

Little Covenhope, Aymestrey, Herefordshire, HR6 9SY

**INQUIRY STATEMENT ON BEHALF OF EAST LEAKE PARISH COUNCIL, GOTHAM PARISH COUNCIL  
AND WEST LEAKE PARISH MEETING**

Appeal Ref. APP/P3040/W/23/3329235

Appeal by: Renewable Energy Systems (RES) Ltd Site at: Land To The West Of Wood Lane And  
Stocking Lane, Kingston Estate , Gotham

I am Helen Hamilton of Marches Planning & Environment. I am here to speak on behalf of East Leake Parish Council, Gotham Parish Council and West Leake Parish Meeting.

These parish councils represent a wide area around the appeal site and all object to the appeal proposals, reflecting the clearly stated views of local residents.

This statement supplements the Statement of Case on behalf of the parish councils and should be read alongside it.

Before assessing the merits of the appeal proposals, the Planning Inspector must determine whether the case should be considered at this inquiry at all, or whether the application should have been made for a development consent order because what is proposed constitutes a Nationally Significant Infrastructure Project (NSIP).

The Appellant has not provided the evidence required for a determination on this matter.

National Energy Policy Statement EN-3 says the capacity of a solar development is determined by "*the maximum combined capacity of the installed inverters measured in AC.*"

The Appellant tells us that the proposed 17 inverters would have a maximum capacity of 49.9MW. The Appellant also said the planning application to which this appeal relates would generate 49.9 MW, when the proposal was for 20 inverters and nearly 115,000 solar panels, 23,000 more than now proposed.

The Appellant has provided extracts from a deed of variation to an agreement with Western Power Distribution, which tells us that WPD "*understands...based on current information*" that the proposed connection will be 49.9MW. Not only does this not demonstrate the legal constraint on capacity claimed by the Appellant, it indicates that the connection capacity is neither fixed nor capped.

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The amendment to EN-3 issued in January this year to advise that the capacity of a solar development should be determined by the capacity of the inverters was made to bring solar into line with other forms of renewable energy development, in which capacity is delivered as alternating current (AC). The reason for the change was because energy flows from solar panels as direct current (DC). Inverters convert the energy to AC. The new EN-3 does not suggest that the capacity of solar panels is no longer relevant and information about solar panel capacity is becoming more critical, because as solar panels become cheaper and more powerful, there is a temptation to overplant sites, generating significantly more power than inverter capacity and using more land than required to deliver up to 49.9MW.

EN-3 does not support the use of export capacity as the determinant of site capacity. It says *“AC installed export capacity should not be seen as an appropriate tool to constrain the impacts of a solar farm. Applicants should use other measurements, such as panel size, total area and percentage of ground cover to set the maximum extent of development when determining the planning impacts of an application.”* (Para 2.10.56)

EN-3 says that while *“not all aspects of the proposal may have been settled in precise detail at the point of application...Applicants should set out a range of options based on different panel numbers, types and layout”*. (Paras 2.10.71-72)

*“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.”* (para 2.6.2)

The Appellant has not complied with this guidance, which is a material consideration in this appeal. The drawings of all proposed structures on site are indicative only and there are two unexplained options for solar panel capacity in the Note to the Inspector dated 5<sup>th</sup> April 2024. (Appellant’s Planning Statement Appendix 1)

The Appellant’s reason for not supplying this information is that solar technology is evolving too rapidly to enable the provision of firm details. This is indeed the case. In 2020, the first 600W utility scale solar panels were introduced. Last year, several manufacturers launched 750W panels.

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If the 91,936 solar panels on this site were 750W, the DC capacity of the site would be 70MW.

This figure is not far removed from the Technical Report of Jean-Christophe Urbani (Appellant's Planning Proof Appendix 3). This tells us that typical AC/DC ratios of solar sites are up to 1:6 and Fig. 1 shows why developers would plant such a high ratio of panels: because it means that the site can deliver more energy over longer periods, with the excess energy simply "clipped" off during peak energy generation.

As Mr Urbani says: *"This DC to AC ratio of more than 1 allows the maximum inverter capacity to be used more often during the day and more energy to be produced – for example in the early morning and late afternoon."*

The reduced cost of solar panels has made overplanting cost-effective. But the consequence is a site with a potential capacity well in excess of the NSIP threshold and which utilises more land than is required to deliver energy up to the NSIP threshold.

EN-3 permits overplanting, but only to allow for degradation of solar panels over the lifetime of the development. It does not sanction overplanting to generate more energy than export capacity or the capacity of the inverters, thereby necessitating clipping.

This is spelled out at EN-3 Footnote 92: *"Overplanting" refers to the situation in which the installed generating capacity or nameplate capacity of the facility is larger than the generator's grid connection. This allows developers to take account of degradation in panel array efficiency over time, thereby enabling the grid connection to be maximised across the lifetime of the site. Such reasonable overplanting should be considered acceptable in a planning context so long as it can be justified and the electricity export does not exceed the relevant NSIP installed capacity threshold throughout the operational lifetime of the site."*

Mr Urbani tells us that the efficiency of a solar panel decreases by less than 0.5% each year, so the maximum overplanting on a site of 50MW would be 10MW over 40 years to account for degradation. In fact, it is likely to be much less because degradation rates are reducing and it is now cheap to replace defunct or degraded panels.

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Mr Urbani's evidence shows that the purpose of the proposed overplanting on this site is not to address degradation: the intention is to create generating capacity significantly over the claimed capacity of the inverters.

In the case of *Galloway v Durham* [2024], Mr Justice Fordham held that planning permission for a solar development was unlawful, because the local planning authority had failed to consider whether the application site covered a larger area than required for a development below the NSIP threshold.

The Appellant's planning witness says (at paragraph 11.34 of his proof), that "*the appeal scheme benefits from proposing the utilisation of the most efficient technology currently available.*" The Appellant's landscape witness also confirms that "*high-efficiency*" panels would be used. (Para. 3.3 of landscape proof).

This suggests that the latest high-capacity solar panels and inverters would be employed on the site, delivering the maximum amount of energy from the available land. Using 750W panels and the now commonly used 4-5MW inverters, 49.9MW of energy could readily be generated using significantly less land than included in the Appeal Site.

Contrary to the evidence of the expert witnesses, the note on capacity says that the panels would be 580W or 610W and the inverters no more than 2.9MW each. This does not represent the most efficient technology available.

The installation of excess infrastructure means that, as well as taking up more food-producing land than necessary, the development would have a larger embodied carbon footprint than required to produce the same amount of energy.

#### EVIDENCE OF PATRICK SMART

Turning to the evidence of Patrick Smart, who urges that this appeal is allowed because the Appellant has a "rare opportunity" to secure a grid connection at a time when developers with "impractical projects" are holding up the grid connection queue.

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National Grid says in its latest Guide to Electricity Connections (Appendix 1), that it is urgently addressing the concerns Mr Smart raises. It has already “*removed 45 ‘zombie’ projects or 1.2GW from the National Grid pipeline*” and streamlined management of network connections. It says a reformed connection process is to be introduced next year and this “*will enable a ‘first ready, first connected’ approach.*” Thus, the “impractical projects” Mr Smart complains of will no longer be able to hold up practical ones ready for connection.

The report also shows that once new connections are enabled, the UK can more than meet its targets for the generation of renewable energy. Grid connections already in the pipeline could deliver nearly 6x the amount of renewable energy required to meet the government’s net zero target.

Solar is by far the largest sector awaiting connections, making up 40% of the total. The solar pipeline already exceeds the government’s target of 70GW of solar power by 2035. While solar is a valuable source of renewable energy it is unreliable, making no contribution overnight and little in the winter, when demand is highest. It needs to be balanced with other sources, such as wind, which deliver energy when solar does not. The NG report shows the predominance of solar is out of kilter with other energy sources, meaning this balance needs to be redressed.

The Appellant’s note on capacity confirms that solar pv is one of the most inefficient forms of energy, with a load factor of around 11%. This means that it produces energy up to capacity for only 11% of the year, compared, for example, with offshore wind with a load factor of around 25%. While the installed capacity of solar is similar to onshore and offshore wind (c.25% each), solar contributes only 10% of energy generated, compared with offshore wind, nearly 35% and onshore around 25%, according to the Digest of UK Energy Statistics. (Fig.1)

The Appellant’s planning witness has quoted selectively in his Proof from the 2023 Digest of UK Energy Statistics and seeks to extrapolate from a single poor year for installations to conclude that the government’s target of 70GW will not be met.

The government’s more up to date Solar Photovoltaics Deployment Report\* shows that provisionally at the end of March 2024, 15.8MW of solar had been installed, an increase of 5.6% on the previous year.

\* <https://www.gov.uk/government/statistics/solar-photovoltaics-deployment>

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Chart 6.5 Relative share of capacity and generation and load factors 2022 (Table 6.3)

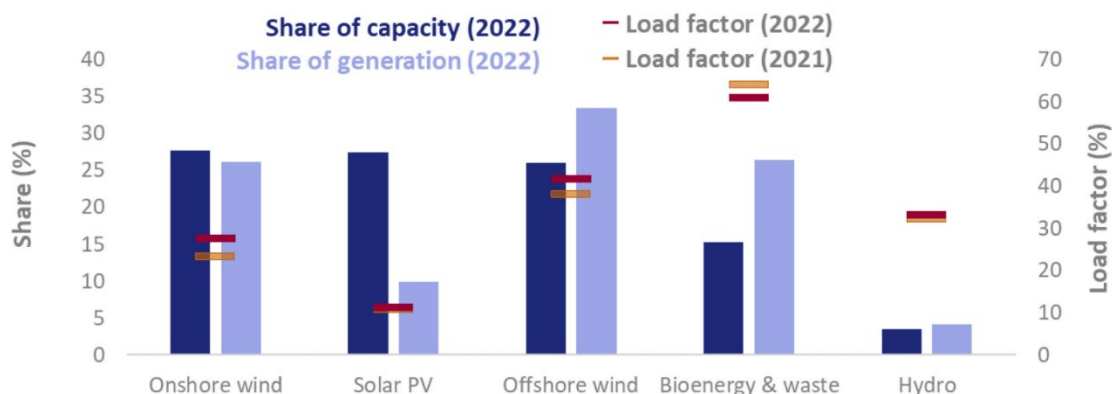


Fig. 1) Source: Digest of UK Energy Statistics (DUKES): renewable sources of energy (Chapter 6)

During March 2024 alone, new installations totalled 63MW, below the highest volumes reached in 2023, but “much higher than average figures between 2016 and 2021”. This equates to more than 7MW per year, ten times the Appellant’s projection. If installations continue at this rate, the government’s 70 GW target for solar PV will be surpassed by 2032, three years ahead of schedule.

Paragraph 163 a) of the National Planning Policy Framework establishes that applicants are not required to demonstrate the overall need for renewable or low carbon energy. However, the Appellant is seeking to argue that the policy presumptions against the appeal proposals should be overridden because an agreement to connect to the grid network has been obtained.

The evidence from National Grid and the UK government showing the 2035 target for solar will easily be reached, means that planning decision-makers can be judicious about the location of solar development and refuse permission on inappropriate sites, such as in the Green Belt.

At paragraph 9.64 of his proof, the Appellant’s planning witness suggests that the proposed development should be treated in policy terms as ‘Critical National Priority’ (“CNP”) infrastructure. If the proposed development has a capacity below the NSIP threshold, then it is not CNP infrastructure\*\* and does not benefit from the presumptions in the National Energy Policy Statements. If it is defined as CNP infrastructure, the proposals cannot be determined as a s.78 appeal.

\*\*EN-3 defines CNP as nationally significant low carbon energy.

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## GREEN BELT

The Appellant's planning witness argues that the proposed development would have an adverse impact on only one of the Green Belt purposes, the prevention of encroachment, and that the weight attached to Green Belt harm should, therefore, be reduced.

The courts are clear that in respect of Green Belt, harm is harm. It does not matter whether only one, or all five of the Green Belt purposes are harmed, the policy presumption is the same: very special circumstances must be demonstrated to justify the development.

The Appellant's argument was unsuccessfully advanced in the case of *Sefton MBC* \*. His Honour Mr Justice Eyre KC said the NPPF does *not* "require a particular mathematical exercise (or) require substantial weight to be allocated to each element of harm as a mathematical exercise with each tranche of substantial weight then to be added to a balance."

The Court of Appeal delivered the same message in *Lochailort Investments*\*\*, saying the NPPF "requires that planning authorities give "substantial weight" to any harm to the Green Belt."

And in *Boot v Elmbridge* the High Court held that a finding that a new sports stadium would result in "limited adverse impact on openness" meant that openness was not 'preserved' and that very special circumstances were required to justify it.

The Parish Councils also disagree with the Appellant's argument that the development would not contribute to unrestricted sprawl of built-up areas. The Appellant's planning witness asserts that the site lies outside any large built-up areas, disregarding the proximity to East Leake, which has a population approaching 9,000 people.

In Appeal reference 3320599, relating to a residential development on 8 hectares, the inspector explained that "there is no definition in national or local policy of what constitutes a large built-up area in terms of purpose... Furthermore, I cannot see how a settlement of 10,060 people can realistically not comprise (or be described as) a large built-up area."

The Parish Councils' view is that East Leake, part of which is in the Green Belt, is a large built-up area and that construction of the appeal proposals nearby would indeed give the impression of unrestricted sprawl. There has been significant expansion of East Leake in recent years, with permission for 1,400 homes, 3.5 times the minimum local plan allocation of 400.

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Green Belt land was released with the adoption of Local Plan Part 2 in 2019 to enable the residential expansion of Gotham. The Appeal Site was excluded from the release, indicating a clear presumption that this land is not available for development.

The Appellant has not explained why the development is proposed within the Green Belt at all, given that Green Belt comprises only 39% of the local authority area. The 132 Kva pylon by which the Appellant proposes to connect to the national grid, is many miles long and only a part of it is in the Green Belt.

The Appellant is also seeking to argue that the weight attached to the harm to the Green Belt should be reduced because a period of 40-years is claimed to be temporary. The Parish Councils have addressed this point in the Statement of Case. The Secretary of State has consistently found that a development lasting for 40 years would constitute a generational change and should be assessed as if it were permanent.

\* Sefton Metropolitan Borough Council v Secretary of State for Housing, Communities, and Local Government [2021] EWHC 1082 (Admin)

\*\* R (Lochailort Investments Ltd) v Mendip DC [2020] EWCA Civ 1259

\*\*\* R (oao Amanda Boot) v Elmbridge BC [2017] EWHC 12 (Admin)

## LANDSCAPE

The Appellant's response to the harm the proposed development would cause to landscape, visual amenity and the Green Belt is simply to block views of the site, disregarding the high value placed on the open views of and across the site from many well used public rights of way.

The Appellant's landscape witness repeatedly cites "visual enclosure" to overcome adverse landscape and visual impact, relying on existing – but ephemeral – areas of plantation woodland and the proposed enclosing of public rights of way.

He describes one of the public rights of way "*as a route passing through the countryside,*" failing to comprehend that people use public rights of way as a means of being in the countryside, not merely of getting from A to B. The response to the very substantial adverse impact on the enjoyment of users of the public rights of way is to convert currently open sided routes into "green lanes", removing any sense of being "in the countryside". Such enclosed routes could be anywhere.



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Nowhere does the landscape witness acknowledge that the proposed mitigation would in itself be seriously damaging both to public enjoyment of the rights of way but to the openness of the Green Belt. Bizarrely, the landscape witness seeks to argue that the impact on public rights of way would be “minor beneficial”. In reality, it would be major adverse.

When assessing impacts on landscape character, the landscape witness has selectively highlighted sections of the landscape character assessments which appear to support, not the development itself, but the mitigation proposed. Meanwhile, he has declined to highlight or comment upon guidance indicating the unacceptability of the proposals. For example, the advice of the Nottinghamshire Wolds landscape character assessment that Gotham and West Leake are the most prominent hills in the area and that there is a “*distinctive rural character and feeling of seclusion from urban centres*”.

Both points are clearly relevant to assessment of the proposals. The appeal proposals would introduce urban-style development over a large area, destroying the feeling of seclusion.

The claim at 5.38 of the landscape witness’s evidence that the proposed development “*would represent a change from arable fields to pastoral fields containing solar panels,*” ludicrously underplays the scale and landscape impact of the proposals.

As Mr Justice Fordham said in the Galloway case (cited in Parish Council’s SoC): “*...if you add up the widths of all the rows of panels, half of this one-acre field is “occupied” by solar panels. In another sense, the whole one-acre field is “occupied” by solar panels. The whole field is what the solar farm “requires”. If you looked at this field, in the countryside, it would look like a field full of solar panels.*”

The Parish Councils explained in the Statement of Case that the claim that agricultural use would continue is not credible and I would refer the Inspector back to that evidence.

At paragraphs 8.46 and 8.47 of his proof, the landscape witness argues that the proposals are unlike residential development, largely due to most of the structures being no higher than 3m, suggesting this means it would have lesser impact.

In fact, the proposals would have a greater adverse impact than residential development, by covering the land with large, repetitive, industrial infrastructure, wholly out of keeping with its rural setting. The structures would equate in height to single storey houses, but would be uniform, more densely packed and cover a larger area than any residential development other than a major urban extension. Even then, a residential development would be broken up by open spaces, roads, footpaths, gardens

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and planting. Solar development by contrast is row upon row of identical geometric structures, with no variety or relief.

The Appellant's witnesses have not responded to the advice of Nottinghamshire Police that the proposed deer fencing would be insufficient to deter crime. As the Parish Councils explained in the Statement of Case, the use of fencing to meet security requirements would have significant impacts on the landscape, visual amenity, the enjoyment of rights of way users and on biodiversity.

A planning condition requiring the use of deer fencing would conflict with the advice of the police and raise the risk of attracting criminals into the area of the appeal site. In any event, the likelihood that security fencing will be required is already known and should have been included in a worst-case scenario assessment of the appeal proposals.

#### BIODIVERSITY NET GAIN

The Parish Councils explained in the Statement of Case why the Appellant's claims for BNG would not be delivered. One question raised was the impacts on bats and recent research has confirmed that solar development results in dramatic declines in local bat populations, for reasons that have yet to be identified. (Appendix 2)

The Research from the University of Bristol found that solar PV sites had a significant, negative effect on six out of the eight bat species and species groups analysed. The findings suggested solar panels may cause some species of bats to alter their flight paths, fragmenting the ecological landscape. Solar development appears to be causing habitat loss for species that favour open space and there was also concern that bats were mistaking the glossy surfaces of panels for water bodies.

The authors recommended that surveys and mitigation for solar development are species specific and that *"appropriate effort should be given to assess the presence of bats roosting, foraging and commuting within close proximity to the proposed development location due to the known risks of bats not tolerating anthropogenic disturbance."*

In this appeal, the Appellant's ecologist has wrongly asserted that solar development is benign for nature and no bat surveys have been carried out.

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## CONCLUSION

The Appellant's planning witness has cited several appeal decisions, which appear to support his case. The parish councils have also cited appeal decisions as has the local planning authority. I do not think it would be helpful to list any further decisions here to add to the Inspector's burden. Each case is decided on its merits and evidence specific to the case.

I will conclude with the government's planning practice guidance on solar development, which says that while *"all communities have a responsibility to help increase the use and supply of green energy...this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities."*

The local community, as individuals and through their parish councils and parish meetings, have raised their valid planning concerns about the appeal proposals. They find the loss of Green Belt land, the amenity of their rights of way, unacceptable landscape impact and harm to biodiversity, are not outweighed by the need for renewable energy development. They ask that this appeal is dismissed.

**MARCHES PLANNING**

**MAY 2024**