

ON BEHALF OF RUSHCLIFFE BOROUGH COUNCIL

Town and Country Planning Act 1990, Section 78 Appeal

SUMMARY PROOF OF EVIDENCE

PUBLIC INQUIRY

PINS Appeal ref: APP/P3040/W/23/3330045

LPA ref: 22/02241/FUL

Location: Land East of Hawksworth and northwest of Thoroton,
Thoroton, Nottinghamshire, NG13 9DB

Appellant: Renewable Energy Systems (RES) Ltd

Description: 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

Date: May 2024

All documents referred to within this statement and originally submitted with the planning application can be viewed on the Council's website.

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[Executive Director and Founder](#) | ET Planning

1. THE CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY

1.1 The planning application subject to this appeal was refused under delegated powers on 20th March 2023. A copy of the Decision Notice is attached at Appendix 1 of the Council's Statement of Case (CD7.7 and at CD2.2). The application was refused for the following reasons:

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.

- 1.2 Two further matters were raised with PINS, the Appellant and the Rule 6 party by email on the 9th April 2024. These were lack of a sequential test, in respect to flood risk, and the loss of Best and Most Versatile (BMV) Agricultural Land. The Council's Statement of Case explains the inclusions of these considerations. This proof assesses those considerations.
- 1.3 The delegated officer report is also attached at Appendix 2 of the Council's Statement of Case (CD7.7 and at CD2.1). This sets out why the appeal scheme is unacceptable. The officer report should be read in connection with the Council's Statement of Case and this Proof of Evidence.
- 1.4 The following main issues are summarised in the planning balance of this statement;
 - Effect on Landscape Character and Appearance
 - Heritage Effects
 - Loss of BMV and alternative sites assessment
 - Lack of sequential test

2. PLANNING BALANCE

- 2.1 In accordance with paragraph 12 of the Framework, the statutory status of the Development Plan is the starting point for decision-taking. Paragraph 12 advises that "where a planning application conflicts with an up-to-date development plan permission should not usually be granted". Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise'.

2.2 When assessing all relevant material considerations, it is necessary to weigh the different benefits of the proposal. For ease, I have adopted the following weighting descriptions as follows in order of significance:

- Great
- Significant
- Moderate
- Limited
- Neutral

2.3 These weightings are summarised in the following tables:

Harm	Great	Significant	Moderate	Limited	Neutral
Heritage Harm	x				
Landscape harm		x			
Loss of BMV land		X			
Flood Risk	X				

Benefit	Great	Significant	Moderate	Limited	Neutral
Renewable Energy Generation		x			
Economic benefit				x	
Biodiversity net gain		x			
Policy compliant aspects					x
Temporary length of operation			x		

Harms

2.4 Great weight against must be given to any harm to the Heritage Assets (Framework paragraph 205 and Faherty, 2023).

2.5 Significant negative weight is afforded to the harmful effect of the appeal development on the landscape character and appearance of the area, specifically the the introduction of uncharacteristic and dominant built influence to this rural

area, with a considerable alteration from baseline landscape characteristics and visual harm on users of the local Public Right of Ways.

- 2.6 Great negative weight is afforded to flood risk, in the absence of a sequential test.
- 2.7 Moderate negative weight is afforded to the loss BVL through a lack of an alternative assessment as the restrictions advanced by the Appellant appear to be self-imposed rather than dictated by any external parameters or standards.

Benefits

- 2.8 Significant positive weight is afforded to the renewable energy generating benefits of the appeal development.
- 2.9 Subject to conditional control, significant positive weight is given to Biodiversity Net Gain, noting that such benefits would be retained after the development is decommissioned.
- 2.10 Limited positive weight is given to the economic benefits of the development as most are for temporary time periods of construction and decommissioning. Business rates contribute toward local services rendered by the Council.
- 2.11 Limited positive weight is afforded to the temporary nature of the appeal proposal as at 40 years, the ability for the temporary nature of the appeal development and reversion to open land to be appreciated by local residents and users of the area is very limited. A 40 year timeframe represents a generation.
- 2.12 The policy compliant aspects of the development against Council policies relating to sustainability, drainage, highway safety etc are considered to be neutral effects rather than benefits. Individually these aspects are afforded neutral weight.

Heritage Balance

- 2.13 I have taken into account the Appellant's evidence, and the evidence of Mr Bate. I note the number of heritage assets affected and degrees of less than substantial harm afforded to the effect of the development on the significance of those heritage assets. I have also taken into consideration the 40 year timeframe for

the appeal development. Nevertheless, for the duration of its operation, the appeal proposal would bring about a noticeable change to the appearance of the two Conservation Area's settings. The degree of harm identified by Mr Bate would adversely impact upon the significance of the setting of the identified Assets. In accordance with paragraph 208 of The Framework I have therefore considered whether public benefits outweigh the Heritage harm. Whilst significant weight is afforded to these benefits (see section 7), I do not find it is sufficient to outweigh the Great weight which must be afforded to the heritage harm identified across six separate heritage assets. The appeal development therefore fails to achieve the Framework's test at paragraph 208 and is therefore unacceptable, such that heritage harm is a clear reason for dismissal of the appeal development. This is the Council's first position. However, even if the Inspector were to find paragraph 208 of the Framework was passed, the heritage harm must still be weighed in the overall balance.

Overall Planning Balance and Conclusion

- 2.14 For reasons set out in this statement, I find the appeal development is contrary to relevant up to date Development Plan policies in relation to the harm on the landscape character and appearance, the setting of heritage assets, loss of BMV and at the time of writing, a lack of a sequential test. Dismissal is further supported by national guidance in the form of The Framework and the PPG. In accordance with paragraph 12 of The Framework, permission should not be granted where there is conflict with an up to date Development Plan. Independently, both the Heritage harm and Flood Risk harm caused by a lack of a sequential test are contrary to National and Local policy and justify dismissal of the appeal development. Nevertheless, even when weighing all the benefits against the series of harms identified, I do not find that material considerations in favour of "indicate otherwise" that determination should not be made in accordance with the Development Plan. Accordingly, the Council respectfully requests that permission be withheld and the appeal dismissed.