

Proof Of Evidence.

Evidence of Nigel Cussen.

Land to the West of Wood Lane and Stocking Lane, Kingston Estate, Gotham.

On behalf of Renewable Energy Systems (RES) Ltd.

Date: March 2024 | Pegasus Ref: P24-0106

Appeal Ref: PO340/W/23/3329235 | LPA Ref: 22/00319/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.



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 Kingston Solar Farm, Land to the West of Wood Lane and Stocking Lane, Kingston Estate, Gotham ("the Appeal Site").

2.2. The appeal follows the decision of Rushcliffe Council ("the LPA") to refuse an application for full planning permission (LPA Ref 22/00319/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 the Council's Planning Committee against the professional advice of the Planning Officer on 9th Marh 2023, as confirmed in a Decision Notice dated 13th March 2023 (Core Document CD 2.2), which cited a single Reason for Refusal as follows:

"The proposals would result in substantial harm to the Green Belt by reason of adverse impact on openness, visual amenity and impact on amenity of users of the well-connected nearby Public Rights of Ways and Bridleways which cross or lie adjacent to the application site. The proposed Very Special Circumstances of the wider benefits of renewable energy generation associated with the application (and other wider environmental benefits) do not outweigh the harm to the Green Belt contrary to paragraph 149 of the NPPF which requires substantial weigh to be given to any harm to the green belt. In these circumstances, the proposed development is therefore considered to be contrary to Policy 16 – Renewable Energy and Policy 21 – Green Belt of the Rushcliffe Borough Local Plan Part 2: Land and Planning Policies together with paragraphs 147, 148 and 149 of the NPPF."

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.

2.5. A Statement of Common Ground has been agreed with the LPA (Core Document CD 7.9) 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 CD 7.9).

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 upto 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 CD 7.9).
- 4.3. I note that in correspondence from the Planning Inspectorate, the Council and 3rd parties, queries were raised 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 1).
- 4.4. 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 additional points were raised in relation to "overplanting". Accordingly, the Appellant has provided the following two further technical notes which are appended to my evidence:
 - Kingston Grid Report – Mr P Smart (Appendix 2)
 - Kingston Technical Report – MR J-C Urbani (Appendix 3).
- 4.5. I refer to these statements further at section 11 of my evidence.
- 4.6. 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.
- 4.7. Due to the time which has elapsed since the original ecological surveys and in consideration of the planning application, the appellant has commissioned updated ecological surveys to ensure that he 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.
- 4.8. Details if the updated survey and metric are included as appendix 4 of my evidence. The BNG metric confirms habitat units will increase by 120.67%, and hedgerow units will increase by 22.78%.

5. Planning History

5.1. Previous planning applications on the appeal site relate to historic mining of gypsum and related site restoration.

5.2. A Pre-application enquiry (ref 21/O406/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:

"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 was received from the LPA on the 26th April 2021, confirming that the Proposed Development would not constitute EIA development (Appellant Statement of Case, Appx B). The Screening Opinion was based on a site area of 89.1ha within 17 agricultural fields. In providing its response the LPA states in the EIA Screening Opinion that:

"It is not considered that the sites are located within a sensitive area for the purpose of Environmental Assessment as set out in the Regulations."

5.4. The Screening opinion considered the likely potential impacts of the proposal, including:

- Flooding – noting that the majority of the site lies within flood zone 1, (at little or no risk of fluvial or tidal / coastal flooding)
- Agricultural land – noting that the site does not form Best and most versatile land
- 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 – noting no potential impact on designated heritage assets and that due to the scale and nature of development significant impacts on unknown archaeological remains within the site would be limited
- Landscape and visual – noting that the effects of the proposal are likely to be localised.

5.5. Overall, the screening opinion concluded 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 indicates 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
- Rushcliffe Local Plan Part 2 – Land and Planning Policies
- The Gotham Neighbourhood Plan
- The East Leake Neighbourhood Plan

Rushcliffe Local Plan Part 1 – Core Strategy

6.3. The following policies are considered relevant for determining this appeal, as set out in the Statement of Common Ground (Core Document CD 7.9, paragraph 3.24):

- Core Strategy Policy 1 – Presumption in Favour of Sustainable Development
- Core Strategy Policy 2 – Climate Change
- Core Strategy Policy 4 – Nottingham–Derby Green Belt
- Core Strategy Policy 11 – Historic Environment
- Core Strategy Policy 16 – Green Infrastructure, Landscape, Parks and Open Space
- Core Strategy Policy 17 – Biodiversity

Rushcliffe Local Plan Part 2 – Land and Planning Policies

6.4. The policies referred to by the LPA in the single Reason for Refusal comprise:

- LPP Policy 16 – Renewable Energy
- LPP Policy 21 – Green Belt

6.5. In addition, I note that relevant policies for determining this appeal as set out in the Statement of Common Ground with the LPA (Core Document CD 7.9, paragraph 3.24):

- LPP Policy 17 – Managing Flood Risk
- LPP Policy 18 – Surface Water Management
- LPP Policy 28 – Conserving and Enhancing Heritage Assets

- LPP Policy 29 – Development Affecting Archaeological Sites
- LPP Policy 34 – Green Infrastructure and Open Spaces
- LPP Policy 36 – Designated Nature Conservation Sites
- LPP Policy 37 – Trees and Woodland
- LPP Policy 38 – Non-Designated Biodiversity Assets and the Wider Ecological Network.

Gotham Neighbourhood Plan

6.6. The following policies are considered relevant for determining this appeal, as set out in the Statement of Common Ground (Core Document CD 7.9, paragraph 3.25):

- Policy GS1 – Protective and Enhancement Measures for a Green Network
- Policy T1 – Traffic Calming, Congestion and Parking.

East Leake Neighbourhood Plan

6.7. The following policies are considered relevant for determining this appeal, as set out in the Statement of Common Ground (Core Document CD 7.9, paragraph 3.26):

- Policy E1 – Containment of the Built Environment

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 reviewed again in November 2023. (Core Document CD 4.5)
- Rushcliffe Borough Solar Farm Development Planning Guidance, dated November 2022 (Core Document CD 4.6)

6.10. I also note that the Council are currently preparing a Solar Sensitivity Study for the Borough. The Council's Statement of Case for the appeal 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. Case for the Appellant

7.1. 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.

Reason for Refusal

7.2. I consider that the LPA's single Reason for Refusal raises a number of interrelated points with regard to alleged harm upon the Green Belt, by reason of impacts on openness, visual amenity and impacts on users of public rights of way and bridleways.

7.3. I note that the reason for refusal does not include reference to wider impacts including landscape harm.

Main Issues

7.4. The main issues for the appeal, confirmed at the CMC are as follows:

- Issue 1 – The effect of the proposal on the openness and purposes of the Green Belt;
- Issue 2 – The effect of the proposal on the character and appearance of the landscape;
- Issue 3 – The effect of the proposal on users of the public rights of way network; and
- Issue 4 – Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

7.5. The following section of my proof addresses these issues.

7.6. The CMC note also raised general planning matters such as planning policy, the planning balance and matters raised by third parties. I address these issues in subsequent sections of my evidence.

Issue 1 – The effect of the proposal on the openness and purposes of the Green Belt.

7.7. Key policy considerations for Issue 1:

- Core Strategy Policy 2 – Climate Change
- Core Strategy Policy 4 – Nottingham–Derby Green Belt
- LPP Policy 16 – Renewable Energy
- LPP Policy 21 – Green Belt



Green Belt Policy – Framework Considerations

- 7.8. The Appeal Site is located within the Derby and Nottingham Green Belt, and that the Appeal Scheme is not a form of development that the NPPF defined in paragraphs 154 and 155 that would not be inappropriate development in the Green Belt.
- 7.9. In accordance with paragraphs 152 and 153 of the NPPF, inappropriate development is by definition harmful to the Green Belt and that any harm to the Green Belt should carry substantial weight in determining a planning application. This is a matter which is agreed in the Statement of Common Ground with the LPA (Core Document CD 7.9, paragraph 4.1b).
- 7.10. In applying NPPF paragraph 153 and **Local Plan LPP Policy 21**, the Appeal Scheme should not be approved unless the potential harm to the Green Belt by reason of inappropriateness, and other harm resulting from the proposal, is clearly outweighed by other considerations. Further, paragraph 156 states that elements of many renewable energy projects will comprise inappropriate development and that in such circumstances, developers will need to demonstrate very special circumstances if projects are to proceed. It then specifically states that, *“such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.”* I consider that to be the case in respect of the Appeal Scheme, and I return to address this matter later in my Evidence when considering the advice set out in NPS EN-1 and EN-3 on Critical National Infrastructure and its relation to very special circumstances in Section 11 of my Evidence
- 7.11. In this section of my Evidence, I now turn to consider the effect of the Appeal Scheme on the openness of, and purposes of including land within, the Green Belt.

Effect on the openness of the Green Belt

- 7.12. I note that the NPPG (Core Document CD 3.2 – Paragraph: 001 Reference ID: 64-001-20190722) advises that in assessing the impact of a proposal on the openness of the Green Belt, the circumstances of each case require a judgement, and there are three specific matters identified in the NPPG which may need to be taken into account, these being:
- openness is capable of having both spatial and visual aspects;
 - the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
 - the degree of activity likely to be generated, such as traffic generation.
- 7.13. In reaching my conclusions of these matters, I rely on Mr Cook’s evidence of the potential impact of the Appeal Scheme on the openness of the Green Belt.
- 7.14. Mr Cook has had regard to the approach adopted by a number of planning inspector decisions in analysis the site and the parameters set in the Planning Guidance PPG.
- 7.15. I refer to Mr Cook’s assessment of the spatial and visual aspects of openness.

- 7.16. With regard to the visual aspect, Mr Cook concludes that *“it is evident that the perception of openness as it relates to the site is only readily appreciated from the nearby PROWs and not from the wider countryside beyond due to the substantial physical containment of the surrounding extensive woodlands”*.
- 7.17. In respect of the spatial consideration, Mr Cook notes that *“the proposed solar farm would be relatively modest in mass and footprint with regular spaces between the solar arrays that would reduce the overall scale of the development”*.
- 7.18. With regard to the second consideration, I consider that the Proposed Development is not a permanent form of development and as such will not have a permanent effect of the openness of the Green Belt, which would be the case for many other forms of built development. Again, I note the Inspector took this temporary 40 year period into consideration into account in weighing the harm to the openness of the Green Belt in the *Chelmsford* decision (Core Document CD 5.3, paragraph 15).
- 7.19. The third consideration identified by the NPPG concerns the degree of activity likely to be generated, such as traffic generation. Once the construction period is completed after an approximately 6 month duration, there will be only infrequent maintenance visits to the Appeal Scheme which will be low intensity and low volume. I therefore consider that the harm to the openness of the Green Belt by reason of degree of activity would be very limited once the Appeal Scheme is operational.
- 7.20. Mr Cook’s analysis identifies that overall *“there would be moderate (adverse) harm to the openness of the Green Belt though this would be limited and highly localised within the context of the local woodland landscape”*. I agree with this.

The 5 Purposes of the Green Belt

- 7.21. Paragraph 143 of the NPPF identified five purposes of the Green Belt, and I will consider whether there is any harm in respect of each of these five purposes.
- 7.22. In respect of purpose (a), which is to check the unrestricted sprawl of large built up areas, I consider that the appeal site lies outside of any large built up area.
- 7.23. In respect of purpose (b), which is to prevent neighbouring towns from merging into one another, the appeal scheme does not adjoin any of the neighbouring towns of Gotham or East Leake. I consider that it will not result in the merging of these settlements given that significant open land will remain on all four side of the appeal site.
- 7.24. In respect of purpose (c), which is to assist in safeguarding the countryside from encroachments, I rely on Mr Cook’s evidence where he highlights that the proposed solar scheme would be physically limited to the site itself and that there would continue to be a strong disconnection between the distant urban areas beyond the Green Belt with the scheme in place. Mr Cook concludes that the level of harm to the Green Belt from encroachment would be limited to a moderate degree.
- 7.25. I note to the Inspector’s consideration of this matter at *Chelmsford* where he concluded that the solar farm would alter the appearance of the fields to accommodating solar equipment interspersed with retained field boundaries, the effect of which would result in encroachment (Core Document CD 5.3, paragraph 16).

- 7.26. In respect of purpose (d), to preserve the setting and special character of historic towns, I consider that this relates to the setting and special character of historic towns only. I consider that the appeal scheme does not offend either the setting or special character of historic towns and is therefore in compliance with this requirement. The reason for refusal does not refer to any heritage related matters.
- 7.27. In respect of purpose (e), which is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land, due to the large scale and specific grid connection requirements of the appeal scheme, there are no derelict urban land sites available and therefore I consider that there is no conflict with this objective. I have reviewed the Council's Brownfield Land register in this respect and note that there are only 12 sites identified, 8 of which are less than 1 hectare in size, 3 sites are between 1 ha and 3.5 ha and the largest of the sites is 35.4 ha. I have concluded that none of the sites are large enough to accommodate the proposed appeal scheme. Indeed the area of the appeal scheme exceeds the total area of all of the sites in the brownfield register. (A summary of the Brownfield Register is provided at Appendix 5)
- 7.28. I am mindful too that in *Chelmsford*, the Inspector found no conflict to purpose (e) from a 49.9MW solar farm being sited in the Green Belt rather than being deflected towards previously developed land. The Inspector accepted that it would not be cost effective to locate a solar farm use on PDL due to land values and rates of return (*Core Document CD 5.3, paragraph 17*).
- 7.29. In conclusion on these 5 purposes of the Green Belt, I consider that the appeal scheme would result in limited harm to only one of these five purposes (purpose (c), safeguarding the countryside from encroachments), but that the strategic performance and function of the remaining Green Belt would remain intact.
- 7.30. Overall, I confirm that the development would be inappropriate development in the Green Belt and would by definition therefore result in harm to the Green Belt. As to the nature and extent of this harm, I consider the Appeal Scheme would result in moderate adverse harm to openness of the Green Belt, and that it would further result in moderate harm to the Green Belt by encroachment only, one of the five purposes of the Green Belt. In respect of the other four purposes, I do not consider there to be harm in this instance.

Issue 2 – The effect of the proposal on the character and appearance of the landscape.

- 7.31. Key policy considerations for Issue 2:
- Core Strategy Policy 16 – Green Infrastructure, Landscape, Parks and Open Space
 - LPP Policy 16 – Renewable Energy
 - LPP Policy 34 – Green Infrastructure and Open Spaces
- 7.32. Consideration of this issue is raised in the CMC note and arises in respect of local and national policy, including within local plan Policy 16. However, the Council's reason for refusal of the planning application focuses solely on Green Belt matters and does not highlight a concern in respect of general effects on landscape character and appearance. Within the Officer's committee report (Core Document CD 2.1) it is confirmed at paragraph 110 that the

Council commissioned an independent landscape review of the proposal. Taking account of the submitted LVIA and the external advice received, the officers report concluded that the landscape and visual effects of the proposal were acceptable and accorded with Policy 16 of the LPP2.

- 7.33. Notwithstanding the consideration given to the issue in the Officers committee report, I also refer to Mr Cook's evidence on the effects on character and appearance of the landscape.
- 7.34. With regard to effect of the proposal on Landscape Elements, Mr Cook has identified that there would be a moderate adverse effect with regard to land cover with the introduction of the solar farm superimposed over pastureland. There would be a negligible effect on topography, and moderate beneficial effect on additional planting and hedges and some beneficial effects to green infrastructure.
- 7.35. The effect of the proposal on Land Cover arises from the change to grazed pasture from arable and the introduction of the solar farm. This would only affect the area of the site for the period that the solar farm is in place. It is noted that the character of the landscape beyond the immediate environs of the site would remain unchanged with the scheme in place and that would also apply to the vast majority of the Landscape Character Area.
- 7.36. In terms of the effect on visual amenity, Mr Cook confirms that the scheme's effect upon visual amenity of the area would be very limited in degree and very localised in extent. I note his conclusion that *"the visual effects of the proposed solar farm would be very limited due to its substantial visual containment as a result of a combination of topography and surrounding woodlands. 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"*.
- 7.37. In regard to Landscape Character, Mr Cook's overall conclusion is that *"there would be a moderate adverse effect upon the landscape character of the site itself and its immediate environs. No off-site works are required (other than point of connection to the Grid) to enable this scheme to be implemented other than the cable connection. The physical character of the surrounding landscape would remain and prevail unchanged with the proposed solar farm in place"*.
- 7.38. Overall, I conclude that there are some beneficial effects of the proposal on the landscape and where there are negative effects these are at worst moderate, the adverse effects are highly localised and limited to the immediate site, due to the topography and existing woodland.

Issue 3 – The effect of the proposal on users of the public rights of way network.

- 7.39. Key policy considerations for Issue 2:
- Core Strategy Policy 16 – Green Infrastructure, Landscape, Parks and Open Space
 - LPP Policy 16 – Renewable Energy
 - LPP Policy 34 – Green Infrastructure and Open Spaces

- 7.40. The LPA's reason for refusal incorrectly conflates impacts upon Green Belt and the impacts on amenity of users using nearby PROW and Bridleways that cross or lie adjacent to the application site.
- 7.41. Green Belt Policy 21 of the Development Plan does not incorporate such a test and nor does the NPPF.
- 7.42. Nonetheless, I consider below the impacts upon users of the PROW and Bridleways, with Policy 34 of the Development Plan being considered to appropriate policy to assess this matter.
- 7.43. In doing so, I note that the proposals incorporate an enhancement to the publicly accessible parts of the site through the formation of a permissive path along part of the southern boundary of the site. This is included within the proposals as part of the PROW Management Plan submitted in support of the planning application. This aspect of the proposal accords with the guidance within the NPPG relating to Green Belts which advises that effects on the Green Belt may be offset by compensatory improvements which "could for instance include... new or enhanced walking and cycle routes". (NPPG Paragraph: 002 Reference ID: 64-002-20190722)
- 7.44. During consideration of the planning application the relevant NCC consultee response confirms no objection in respect of Public Rights of Way. The Public Rights of Way officer commented on the planning application three times, each time noting no objection. In the 3rd comment it is noted that the officer recognises and welcomes additional information provided during the course of the application and acknowledges that suggestions made in earlier representations have been accommodated (Core Document 6.4 C). The responses of the County Council were noted in the planning officer's committee report.
- 7.45. Effects on the Public Rights of Way have also been assessed in the evidence of Mr Cook. Mr Cook notes no visibility from PROWs to the north, south and west of the site which are therefore unaffected. The bridleway to east is noted as being affected to a limited degree. Within the site rights of way on the western bridleway are flanked by hedgerows. The eastern Bridleway which is noted to be open on one side, is proposed to be planted with a mature hedge to provide screening.
- 7.46. The approach of enhancing hedgerows in this manner accords with the guidance in the NPPG which refers to "the potential to mitigate landscape and visual impacts through, for example, screening with native hedges". (Core Document CD 3.2- Paragraph: 013 Reference ID: 5-013-20150327)
- 7.47. In summary, I conclude that 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.
- 7.48. Policy 34 of the Local Plan addresses Green Infrastructure and Open Space Assets and includes rights of way among the assets which are protected from adverse effects to their green infrastructure function. I note that Policy 34 also allows for adverse impacts on green infrastructure to be weighed against the overall benefit of the development. Due to the limited level of effect to the rights of way arising from the proposal and the mitigation provided by the enhances planting, in addition to the benefits to public access arising from



the new permissive footpath and the overall benefit of the proposal in delivering new renewable energy, I consider that the proposal accords with Policy 34.

Issue 4 – Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

- 7.49. All harm to the Green Belt should be afforded substantial weight, as is consistent with *Graveley Lane*, in the planning balance, but I consider that a moderate level of harm, as would occur here, is likely to be more easily outweighed by the benefits of the scheme.
- 7.50. I also note that the LPA Planning Officer's advice was that "*the very special circumstances clearly outweigh the harm caused by the inappropriate development and other harms*" (*Core Document CD 2.1, paragraph 248*).
- 7.51. I return in Section 11 to consider this harm to the openness of the Green Belt, together with any other harm, and whether this harm clearly outweighed by other considerations.

8. Compliance with Planning Policy and the Development Plan

8.1. 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 CD 7.7).

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

8.2. I specifically consider the most relevant policies to the determination of this appeal, in respect of **Policy 16** on Renewable Energy and **Policy 21** on Green Belt. I have reviewed compliance with the other Local Plan policies and Neighbourhood plan policies at Appendix 6 to my Evidence.

Policy 16 – Renewable Energy

8.3. I note that **Policy 16** is framed in the context of the National Planning Policy Framework (albeit a superseded version) and the importance placed on supporting the delivery of low carbon energy. This policy sets out a permissive policy framework to encourage opportunities to generate energy from non-fossil fuels and low carbon sources. 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.

8.4. When considering compliance with **Policy 16**, it is considered that each element of the policy can be addressed:

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
a) Compliance with Green Belt Policy.	I considered that very special circumstances for the construction of the Proposed Development exists as discussed within the wider Evidence in this Proof, particularly at Section 11.	<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 its entirety in the Evidence provided by Mr Cook.	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 4 Core Strategy Policy 16 LPP Policy 21 LPP Policy 34 Gotham NP Policy GS1 East Leake NP Policy E1
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 (Core Document CD 1.33). A significant net gain in biodiversity will occur with the implementation of the Biodiversity Masterplan and Landscape and Ecological	<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 Gotham NP Policy GS1

	Management Plan measures (Core Documents CD 1.22.14 C, CD 1.22.15 C, CD 1.22.16 C). This matter is agreed within the Statement of Common Ground with the LPA (Core Document CD 7.9).	
d) Best and Most Versatile Agricultural Land.	95.% of the appeal site is classed as Grade 3b agricultural land, with the remainder forming farm tracks, property, hedgerows and ditches. The entirety of the appeal site does not form land classified as best and most versatile (BMV) agricultural land (Core Document CD 1.30). This matter is agreed within the Statement of Common Ground with the LPA (Core Document CD 7.9)	<ul style="list-style-type: none"> • Core Strategy Policy 2
e) The Historic Environment.	There are no designated heritage assets located within or adjacent to the appeal site that could be physically impacted by the Proposed Development. As such no direct effects will occur on designated assets (Core Document CD 1.24). This matter is agreed within the Statement of Common Ground with the LPA (Core Document CD 7.9)	<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.	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 (Core Document CD 1.22). An additional Permissive Path has been proposed as part of the development. This matter is agreed within the Statement of Common Ground with the LPA (Core Document CD 7.9)	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 16 • Core Strategy Policy 17 • LPP Policy 34 • Gotham NP Policy GS1
g) Amenity of Nearby Properties.	There are no significant impacts on the amenity of nearby properties once mitigation is taken into account. This matter is agreed within the Statement of Common Ground with the LPA (Core Document CD 7.9)	<ul style="list-style-type: none"> • Core Strategy Policy 2
h) Grid Connection.	The appeal site has a viable Grid Connection. A grid application for	<ul style="list-style-type: none"> • Core Strategy Policy 2

	<p>the Proposed Development was submitted by RES Ltd in Autumn 2020 to connect into the Distribution Network at the appeal site following discussions with the Distribution Network Operator, National Grid Electricity Distribution (“NGED” (formerly Western Power Distribution)), which indicated that there was capacity available on the local 132kV network between Ratcliffe-on-Soar and Willoughby (“the 132kV circuit”). The 132kV circuit lies 240m north of the appeal site and is detailed within the Grid Capacity Analysis (Appended to the Appellants Statement of Case).</p> <p>NGED confirmed that the 49.9MW capacity was only available on the underground cable section of the local 132kV circuit.</p> <p>Further technical details of Grid connection matters is given in the statement of Mr Smart (Appendix 2).</p>	
i) Form and Siting.	<p>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. This matter is Confirmed in the Panning Officer’s report (Core Document CD 2.1, paragraph 100).</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 4 • Core Strategy Policy 10 • Core Strategy Policy 16 • East Leake NP Policy E1
j) Mitigation.	<p>Landscape mitigation and enhancement works are also proposed (mitigation planting,</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 16 • Core Strategy Policy 17

	including new infilled hedgerow planting, tree planting and enhancement of field margins though proposed species rich grassland). These are illustrated on the Landscape Masterplan and referred to in the evidence of Mr Cook.	<ul style="list-style-type: none"> • LPP Policy 36 • LPP Policy 37 • Gotham NP Policy GS1
k) 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 subject of a proposed agrees planning condition. (Core Document CD 7.9)	<ul style="list-style-type: none"> • Core Strategy Policy 2
l) Cumulative Impact with existing and proposed development.	Cumulative effects were considered in the LVA (Core Document CD 1.22) and the conclusions of the officers report (Core Document CD 2.1). These note that there is no intervisibility between the proposal and other schemes and there is limited potential for cumulative effects.	<ul style="list-style-type: none"> • Core Strategy Policy 2
m) Emission to Ground, Water Course and/or Air.	The development will not 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. These matters do not form part of the Councils reason for refusal of the application and the planning officer's report confirms accordance with policy in this regard. (Core Document CD 2.1, paragraph 207).	<ul style="list-style-type: none"> • Core Strategy Policy 2 • LPP Policy 17 • LPP Policy 18 • LPP Policy 39 • LPP Policy 40
n) Odour	The Proposed Development means that no odour would be generated during the operational stage and the proposed is acceptable in respects of effects on Air Quality. This matter does not form part of the Council's reason for refusal of the application and the planning officer's report confirms accordance with policy in this	<ul style="list-style-type: none"> • Core Strategy Policy 2 • LPP policy 41

	regard. (Core Document CD 2.1, paragraph 204).	
o) Vehicular Access and Traffic	<p>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. As such, the operational access would be associated with a low number of trips (around on per month).</p> <p>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. (Core Document CD 6.2)</p>	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Gotham NP Policy T1 •
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

Policy 21 – Green Belt

- 8.5. **Policy 21** confirms that the Green Belt in Rushcliffe and its boundaries are defined on the Policy Map. It further advises that applications for development within the Green Belt will be determined in accordance with the National Planning Policy Framework.
- 8.6. Due to the explicit reference to the requirements of the NPPF, I consider that **Policy 21** therefore also allows for the consideration of the ‘very special circumstances’ test, as set out later in my Evidence, at Section 11.
- 8.7. As I have demonstrated that the NPPF paragraph 156 have been met, I therefore consider that **Policy 21** is satisfied.

Supplementary Planning Documents

Rushcliffe Borough Climate Change Strategy in 2009, updated in 2021 and 2023.

- 8.8. The LPA produced a Climate Change Strategy in 2009, which was later updated in 2021 and 2023, 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.”

- 8.9. 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.
- 8.10. 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; the LPA reducing emissions, supporting the community and enabling conservation.
- 8.11. 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.”*
- 8.12. 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.
- 8.13. The planning officers 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 CD 2.1 – paragraphs 76 and 77).

Rushcliffe Borough Solar Farm Development Planning Guidance – November 2022.

- 8.14. 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.
- 8.15. The Guidance does not identify any preferred sites for major solar farm development.
- 8.16. 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.
- 8.17. The guidance confirms that in accordance with the NPPF, the Council will have regard to the NPS’s EN1 and EN3, noting that with particular regard to proposals that are close to the 50mw threshold the NPS’s are likely to be material considerations.
- 8.18. 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 NPG, 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”.

- 8.19. 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.
- 8.20. 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 Planning Committee report (Core Document 2.1 – paragraph 152) 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 or any other regard is not required to accord with the Council’s Guidance.
- 8.21. 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 Officers Committee 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 planning committee 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

- 8.22. 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 6, I consider that the policy requirements have been suitably addressed.
- 8.23. I therefore consider the proposed development is in accordance with the Development Plan when read as a whole.
- 8.24. In accordance with paragraph 11 of the NPPF, proposals which accord with an up to date development plan should be approved without delay and under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications should be determined in accordance with the development plan unless other material considerations indicate otherwise. I address other material considerations in my next section.

9. Other Material Considerations

- 9.1. Although I have reached the conclusion in Section 8 of my Evidence that the Proposed Development is in accordance with the Development Plan when read as a whole, and therefore that it should be approved without delay applying the advice of the NPPF (*paragraph 11*), it is also necessary to consider whether material considerations indicate otherwise.

Energy Policy Considerations

- 9.2. This section of my Evidence provides a summary of the most relevant energy legislation, policy and guidance in this Appeal.

UK Legislation and Policy

- 9.3. The 'Climate Change Act 2008' (*Core Document CD 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.
- 9.4. 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 CD 3.9*).
- 9.5. The 'Clean Growth Strategy' (*Core Document CD 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.
- 9.6. 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 CD 3.11*).
- 9.7. At the local level, Rushcliffe Borough Council declared a Climate Emergency on 7 March 2019 (*Core Document CD 4.5*).
- 9.8. The Government published the Energy White Paper: Powering our Net Zero Future in December 2020 (*Core Document CD 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."

9.9. And later in the foreword:

“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.”

9.10. 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.”

9.11. 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.

9.12. The Government published its **‘Net Zero Strategy: Build Back Greener’** (*Core Document CD 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 CD 3.17, first bullet point, page 19*).

9.13. 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 CD 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.

9.14. Another of the key commitments is ‘to ensure the planning system can support the deployment of low carbon energy infrastructure’.

9.15. The National Audit Office have identified 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 (*Core Document CD 3.17, paragraph 10, page 98*).

9.16. 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 CD 3.17, 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 CD 3.17, 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 CD 3.17, paragraph 36, page 103*).

- 9.17. 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 CD 3.17, paragraph 32, pg 102). 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.
- 9.18. 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 CD 3.17, paragraph 43, pg 105).
- 9.19. 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 CD 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.
- 9.20. Most recently still, the Government published a suite of documentation under the **Powering Up Britain** in March 2023. This included updated draft NPS on Energy and Renewable energy to which I refer below, but also an **Energy Security Plan** (“the ESP”) (Core Document CD 3.20). I note that the Government states that ‘*Low cost renewable generation will be the foundation of the electricity system and will play a key role in delivering amongst the cheapest wholesale electricity in Europe*’ (page 34)
- 9.21. The ESP continues to examine the role of solar at pages 37/38, and it reaffirms the Government’s commitment to aim for 70GW of ground and rooftop capacity by 2035. It again states that this amounts to a fivefold increase on current installed capacity. The ESP then concludes on this matter:
- ‘We need to maximise deployment of both types of solar to achieve our overall target’.***
- 9.22. This clear statement is important, 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.
- 9.23. After considering ways that rooftop solar can be encouraged, the ESP turns to ground mounted solar, which is noted as being readily deployable at scale (as is the case with the Proposed Development). It continues to say 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 (the latter category being the case with the Appeal Site). I consider that the Proposed Development would assist in achieving what the Government seeks in the ESP.

- 9.24. The ESP again restates that the Government considers that meeting energy security and climate changes goals is *'urgent'* and *'of critical importance to the country'*, and further that *'these goals 'can be achieved together with maintaining food security for the UK'*.
- 9.25. The ESP further encourages deployment of solar technology that deliver environmental benefits, with consideration for ongoing food production or environmental management. The proposed Development would assist in delivering both and food production through sheep farming as confirmed in the Planning Statement submitted with the original planning application (Core Document CD 1.3) and as noted in the Planning Officer's committee report (core Document CD 2.1). The application has also demonstrated environmental benefits through delivering a significant increase in Biodiversity Net Gain (Appendix 4).
- 9.26. 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 11 of my Evidence.

Progress

- 9.27. 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 CD 3.14). In the key headlines to the 'Renewable Sources of Energy' chapter (Core Document CD 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.
- 9.28. The National Audit Office has recently cast doubt 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 CD 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.

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.

9.29. 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."

Additional Documentation

9.30. Appendix 7 to my evidence provides a written summary of a number of additional documents. All are relevant considerations in the determination of the application, 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 7 shows and increasing awareness of the adverse effects of climate change.

9.31. 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)

9.32. 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.

9.33. 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".

- 9.34. Paragraph C3 then sets out mitigation and adaption 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.*"
- 9.35. 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.*"
- 9.36. Newspaper Article – '*Era of global boiling has arrived*' states "*The only surprise is the speed of the change. Climate change is here, it is terrifying, and it is just the beginning. The era of global warming has ended; the era of global boiling has arrived.*" These documents state that: "*It is still possible to limit global temperature rise to 1.5C and avoid the very worst of climate change but only with dramatic, immediate climate action. We have seen some progress – a robust rollout of renewable and some positive steps from sectors such as shipping – but none of this is going far enough or fast enough. Accelerating temperatures demand accelerated action.*"

Summary

- 9.37. 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.
- 9.38. Having regard to the above, the application proposals make an appreciable contribution to meeting the amended Climate Change 2008 targets. It is clear that in order for the UK to meet the ambitious target of reducing greenhouse gas emissions by 100% or "net zero" compared to 1990 levels by 2050, a presumption in favour of increasing the number and output of low carbon energy sources, such as solar farms, is entirely appropriate and necessary.
- 9.39. The UK's 'Climate emergency' declaration and Thurrock Council's subsequent declaration provide further context for this Appeal. The Proposed Development would support the intentions of these declarations.
- 9.40. The application of the Government's energy policy framework is a substantial material consideration to this Appeal and is further considered in the balance of material considerations at Section 11 of my evidence.



National Policy Statements on Energy & Renewable Energy

National Planning Policy Framework

- 9.41. I have already referred to the NPPF earlier in my Evidence. However, I wish to draw attention to the following key paragraphs in relation to the determination of this appeal.
- 9.42. First, I have previously noted in Section 7 of my Evidence when considering Green Belt matters that paragraph 156 states that that “*such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*”. This is an unusual policy intervention, as no other type of development receives similar specific treatment or consideration in the context of demonstrating very special circumstances.
- 9.43. Second, paragraph 159 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.
- 9.44. Third, 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.
- 9.45. Paragraph 163 further requires that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable. For the reasons I elaborate in Section 11 of my evidence, I am the opinion that the impacts arising from the Proposed Development are acceptable with the imposition of suitable planning conditions.
- 9.46. 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.
- 9.47. Further advice is set out in the NPPF regarding conserving and enhancing the natural environment and the heritage environment which I also refer to in reaching an overall planning balance in Section 11.

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

- 9.48. The Government’s web-based NPPG went live in March 2014 (*Core Document CD 3.2*) and contains guidance on the planning system and has been subject to updating periodically. The web-based guidance should be read alongside the NPPF and is a material consideration in the consideration of planning applications.
- 9.49. 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.

9.50. I am of the opinion that the above considerations are satisfactorily addressed for the reasons set out elsewhere in my evidence as noted above.

9.51. 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 draft NPS publications, 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 CD 3.20*) and the National Policy Statements as summarised below as published in November 2023. This goes to the weight that can be afforded to that earlier guidance.

Overarching National Policy Statement for Energy (EN-1) (November 2023)

9.52. EN-1 (*Core Document CD 3.3 A*) was designated on 17 January 2024 and sets out national policy for energy infrastructure in the UK. Its primary purpose is to be applied to decision for Nationally Significant Infrastructure Projects, which the Proposed Development the subject of this appeal is not, although it is of a scale which is approaching the NSIP threshold. It is also confirmed this document can be a material consideration in the determination of planning applications (*Core Document CD 3.3 A, paragraph 1.2.1*), and the extent to which the policies in the NPS are material, and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy (*Core Document CD 3.3 A, paragraph 1.2.2*).

9.53. 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 CD 3.3 A, paragraph 2.3.5*).

9.54. 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 CD 3.3 A, paragraph 2.3.7, 3.3.3).

9.55. 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 CD 3.3 A, paragraph 3.3.16).

9.56. 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 and a materially substantial contribution.

9.57. 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 CD 3.3 A, paragraph 3.3.20).

9.58. I also note that Green Belt policy is specifically referred to in EN-1, and it advises that, in terms of the Secretary of State's decision making, very special circumstances should be approached in the following manner:

"Very special circumstances are not defined in national planning policy as it is for the individual decision maker to assess each case on its own merits and give relevant circumstances their due weight. However, when considering any planning application affecting Green Belt land, the Secretary of State should ensure that substantial weight is given to any harm to the Green Belt when considering any application for such development, while taking account, in relation to renewable and linear infrastructure, of the extent to which its physical characteristics are such that it has limited or no impact on the fundamental purposes of Green Belt designation. Very special circumstances may include the wider environmental benefits associated with increased production of energy from renewables and other low carbon sources." (Core Document CD 3.3 A, paragraph 5.11.37)

9.59. I attribute significant weight to this policy statement in EN-1, as it takes the NPPF policy on very special circumstances as set out in paragraph 151 and applies it to a more focussed degree to energy projects. As I have already established earlier in my evidence at Section 7, I consider that only one of the of the 5 purposes of the Green Belt would be harmed by the Appeal Scheme to only a moderate degree, and that extent of harm is such that it can reasonably be concluded that it has limited impact on the fundamental purposes of Green Belt designation.

9.60. It is also relevant to note that the site is subject of a confirmed and deliverable grid connection, the location of which falls within a specific locality. Given the moderate level of harm to the green belt outlined in my section 7 above, the scope to deliver a significant

contribution to renewable energy generation weighs in favour of locating the proposal within the Green Belt.

- 9.61. Here there is an analogy to mineral extraction, which is identified as development which is not inappropriate to Green Belt locations. Mineral extraction can only be undertaken in locations where the mineral deposits arise and the works are undertaken for a limited time period prior to land being restored to its former condition. Similarly, the location of large scale solar schemes need to utilise the opportunities for a suitable grid connection where they arise. There are a finite number of immediately available connections. As with minerals proposals, solar schemes are time limited and subject of decommissioning and restoration.
- 9.62. 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 CD 3.3 A, 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 CD 3.3 A, 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 CD 3.3 A, paragraphs 4.2.16 and 4.2.17*).
- 9.63. 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 NPS's as material considerations in respect of developments that are close to the 50mw capacity threshold. (*Core Document CD 4.6 – paragraph 3.8*). Although, the NPPF also acknowledges that all contributions are important (NPPF Paragraph 163a).
- 9.64. 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 CD 3.3 A, paragraph 3.3.63*).

National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2023)

- 9.65. EN-3 (*Core Document CD 3.4 A*) was designated on 17 January 2024 and sets out national policy for energy infrastructure in the UK.

- 9.66. 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 CD 3.4 A, paragraph 2.10.9).
- 9.67. 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 CD 3.4 A, paragraph 2.10.10).
- 9.68. 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 CD 3.4 A, paragraphs 2.10.13-2.10.14).
- 9.69. 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 CD 3.4 A, 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.

Appeal Decisions

- 9.70. There is now a considerable body of evidence of appeal decision issued over the last several years where the increasing government energy policy imperative to accelerate the delivery of renewable or low carbon energy schemes have been a key material consideration and policy driver.
- 9.71. I summarise a number of relevant appeals at my appendix 8. I comment on the appeals included in the Core Documents list as appropriate when examining the weight which Inspectors have afforded to various material considerations in the planning balance section set out in Section 11 of my Evidence.



10. Third Party Representations

- 10.1. I note that a number of matters have been variously raised in representations on the Planning Application and the subsequent appeal.
- 10.2. I set out a summary of the comments made and a response to each of the considerations in Appendix 8 to my evidence.
- 10.3. I consider that overall, the material considerations raised by 3rd parties have been fully addressed in application submission, evidence, and policy considerations which I have set out..

11. The Overall Planning Balance, Summary and Conclusions

11.1. In this section I explain how I believe the decision maker should approach the determination of this appeal, before going on to identify any material considerations that need to be weighed in the overall planning balance.

The Decision-Making Framework

11.2. The starting point for the determination of a planning application or 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.

11.3. Before reaching a conclusion on this matter I turn to consider whether, in terms of national Green Belt policy and **Policy 21**, there are Very Special Circumstances which clearly outweigh the potential harm to the Green Belt and any other harm resulting from the Appeal Scheme.

Material Considerations and Weight

11.4. In considering the weight that should be afforded to each consideration in the overall planning balance, I apply the following scale ranging from higher to lower weight (which should be equated to no weight):

- Substantial
- Significant
- Moderate
- Limited

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

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

Material Considerations which are Benefits

1. Increasing Renewable Energy Generation

11.7. The Appeal scheme would supply up to 49.9MW to the National Grid, providing the equivalent annual electrical need of approximately 13,500 family homes in Rushcliffe.

11.8. I draw attention to the specific mention in the NPPF paragraph 156 which states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. I consider that the Appeal Scheme would make a very meaningful and substantial contribution towards meeting local, national



and international objectives and objectives in terms of energy generation, it is relevant to consider the weight that the Secretary of State and Inspectors have given to the benefit of renewable energy generation in determining recent appeals.

- 11.9. At *Halloughton* in February 2022, (*Core Document CD 5.1, paragraph 55*), Inspector Baird afforded 'significant weight' to the early and significant contribution that the proposal could make to the imperative to reduce emissions by generating 49.9 MW of electricity from a clean, renewable source.
- 11.10. In December 2022, at *Langford* the Secretary of State allowed a 49.9MW solar farm and considered that weighing in favour of the proposal is the production of electricity which is afforded "significant weight" (*Core Document CD 5.2, paragraph 26*).
- 11.11. Also in December 2022, at *Bishops Itchington*, 'substantial positive weight' was given by Inspector Major to the provision of clean renewable energy (*Core Document CD 5.8, paragraph 33*).
- 11.12. At *Bramley*, a 45MW solar farm (*Core Document CD 5.17, paragraph 76*) was allowed and the Inspector opined that 'substantial weight' should be given to the generation of renewable energy in February 2023.
- 11.13. In *Chelmsford*, also allowed in February 2023, the level of renewable energy generation arising from a 49.9MW solar farm in the Green Belt 'weighs strongly in favour of the scheme' (*Core Document CD 5.3, paragraph 86*), and later in the decision, that the benefits of renewable energy 'raise substantial benefits' in favour of the proposal (*Core Document CD 5.3, paragraph 91*).
- 11.14. At *New Works Lane, Telford*, the Secretary of State allowed a 30MW solar farm in March 2023 and considered that significant weight should be given to the production of electricity (*Core Document CD 5.4, paragraph 23*).
- 11.15. At *Wellington Telford*, the Inspector in allowing the appeal for up to 49.9MW in May 2023 afforded "substantial weight" to the clean and secure energy offer (*Core Document CD 5.18, paragraph 43*).
- 11.16. In June 2023, a 49.9MW solar farm was allowed at *Scruton, Hambleton* and the Inspector afforded "substantial weight" to the renewable energy benefit of the proposal (*Core Document CD 5.7, paragraph 46*).
- 11.17. At *Crays Hill, Basildon* the Inspector allowed a 25.6MW solar farm in the Green Belt in August 2023 and in so doing applied "very significant weight" to the renewable energy generation and carbon savings (*Core Document CD 5.11, paragraph 25*).
- 11.18. In September 2023 at *Sherbourne*, a solar farm of about 20MW was also allowed in the Green Belt and the Inspector considered that the proposal would provide a 'very significant environmental benefit' given the clear support given to renewable energy development from a number of sources (*Core Document CD 5.12, paragraph 34*).
- 11.19. In November 2023, the Inspector afforded "very significant weight" to renewable energy production at *Halse Road, Greatworth* in respect of a 49.9 MW solar farm (*Core Document CD 5.19, paragraph 122*).

- 11.20. Most recently *Graveley Lane, Hertfordshire* the Secretary of State allowed a 49.9MW solar farm and overruled the Inspector and placed “substantial weight” on the developments contribution towards renewable energy generation (*Core Document CD 5.20, paragraph 18*).
- 11.21. In reviewing these appeal decisions, 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.
- 11.22. 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 2008². Whilst I accept that this policy statement applies to NSIP projects, the policies in the NPS are capable of being a material considerations 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.
- 11.23. I also note that the Planning Officer in the Committee Report to the LPA advised that renewable energy generation associated with the installation are substantial benefits in the balance (*Core Document CD 2.1, paragraph 244*).
- 11.24. 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
- 11.25. A national climate emergency was declared by the UK Parliament in May 2019 (*Core Document CD 3.11*).
- 11.26. In light of the Climate emergency, Rushcliffe Council subsequently published Climate Change Strategy in November 2021 and updated in November 2023 (*Core Document CD 4.5*).
- 11.27. Through the generation of renewable energy, I consider that the appeal scheme will contribute towards assessing these declarations of climate emergencies.
- 11.28. By providing a positive, deliverable action on these statement 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
- 11.29. 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

² Paragraphs 3.2.6 and 3.2.7, EN-1 (*Core Document D2B*)

Government energy policy, notably in the British Energy Security Strategy published in 2022 and the Energy Security Plan published in March 2023.

11.30. 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 CD 3.4 A*) 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 CD 3.4 A, paragraph 2.10.10*)

11.31. I also note that the Planning Officer in the Committee Report to the LPA advised that the proposed development has substantial benefits recognised in both local and national policy. (*Core Document CD 2.1, paragraph 244*).

11.32. 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, and as such should be afforded very **substantial** weight in the planning balance.

4. Best Available Technology

11.33. 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.

11.34. 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.

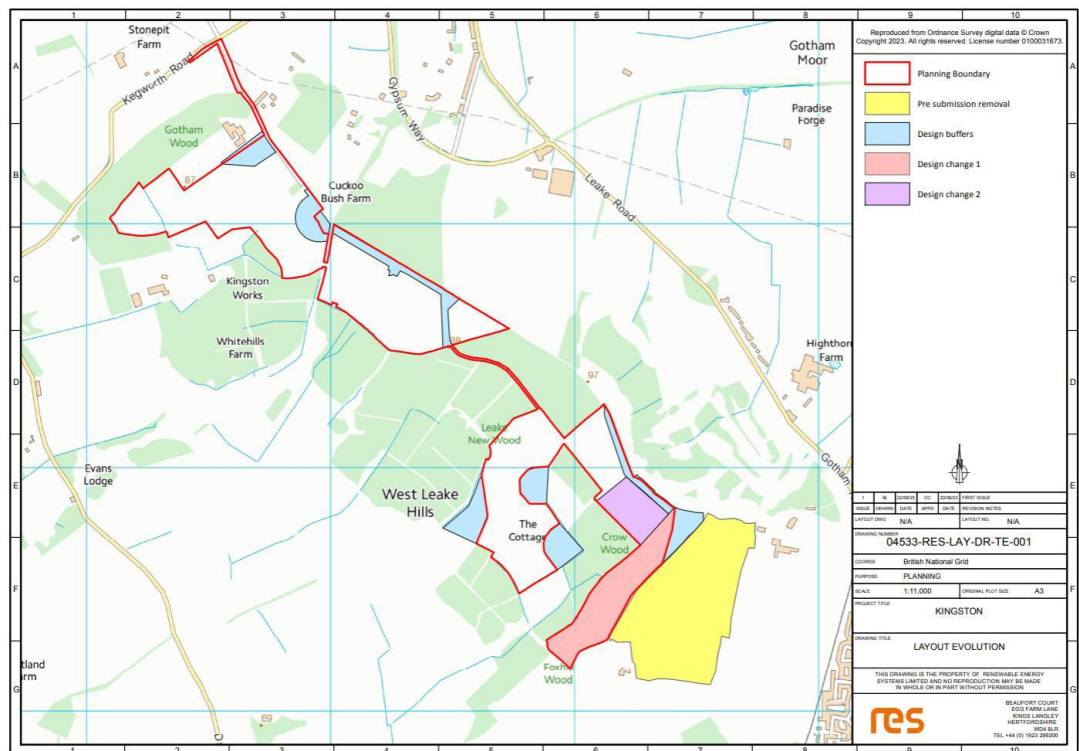
5. Good Design

11.35. 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.

11.36. 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-Planning Submission the field shown in yellow was removed. This field is to the southeast of the Midshires Way and was removed to protect long-distance views looking southeast.
- There were various large areas in the original Planning Application that were left without solar to allow setback and reduce potential views from various visual receptors (north, northeast, south, southeast and southwest) these can be seen in blue.

- Field 16 was removed following the feedback from the local community and the Council's third-party landscape review whilst the project was still in Planning. This area can be seen to the south of the redline boundary in red.
- Half of Field 15 to the northeast of Crow Wood was then also removed (shown in purple), following further feedback regarding the third-party landscape assessment, prior to determination.



- 11.37. This positive approach to design chimes with that outlined in NPS EN-1 (Core Document CD 3.3 A), 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 CD 3.3 A, 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 CD 3.3 A, paragraph 4.7.2).
- 11.38. Notwithstanding the amendments that have been made following feedback from the relevant statutory consultees, 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 CD 1.2). Mr Cook also explains the design evolution in his evidence at Section 3 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 CD 3.3 A, paragraph 4.7.6).
- 11.39. Mr Urbani’s statement (Attached as Appendix 3) has considered scope for further revising the design to reduce the site area and sets out the technical justification why “further changes to GCR or panel rating to affect site area to achieve similar performance to the

current appeal layout would be of marginal effect and unlikely to result in changes that would be noticeable to the public”.

- 11.40. 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. Lack of Alternative Sites

- 11.41. It is important to note that there is no national or local policy requirement to carry out an assessment of alternative sites for solar developments, as was acknowledged by Inspector at *Scruton (Core Document CD 5.7, paragraph 27)*. It is however acknowledged that at a recent Appeal in *Barton In Fabis*, located within the Rushcliffe LPA, the Inspector, whilst acknowledging that there is no policy requirement, was not satisfied that the scheme presented had provided certainty that there were no other alternative sites located outside of the Green Belt (*Core Document CD 5.10, paragraph 27*).
- 11.42. The Appellant has provided the relevant site selection materials in relation to a viable grid connection as detailed within the submitted Planning Statement (*Core Document CD 1.3*). The approach to the consideration of alternatives by the Appellant is provided in further detail in the Grid Capacity Analysis submitted as part of this Appeal and appended to the Appellants Statement of Case. The Grid Connection Feasibility statement of Mr Smart (attached as Appendix 2) also sets out the disadvantages of the connection to the grid at distances of greater than 2km.
- 11.43. Within the defined Study Area centred on the Racliffe-on-Soar to Willoughby 132kV circuit where the Appellant has secured a grid connection officer, there are no alternatives sites which are suitable and available for the Proposed Development or provide any meaningful reduction in impacts than would be achieved with the appeal site.
- 11.44. In *Chelmsford*, the Inspector accepted that a solar farm requires grid capacity and a viable connection to operate. He further considered that as such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility, and he further noted that the national grid suffers capacity difficulties and limits suitable points of connection. He concluded that this ‘*rational approach*’ to site selection lent support for the selected site (*Core Document CD 5.3, paragraph 92*).
- 11.45. I note that that Planning Officer in the Committee Report to the LPA acknowledges that a rational approach was taken to site selection lending support for the appeal site (*Core Document CD 2.1, paragraph 245*).
- 11.46. I consider that the lack of suitable alternative sites with the benefits of a grid connection offer, is a material consideration of **significant** weight in this appeal.

7. Biodiversity Net Gain

- 11.47. There will be a number of biodiversity benefits and I will refer to the Landscape and Ecological Management Plan (*Core Document CD 1.23.6*) which accompanies this Appeal.
- 11.48. In summary, the Biodiversity Management Plan (*Core Document CD 1.23.6, paragraph 2.78*) explains that 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;
- Bat and bird boxes (*Core Document CD 1.23.6, paragraph 2.106*);
 - 2 x Schwegler 1B Nest Box with 26mm entrance for very small species,
 - 2 x Schwegler 1B Nest Box with 32mm entrance (suitable for birds including the Nottinghamshire priority species, house sparrow), and
 - 2 x Barn Owl Nest Box with a 130mm high x 120mm width entrance.
- Hedgehog houses;
- Hibernacula;
- Invertebrate hotels; and
- Bee banks.

11.49. Overall, as noted in the revised ecology summary (Appendix XX) the appeal scheme will result in a Biodiversity Net Gain over 120% for habitats and 22% for hedgerows through the implementation of the appeal scheme as agreed in the Statement of Common Ground with the LPA (Core Document CD 7.9). I further note the size of this net gain will far exceed the national requirements of the Environment Act 2021.

11.50. I note that at the solar farm appeal *Copse Lodge, Greatworth* appeal (*Core Document CD 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.

11.51. 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 CD 5.11, paragraph 25*); at *Halloughton* a net gain of 73% was given 'significant weight' appeal (*Core Document CD 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 CD 5.2, paragraph 23*); at *Bramley* appeal, the Inspector gave 'significant weight to a biodiversity net gain of 100% (*Core Document CD 5.17, paragraph 78*); and at *Bishops Itchington* the level of BNG (which was unspecified) attracted 'significant weight' (*Core Document CD 5.8, paragraph 34*).

11.52. I note that the Planning Officer in the Committee Report to the LPA advised that the development would result in 'significant net gains' (*Core Document CD 2.1, paragraph 152*) and that these elements are 'substantial benefits' (*paragraph 244*).

11.53. Given these precedents of biodiversity net gain for solar farms,, I consider that this very significant increase in BNG should also be afforded **significant** weight in the planning balance.

8. Soil Regeneration

- 11.54. The appeal site is of Grade 3b quality, which is therefore not of a 'Best and Most Versatile Agricultural Land' standard.
- 11.55. As detailed within the submitted Planning Statement (*Core Document CD 1.3, paragraph 1.138*) it is also the case that taking fields out of traditional agricultural use for a long period of time will give the site the opportunity to recover its fertility and productivity in the future.
- 11.56. 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 CD 5.11, paragraph 25*). While 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 CD 5.19, paragraphs 126 and 127*).
- 11.57. I attach **moderate** weight to this consideration as a benefit of the Appeal Scheme.

9. Green Infrastructure

- 11.58. The proposed enhancements to the existing landscape structure will greatly improve green infrastructure, as set out in section 3 of Mr Cook's evidence.
- 11.59. 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
- 11.60. I note that the Planning Officer in the Committee Report to the LPA advised that moderate beneficial effects would be accrued in relation to trees, scrub/woodland, hedgerows and land cover if the proposed Biodiversity Management Plan is fully implemented (*Core Document CD 2.1, paragraph 132*).
- 11.61. I attached **moderate** weight to this consideration as a benefit of the Appeal Scheme.

10. Farm Diversification

- 11.62. The NPPF at paragraph 84 acknowledged that the diversification of agricultural businesses should be enabled.
- 11.63. 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.

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

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

11. Economic Benefits

11.66. 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).

11.67. 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.

11.68. At *Bramley*, I note that the Inspector afforded 'significant' weight to economic benefits associated with that solar farm scheme (Core Document CD 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.

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

Material Considerations which are harms

1. Openness and purposes of the Green Belt

11.70. In Section 7 of my Evidence, I have already considered the potential harm of the appeal scheme to the openness and purposes of the Green Belt and have concluded that the development would be inappropriate development in the Green Belt, and would by definition therefore result in harm to the Green Belt.

11.71. I have noted that the proposal only affects one of the 5 purposes of the Green Belt, namely encroachment. I have explained that I consider the degree of harm in this respect is moderate and that the strategic performance and function of the remaining Green Belt would remain intact.

11.72. I have identified moderate (adverse) harm to the openness of the Green Belt though this would be limited and highly localised within the context of the local woodland landscape.

11.73. All such harm to the Green Belt should be afforded **Substantial adverse weight** in the planning balance.

2. Effect on Landscape

11.74. In respect of Landscape and Visual matters, which Mr Cook explains in his evidence I have concluded that there are some beneficial effects of the proposal on the landscape and where there are negative effects these are at worst moderate, the adverse effects are highly localised and limited to the immediate site, due to the topography and existing woodland.

11.75. 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.

- 11.76. Whilst I acknowledge that the duration of 40 years is a significant period of time, it is nevertheless not permanent and will be completely 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.
- 11.77. 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 limited adverse visual effects and minor adverse effects in terms of landscape character of the site itself and the immediate environs, but no change to the character of the wider area.. I consider that these matters should be afforded **limited adverse** weight.

3. Effect on Public Rights of Way

- 11.78. In respect of Public Rights of Way (PROW), Mr Cook explains the effect of the appeal scheme on the users of this network. I have concluded that 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.
- 11.79. 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.
- 11.80. 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 CD 5.20, paragraph 33*).
- 11.81. Having regard to all the foregoing, and given Mr Cook's evidence presented, I consider that these matters should be afforded **limited adverse** weight.

Material Considerations with are Neutral

- 11.82. I consider that the following material considerations should be afforded neutral weight in the overall planning balance.
- 11.83. In respect of archaeological matters, the Cultural Heritage Impact Assessment (CHIA) (*Core Document CD 1.24*) undertaken concludes that there will be no significant direct or indirect effects on archaeology aligning with the relevant development plan policies. This was accepted by the Nottinghamshire County Council Archaeologist who offered no objection to the scheme subject to conditions prior to the commencement of development. Subject to appropriately worded planning condition(s) being imposed, I consider that there is no material harm to weigh in this regard.
- 11.84. Similarly, with regards to built heritage I note that there are no designated heritage assets and two non-designated sites within the local HER with the appeal site. Exclusions zones were implemented around these features during the design of the proposed development. The

submitted CHIA concluded that there will be no significant direct or indirect effects on heritage assets aligning with the relevant development plan policies. The LPA Conservation Officer was satisfied that CHIA had demonstrated that the proposals has taken into consideration potential impacts to designated and non-designated heritage assets and therefore the proposal would not harm the significance the assets or their setting. Therefore, I consider that there is no material harm to weigh in this regard.

- 11.85. In respect of flood risk matters, the site is located in its entirety within Flood Zone 1 an area described by the Environment Agency as have a 'low probability' of flooding. 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. Therefore I consider that there is no material harm to weigh in this regard.
- 11.86. 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 effects arising from the appeal scheme.
- 11.87. 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.
- 11.88. I therefore consider that the impact of 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 CD 3.1 A), provides positive weight in favour of granting planning permission for the proposal.

Overall Conclusions and Green Belt 'Very Special Circumstances' Balance

- 11.89. In my Evidence, I have given individual consideration to the reasons for refusal, relevant planning policy and other material considerations. In having examined the benefits outlined above, and also the moderate harm to the openness of the Green Belt (which should be afforded substantial weight), and to any other harms such as in respect of Landscape effects. I consider that 'very special circumstances' are clearly demonstrated by the substantial benefits arising from the scheme. As such, as was concluded at *Graveley Lane*, "the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations, and therefore very special circumstances exist" (*Core Document CD 5.20*, paragraph 39).
- 11.90. 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.

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	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)
Cultural Heritage and Archaeology	Neutral Weight
Highways and Transport	
Noise	
Glint and Glare	
Material Considerations which are Adverse	Weight (Adverse)
Effect on openness and purposes of the Green Belt	Substantial Adverse Weight



Effect on Landscape Character and Visual Amenity	Limited Adverse Weight
Effect on Public Rights of Way	Limited Adverse weight



12. Planning Conditions

- 12.1. I am of the opinion that appropriate control over the form of the Proposed Development can be achieved through the imposition of planning conditions.
- 12.2. 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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