creation of new passing bays, but this has not been accepted by the Appellant or the LPA.

Flood Risk

110. The R6P is concerned to see that while acknowledging that the updated climate change flood risk allowances are applicable to the site, the Environment Agency has not modelled for these allowances.

111. The EA says that it considers the use of the old 1 in 1,000 year allowances is sufficiently precautionary, but this contradicts the fact that the EA updated its flood risk allowances after 2020 because the use of 100 year plus 20% (the 1 in 1,000 year allowance) was deemed insufficient to address predicted flood risk.

112. The Appellant's Flood Risk Assessment appendix (CD1.24.1) fig. 4.3 shows that the majority of the site is at 17 – 17.5 AOD. If a safe finished floor level for vulnerable infrastructure – which is agreed to include the inverters – is 18.2 AOD, more of the infrastructure may have to be raised more than shown in the Appeal documents and this may still be inadequate if the new climate change allowances were modelled.

CONCLUSION

113. The Appellant's evidence to the Inquiry has failed to address the objections raised in the R6P's Statement of Case.

114. The proposals are for a development potentially well in excess of the 50MW NSIP threshold and should not have been considered by a s.78 appeal.

115. They are contrary to policies in the NPPF and Rushcliffe Borough Council's development plan as set out in the R6P statement of case and RBC's evidence.

116. The development would result in landscape, heritage and amenity harms, the loss of significant areas of BMV land, and would pose significant risks to protected species. It may also result in harm to important archaeology.

117. For these reasons and the other matters set out above, the R6P asks that this appeal is dismissed.

MARCHES PLANNING & ENVIRONMENT

AUGUST 2024