Statement of Case.

In respect of a Section 78 Appeal: Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall

Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling (Old Wood Energy Park).

On behalf of Exagen Development Ltd.

Date: 23 October 2025 | Pegasus Ref: P25-1631

LPA Ref: 24/00161/FUL

Author: Nigel Cussen

Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
V1	28.08.25	MP/NCFC	NC	Draft
V2	16.09.25	NC	NC	Client review
V3	23.10.25	NC	NC	Final

Contents.

Appendices contents.

1. Introduction

Background

1.1. This Statement of Case has been prepared by Pegasus Group on behalf of Exagen Development Ltd (the Appellant). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in connection with Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall ('the Appeal Site').

1.2. The appeal follows the decision of Rushcliffe Borough Council ("RBC") (CD 4.2) to refuse planning permissions for a planning application comprising:

"Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling."

1.3. A planning application was submitted to RBC on 16th February 2024 and was ascribed the reference number 24/00161/FUL.

1.4. The RBC Planning Committee resolved to refuse the planning application at a meeting held 12 June 2025 against the advice and the recommendation of the Officer's Report (CD 4.1) to Committee, which was that planning permission should be granted subject to the imposition of 23no. planning conditions. The Decision Notice (CD 4.2) was issued by RBC dated 19th June 2025.

1.5. There are four reasons for refusal ('RfR') attached to RBC's Decision Notice which are as follows:

1. ***"The proposal would result in a significant adverse visual impact upon the landscape character of the area, particularly when the impacts are considered cumulatively with the consented solar farm to the west of the site. The proposal would result in major adverse effects upon users of the Public Rights of Way which run through and near to the site, impacting on their ability to enjoy the rural landscape character which would be diminished and changed by virtue of the industrialisation of the area and the resultant enclosed industrial corridors. The proposal is therefore contrary to Policy 10 (Design and Enhancing Local Identity) of LPP1 and Policy 1 (Development Requirements), Policy 16 (Renewable Energy), Policy 22 (Development in the Countryside) and Policy 34 (Green Infrastructure and Open Space Assets) of LPP2 as the benefits of the development do not outweigh the adverse effects on the users of the Public Right of Way and the wider landscape character.***

2. ***The proposed development would cause harm to the setting of the Grade I listed Holy Trinity Church, Grade II listed Manor Farmhouse and Highfields and the Wysall Conservation Area. The harm identified is towards the middle level of the less than substantial scale and whilst the benefits of the proposal in terms of renewable energy are acknowledged, the public benefits do not outweigh the identified harm. The proposal is therefore contrary to Policy 10 (Design and Enhancing Local Identity) and Policy 11 (Historic Environment) of LPP1 and Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 28 (Conserving and***

Enhancing Heritage Assets) of LPP2 and Chapter 16 (Conserving and Enhancing the Historic Environment) of the NPPF

3. ***The impacts of the proposal upon protected species including the permanent negative residual impact upon Skylarks, is not considered to be adequately diminished by the proposed mitigation measures. The impact is not outweighed by the benefits of the scheme and the proposal is therefore contrary to Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the LPP2 and Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF.***

4. ***Notwithstanding the mitigation measures proposed, it has not been demonstrated to the satisfaction of the Local Planning Authority, that the battery storage element of the proposal would not result in potential adverse fire safety impacts to the detriment of the public through subsequent contamination impacts and risks to safety. The proposal would therefore be contrary to Policy 40 (Pollution and Land Contamination) of the LPP2 and Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF."***

Changes Made through the Appeal

1.6. Following the refusal of the application by RBC, the Appellant has proposed some limited minor changes to the design of the Appeal Proposal and these changes and associated plans, and technical reports accompany the appeal submission. The proposed changes presented to the Inspector include:

- Some micro siting of electrically sensitive equipment in four locations to take account of latest surface water flood data published by the Environment Agency.
- Inclusion of 2 above ground fire water storage tanks to supplement the previous fire water provisions, to seek further compliance with National Fire Chief Council. Guidance. (CD 8.9)
- Minor track changes to the south of fields 5 and 6 to allow for extra hedgerow planting to the north of the public right of way, alongside some extra hedgerow tree planting to the south of field 3 and other minor hedgerow gapping up as illustrated on the revised Landscape Strategy.
- Inclusion of additional retained arable land managed for nesting skylark in fields to the east of fields 6 and 10 towards Bradmore Road.

1.7. The changes represent minor and beneficial amendments to the scheme, that do not change the nature of the proposal or the description of development.

1.8. The Appellant is undertaking consultation with members of the public regarding the proposed changes through press and site notices as well as letters direct to individuals who were consulted on the original planning application by RBC. The Appellant has also updated the project website where plans and documents can be viewed and downloaded. Information issued in consultation letters and on the website includes details of how further comment may be made on the revised proposals.

1.9. Details of the proposed amendments are provided in the Summary of Changes Document (CD 3.4) and the Summary of Changes Comparison Plan (CD 3.5 – drawing ref P25-1631_03C) submitted with the planning appeal.

1.10. It is the Appellant's position that the revisions submitted under cover of this appeal would not amount to be 'substantive' as per the judgment in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018) (CD 7.50). The amendments submitted under cover of the appeal would not cumulatively result in a materially different application to that originally submitted. The submitted changes have been consulted on in parallel with the lodging of the appeal in accordance with the Holborn principles and as such there is not considered to be any procedural unfairness.

Appeal Procedure

1.11. The Appellant considers that this appeal should be determined pursuant to the Hearing procedure, for the following reasons and taking account of the guidance within the Government's Criteria for determining the procedure for planning appeals:

- The Appeal Proposal is of significant scale and is of significant importance in terms of delivering renewable energy, contributing to various local and national policy objectives with respect to climate change;
- There is a level of local interest and other parties are expected to want to participate in the appeal process;
- The issues raised by the Council's Reasons for Refusal, relating to landscape and visual impacts, heritage impacts, impacts on skylark and BESS fire safety and contamination will need to be closely explored and the Hearing procedure represents an appropriate format for this. We anticipate issues of cumulative impact might arise that will require the relevant experts to be in attendance at the Site Visit;
- The decision made by the Council was taken against the advice of Council Officers who had concluded that planning permission should be granted, as set out in a comprehensive and detailed report – the decision taken therefore needs exploration and testing via the Hearing procedure, which will allow the Inspector to test evidence and clarify matters through questioning (detailed cross examination of expert evidence is not expected to be required, making the Hearing process most appropriate); and
- The parties will be able to present their own cases (supported by professional witnesses where necessary).

Witnesses

1.12. The Appellant's case will be presented at the Hearing by the following witnesses:

Planning Policy and the Planning Balance

- Nigel Cussen BSC (Hons), DipTRP, MRTPI (Pegasus Group)

Landscape Matters

- Radek Chanas M Eng Landscape Architecture, MA Garden and Landscape History CMLI (Pegasus Group)

Heritage Matters

- Laura Garcia BA (Hons) MCIfA (Pegasus Group)

Ecology, specifically Skylark Matters

- Harry Fox BSc, MCIEEM (Clarkson and Woods Ltd)

Fire Safety and Battery Energy Storage Matters

- Jim Tough MSc, BSc (Hons), CSci, CEnv (ARC)

1.13. The Appellant reserves the right to call upon further experts should the need arise.

Overview of Statement of Case

1.14. A draft Overarching Statement of Common Ground (CD 8.3) and topic specific Statements of Common Ground relating to Landscape and Heritage Matters have been submitted with this appeal to the LPA and will hopefully be agreed before the hearing takes place (CD 8.3.1 and CD 8.3.2). This Statement of Case and the associated appendices have aimed to address any comments arising from third parties, and to address the original reason for refusal as quoted.

1.15. This Statement of Case sets out the Appellant's position, with supporting section on the overall planning balance.

1.16. The need for the Appeal Proposal is set out in detail at Section 6. In summary there is an immediate and pressing need for the urgent deployment of renewable energy, including in particular solar energy generation where it is co-located with Battery Energy Storage.

1.17. The UK is committed under the Climate Change Act (as amended in 2019) (CD 5.9) to the "colossal" challenge of a legally binding obligation to reach net zero carbon emissions by 2050 (Achieving Net Zero – National Audit Office Report December 2020 – CD 5.16).

1.18. Energy security is a further imperative supporting the move to increased renewable energy production. Susceptibility to significantly increased energy costs arising reliance on fossil fuel imports from less stable regions is exemplified by the effects of Russia's invasion of Ukraine. In response the Government issued the suite of "Powering Up Britain" documents in March 2023, which includes the Energy Security Plan (ESP) setting out the steps the Government is taking to ensure the UK is more energy independent, secure and resilient. The ESP notes ***"energy security necessarily entails the smooth transition to abundant, low-carbon energy. If we do not decarbonise, we will be less energy secure***." (CD 5.20).

1.19. Solar has been identified by the government as a cheap, efficient and quick means of delivering renewable energy to address the declared climate emergency. (EN3 paragraphs 2.10.12 and 2.10.13 – CD 5.4).

1.20. In response to the requirement identified, planning policy in the NPPF confirms that developers are not required to demonstrate need for renewable energy projects and that

LPAs should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. (NPPF para 168 – CD 5.1).

1.21. It is confirmed in EN-1 that National Policy Statements (NPS), designated in respect of Nationally Significant Infrastructure Projects, may be material considerations in in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). (CD 5.3, EN-1, Para 1.2.1). The NPSs set out the urgent need for new renewable energy generation to meet the governments objectives of providing security of energy supply, providing an affordable reliable system and ensuring the system is net zero consistent. (CD 5.3, EN1 para 3.3.59).

1.22. EN-3 confirms

- the Government's commitment "***to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050", identifying solar as a "key part of the government's strategy for low-cost decarbonisation of the energy sector***" (CD 5.4, EN-3 para 2.10.9);
- the important role of solar in meeting energy security goals and thew delivery of up to 70GW of ground and roof top solar by 2035 (CD 5.4 EN-3 para 2.10.10); and
- solar farms as established renewable technologies, providing the cheapest form of electricity generation, and deployable quickly and viably (CD 5.4 EN-3 paras 2.10.13 and 2.10.14).

1.23. The Clean Power Action Plan (CD 5.25) makes explicit the Government's requirement for a rapid deployment of new clean energy, setting a high ambition for 2030 of 45-47GW of solar power, complimented by flexible capacity, including 23-27GW of battery capacity by 2030.

1.24. More recently, the production of the Solar Roadmap in June 2025 (CD 5.38) further reiterates the Government's commitment to net zero and increasing the amount of energy produced by renewable sources. This document takes this one step further in outlining the current Grid reforms and the steps to be taken to increase provision of skilled workers within the industry. The document recognises the urgent need for solar projects to achieve the Government's energy objectives, and provide wider national security, economic, commercial, and net zero benefits.

1.25. The Appeal Site offers a valuable opportunity to make a significant contribution to meeting the established urgent need for solar generating capacity.

1.26. The benefits of the Appeal Proposal, which are set out in detail below in this statement, include:

- The solar farm component of the Appeal Proposal would have an export capacity of up to 49.9MW of renewable energy per year, which could provide approximately

enough energy to power up to 25,900 homes[1] and displace approximately 31,500 tonnes of CO_2 per annum[2];

- Adjacent to the new DNO substation will be a BESS facility with a capacity of approximately 85 MW. The batteries will be available to charge energy and discharge energy directly from the existing 132kV electricity line which runs from east to west across the Southern Parcel;
- Landscape and land management enhancement;
- Additional hedgerow, tree and woodland planting;
- Wildflower and grassland areas;
- Biodiversity net gain;
- Social gain would be provided through the generation of local renewable electricity that will be connected directly to the local grid;
- Increased employment opportunities created through the construction, operation and decommissioning phases of the development, thus further increasing the provision of skilled 'green' job opportunities and other economic benefits arising from farm diversification and business rates.

[1] Based on an annual electricity generation of 70GWh per year and an average household electricity consumption of 2,700kWh per year (Ofgem)
[2] Based upon BEIS's "all fossil fuels" emissions statistic of 450 tonnes of carbon dioxide per GWh of electricity supplied in the Digest of UK Energy Statistics (published July 2019, p96) and an estimate of 70GWh of generation per year.

2. The Appeal Sites and its Surroundings

The Appeal Site

2.1. The Appeal Site comprises two distinct land parcels located to the west of the settlement of Wysall, Nottingham, including a 'Northern Parcel' and 'Southern Parcel'. The two parcels are situated approximately 325m apart and are separated by a series of small agricultural fields.

2.2. The Appeal Site is wholly located within the administrative boundary of Rushcliffe Borough Council and both site parcels are situated outside of any defined settlement boundary and are therefore deemed to lie within the open countryside for development management purposes.

2.3. The proposed Solar PV Arrays will be laid out over both site parcels; however the proposed battery storage compound and grid connection infrastructure will be positioned within the south of the Southern Parcel, in proximity to the Point of Connection (POC) into the existing 132kV overhead powerline which crosses the Southern Parcel of the Site. The two site parcels would be linked by an underground cable which will extend from the eastern side of the Northern Parcel before following the route of the highway along Bradmore Road – Keyworth Road – Main Street – Costock Road – Wysall Road (as it passes through the settlement of Wysall) and eventually extending northwards into the southern boundary of the Southern Parcel.

2.4. The Northern Parcel consists of eight medium to large agricultural field enclosures extending west of Bradmore Road at Lodge Farm. A linear woodland known as Bunny Old Wood, an area of ancient woodland, defines the northern boundary of the Northern Parcel and covers a noticeable change in elevation marked by Bunny Hill, Rough Hill, and Windmill Hill. The land slopes steeply to the north, indicating a transition from the elevated, undulating landscape of the Nottinghamshire Wolds to the vale terrain associated with the River Trent further north.

2.5. The Southern Parcel comprises six small to medium field enclosures and is accessible via Wysall Road / Costock Road, which borders it to the south. Wysall Road extends northeast in the direction of the village of Wysall. The site is separated from the village by a series of pastoral and arable fields, with the settlement edge primarily enclosed by mature hedgerows and tree vegetation.

2.6. Arable fields lie between the two parcels of the Appeal Site and define the landscape to its west, with several woodland blocks dividing the area into sections. The Appeal Site is bordered by Rough Plantation, Wysall Rough Plantation, Long Rough Plantation, and Intake Wood.

2.7. The Appeal Site's boundary follows existing field lines marked by hedgerows, woodland blocks, and tree belts. The hedgerows forming the Site's boundary are generally well maintained and typically range from 1.5 to 2 meters in height, although some sections are taller.

2.8. Topographically, the Appeal Site is part of the elevated Nottinghamshire Wolds, with its irregular shape ending sharply along a steep slope that descends into the broad valley of the River Trent, located approximately 8.5 km to the northwest. The northwestern corner of

the Site, adjacent to Bunny Old Wood, lies at around 88 meters AOD, with the land rising further west to reach approximately 92 meters AOD at Bunny Hill. This elevated terrain, along with Bunny Old Wood, provides enclosure to the Site and its immediate northern surroundings. The higher ground continues westward towards Rough Hill and Sharpley Hill, which together create a natural separation between the Appeal Site and its nearby landscape. The land within the Appeal Site also ascends towards Bradmore Road and Wysall to the east, further contributing to the sense of enclosure from the landscape to the east and southeast. As a result of the undulating terrain, along with the presence of well-maintained and relatively tall hedgerows and woodland blocks typical of the area, views into the interior of the Appeal Site are either limited or consist of more distant and interrupted viewpoints through tree canopies.

2.9. There are various agricultural holdings with associated dwellings around the periphery of the Site to the south of Wysall Road and on Bradmore road to the east. Further residential properties are concentrated within the settlements of Wysall and Costock located c. 400m east and 1.5km west of the site respectively. The topography of the land, coupled with intervening vegetation, prevents any direct or unrestricted views between these settlements and the Appeal Site parcels.

2.10. Vehicular access to Northern Parcel of the Appeal Site is currently achieved via the existing farm access track at Lodge Farm which extends westwards from Bradmore Road to the east of the Appeal Site. It is proposed that as part of the Development a new access track will be constructed slightly further south that will extend west from Bradmore Road parallel to the existing farm access through the field, retaining the existing access for continued farm and residential operation and avoiding impacts on footpath users as it is also a public right of way.

2.11. Vehicular access to the Southern Parcel of the site is currently achieved via an existing gated agricultural field entrance on Wysall Road on the southern boundary of the Parcel, from where an access track and culvert over the Kingston Brook provide means of access into the agricultural field parcels. The existing access and culvert will be appropriately upgraded to accommodate both construction and operational traffic associated with the Development.

2.12. From both Appeal Site parcels, access to the A52, and subsequently the M1 motorway can be gained to the north via the A60.

Landscape Baseline

2.13. The Appeal Site is not covered by any national or local landscape designations and is not constrained by any landscape designations that relate to its value or scenic beauty.

2.14. There are no landscape features within or directly next to either Appeal Site parcel that present any specific sensitivity that would prevent the development of a well-designed solar farm and BESS. The Appeal Site is not located within or near any designated National Landscape or National Park and does not have the potential to affect such designations. Furthermore, the Appeal Site does not fall within a Countryside Protection Zone or any other form of locally protected landscape designation.

2.15. According to Natural England, the Appeal Site and study area fall within the National Character Area (NCA) 74 'Leicestershire and Nottinghamshire Wolds'. This national level

assessment, however, is considered too coarse and geographically too extensive to provide a detailed information that would be relevant to the Appeal Site and Development.

2.16. At the County level, the published Greater Nottingham Landscape Character Assessment (CD 6.9) places the Appeal Site within the 'Nottinghamshire Wolds' Regional Character Area and the easternmost section of Draft Policy Zone NW01, titled 'Gotham and West Leake Wooded Hills and Scarps'. The recommended landscape management strategy for this area is to 'conserve'.

2.17. The key characteristic features of the Draft Policy Zone NW01 'Gotham and West Leake Wooded Hills and Scarps' are identified in the above Assessment as being:

- ***"Series of prominent individual hills with steep sometimes scarp slopes and broad plateaus.***
- ***Hills are the dissected northern extent of a low boulder clay plateau extending from Leicestershire traditionally known as 'The Wolds'.***
- ***Rural character although urban elements such as villages, power station, industry and quarrying are frequent in the landscape.***
- ***Kingston Brook is a localised feature on low ground between hills characterised by riparian woodland and some grazing pasture at its margins.***
- ***Land use is a mixture of woodland, arable and pasture. Arable is on the lower and more gentle slopes, pasture close to rivers, settlements and scarp grassland where the land is steeply sloping precluding machinery from working the land.***
- ***Field pattern is mostly modern although pockets of older field systems such as irregular geometric and geometric and those reflecting open fields are present.***
- ***Field pattern in places sweeps down the slopes and is a distinctive feature.***
- ***Field boundaries are mostly hedgerows on the slopes with fences often present on higher ground.***
- ***Woodland is generally on high ground across the hills although there are smaller pockets of woodland on lower ground as establishing scrub and along village fringes/areas of former quarry.***
- ***Prominent extensive woodland plantation covers the slopes and high ground, often on steep scarps.***
- ***Rides and areas of open land are interspersed between plantation woodland.***
- ***Wooded tracks with spring flowering understorey planting along tracks up hills.***
- ***Large commuter settlements such as Gotham and East Leake and smaller settlements such as West Leake are nestled at the base of the hills on the fringes of the DPZ.***

- ***Infrequent individual farms within the character area often on the slopes or high ground. A row of individual modern houses is present along Ash Lane. One distinctive red brick and pantile roof farmstead on Bunny Hill is set within gardens with a small orchard.***
- ***Buildings are mostly red brick with older properties having red pantile roofs.***
- ***Church towers and spires are prominent within a uniform village skyline.***
- ***Overhead lines are prominent on low ground between hills.***
- ***Small former spring (Wheldon Spring) on Gotham Hill is a localised feature characterised by a depression in the ground and establishing scrub.***
- ***Enclosed channelled views on low ground between hills with extensive panoramic***
- ***views across towards Nottingham City and beyond from high ground."***

2.18. Draft Policy Zone NW01 'Gotham and West Leake Wooded Hills and Scarps' is described as,:

"A series of distinctive wooded hills with arable fields on lower and gentler slopes and pasture and pockets of grassland on the steeper slopes. Views are extensive and often over long distances from the high ground although become more enclosed from lower ground. Urban elements are frequent with views of Ratcliffe on Soar Power Station and the gypsum works. (…) Land use is a mix of plantation woodland, arable farming and pasture. Fields are mostly medium to large in size (…) Woodland comprises large geometric field sized blocks of both broadleaved and conifer woodland (…) Other vegetation includes smaller frequent copses at the base of slopes and around settlements. Frequent hedgerow trees and intact hedgerows are present across the area. (…) The landscape condition is GOOD. Hedgerows and woodland are well managed, although there is some evidence of field boundary fragmentation in places. Where hedgerows have been replaced, the timber fencing is usually in good condition. The agricultural land is well managed and features are intact with little sign of decline."

2.19. The published Assessment goes on to state:

"This DPZ is a distinctive series of hills which are prominent within the surrounding area. They often form a backdrop to views from the southern edges of Nottingham. From high ground within the DPZ there are open expansive views to the centre of Nottingham and lower-lying farmland at Ruddington and Bunny. The strength of character is STRONG. The hills are distinctive and consistent features across the landscape and exert their influence within the surrounding area. The pattern of arable, pasture and woodland is also consistent with moderate sized villages and some expanding commuter villages present on low ground."

Ecology

2.20. There are no statutory international or national environmental designations, as defined by the EIA regulations, present on the Appeal Site, within a 3 km radius, or with the potential to be affected by the Appeal Proposal. The nearest national or international designation to the

Appeal Site is Rushcliffe Golf Course Site of Special Scientific Interest (SSSI), located approximately 4.2 km to the west.

2.21. At the local level, the closest statutory environmental designation to the Appeal Site is the Keyworth Meadow Local Nature Reserve (LNR), located approximately 1.6 km to the northeast. This LNR covers 1 hectare of flower-rich grassland and includes wetland flora along the adjacent brook. Ponds within the LNR provide habitat for great crested newts. The next nearest statutory designated site is the Rushcliffe Country Park LNR, situated around 3.5 km to the north.

2.22. Regarding local non-statutory designations, a total of eight Sites of Importance for Nature Conservation (SINCs) are located within 2 km of the Appeal Site. The nearest non-statutory site is Bunny Old Wood SINC, situated directly adjacent to the northern boundary of the northern parcel. This site is an ancient broadleaved woodland dominated by ash, along with the presence of pedunculate oak and wych elm. It features a dense understorey and ground flora such as sanicle, wood-sedge, and bluebell. The woodland is also significant for butterfly species, including the white-letter hairstreak.

2.23. The Appeal Proposal provides opportunities to enhance green infrastructure and provide a biodiversity net gain (BNG) through the provision of new hedgerows, trees and woodland, the retention of field margins, and creation of wildflower meadow and wet meadow grassland habitats. It will also enable the fields to rest and recover from continuous intensive farming of marginal/low grade agricultural land.

Hydrology

2.24. The southern most field within the Southern Parcel is crossed from east to west by the Kingston Brook, a tributary of the River Soar. There are also several drainage ditches and ponds both within and in close proximity to both site parcels.

2.25. Most of the Appeal Site lies within Flood Zone 1, which is classified as having the lowest risk of flooding. However, a small section at the southern end of the Southern Parcel is identified as falling within Flood Zones 2 and 3, corresponding with the location of the Kingston Brook, which runs through the southern part of the Appeal Site. All development infrastructure would be positioned outside of this area, except for any necessary upgrade works to the brook crossing and the access track.

2.26. The Risk of Flooding from Surface Water (RoFSW) dataset shows large areas of the Appeal Site are not predicted to be impacted by a 1 in 1,000 year rainfall event and are at Very Low risk of surface water flooding. However, the dataset also highlights that there are small localised areas of High to Low risk, impacted by a 1 in 30 and 1 in 1,000 year rainfall event, respectively, throughout the Appeal Site.

2.27. The Appeal Scheme amendments referred to above include minor design changes, limited to micrositing in 4 isolated areas, made to remove infrastructure from areas shown to be at risk of surface water flooding using the EAs latest data. The implications of the revised EA mapping is considered in the revised FRA and Drainage Strategy (CD 3.7) submitted with the revised Appeal Scheme. That document concludes that:

- Surface water runoff from the solar connection infrastructure buildings, BESS and substation will be managed with the proposed surface water drainage strategy to

ensure surface water runoff rates and associated flood risk does not increase as a result of the development

- With mitigation measures and the proposed surface water drainage strategy in place, the Development will not increase flood risk on site or elsewhere, and
- The Development is considered to accord with the requirements of the National Planning Policy Framework (NPPF) with residual risk to the Site fully mitigated, and as such considered low risk

Heritage & Archaeology

2.28. There are no Listed Buildings or other designated heritage assets within or in the immediate vicinity of the Appeal Site.

2.29. The north-western extent of the Wysall Conservation Area lies c. 215m to the south-east of the Northern Parcel and the south-western extent of the Conservation Area lies c. 295m east of the Southern Parcel. The Conservation Area contains one Grade I Listed Building (the Church of Holy Trinity c. 510m east of the southern parcel (1259980)) and four Grade II Listed Buildings.

2.30. The Grade II Listed Highfields (Holy Cross Convent) lies c. 435m west of the Northern Parcel and 670m west of the Southern Parcel.

2.31. Thorpe in the Glebe medieval settlement, including church site and open field system, a scheduled monument, lies approximately 1.3km to the south east of the Southern Parcel.

2.32. A Geophysical Magnetometry Survey was undertaken across the Appeal Site to determine the likely presence of any below ground archaeological features. The results of the geophysical survey identified that whilst the majority of the Appeal Site has a low potential to contain significant archaeological features, the survey does identify a number of anomalies that were consistent with a likely archaeological origin. The identified anomalies within the Northern Parcel have been interpreted as a potential multiphase settlement within the south eastern extent of the parcel, rectilinear agricultural enclosures and possible industrial activity. Within the Southern Parcel, several weakly positive curvilinear anomalies were identified which form a small rectilinear enclosure with rounded corners. Although of uncertain date, the nature of these anomalies are similarly indicative of features of possible prehistoric to Roman date. The morphology of the identified anomalies suggest a multiphase landscape usage which is Romano-British in origin, with associated discrete anomalies and smaller divisions possibly indicating further settlement. The proposed development has been appropriately designed to avoid these identified areas of high archaeological potential.

2.33. Archaeological trenching investigations were undertaken between 21st October 2024 and the 7th March 2025 and the final trenching report has been prepared, provided separately to the local planning authority and is included in the core documents (CD 3.10).

Agricultural Land

2.34. The Natural England Agricultural Land Classification Map highlights that the Site is wholly characterised by undifferentiated Grade 3 (good to moderate quality) land.

2.35. The Appellant commissioned a site-specific Agricultural Land Classification Survey and Report that identifies that the Site is wholly made up of Grade 3b (moderate) or Grade 4 (poor quality) agricultural land. The findings of the Agricultural Land Classification Survey and Report were submitted as part of the original application submission documentation and also enclosed as part of this appeal. (CD 1.7)

2.36. The Development would be for a temporary period for up to 40 years after which the site will be restored to its former state to continue agricultural use, therefore there will be no permanent loss of agricultural land as a result of the Development. During the operational period the Appeal Site will retain an agricultural function in the form of sheep grazing alongside the renewable energy generation and biodiversity enhancement. Introducing a 40-year fallow period for the land will also assist the rebalancing of soil nutrients, re-establishing soil biota, breaking crop pest and disease cycles, and provide a haven for wildlife thus enhancing the quality of land for future agricultural use following the decommissioning of the solar farm.

Public Rights of Way (PRoW)

2.37. With respect to public access, whilst there are no Public Rights of Way (PRoWs) on or adjacent to the Southern Parcel there are several which either cross or border the Northern Parcel, and additional PRoWs are present throughout the surrounding landscape. The PRoWs considered to be most significant in relation to potential visual effects resulting from the Appeal Proposal include:

- Midshires Way (National Trail), extends through the Northern Parcel and between the Appeal Site and Wysall and along Bradmore Road ;
- Public Footpath between Bradmore Road and the Site's Northern Parcel, via Lodge Farm(FP4); and,
- Public Footpath to the south of Wysall Road, between Rempstone Lane and Wysall's western settlement edge (FP3).

2.38. Importantly, all existing public rights of way will be maintained as part of the Appeal Proposal. For those that may be indirectly affected, the design has accounted for their presence by incorporating significant setbacks from infrastructure and the inclusion of sympathetic planting.

2.39. It is noted in the Landscape Hearing Statement (Appendix 1) (CD 8.2.1) that until recently there were a number of Permissive Paths leading from the southern part of Wysall village towards the Appeal Site and connecting with the existing Public Footpath Wysall FP3. The Statement confirms that are two notices, however, which indicate that access to these routes first ended in September 2010 and then again on 31st July 2020. No other notices or information has been obtained to indicate these routes are still accessible. For this reason, these former Permissive Paths are not considered in this Landscape Hearing Statement. The condition of one of the stiles also suggests that these routes have not been in use for some time.

Residential Receptors

2.40. As previously outlined, the area immediately surrounding the Site is mainly defined by open agricultural fields, along with clusters of agricultural buildings and associated farmsteads.

Residential uses nearby are primarily concentrated in the settlements of Wysall to the east and Costock to the southwest of the Site. Additionally, several isolated residential properties are scattered throughout the wider surrounding countryside.

2.41. Specific consideration is given in the LVIA (CD 1.5 – 1.5.14) submitted with the planning application to the potential effects on the following residential properties:

- The Elms and Lodge Farm / Field View accessible from Bradmore Road.
- Five Oaks Stables and Scotland Hill Farm along Wysall Road / Costock Road.

2.42. Whilst there are a number of isolated properties in the immediate vicinity of the Site, many benefit from existing screening/intervening vegetation and or landform, which would limit visual impact of the Appeal Proposal. A detailed Landscape and Visual Impact Assessment (LVIA) was submitted as part of the original application submission and also enclosed as part of this appeal. The findings of the LVIA have directly informed the final design and layout of the solar farm as well as the Enhanced Landscape Strategy Plan (drawing ref P25-1631_EN_02E) whereby additional landscape planting is proposed to mitigate any visual impacts on the surrounding residential receptors.

Mineral Safeguarding Areas

2.43. The Appeal Site is identified to fall within a Mineral Safeguarding Area for Tutbury Gypsum. Given the temporary and reversible nature of the Development, no adverse impacts on the future ability to extract the mineral resource are expected.

2.44. Not withstanding the above, the gypsum resource is identified to be at such a depth that the resource can be mined by underground, 'room and pillar' methods, even with the Appeal Proposal in place without having any negative effect.

3. The Appeal Proposal

Overview

3.1. The Appeal Proposal is for ***"Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling."***

3.2. An Environmental Impact Assessment (EIA) Screening Opinion Request (ref. 23/01010/SCREIA) (CD 4.4) was submitted to the Local Planning Authority (LPA) for consideration in May 2023. The LPA provided their opinion (CD 4.4.2) in June 2023 which confirmed the Development was not EIA Development and the planning application did not need to be accompanied by an Environmental Statement. The EIA Screening Opinion considered that:

- As the site is not located within a sensitive area (for the purposes of EIA as set out in the Regulations), the potential environmental effects would be limited;
- The nature of the proposals were temporary and reversible;
- That specific matters can be further considered as part of detailed assessments of the application; and
- Further mitigation could be provided as part of the application.

3.3. Following submission of the planning application, a further screening assessment was undertaken by the LPA prior to determination of the planning application as the extent of the site boundary had changed (decreased around the solar areas but increased to included the cable route beneath the public highway). In the second EIA Screening Opinion (CD 4.5.1), dated June 2025, was considered that, given the same considerations, that the proposal still did not constitute EIA development.

Main Components

3.4. The Development includes the following equipment across the two separate land Parcels:

Northern Parcel:

- Arrays of solar PV panels, approximately 2/3 of the solar farm;
- Approx. 17no. MV Central Inverter Units;
- Solar Connection Infrastructure Compound;
- Permeable 4m wide access track and vehicle parking;
- Up to 2.5m high timber post and wire mesh deer fence around the solar panel areas;
- Pole mounted CCTV cameras up to a height of 4m within the Solar Farm;

- Extensive landscape planting comprising species rich grassland, areas of wildflower and wet grassland meadow, hedgerows, trees and woodland.

Southern Parcel:

- Arrays of Solar Panels, approximately 1/3 of the solar farm;
- Approx. 8no. MV Central Inverter Units;
- Solar Connection Infrastructure Compound;
- Approx. 70no. containerised battery energy storage units;
- Approx. 35no. containerised battery inverter units;
- Approx. 4no. auxiliary transformers;
- Customer substation and switchgear buildings;
- 132kV DNO substation compound with transformer and control room;
- Permeable 4m wide access track and vehicle parking;
- Up to 2.5m high timber post and wire mesh deer fence around the solar panel areas;
- Up to 2.4m high palisade security fencing for Substation and BESS enclosures;
- Pole mounted CCTV cameras up to a height of 4m within the solar enclosures and up to 4m within the DNO substation and BESS compounds;
- Extensive landscape planting comprising species rich grassland, areas of wildflower grassland meadow, trees and woodland.

Solar Panels

3.5. The solar panels will be arranged in rows extending from east to west across the field enclosures. The spacing between panels will generally be around 3.5 metres but may range from 2.5 metres to 6.5 metres depending on the topography and orientation. The panels will be installed on a mounting frame, typically driven or screwed into the ground to a depth of approximately 1 to 2 metres. The design of the mounting structure may vary based on wind load requirements and ground conditions, which will be confirmed during the detailed design phase and before construction begins.

3.6. The proposed solar panels are typically mounted in portrait orientation in rows of two, with one row directly fixed above the other.

3.7. The lowest edge of all proposed solar panels will be raised 800mm above ground levels as standard. Solar panels are therefore not predicted to be impacted by surface water flooding, nor negatively impact flood risk elsewhere. It is noted in the revised FRA (CD 3.7) that following release of the latest RoFSW data, that no solar panel raising above the standard 800mm is required. The Solar PV modules will generate direct current (DC) electricity by converting solar irradiance. Each Solar PV module is made up of a layer of

silicon cells, an anodised aluminium frame, a glass casing, and internal wiring that enables current to flow from the silicon cells. Silicon, a non-metal with conductive properties, is capable of absorbing and converting sunlight into electricity. When sunlight strikes a silicon cell, it triggers the movement of electrons, resulting in the flow of electric current.

3.8. The insulated DC cables from the solar modules will be routed through channels attached to the underside of the mounting framework. These DC string cables will extend along the full length of each row. Electrical cabling from each array will be concealed within shallow trenches that connect the modules to the centralised inverter cabins, and subsequently to the connection infrastructure compounds, before being linked to the DNO substation located in the Southern Parcel via the customer switchgear.

3.9. Indicative dimensions of the proposed panels and frame are shown on the PV detail DWG no. WLL02A-EXG-05-ZZ-D-K010-P02 (CD 2.5).

Containerised Battery Energy Storage Units

3.10. Approximately 70 containerised battery units will be located within the proposed BESS Compound in the Southern Parcel of the Appeal Site.

3.11. The current scheme design is based on lithium-based battery technology, which is the standard used by all manufacturers. However, as noted above, this does not preclude the possibility that a more efficient technology may be available by the time the developer proceeds with construction ahead of the connection date. The proposed indicative layout is therefore based on the largest battery technology currently available to represent a maximum design scenario for assessment purposes. If more efficient technology emerges, it is possible that the footprint of the BESS and the size of the required equipment could be smaller than what is presently proposed.

3.12. Each battery unit consists of multiple battery racks, each equipped with its own battery management system and connected to a centralised control management system. The units are also fitted with thermoregulating air conditioning, as well as dedicated fire detection and suppression systems.

3.13. As shown on the Battery Container Plan and Elevations Drawing DWG No. WLL02A-EXG-05-ZZ-D-K001-P01 (CD 1.29), the containerised batteries measure 6.058m long by 2.438m wide and 2.896m tall. Each battery unit will be sited atop a 0.2m concrete plinth foundation.

3.14. The current proposed battery units would have the appearance of standard shipping containers and have a height of approximately 3m. It is proposed that each containerised unit be painted a colour to help assimilate the Development with its surroundings and limit the visual impact of the scheme.

3.15. The batteries will be available to charge energy and discharge energy directly from the existing 132kV electricity line which runs from east to west across the Southern Parcel.

MV & BESS Inverter Units

3.16. Around 25 Medium Voltage (MV) Central Inverter Units will be positioned throughout the solar farm, and approximately 35 Containerised Battery Inverter Units will be situated within the proposed BESS compound located in the Southern Parcel of the Appeal Site.

3.17. Similar to the proposed battery units, both the MV Central Inverters and BESS Inverters will have the appearance of a standard shipping container, measuring 6.058m long by 2.438m wide and 2.896m tall. It is also proposed that each inverter would be painted a colour to limit the visual impact of the Development. The dimensions and appearance of the proposed MV Inverters are shown in detail on the MV Inverter Unit Plan and Elevations Drawing DWG. No. WLL02A-EXG-05-ZZ-D-K002-P01 (CD 1.30).

3.18. The function of the proposed Inverters is to convert direct current (DC), generated by the Solar PV arrays and discharged by the batteries, into alternating current (AC), and to perform the reverse conversion when the batteries are charging. The MV Inverters located within the solar farm will then feed into the proposed Customer Substation and HV Switchgear, before exporting electricity directly to the 132kV distribution grid through the proposed DNO substation situated in the Southern Parcel.

Customer Substation and HV Switchgear

3.19. The proposed Customer Substation/HV Switchgear buildings will be fed directly from the MV inverters within the solar farm and the battery compound within the Southern Parcel. The proposed Substation/HV Switchgear buildings would be rectangular single-story buildings of brick construction. The proposed buildings will be positioned within the BESS and substation compound within the southern parcel of the site and will measure 15 m long by 5 m wide and 4.1 m high. The buildings will be of simple rectangular form with a single aspect roof and openings featuring on the front and side elevations of the building. The dimensions and appearance of the proposed Substation/HV Switchgear buildings are shown in detail on the Substation Building Elevations Drawing DWG. No. WLL02A-EXG-05-ZZ-D-K003-P01 (CD 1.31).

3.20. When exporting the proposed Substation and HV switchgear buildings will feed into the 132kV DNO substation transformers before being exported to the distribution grid.

Solar Control and Cable Connection Building

3.21. A 33kV transformer will positioned within the solar connection infrastructure compounds within each site parcel which will step up the voltage from the solar farm to allow transmission in the buried cable between the solar enclosures and the main 132 kV substation in the Southern Parcel. The 33kV transformers will measure approximately 5m long by 4.5m wide and 3.9m high. The dimensions and appearance of the proposed 33kV Transformers are shown in detail on the Typical 33kV Transformer DWG. No. WLL02A-EXG-05-ZZ-D-K013-P01 (CD 1.40).

3.22. The transformers will be co-located with a 33kV Control Room and Cable Connection Building within each connection infrastructure compound. The Control Room and Cable Connection building will measure 15m long by 5m wide and 4.3m high. Similarly to the Substation/HV Switchgear Building, the building will be of simple rectangular form with a single aspect roof and openings featuring on the front and side elevations of the building. The dimensions and appearance of the proposed 33kV Transformers are shown in detail on the 33kV Cable Connection and Control Room Plans and Elevations DWG. No. WLL02A-EXG-05-ZZ-D-K012-P01 (CD 1.39).

132kV DNO Transformer

3.23. A single new 132kV transformer will be needed to enable the connection to the grid. The DNO substation compound is proposed at the southern end of the Site's Southern Parcel, close to the intended point of connection to the 132kV distribution line that crosses the Appeal Site. This proposed connection point on the 132kV line has been confirmed by National Grid Distribution (NGED) to have sufficient capacity for both export and import to accommodate the Development, as outlined in the grid connection offer received.

3.24. The proposed DNO substation compound will comprise a DNO control room, one 132kV HV Switchgear and Grid Transformer set and associated equipment within a fenced compound. The dimensions and appearance of the proposed DNO substation and associated equipment is shown on the 132kV Switchgear Plans and Elevations Drawing DWG No. WLL02A-EXG-05-ZZ-D-K009-P02 (CD 1.36).

Security & Lighting

3.25. To secure the proposed substation and BESS within the Southern Parcel, 2.4-metre-high palisade security fencing is planned around the perimeter of both the BESS and DNO substation compounds to restrict access. Gates will be installed at the access point to the BESS compound to allow for maintenance access. These gates will match the fencing in appearance, material, and colour. I

3.26. To secure the solar farm enclosures within each site parcel, deer fencing will be installed around the perimeter of the solar arrays. This fencing will feature a timber post and wire mesh design to align with the rural character of the area. The proposed perimeter fencing will have an approximate height of 2.5 metres and will be positioned along the outer edges of the individual parcels of arrays to restrict access. A minimum separation of 5 metres will be maintained between the edge of the arrays and the fence, with an additional 5-metre buffer between the deer fencing and the field boundary

3.27. The distance between the proposed fencing and existing or proposed hedges and woodland will vary across the Site, with a minimum buffer of no less than 5 metres. This buffer area will be utilised for ecological enhancement measures as well as for the trimming and maintenance of existing and proposed vegetation. In areas where the scheme borders the designated SINC at Old Wood along the northern boundary of the northern parcel, a larger minimum buffer of 30 metres will be maintained and similarly used to support ecological enhancement measures.

3.28. In addition to fencing, it is proposed that pole-mounted CCTV and/or infrared security cameras be installed at intervals along the inner edge of the fencing, facing inward toward the Site to maintain privacy. Within the solar farm, the CCTV cameras would be mounted at a height of 4 metres, and similarly up to 4 metres in height within the DNO substation and BESS compounds.

3.29. The dimensions and appearance of the proposed fencing and CCTV and lighting are shown on Elevations Drawings WLL02A-EXG-05-ZZ-D-K011-P01 (CD 1.38) and DWG No. WLL02A-EXG-05-ZZ-D-K008-P01 (CD 1.35).

3.30. Badger-friendly and small mammal access points will be incorporated at various locations along the solar farm enclosure fencing to enable the movement of badgers across the Site. The placement and quantity of these access points will be determined by suitably qualified

ecologists. Alternatively, in certain areas, the fencing will be installed with a gap above the ground to allow small mammals to pass underneath.

3.31. Gates will be installed at the access point to both the BESS and DNO substation compounds and for each separate parcel of arrays within each field enclosure for maintenance access. The design of the proposed gates will be of the same appearance, material and colour as the fencing

3.32. No permanent lighting will be necessary on Site, as infrared CCTV cameras will be used to provide night-time visibility for the security company. Task lighting or low-luminance emergency lighting will only be required occasionally, such as when an engineer is present on Site. Regardless, the design and positioning of the substation and BESS compounds ensure that any light spill from the Site will be negligible.

Cable Installation in the Public Highway

3.33. An underground cable will be laid between the Northern Parcel and the Southern Parcel, which will follow the public highway.

3.34. The cable installation will involve digging a trench in the road, laying the cable and backfilling. A Method Statement for the cable installation in the public highway was prepared and included in Section 5 of the Construction Traffic Management Plan (CD 2.14) and further details can be found in the Planning Statement (CD 2.4 – CD 2.4.1).

Landscaping and Biodiversity

3.35. Within the Appeal Site, new tree, hedgerow and woodland planting is proposed in strategic locations around the field enclosures to enhance and strengthen the visual screening of the Site and restore and enhance landscape character. New wildflower and wet grassland meadow planting is proposed outside of the proposed solar fenced enclosures between the fencing and existing hedgerow and woodland boundaries of the Appeal Site, whist new grazing meadow mixes will be seeded beneath the PV arrays within the fenced compounds. An area of Willow tree planting is proposed to the south and along part of Kingston Brook in the Southern Parcel.

3.36. The Development presents considerable opportunity for landscape and biodiversity mitigation and enhancement. The objectives for biodiversity are to: -

- Retain and protect existing habitats of local value within and adjacent to the Appeal Site during construction and operation, specifically hedgerows, woodland, trees and watercourses.

- Identify protected or notable species that may be present and potentially affected by the Development, and incorporate suitable avoidance, protection and mitigation measures to ensure their continued favourable conservation status;

- Provide habitat and landscape enhancements though new planting and creation of connected habitat linked to the wider area, using native species appropriate to the locality;

- Provide Sustainable Drainage Systems within the Appeal Site which will introduce new diverse habitat and opportunities for wildlife on the Appeal Site;

- Provide opportunities for wider species diversity through planting and seeding, including hedgerow and woodland creation and infilling and creation of a diverse wildflower meadow; and,

- Providing additional nesting and refuge/overwintering habitat for wildlife such as reptiles invertebrates and small mammals with habitat piles/hibernacula, as well as barn owl, bat and bird boxes where appropriate.

3.37. Habitat creation and ongoing management practices are proposed to enhance biodiversity across the Appeal Site during the operational period. The design and long-term land management aim to preserve and improve ecological functionality by protecting and strengthening valuable wildlife corridors, particularly through the reinforcement of hedgerow and woodland networks within and surrounding the Appeal Site. Proposed habitat enhancement measures include the planting of new native species hedgerows, trees, and woodlands, as well as gapping up existing hedgerows, and establishing species-rich grassland and wildflower meadow areas. Existing hedgerows will be enhanced with supplementary native species planting where necessary.

3.38. These measures will provide dispersal, breeding, foraging and overwintering habitat for a variety of wildlife including invertebrates, birds, small mammals, amphibians and reptiles if present. The grassland creation will include the provision of a new wildflower meadow and enhanced meadowland and field margins sown with species rich seed mixes. The extensive areas of continuous new grassland habitat within and around the proposed compound, linked to the wildflower meadows and species-rich field margins and habitats in the wider area, will provide improved connectivity and opportunities for a range of wildlife to forage, shelter and freely disperse across the Site.

3.39. Full details of the proposed landscape and ecological mitigation is detailed on the Landscape Strategy Plan (CD 3.6) and respective Landscape & Visual Impact Assessment (CD 2.16 – CD 2.16.1) and Ecological Impact Assessment reports (CD 3.8). Overall, the proposed suite of ecological and landscape enhancements across the Appeal Site will result in a substantial biodiversity net gain.

Access

3.40. As set out in the above section, separate vehicular access will be provided to both the Northern and Southern Parcels.

3.41. Vehicular access to Northern Parcel is proposed to be served by a new access track that will extend west from Bradmore Road parallel to the existing Lodge Farm access through the field to its south, retaining the existing farm access for continued farm and residential operation and use as a PRoW. The proposed new access has been designed to be able to accommodate the largest vehicle expected to access the site, a 16.5m articulated lorry. A passing place is provided after the junction and a turning area is also shown on the plans on the eastern extent of the solar development.

3.42. Vehicular access to the Southern Parcel is currently achieved via an existing gated agricultural field entrance on Wysall Road on the parcel's southern boundary. From the field entrance an existing agricultural track and culvert provide vehicular access over Kingston Brook to enable access into the main field enclosures within the Southern Parcel. It is proposed to use the existing gated field entrance off Wysall Road for both construction and operational traffic which will be appropriately widened to the east to accommodate the

largest vehicles expected to access the site during construction, a 16.5m articulated lorry. The existing culvert structure over the brook will similarly be upgraded to withstand the loading of the proposed construction traffic and this will remain when the Development is operational. The access has been considered for the purposes of providing suitable maintenance and emergency access for the BESS and this is detailed in the NFCC compliance report (CD 3.9 ref ARC-1283-002-R1_Wysall_NFCC_Issue_1).

3.43. The proposed access points would be utilised for both temporary construction traffic and also adopted as the main access for vehicles during the 40 year operational period. The proposed accesses will be created with appropriate visibility splays to serve construction and operational vehicles. Internal access tracks within the Appeal Site will also be created to provide access to both the proposed BESS and DNO substation compounds and the separate solar array enclosures.

3.44. The proposed construction traffic routing has been devised to ensure that no vehicular traffic will be routed through the settlement of Wysall, with the exception of traffic associated with the laying of the buried cable, with separate routing instructions provided for each of the site parcels.

3.45. For the Northern Parcel, construction traffic will be routed via the A60 south exit connecting with the A52, through Ruddington, Bradmore until the Loughborough Road and Pendock Lane junction is reached. Construction Vehicles accessing the Northern Parcel will then turn left onto Pendock Lane which becomes Wysall Road and then Bradmore Road until the access to the Northern Parcel is reached.

3.46. For the Southern Parcel, construction traffic will similarly be instructed to take the A60 south exit off the roundabout connecting with the A52, through Ruddington, Bradmore and Bunny until the junction at Costock is reached. Construction vehicles will then turn left onto Wysall Road and travel east until the southern parcel access is reached.

3.47. Vehicles exiting the site parcels will utilise the inverse of the construction routes described above.

3.48. Temporary signage will be erected in the vicinity of the Site accesses on Wysall Road and the Bradmore Road during the construction phase to indicate that heavy construction vehicles are turning. If considered necessary, temporary traffic lights and / or banksmen can be deployed to regulate traffic as and when required at the eastern site access, halting traffic if necessary and guiding the HGVs into the site. Banksmen will not direct general traffic but will indicate to heavy and large construction vehicles when it is appropriate for them to enter and leave the Site. HGVs will only be permitted to leave the Site when the highway is clear of traffic.

3.49. As advised in the applicant's pre-application advice received from Nottinghamshire County Council (NCC) (CD 4.3.15), the Northern Parcel's construction access route would need suitable mitigation to ensure that HGV's can route to the Site. A review of where a 16.5m HGV and a car can pass along Pendock Lane/Wysall Road/Bradmore Road has been undertaken based on OS Mapping. This review found that an HGV and a car can pass on Pendock Lane, however there are sections of Wysall Road and Bradmore Road where an HGV and car cannot pass with the roads current width. It is proposed to install 4 passing places along the access route. The proposed passing places will also allow an HGV to pass an HGV. Following construction, the proposed passing places will remain in place to improve the current HGV traffic flows that use this route and currently struggle to pass if

they meet on narrow sections. Details of the proposed arrangements are provided within the Construction Traffic Management Plan (CD 2.14) and will be secured by planning condition.

Public Access

3.50. In term of public access, there are no Public Rights of Way (PRoW) within the Southern Parcel.

3.51. There are two public rights of way within the Northern Parcel including three instances where the PRoWs will be crossed by the proposed internal site access tracks. The PROW's will remain operational through the construction period and will have signs at either end to advise users of the construction works. During both the construction and operational phase, the PROW will be fenced off to ensure users safety. A qualified Banksman will walk alongside construction vehicles through the Appeal Site, when a PROW crossing is reached, the qualified banksman will check there are no PROW users then open the gate to allow the construction vehicle to continue.

3.52. The Development will not be accessible to the public and security measures proposed will act as a deterrent to prevent unlawful access.

3.53. Landscaped corridors, of a width of circa 25m, framed between new rows of hedgerow and tree planting and swathes of wildflower meadow are proposed to buffer and enhance the retained PRoWs to both provide screening and mitigate visual effects of the development on users of the PRoWs.

Construction

3.54. A temporary construction compound will be established within or adjacent to the separate development parcels during the construction phase. In the Northern Parcel, the proposed construction laydown area will be located to the north of the new access road from Bradmore Road. In the Southern Parcel, a separate compound will be situated in the southern section of the parcel, near the proposed new internal access track that extends north of Kingston Brook and outside of flood zone 2 and 3. All construction-related vehicles will be accommodated within the Appeal Site, ensuring that there is no unnecessary parking on the local highway network.

3.55. It is anticipated that construction of the Appeal Proposal will take approximately 6 months to complete. This includes the preparation of the Appeal Site, the temporary access track construction, erection of security fencing, assembly and erection of the PV strings, installation of the transformers, grid connection and BESS.

3.56. During the approximate 6 month construction period, it is proposed that construction working hours would be as follows:

- 08:00 – 18:00 Monday to Friday; and
- 08:00 – 13:00 Saturday.

3.57. Should work be required to be undertaken outside of these times, this would be agreed in writing in advance with RBC. Deliveries to the Appeal Site are proposed to be staggered and

will be completed outside of the network peak hours to reduce the effect on the wider highway network.

Surface Water Management

3.58. The nature of a solar farm means there will be minimal increase in impermeable area which would be provided by some small infrastructure containers spread out across the Appeal Site, these would offer no material increase in surface water runoff and would allow water to migrate into the permeable surfacing surrounding them (grass or gravel). Furthermore, through the change in land use from agricultural use, the Appeal Proposal would deliver diverse grassland, woodland and copse areas which would occupy otherwise bare arable land thereby enhancing the management of surface water across the Appeal Site. No specific drainage measures are proposed for the solar farm areas.

3.59. The proposed BESS and Substation infrastructure within the Southern Parcel would provide a small impermeable area via the battery storage units / substation which will be sat on a concrete foundation base surrounded by permeable surfacing. A drainage strategy has therefore been proposed for the substation and BESS compound and this is detailed in the Flood Risk Assessment and Drainage Strategy (CD 3.7). Whilst surrounded by permeable surfacing the BESS compound will be underlined by an impermeable layer which will collect and convey surface water run off from the compound through an isolated storage pipe to the south of the compound before discharging to the Kingston Brook via an attenuation pond which will intercept and manage outfall to existing greenfield rates.

3.60. In the original Flood Risk Assessment and Drainage Strategy (CD 1.17) submitted with the planning application the proposed pipe will continuously hold a minimum of 228 cubic meters of water which in the rare event of a fire can be used as a water source for suppression purposes. Should a fire occur, the system incorporates a pen stock which when closed will isolate the storage pipe from the wider drainage system enabling the containment and isolation of any contaminated surface water run off resulting from fire suppression used on the Appeal Site until a point where it can be safely pumped out and removed from the site. The capacity of the pipe will be greater than the minimum fire water run off storage volume set out in the NFFC battery guidance (1,900 litres per minute for 2 hours). The main change to the drainage strategy introduced during the appeal was the provision of above ground fire water tanks in the BESS compound to mitigate any potential concerns the fire service may have with recycling fire water, and to maintain a flexible design. Each tank would have associated pump housing with the following dimensions – 8 m x 5 m x 3 m (h) with a small adjoining housing for a pump of 2 m x 2 m x 2 m. Two tanks are proposed. Each tank would have a capacity of circa 120,000 litres so together water capacity of 240,000 litres, greater than the requirements in the NFCC guidance. The water tanks could be painted a sympathetic colour, like dark green, and are similar/ slightly lower height than that the battery containers and inverter housing. This change means the below ground pipe can be used solely to collect and isolate fire water run off in an emergency event.

3.61. The proposed access tracks will be of a permeable crushed stone construction and will not provide any increase in runoff or alter the existing drainage characteristic of the Appeal Site.

Waste & Recycling

3.62. The production of waste during construction would be extremely limited, as the large majority of components would be brought to site ready-made/pre-assembled. During operation, the Development will generate very little waste. Following the expiry of the consent, the solar panels, battery units and associated infrastructure would be dismantled and removed from the Site, leaving no residual effects. In addition, the solar panels will be recycled and battery units reused or recycled at the end of their operational life. Recycling of solar panels allows for the recovery of major panel components including glass, aluminium and copper, with likely cumulative yields greater than 85% of total panel mass. In the long term, dedicated solar PV and battery recycling plants can be expected to increase treatment capacities and the ability to recover a greater fraction of embodied materials. Decommissioning would be in accordance with technical guidance and best practice, with the methodology to be agreed with RBC at that time. There is no potential for significant effects on waste generation and management.

Health and Safety

3.63. The battery technology assessed as part of this proposal is Lithium-ion based which is the basis for all manufacturers.

3.64. All BESS units have fire detection and suppression systems (FDSS) that activate when a flame is detected with in the BESS enclosure. However, the BESS cells and batteries are monitored 24/7 for temperature and voltage variations via a Battery Management System (one per battery) and an overarching rack BMS controls each rack, providing a layered safety approach. The battery BMS also controls the charge rate in and out of the cells and balances the charge between cells. In the event of an incident outside the control of the BMS, a cell will initially give off gas and this gas is detected by built-in gas sensors that will activate the BESS ventilation system and clear any gas build up in the enclosure. For day to day operation each BESS has a HVAC system that maintains the optimal environmental conditions for the batteries.

3.65. An Outline Battery Safety Management Plan ('OBSMP') (CD 1.12) has been prepared to ensure that safety risks related to the BESS element of the Development are understood, accounted for and mitigated as far as practicable, in agreement with relevant consultees, prior to construction commencing. The OBSMP sets out the design approach to be taken, and the information which is required to be provided in advance of construction of the Development to demonstrate that the BESS will be constructed and operated safely.

3.66. Following the adoption of the measures set out in the OBSMP, the risk of a fire occurring from the BESS will be reduced, and if a fire did occur, the risk of it spreading to the point where it became a major incident will be reduced to an acceptable level.

3.67. As detailed in the Surface Water Management section above there are provisions in place for fire water storage as well as capacity for isolating the drainage system in the event of a fire and fire water being used on the Appeal Site, such that any potentially contaminated run off can be stored and tested and if necessary tinkered offsite for treatment and or appropriate disposal. This ensures that such run off does not enter the wider environment, including Kingston Brook.

Operation

3.68. An operational lifespan of up to 40 years is sought for each component of the Appeal Proposal – the solar farm and the BESS.

3.69. During the operational phase, the activities on the Appeal Site would amount to the maintenance and servicing of plant and equipment, and vegetation management. The solar panels will also need to be periodically cleaned to ensure efficient running of the system.

3.70. Operational access to the Northern and Southern Parcels will be from the new proposed access point from Bradmore Road and the upgraded entrance on Wysall Road respectively. It is anticipated that under normal circumstances, approximately only 1-2 visits per week will be required for equipment maintenance. Most visits to the Appeal Site would be undertaken by an operative in a van/4x4, except in rare instances where repairs or replacements are required which may require HGVs.

Decommissioning

3.71. The Development would export renewable energy to the grid and provide grid stability services for up to 40 years. After the 40 year period the infrastructure would be decommissioned and the land restored back to its current agricultural use

3.72. When the proposed solar farm is decommissioned, the solar panels and associated infrastructure will be removed. Due to the limited quantity of foundations, hard surfacing and heavy infrastructure, combined with the fact that the majority of the Site will be retained as grassland, the land will be easier to restore than more intrusive development types with more significant foundations.

3.73. The proposed BESS infrastructure is also proposed to be removed following decommissioning, with any hardstanding removed and the land reinstated in accordance with a decommissioning method, to be agreed with the LPA prior to undertaking the decommissioning.

3.74. There is the possibility that following the decommissioning of the solar farm that National Grid Electricity Distribution (NGED) wish to retain the DNO substation. Full details of this and the extent of the proposed decommissioning works would be set out within a detailed decommissioning strategy to be agreed with RBC via an appropriately worded planning condition.

Design Flexibility

3.75. The Appeal Proposal has employed a 'maximum design scenario' approach which reflects the Rochdale Envelope approach. The Rochdale Envelope provides a ‘maximum design’ scenario approach to the impact of a project and allows for a broad definition of the project to be framed within a number of set parameters. This approach allows for a project to be assessed on the basis of maximum project design parameters in order to provide flexibility, while ensuring all potentially significant effects (positive or adverse) are assessed within the planning application.

3.76. Construction work on the Development, assuming planning permission is granted, would not commence until a final investment decision has been made by the Appellant and a contractor appointed. Following the award of the contract, the appointed contractor would

carry out a number of detailed studies to inform the technology selection for the solar farm and BESS and also to optimise its layout and design before starting work.

3.77. Given the rapidly evolving nature of solar and battery energy storage technology, it is possible that a new more energy and spatially efficient technology may be available to the Appellant by the time the project is ready to be constructed which may have a reduced overall impact on the Appeal Site and its surroundings.

3.78. It follows that it has not been possible for the Appellant to fix all of the design details at this stage. The Appellant has therefore sought to incorporate sufficient design flexibility. This relates to the dimensions and layout of structures forming part of the Appeal Proposal, including the precise layout of the infrastructure and the maximum height of the solar panels.

3.79. The Appellant's approach to this has been to assess the maximum (and where relevant, minimum) parameters for the elements where flexibility is required. For example, the heights of the solar panels have been assessed for the purposes of landscape and visual impact as being maximum of 3.1m high, which is the worst-case. It is possible that the panels could be lower.

Therefore, should the Inspector be minded to allow the appeals, it is requested that a suitably worded planning condition(s) should be implemented on any permission to secure the submission and approval of the final detailed design in advance of construction commencing on site. Such an approach has been found acceptable in many other appeals including land adjacent to Harlow Road, Essex (Appeal Ref APP/J1535/W/23/3334690 – CD 7.21)

Amendments to the Appeal Proposal During Application Determination

3.80. A list detailing the application submissions, subsequent amendments and further information submitted as part of planning application is contained within the Draft Core Document List and draft Statement of Common Ground (CD 8.3).

3.81. During the course of the determination of the planning application, a number of refinements were made to the development proposals in direct response to comments raised by statutory consultees. A summary of the submitted changes and associated documents is provided below for reference:

- Planning Statement (Rev C) dated February 2024, prepared by Pegasus Group (CD 2.4-2.4.1), updated to correct an error on solar panel heights in areas of flood risk.
- Design and Access Statement (Rev B), dated February 2024, prepared by Pegasus Group (CD 2.2), updated to correct an error on solar panel heights in areas of flood risk.
- Archaeology Note, dated March 2024, prepared by Exagen (CD 2.6)
- Electricity Generating Capacity Statement, dated March 2024, prepared by Exagen (CD 2.7)
- Electricity Generating Capacity Statement, dated June 2025, prepared by Exagen (CD 2.8)

- Legal Advise Note, Highfields NSIP, dated April 2024, prepared by TLT LLP (CD 2.10)
- Transport Statement, dated June 2024, prepared by Motion (CD 2.11)
- Construction Traffic Management Plan, dated June 2024, prepared by Motion (CD 2.12
- Technical Note 3 – Highway Authority Response, dated December 2024, prepared by Motion (CD 2.13)
- Construction Traffic Management Plan, dated December 2024, prepared by Motion (CD 2.14)
- Technical Note 2 – National Highways Response, dated March 2024, prepared by Motion (CD 2.15)
- Landscape and Visual Impact Assessment, Parts 1 - 16, dated October 2024, prepared by Pegasus Group (CD 2.16)
- Landscape and Visual Impact Assessment, Parts 17, dated October 2024, prepared by Pegasus Group (CD 2.16.1)
- Ecological Impact Assessment, dated October 2024, prepared by Clarkson and Woods (CD 2.17)
- Ecology Response Note, dated October 2024, prepared by Exagen (CD 2.18)
- Overview Letter of additional info, dated November 2024, prepared by Exagen (CD 2.19)
- Response to Historic England Comments, dated October 2024, prepared by Pegasus Group (CD 2.21)
- Statutory Calculator_BNG Metric_v2.0 (CD 2.22)
- Archaeological Evaluation: Summary Statement, dated March 2025, prepared York Archaeology (CD 2.27)
- Flood Zone Clarification Email, April 2025 (CD 2.28)
- Type 4 Visualisations, dated March 2024 (CD 2.30)
- Ecological Impact Assessment, dated April 2024, prepared by Clarkson and Woods (CD 2.31)
- Biodiversity Net Gain Updates Comments, dated April 2024, prepared by Clarkson and Woods (CD 2.32)
- Geophysical Survey Report, dated May 2024, prepared by Magnitude Surveys (CD 2.33)

- Arboricultural Impact Assessment, dated November 2024, prepared by Barton Hyett Associates (CD 2.35)
- Archaeological Evaluation: Summary Statement, dated April 2025, prepared York Archaeology (CD 2.37)
- Typical Solar Panel Elevations Drg no. WLL02A-EXG-05-ZZ-D-K010 Rev.P02 (CD 2.5)
- Footpath Buffer Distances Drg no. WLL02A-EXG-04-00-D-K002 Rev. P01 (CD 2.9)
- Landscape Strategy Drg no. P21-2533_EN_06E (CD 2.20)
- Green Infrastructure Plan Drg no. WLL02A-EXG-00-00-D-K015 Rev.P01 (CD 2.23)
- Site Layout Plan Drg no. WLL02A-EXG-04-00-D-K001 Rev. P05 (CD 2.24)
- Footpath Buffers Plan Drg no. WLL02A-EXG-04-00-D-K002 Rev. P02 (CD 2.25)
- BESS and Substation Layout with Latest EA Flood Mapping Drg no. WLL02A-EXG-00-00-D-K016 Rev. P01 (CD 2.28.1)
- Agricultural Land Classification Survey Sampling Point Locations Drg no. WLL02A-EXG-00-00-D-K017 Rev. P01 (CD 2.29)
- Draft Trench Layout Including Geophysical Survey, dated June 2024 (CD 2.34)
- Draft Trench Layout 2 Including Geophysical Survey, dated June 2024 (CD 2.34.1)
- Draft Trench Layout 3 Including Geophysical Survey, dated June 2024 (CD 2.34.2)
- Draft Trench Layout 4 Including Geophysical Survey, dated June 2024 (CD 2.34.3

Amendments made as part of the Appeals

3.82. Following the refusal of the application by RBC, further minor changes have been made to the design of the Appeal Proposal to accompany the appeal submission. The proposed changes have been made to address changes to the EA Flood Risk mapping published in March 2025 and to provide additional NFCC compliance for the BESS proposal.

3.83. The Appellant duly requests that the inspector takes the revised information submitted under cover of the appeal into consideration in their determination. These changes are being consulted on at the time of lodging to appeal in accordance with the *Holborn* principles.[3]

[3] *R (Holborn Studios Limited) v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

3.84. A summary of the proposed changes submitted under cover of this appeal is provided below. For full details of the changes and revised documentation, please refer to the Summary of Changes Document submitted in support of the appeal (CD 3.4).

3.85. The proposed amendments include:

- Some micro siting of electrically sensitive equipment in four locations to take account of latest surface water flood data published by the Environment Agency.
- Inclusion of 2 above ground fire water storage tanks to supplement the previous fire water provisions, to seek further compliance with National Fire Chief Council. Guidance.
- Minor track changes to the south of fields 5 and 6 to allow for extra hedgerow planting to the north of the public right of way, alongside some extra hedgerow tree planting to the south of field 3 and other minor hedgerow gapping up as illustrated on the revised Landscape Strategy.

3.86. Further consultation is being undertaken by the Appellant at the time of lodging this appeal to the Planning Inspectorate in order to ensure that any party who wishes to comment on the proposed changes shown in the Amended Scheme, has the opportunity to do so at the outset of the appeal process. RBC have also been informed of the intention to amend the proposed development to that shown on the Amended Site Layout (CD 3.1) and Amended Landscape Strategy plans (CD 3.6).

3.87. In the light of the limited degree of change proposed by the amended scheme, the proposed changes are minor in nature and do not result in a development which is substantially different from that applied for. The consultation undertaken will ensure that no party is prejudiced by the consideration of the amendment as the Appeal Proposal.

Appeal Proposal Benefits

3.88. The principal benefits of the Appeal Proposal are:

- The Development would provide a clean, renewable and sustainable form of electricity generation directly into the local electricity network and would be equipped with ancillary carbon zero energy storage to provide both ancillary storage to the solar farm but also energy balancing services to the National Grid.
- The Development would add to RBC's progress in meeting its renewable energy targets and would also assist in meeting national targets for both energy supply and low carbon energy development.
- The solar farm component of the Appeal Proposal would have an export capacity of up to 49.9MW of renewable energy per year, which could provide approximately enough energy to power up to 25,900 homes and displace approximately 31,500 tonnes of CO_2 per annum[4].

[4] Based upon BEIS's "all fossil fuels" emissions statistic of 450 tonnes of carbon dioxide per GWh of electricity supplied in the Digest of UK Energy Statistics (published July 2019, p96) and an estimate of

- Adjacent to the new DNO substation will be a BESS facility with a capacity of approximately 85 MW. The batteries will be available to charge energy and discharge energy directly from the existing 132kV electricity line which runs from east to west across the Southern Parcel.

- Contribution to Energy security through generating energy from a domestic renewable source to reduce reliance upon politically sensitive fossil fuels.

- Biodiversity Net Gain across the Appeal Site through the provision of new hedgerows, trees and woodland, the retention of field margins, and creation of wildflower meadow and wet meadow grassland habitats. These measures will provide dispersal, breeding, foraging and overwintering habitat for a variety of wildlife including invertebrates, birds, small mammals, amphibians and reptiles if present. The grassland creation will include the provision of a new wildflower meadow and enhanced meadowland and field margins sown with species rich seed mixes. The extensive areas of continuous new grassland habitat within and around the proposed compound, linked to the wildflower meadows and species-rich field margins and habitats in the wider area, will provide improved connectivity and opportunities for a range of wildlife to forage, shelter and freely disperse across the Site.

- Landscaped corridors framed between new rows of hedgerow and tree planting and swathes of wildflower meadow are proposed to buffer and enhance the retained PRoWs to both provide screening and mitigate visual effects of the Appeal Proposal on users of the PRoWs.

- Social gain would be provided through the generation of local renewable electricity that will be connected directly to the local grid

- Badger friendly/small mammal access points will be prescribed at various locations along the solar farm enclosure fencing to allow the passage of badgers across the Appeal Site.

- No permanent lighting will be required on the Appeal Site with infrared CCTV cameras being deployed around the perimeter of the solar farm to enable the security company to have a visual at night. Motion activated downlights would be installed at the BESS and substation compound and would only be triggered in the event of maintenance works being carried out at night, which would be very infrequent.

- Retention of the site's future use as agricultural land with a time restricted, temporary and reversible development (approximately 40-years), following which will result in soil improvement as a result of land be rested from intensive agricultural practises.

- Rural diversification;

49.9GWh of generation per year.

- Increased employment opportunities created through the construction, operation and decommissioning phases of the development, thus further increasing the provision of skilled 'green' job opportunities;

- Business opportunities created for suppliers and installed involved in grid connection, transport and logistics of the project;

- Economic investment in the location of development;

- Indirect contribution towards energy security and associated reduced energy costs.

3.89. There are further benefits that are discussed later in this Statement including economic, social and environmental benefits. It is beyond doubt that the Appeal Proposal is sustainable development.

4. Planning History

4.1. A review of RBC's online planning records identifies the following planning history for the Appeal Site (excluding applications subject to this Appeal):

- 16/01432/CMA - British Gypsum Works Gotham Road East Leake Nottinghamshire LE12 6JX | Vary condition 2 of planning permission 00/01321/CMA to extend operation of mine until 22 February 2042 | No Objection 15th Jul 2016

- 16/01430/CMA - British Gypsum Works Gotham Road East Leake Nottinghamshire LE12 6JX | Periodic review of mineral permissions pursuant to Section 96 of Environment Act 1995 | No Objection 15 Jul 2016

- 98/01279/CMA - Land From Gotham To East Leake South Of Borough East Leake | Determination of conditions on planning permissions:- S/19/2, S/9/1, S/21/56, S/24/2, S/21/5, S/19/595, G1/83/D/1153, 21/82/D/158, 75/D/532, S/21/2, S/21/3, S/18/179, J1/78/D/464 and S/18/276 |

4.2. The planning history outlined above is reflective of the Appeal Site's status as being safeguarded for future mineral (gypsum) extraction.

4.3. For further details regarding planning applications for the land surrounding the Appeal Site, please refer to the previously submitted Planning Statement (CD 2.4 – CD 2.4.1).

4.4. Planning permission was granted on 16 February 2023, for construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure, together with the formation of a new vehicular access onto Bunny Hill (A60) at Land To North East Of Highfields Farm Bunny Hill Costock, which lies immediately to the west of the Appeal Site. It is stated in the SOCG that this is the only relevant cumulative scheme for the purpose of this Appeal.

4.5. Other applications largely comprise householder applications or applications for mixed use development for residential, agricultural and other similar uses in the surrounding area.

5. Planning Policy

5.1. This section identifies the planning policies and guidance that will be of most relevance to this Appeal.

The Development Plan

5.2. Rushcliffe Borough Council Local Plan Part 1: Core Strategy (CD 6.1) was adopted in December 2014. Part 2 to this Local Plan (Land and Planning Policies) (CD 6.3) was adopted in October 2019.

5.3. The below sets out policy applicable to the Appeal Proposal, as referenced within the Planning Officers Committee report, and the Reasons for Refusal. The applicability of these policies is discussed further in subsequent sections of this statement and at Appendix 1 and Appendix 2.

Rushcliffe Borough Council Local Plan Part 1: Core Strategy and Part 2: Land and Planning Policies

RBC Decision Notice (CD 4.2)

5.4. Policies from the Local Plan Part 1 referenced in the RBC Reason for Refusal:

- Policy 10 – Design and Enhancing Local Identity
- Policy 11 – Historic Environment

5.5. Policies from the Local Plan Part 2 referenced in the RBC Reason for Refusal:

- Policy 1 – Development Requirements
- Policy 16 – Renewable Energy
- Policy 22 – Development in the Countryside
- Policy 28 – Conserving and Enhancing Heritage Assets
- Policy 34 – Green Infrastructure and Open Space Assets
- Policy 38 – Non-Designated Biodiversity Assets and the Wider Ecological Network
- Policy 40 – Pollution and Land Contamination

5.6. Other material planning considerations referred to in the Reasons for Refusal:

- National Planning Policy Framework (NPPF):
    - Chapter 15 – Conserving and Enhancing the Natural Environment
    - Chapter 16 – Conserving and Enhancing the Historic Environment

RBC Committee Report (CD 4.1)

5.7. Policies from the Local Plan Part 1 referenced in the RBC Committee Report:

- Policy 1 – Presumption in Favour of Sustainable Development
- Policy 2 – Climate Change
- Policy 10 – Design and Enhancing Local Identity
- Policy 11 – Historic Environment
- Policy 15 – Transport Infrastructure Priorities
- Policy 17 Biodiversity

5.8. Policies from the Local Plan Part 2 referenced in the RBC Committee Report:

- Policy 1 – Development Requirements
- Policy 16 – Renewable Energy
- Policy 17 – Managing Flood Risk
- Policy 18 – Surface Water Management
- Policy 19 – Development Affecting Watercourses
- Policy 22 – Development in the Countryside
- Policy 28 – Conserving and Enhancing Heritage Assets
- Policy 29 – Development affecting Archaeological Sites
- Policy 32 – Recreational Open Space
- Policy 33 – Local Green Space
- Policy 34 – Green Infrastructure and Open Space Assets
- Policy 37 – Trees and Woodlands
- Policy 38 – Non-Designated Biodiversity Assets & Wider Ecological Network
- Policy 40 – Pollution and Land Contamination
- Policy 41 – Air Quality

5.9. Other material planning considerations referred to in the RBC Committee Report:

- National Planning Policy Framework (NPPF):
    - Chapter 2 – Achieving sustainable development

- Chapter 4 – Decision making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving Well Designed Places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

- National Planning Practice Guidance
- National Policy Statements (NPS)
- The UK declaring a climate emergency
- Sixth Assessment Report of the Intergovernmental Panel on Climate Change
- Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Development Plan Policy Conclusion

5.10. The Appellant's conclusion in relation to the relevant development plan policies identified above is that the Appeal Proposal accords with the development plan. The reasons for this are explained further in the sections of this statement below, and in the Statements of Case Appendices in respect of Landscape (Appx 1) (CD 8.2.1), and Heritage (Appx 2) (CD 8.2.2).

National Policy and Guidance

- National Planning Policy Framework (December 2024) (CD 5.1)
- National Planning Practice Guidance (CD 5.2)
- Overarching National Policy Statement for Energy (EN-1) (November 2023) (CD 5.3)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2023 (CD 5.3)
- UK Government Solar Strategy 2014 (CD 5.5)
- Written Ministerial Statement on Solar Energy: protecting the local and global environment (25th March 2015) (CD 5.6)
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021) (CD 5.7)
- Climate Change Act 2008 (CD 5.8)

- Climate Change Act 2008 (2050 Target Amendment) Order 2019 (CD 5.9)
- Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) (October 2017) (CD 5.10)
- UK Parliament declaration of an Environmental and Climate Change Emergency (May 2019) (CD 5.11)
- Energy White Paper: Powering our Net Zero Future (December 2020) (CD 5.12)
- UK Government press release of acceleration of carbon reduction to 2035 (April 2021) (CD 5.13)
- Extracts from 'Digest of United Kingdom Energy Statistics' (July 2023 Edition) (CD 5.14B)
- Extracts from 'Digest of United Kingdom Energy Statistics' (July 2024 Edition) (CD 5.14C)
- UK Energy Statistics Press Release published by the Department for Business, Energy & Industrial Strategy (June 2020) (CD 5.15)
- 'Achieving Net Zero' published by the National Audit Office (December 2020) (CD 5.16)
- Net Zero Strategy: Build Back Greener (October 2021) (CD 5.17)
- British Energy Security Strategy (April 2022) (CD 5.18)
- The Government Food Strategy (June 2022) (CD 5.19)
- Powering Up Britain Energy Security Strategy (March 2023) (CD 5.20)
- Connections Action Plan (November 2023) (CD 5.25)
- Written Ministerial Statement by the Secretary of State for Energy Security and Net Zero on 'Solar and Protecting our Food Security and Best and Most Versatile (BMV) Land' (15th May 2024) (CD 5.21)
- National Grid ESO Future Energy Scenarios (July 2024) (CD 5.22)
- Achieve Net Zero – Farming's 2040 goal, published by the NFU, dated September 2019 (CD 5.23)
- Natural Capital Best Practice Guidance – Increasing biodiversity at all stages of a solar farm's lifecycle (2022) (CD 5.24)
- Clean Power 2030: Advice on achieving clean power for Great Britain by 2030 – NESO (2024) (CD 5.48)
- Clean Power 2030 Action Plan - Department for Energy Security and Net Zero (DESNZ) (2024) (CD 5.25)

- Solar Road Map (DESNZ, June 2025) (CD 5.38)
- UK Clean Energy Industrial Strategy (June 2025) (CD 5.49)
- Progress in Reducing Emissions – Climate Change Committee report to Parliament (June 2023) (CD 5.50)

Supplementary Planning Guidance and Documents

5.11. The following Supplementary Planning Guidance is also of relevance to the Appeal:

- Rushcliffe Borough Council Climate Change Strategy 2021 – 2030 (CD 6.4)
- Rushcliffe Borough Council Carbon Management Plan 2020 9CD 6.7)
- D2N2 Energy Strategy (CD 6.8)
- Rushcliffe Borough Council Solar Farm Development Planning Guidance (November 2022) (CD 6.5)
- Rushcliffe Borough Council Solar Farm Landscape Sensitivity and Capacity Study (May 2024) (CD 6.6)

6. Need for the Appeal Proposal

6.1. Whilst paragraph 163 (a) of the NPPF states that applicants (who are appellants for planning appeals) are not required to demonstrate the overall need for renewable or low carbon energy schemes, the Appeal Proposal shall make a compelling contribution to the provision of an energy mix providing benefits to combatting climate change and energy security. The Appeal Proposal sits comfortably within an established body of legislation and policy, which is summarised below.

UK Policy and Legislation

6.2. The Climate Change Act 2008 (CD 5.8) 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.

6.3. 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") (CD 5.9).

6.4. The 'Clean Growth Strategy' (CD 5.10) 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.

6.5. 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 (CD 5.11).

6.6. At a local level Rushcliffe Borough Council (RBC) voted to declare a climate emergency in March 2020, committing the Council to becoming a carbon neutral organisation by 2030. RBC have since adopted a Climate Change Strategy (2021-2030) as of November 2021, and Carbon Management Plan (2020) which provides an exploration of the actions RBC will need to consider to meet its ambitions of becoming a net zero organisation by 2030 and to encourage residents and business within the Borough to also reduce their carbon emissions. The Council will use this to help inform the nature and extent of action and is a key element in planning the Council's response to the Climate Emergency declared in March 2020. Key to this, the delivery of renewable energy generation is highlighted as a key aim towards reducing carbon emissions both for the Council as an organisation and the wider Borough.

6.7. The Government set out its aim for a “fully decarbonised, reliable and low-cost power system by 2035” in its Energy White Paper: Powering Our Net Future (December 2020) (CD 5.12). 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." "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."

6.8. 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."

6.9. 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.

6.10. The Government published its 'Net Zero Strategy: Build Back Greener' (CD 5.17) in October 2021 which establishes that the UK will be powered entirely by clean energy by 2035, subject to security of supply (CD 5.17 first bullet point, page 19).

6.11. 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 (CD 5.17, second bullet point, page 94).

6.12. Another of the key commitments is *'to ensure the planning system can support the deployment of low carbon energy infrastructure'*.

6.13. The Appellant shares the opinion of the National Audit Office (CD 5.16, paragraph 1.9, page 21) that the challenge presented in reducing emissions to net zero 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.

6.14. 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 (CD 5.16, 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 (CD 5.16, 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 (CD 5.16, paragraph 36, page 103).

6.15. The Appeal Proposal would provide renewable energy into the grid - a substantial positive benefit. If consented, the Appeal Proposal 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.

6.16. 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 (CD 5.18). 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 nonprotected land; while ensuring communities continue to have a say and environmental protections remain in place.

6.17. More recently still, the Government published a suite of documentation under Powering Up Britain in March 2023 (CD 5.20). This explains that by March 2023, the UK had reached 14GW of solar installed and that:

"Solar has huge potential to help us decarbonise the power sector. We have ambitions for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. We need to maximise deployment of both ground and rooftop solar to achieve our overall target. Ground-mount solar is one of the cheapest forms of electricity generation and is readily deployable at scale. Government seeks large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low/medium grade agricultural land. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. Government is seeking widespread deployment of rooftop solar in commercial, industrial and domestic properties across the UK. To support our solar ambitions, we are accepting the recommendation from the Independent Review of Net Zero to set up a taskforce to deliver on this ambition."

6.18. It further explains that it is the Government's *"mission"* to replace imported fossil fuels with cheaper, cleaner sources of energy, including solar, which will make the UK *"much more energy independent, to protect us from volatile international energy markets, which underpinning our clean energy transition, so the UK becomes a net zero economy by 2050."*

6.19. The Government's Energy Security Plan (March 2023) ("ESP") (CD 5.20) explains proposals to establish a solar government-industry taskforce and roadmap to ensure a deployment trajectory to achieve 70GW of solar by 2035. It explains that:

"The UK has huge deployment potential for solar power, and we are aiming for 70 gigawatts of ground and rooftop capacity together by 2035. This amounts to a fivefold increase on current installed capacity. We need to maximise deployment of both types of solar to achieve our overall target […]".

6.20. Considerable importance is attached to this clear statement, 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.

6.21. The ESP goes on to explain that:

"Ground-mounted solar is one of the cheapest forms of electricity generation and is readily deployable at scale. The Government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. Solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land. We

consider that meeting energy security and climate change goals is urgent and of critical importance to the country, and that these goals can be achieved together with maintaining food security for the UK. We encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. The Government considers that there is a strong need for increased solar deployment, as reflected in the latest draft of the Energy National Policy Statements. We recognise that as with any new development, solar projects may impact on communities and the environment. The planning system allows all views to be taken into account when decision makers balance local impacts with national need."

6.22. The ESP makes it clear 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 Appeal Proposal would assist in achieving what the Government seeks in the ESP.

6.23. The ESP further encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental management. For reasons that are elaborated on in Section 10 of this statement, it is concluded that the Appeal Proposal would assist in maintaining agricultural use through sheep grazing/farming, and environmental benefits through delivering a significant increase in Biodiversity Net Gain.

6.24. The conclusion reached in the ESP are clear *'the Government considers that there is a strong need for increased solar deployment.'* 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 Appeal Proposal, the limited extent of local impacts identified are outweighed by this '*strong*' national need for solar development, for the reasons explained in Section 12 of this statement.

6.25. The Government's Carbon Budget Delivery Plan (March 2023) (CD 5.53) includes a number of measures aimed at facilitating the further deployment of solar generating capacity.

6.26. On 15th May 2024, the Secretary of State for Energy Security and Net Zero issued a Written Ministerial Statement (WMS) (CD 5.21), which has become a material planning consideration in TCPA determinations from the date on which it was issued. Whilst it does not say so explicitly, it would appear that the intention is to supersede the Written Ministerial Statement of 2015. The focus of this latest statement is upon the following matters:

- Food security as an essential part of national security (though it is noted that in the December 2024 NPPF the previous footnote reference to food security was removed, consistent with policy shifts signalled after the July 2024 election)
- Energy security is being threatened by world events;
- Protecting the best agricultural land;
- Addressing cumulative impacts;
- Improving soil surveys; and

- Supporting solar on rooftops and brownfield sites.

6.27. Increased weight is to be given to higher grades of land within the category of Best and Most Versatile (BMV) land; in other words, greater weight would be attached to loss of Grade 1 land than it would to Grade 3(a). The highest quality land is least appropriate for solar development and the WMS observes that:

"there is a greater onus on developers to show that the use of higher quality land is necessary."

6.28. An Agricultural Land Classification (ALC) survey and report concludes that the Site is comprised of mixture of Grade 3b and Grade 4 land, both of which is not categorised as BMV

NPPF (CD 5.1)

6.29. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development in its three dimensions; economic, social and environmental. Central to the NPPF is presumption in favour of sustainable development. For decision taking this means (paragraph 11):

- *"approving development proposals that accord with an up-to-date development plan without delay; or*

- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

    i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

    ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places* and providing affordable homes, individually or in combination."

6.30. Paragraph 161 of the NPPF states that the planning system should support transition to a net zero by 2050. This involves taking full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change, which should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, encouraging the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

6.31. Paragraph 164 of the NPPF states that new renewables development should be planned for in ways that:

a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should

be taken to ensure that risks can be managed through suitable adaptation measures, including through incorporating green infrastructure and sustainable drainage systems; and

b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.

6.32. Paragraph 165 states that *"To help increase the use and supply of renewable and low carbon energy and heat, plans should: a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts); b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems …".*

6.1. Paragraph 166 outlines that when determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

6.2. Finally, Paragraph 168 states that, when determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;

b) recognize that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an establishes site.

National Planning Practice Guidance (NPPG)

6.3. The Government's web-based NPPG went live in March 2014 (CD 5.2) and contains guidance on the planning system and has been subject to periodic updating. The web-based guidance should be read alongside the NPPF and is a material consideration in the consideration of planning applications.

6.4. Renewable and Low Carbon Energy forms one of the chapters in the NPPG. Paragraph 013 (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 proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety

- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun

- the need for, and impact of, security measures such as lights and fencing

- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;

- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;

- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

6.5. The above considerations are satisfactorily addressed for the reasons addressed later in this statement.

6.6. However, this Guidance dates back to 2015 and therefore must be seen in the context of the more recent policy changes as set out in the NPPF, the suite of energy National Policy Statements designated in January 2024, the Net Zero Strategy requirement to achieve Net Zero by 2050, the more recent energy policy statements encouraging the deployment of solar PV, as noted most recently in the Powering Up Britain Energy Security Plan (CD 5.20) and the WMS of 15th May 2024 (CD 5.21).

6.7. The NPPG clearly identifies the benefits of BESS through electricity storage that can enable energy use more flexibly and de-carbonise energy system cost-effectively. For example, by helping to balance the system at lower cost, maximising usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity (Paragraph: 032 Reference ID: 5-032-20230814).

6.8. Where planning permission is being sought for development of battery energy storage systems of 1 MWh or over, applicants (appellants) are encouraged to engage with the relevant local fire and rescue service. This is so matters relating to the siting and location of battery energy storage systems, in particular in the event of an incident, prevention of the impact of thermal runway, and emergency services access can be considered. There are no objections from the Local Fire Service to the proposals.

National Policy Statements

6.9. In January 2024, the Government designated a new suite of National Policy Statements ("NPS") for energy. While these principally establish the policy framework for Nationally Significant Infrastructure Projects, they are also material considerations for applications determined under the Town and Country Planning Act 1990. The NPSs provide an up-to-date understanding of the Government's views on matters such as the level and urgency of the need for new solar generating capacity and as such are necessarily material in the determination of this appeal. Of particular relevance to this appeal are NPS EN-1 (Overarching NPS for Energy) and NPS EN2 (NPS for Renewable Electricity Generation).

6.10. EN-1 (CD 5.3) sets out national policy for energy infrastructure in the UK.

6.11. 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' (CD 5.3).

6.12. 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 (CD 5.3).

6.13. 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'*. (CD 5.3).

6.14. 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 Proposal would make a substantial contribution to this objective.

6.15. 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*'. (CD 5.3). The Appeal Proposal will therefore give rise to substantial benefits in the form of cheaper energy and greater energy security.

6.16. 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 (CD 5.3); that substantial weight should be given to this need when considering applications for development consent under

the planning Act 2008 (CD 5.8); and that the government has concluded that there is a 'critical national priority' (CNP) for the provision of nationally significant low carbon infrastructure.

6.17. The Appeal Proposal comprises of a solar PV development which falls short of the 50MW threshold to be treated as a NSIP project under the Planning Act 2008. It is noted that this threshold will increase to 100mw in January 2026 as a result of Government amendments to the NSIP regulation in made in 2025. Nevertheless, the CNP policy signifies an important shift in the approach to renewable energy affecting sensitive designations, and reiterates the importance of delivering such schemes, even where significant harm may arise. The NPPF also acknowledges that "even small-scale projects provide a valuable contribution to significantly cutting greenhouse gas emissions". (CD 5.1).

6.18. 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." (CD 5.3, paragraph 3.3.63)

6.19. In terms of the weight to be accorded to the overarching need for new renewable energy infrastructure, EN-1 states:

The overarching need case for each type of energy infrastructure and the substantial weight which should be given to this need in assessing applications, as set out in paragraphs 3.2.6 to 3.2.8 of EN-1, is the starting point for all assessments of energy infrastructure applications. (CD 5.3, paragraph 4.2.6).

6.20. EN-3 (CD 5.4) was designated on 17 January 2024 and sets out national policy for energy infrastructure in the UK. A key update to EN-3 is the new introduction of the following paragraph:

"When considering applications for CNP Infrastructure in sites with nationally recognised designations (such as SSSIs, National Nature Reserves, National Parks, the Broads, Areas of Outstanding Natural Beauty, Registered Parks and Gardens, and World Heritage Sites), the Secretary of State will take as the starting point that the relevant tests in Sections 5.4 and 5.10 of EN-1 have been met, and any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by the urgent need for this type of infrastructure." (CD 5.4, paragraph 2.3.6)

6.21. The above nationally recognised designations are all subject to greater planning restrictions that areas outwith such designations, such as the Appeal Site, are not. For example, paragraph 190 of the NPPF provides that major development in National Parks, the Broads and National Landscapes should only be permitted in '*exceptional circumstances*.' The instruction of EN-3 to decision-makers that the starting point for renewable energy proposals on sites within nationally recognised designations is that the Critical National Priority outweighs any "*significant adverse*" effects on the qualities for which those areas are designated underlines the importance attached to the Critical National Priority and is a

clear indication that very significant weight must be given to the Critical National Priority in the planning balance.

6.22. 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.'* (CD 5.4, paragraph 2.10.9).

6.23. 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).*' (CD 5.4, paragraph 2.10.10).

6.24. 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. (CD 5.4, paragraphs 2.10.13-2.10.14). The Appeal Proposal is subsidy free.

6.25. 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. These considerations are taken into account as relevant in this Statement as the specific consideration arises, in particular 'Project lifetime and decommissioning' of EN3, where it is advised 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' (CD 5.4, paragraph 2.10.150). The Appeal Proposal 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.

6.26. EN-3 identifies relevant factors likely to influence site selection and design, including:

a. Irradiance and site topography;

b. Network connection;

c. Proximity to dwellings;

d. Agricultural land classification and type;

e. Accessibility;

f. Public rights of way;

g. Security and lighting

6.27. Paragraph 2.10.53 and 2.10.53 of EN-3 clarify that the maximum combined capacity of the installed inverters (measured in alternating current (AC)) should be used for the purposes of determining solar site capacity and refer to the NSIP capacity threshold for Solar of 50MW (AC) in England. In relation to footnote 92 of EN3, the Appellant provided an Electricity Generating Capacity Statement in support of the planning application prior to its determination. (CD 2.1). This explains the capacity and degree of overplanting and clarifies

the reason for this overplanting. The approach taken was endorsed in the court judgment of the 19th May 2025 in *Ross v SSHCLG* [2025] EWHC 1183 (CD 7.35).

Clean Power 2030: Action Plan (December 2024)

6.28. Following the issue of the revised NPPF in December 2024, the Government also released the Clean Power 2030 Action Plan: A new era of clean electricity (CD 5.25)

6.29. The Action Plan highlights that achieving clean power is now a broader goal and key to growing the economy and improving national security and standards of living. The document identifies urgency of enacting policy by "*Sprinting to clean, homegrown energy*", placing delivering clean power by 2030 at the heart of one of the Prime Minister's five missions and the Plan for Change (CD 5.25)

6.30. The Action Plan outlines tree major challenges as being "*the need for a secure and affordable energy supply, the creation of essential new energy industries, supported by skilled workers in their thousands, the need to reduce greenhouse gas emissions and limit our contribution to the damaging effects of climate change*." There is a clear link made between the steps to address energy security and climate change and the potential economic benefits form employment and investment in the energy industry, assisting the national plan for growth. The document (at page 20) refers to the Clean Power 2030 action plan "*Playing a key part in supporting hundreds of thousands of jobs, as part of the wider transition to net zero*" (CD 5.25).

6.31. The Government have indicated that a programme of investment worth around £40 billion per year for the next 6 years is on the horizon, and battery storage plays a crucial role in meeting the growth of electricity demand and maintaining a secure energy supply.

6.32. The Government have specifically stated their ambitious target of 23-27 GW of battery capacity before 2030 within the Action Plan. It is clear from this document that the Government acknowledges the importance of battery storage schemes such as the Proposed Development, and they are going to be increasingly more crucial for meeting national and international targets to reach net-zero.

6.33. In terms of the need to act immediately and take the opportunity for renewable energy where grid capacity is present, the Action Plan states at page 50 "*There is particular urgency to accelerate the planning process across Great Britain for energy infrastructure since we do not have long for many clean power projects to begin construction if they are to be operational for 2030*". In relation to existing network constraints and steps to deliver the decarbonised power system by 2030, the Action Plan states (at page 63) "*Wherever renewables can connect to the distribution network, this should be encouraged for reasons of speed and efficiency*" (CD 5.25).

DESNZ Solar Road Map (CD 5.38)

6.34. It is acknowledged widely within this document that 'solar is at the heart of the mission to make the UK a clean energy superpower' and that whilst this document sits alongside the Clean Power Action Plan, this roadmap ***'set the stage for longer-term growth beyond 2030, and commits to actions to support new, good quality jobs, through the ramp up of solar deployment'.***

6.35. The production of the Solar Roadmap further reiterates the Government's commitment to net zero and increasing the amount of energy produced by renewable sources. This document takes this one step further in outlining the current Grid reforms and the steps to be taken to increase provision of skilled workers within the industry. The document further outlines the desire for a move towards a greater reliance on renewable energy generation over fossil fuels, emphasised at page 57, when referencing the updated National Policy Statements that, ***'Alongside other low carbon technologies, solar infrastructure is considered to be of a Critical National Priority for the provision of nationally significant low carbon infrastructure. This recognises the urgent need for these projects to achieve our energy objective, and provide wider national security, economic, commercial, and net zero benefits.'***

6.36. When considering the importance of Grid connections, it is acknowledged within this document at page 32 that, 'large scale projects have faced some of the longest delays and costs as a result of the connections queue. It is important that viable projects are able to connect quickly, in order that they can come online by 2030 and deliver clean power in line with the Government's ambitions'.

6.37. In regard to the temporary and reversible nature of solar farms, the document states that:

Solar farms are a temporary and completely reversible land use with restoration of land at the end of the solar farm's life usually guaranteed by a planning condition".

6.38. As discussed above, it is acknowledged within the Roadmap that solar typically causes minimal disturbance to the ground and that, ***'the remainder of the land on which they are installed can be used for plant growth and wildlife enhancements during the lifetime of the solar site.'*** The Roadmap further emphasises this outlining on page 20 that:

'In some case, these biodiversity benefits, including increases in the number of pollinators, can lead to increased productivity on adjacent agricultural land. A recent study from the Royal Society for the Protection of Birds and University of Cambridge found that, hectare for hectare, solar farms in East Anglia contained nearly three times as many birds compared to surrounding arable land.'

6.39. Taking this a step further, Annex 2 'Solar Misconceptions' of the Roadmap under 'solar farm are bad for wildlife' the appendix explains that well-designed and well managed solar farms can support a range of ecosystem services including agriculture (sheep grazing, supporting pollinator species), regulate air quality, mitigate flood risk, create new habits and reduce carbon emissions, and that this is why organisations such a RSPB have expressed their support for solar farms.

Climate Change Emergency

6.40. Rushcliffe Borough Council declared a Climate Change Emergency in March 2019. For planning this means *'encouraging sustainable patterns of development which will help conserve the environment, encouraging good design in new development and awareness of the historic and cultural heritage of the area.'*

7. Site Selection Process

7.1. The site selection process is outlined in the Planning Statement (CD 2.4 – CD 2.4.1) that was submitted as part of the original application.

7.2. It outlines that the adopted development plan does not currently identify any suitable area for solar development. Accordingly, since there are no specific search areas for solar development, the site selection is guided by the development control considerations laid out through the development management policies of the Development Plan and the operational needs and requirements of the Development.

7.3. Not every site will be suitable for accommodating utility scale ground mounted solar farm with co-located BESS, and therefore Exagen has been through a thorough feasibility exercise to assess the suitability of the Appeal Site. To identify viable land for large scale solar development, constraints were reviewed/applied. These constraints are listed within the Planning Statement (CD 2.4 – CD 2.4.1, paragraph 7.26) and the Appeal Site is free of all those that are listed.

7.4. Paragraph 7.27 of the Planning Statement (CD 2.4 – CD 2.4.1) then goes onto list the key criteria which led to the Appeal Site being selected for a utility scale ground mounted solar farm with co-located BESS .

7.5. The ability to generate low carbon, low-cost electricity is constrained by grid connection opportunities. It is known that the existing 132 kV line between Ratcliffe-on-Soar and Willoughby-on-the-Wolds has capacity to accept electrical input from the Development. This is confirmed by a grid connection offer provided to Exagen by National Grid Electricity Distribution, the Distribution Network Operator. An important note is that grid connections for any alternative site would only be theoretical and the only point of connection that has been identified is in relation to the Appeal Site.

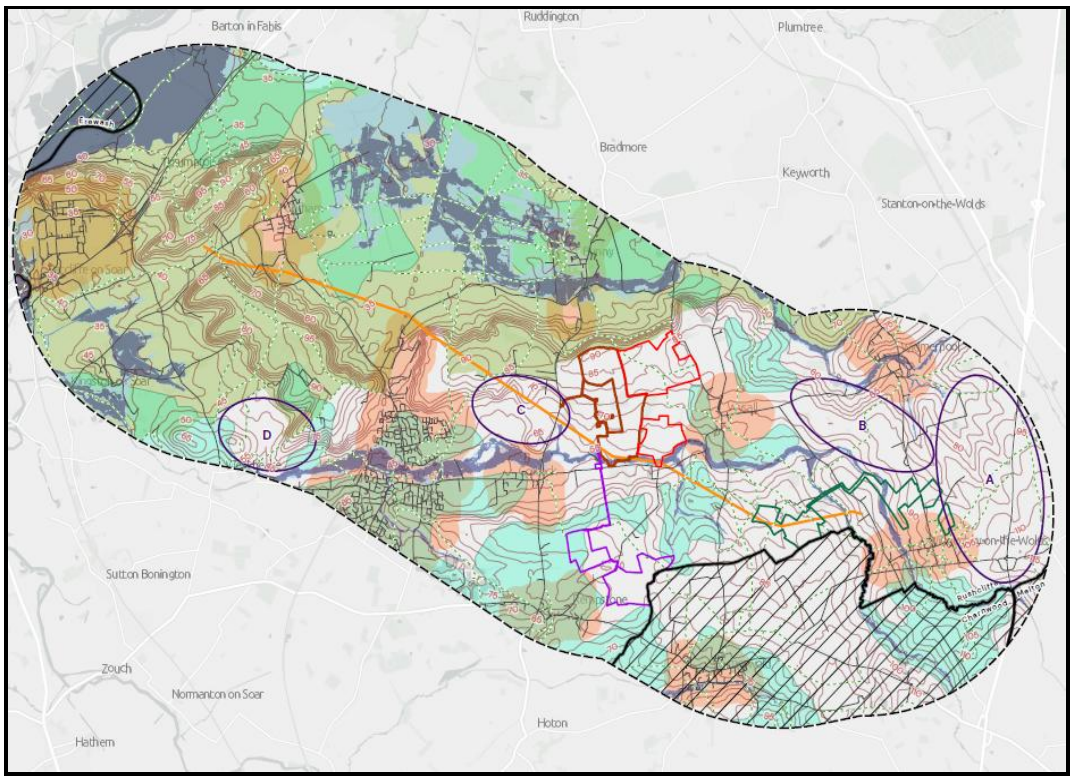
7.6. There are two aspects to the site search, one associated with the point of connection (POC) (the substation infrastructure, battery storage and physical connection into the existing overhead line) and the other the solar farm.

7.7. The POC has to be located in immediate proximity to the existing 132 kV overhead line with existing suitable access to the highway network to enable the safe movement of construction vehicles during the construction process. It is important to note that for this particular project, being of this size and within this area, only sites benefitting from an onsite connection were considered likely to be feasible and so this must be given considerable weight.

7.8. The following plan illustrates the constraints associated with a connection into the 132 kV line. On the plan a 2 km buffer of the line is shown. As can be seen there are significant constraints to the west including green belt, proximity to settlements, Grade 2 agricultural land and areas subject to flooding. The Site is outside of the mapped constraints (with the exception of a small part of Flood Zone 2 and 3).

7.9. Land to the west of the Appeal site is consented for the Highfields Solar Farm (application reference number: 22/00303/FUL – CD 4.66) and the land south has had an EIA screening request submitted for solar so is tied to another developer (screening ref 23/01073/SCREIA

– CD 4.67). Land to the southeast was ruled out for reasons including proximity to settlements and heritage assets.



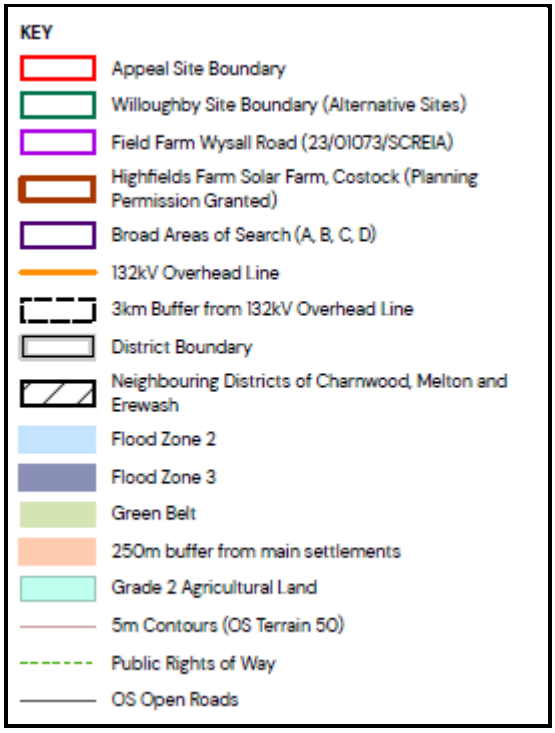


Figure 1 – Constraints Map

Flood Risk Sequential Assessment

7.10. Whilst there is no general policy requirement for consideration of alternative sites in terms of policy matters such as Green Belt or agricultural land quality, The NPPF requires that a sequential test is applied where development is proposed in areas known to be at risk now or in the future from any form of flooding (CD 5.1 – NPPF paragraph 175).

7.11. Notwithstanding that the planning application received no objection from the EA or LLFA and that the issue of flood risk forms no part of the Council's Reasons for Refusal, in order to provide a robust case, the Appellant has prepared a sequential test report for submission with the appeal documents (CD 3.11). This confirms that the only part of the Appeal Site which is located in medium-risk Flood Zone 2 and high-risk Flood Zone 3 is a circa 100 m section around Kingston Brook in the southern part of the Southern Parcel. The only infrastructure located within the flood zone is a circa 100 m stretch of the access track and crossing of Kingston Brook.

7.12. The conclusion of the flood risk sequential assessment is that there are no reasonably available alternative sites for the Development and that the sequential test is passed.

8. Case for the Appellant

8.1. The RBC Planning Committee resolved to refuse the planning application at a meeting held 12 June 2025 against the advice and the recommendation of the Officer's Report (CD 4.1) to Committee, which was that planning permission should be granted subject to the imposition of 23no. planning conditions. The Appellant draws attention to the advice of the LPA's Officer to the Planning Committee that outlines "*the proposed development would be inline with guidance within the NPPF and the Council's own local planning policies*" and therefore planning permission is recommended.

8.2. The Decision Notice (CD 4.2) was issued by RBC on the 19th June 2025. There are four reasons for refusal ('RfR') attached to RBC's Decision Notice which are set out at section 1 above.

8.3. The case for the Appellant is set out in this chapter which responds to the key points set out in the four reasons for refusal in order. This case draws on the detailed hearing statements on Landscape Matters (Appendix 1) and Heritage Matters (Appendix 2), both appended to the main statement of case.

Visual Impact Upon Landscape Character

8.4. The effects on landscape character consider how the introduction of new landscape elements and built form physically alter the landform, landcover, landscape pattern, and perceptual attributes of the site or how visibility of the proposals changes the way in which landscape character is perceived. Landscape character is defined in GLVIA3 as the:

"Distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse" **(CD 5.32).**

8.5. The site does not fall within any statutory landscape designations. The review of the Council's website and Local Plan did not reveal any non-statutory local landscape designations either. Therefore, the site is not constrained by any landscape designations that relate to its value or scenic beauty.

8.6. The RBC Officer's Committee Report stipulates that ***"the undisputed urgent need for this form of development to assist in national and local targets for moving towards a low carbon future, would clearly outweigh the identified harm in terms of landscape character"*** (CD 4.1).

8.7. Policy 16 of LPP2 requires development for renewable energy to be acceptable in terms of the impact on the landscape and visual impact. It is acknowledged and agreed within the Officer's Committee Report that ***"the landscape mitigation would reduce the visual impact of the proposed development and this would continue to reduce as the planting becomes more established and higher"*** albeit that the Officer's Report noted that planting would not be considered to be in keeping with existing field patterns and therefore not wholly positive. However when considering the scheme as whole and the 'undisputed urgent need for this form of development', it is considered acceptable.

8.8. Policy 22 of LPP2 outlines how renewable energy schemes, in accordance with Policy 16, will be permitted within the countryside, subject to the requirements set out in Part 3 of Policy 22. In particular, requirement a states that:

***"the appearance and character of the landscape, including its historic character and features such as habitats, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is conserved and enhanced"* (CD 6.3).**

8.9. Paragraph 165 of the NPPF outlines that to help the use and supply of renewable and low carbon energy, plans should "***provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts)"*** (CD 5.1).

8.10. Landscape mitigation for the scheme has been fully established with measures such as offset from the site boundaries and considerable amount of woodland and tree planting assist in reducing the adverse effects and allowing the development to be assimilated into the receiving environment without any residual undue harm.

8.11. Paragraph: 013 Reference ID: 5-013-20150327 of the NPPG (CD 5.2) outlines the following:

"The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively."

8.12. Particular factors the LPA need to consider include ***"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".*** This is relevant to the appeal scheme as the Development would be for a temporary period for up to 40 years after which the site will be restored to its former state to continue agricultural use. Therefore, any visual impact from the solar panels and associated infrastructure on the landscape will be temporary and fully reversible. In addition, proposed landscaping and planting will help to mitigate visual effects and ensure the Development is sensitively integrated into its surroundings during its operational lifetime.

8.13. It is confirmed within the Landscape Statement of Case at Appendix 1 in relation to landscape character "the Proposed Development would bring about a low degree of change resulting in minor ad-verse effects including the residual effects, during its operational stage. It is important to reiterate that such effects would be temporary and reversible, and the Proposed Development would be decommissioned at the end of its operational stage. The introduced landscaping, however, would remain in place becoming the legacy planting exerting positive influence over the character of the local landscape in the long term."

8.14. The level of limited effects identified accord with the requirements of the local plan policy 10 of LLP1, and policies 1, 16 and 22 of LPP2, therefore the proposal is in accordance with the development plan and the NPPF in this regard.

Cumulative Landscape Impact with the Consented Highfields Solar Farm to the West

8.15. The RBC Officer's Committee Report outlines that Highfields Solar Farm (Application Ref. 22/0030/FUL) along with the Appeal Site would represent a notable change away from baseline landscape character and visual amenity, with the overall cumulative impact being underestimated by the LVIA.

8.16. However, the LVIA (CD 2.16 – CD 2.26.1), submitted as part of the original application carried out a Cumulative Assessment which provides a commentary on how the character of the local landscape is changing with a number of approved but not yet built solar farms now forming part of the 'future' baseline. It concluded with regards to the adjacent solar farm at Land To North East Of Highfields Farm that it was not clear whether the estimated construction programme would occur at the same time as the Development. In any case the construction area and extent of the site would not overlap with this adjacent cumulative scheme. Additionally, the extent of the Appeal Site does not overlap with any of the identified cumulative schemes. Thus, there is no potential for any direct physical cumulative effects upon the landscape features.

8.17. The Development would physically introduce an additional solar farm into the receiving landscape, locally reinforcing the presence of solar farms. Geographically, this would be highly limited to the landscape within and immediately around the Appeal Site and the adjacent approved Highfield Solar Farm..

8.18. The Development fits well into the existing field pattern and scale of the landscape. It does not negatively alter the field boundaries, and is respectful of the existing landscape features that characterise this part of the landscape. The existing landscape character is considered robust enough to withstand the introduced cumulative change with the proposed landscaping introducing new landscape features and reinforcing the field pattern.

8.19. The temporary nature of the Appeal Proposal also needs to be considered. As such, any cumulative visual impacts with other developments in the area will also be limited in duration and can be effectively mitigated through proposed landscaping and the eventual full restoration of the Appeal Site.

8.20. Further detailed consideration of the cumulative effects of the appeal scheme and the Highfield Soal Farm within the Landscape Hearing Statement at Appendix 1. This has concluded that there are very limited opportunities to appreciate either scheme in their entirety which acts to reduce the cumulative effects. The degree of cumulative change anticipated is judged to be low and the effects are minor adverse. It is also noted that the underlying agricultural character of the local landscape would prevail.

Impact upon users of nearby PRoWs

8.21. The first reason for refusal as outlined in the Decision Notice (CD 4.2) outlines how ***"the proposal would result in major adverse effects upon users of the Public Right of Way which run through and near to the site, impacting on their ability to enjoy the rural landscape character which would be diminished and changed by virtue of the industrialisation of the area and the resultant enclosed industrial corridors".***

8.22. This is to the contrary of the Nottinghamshire County Council Rights of Way Officer raising no objection, as the development has maintained Rights of Way in current location to 'acceptable terms'. Their comments continue to note that the ***"areas are to be sown with a wildflower mix. It is noted that the PRoW will remain open during the construction phase with suitable fencing securing the development sites on each side. It is noted that banksmen will be used to ensure the public are safe when materials are being delivered and that gates will be across the haul roads to ensure site security and only opened across the footpath when a vehicle movement is required, right of way being given to the footpath users at all times"*** **(CD 4.59).**

8.23. Policy 34 of LPP2 part 1 outlines the following:

"Green Infrastructure assets will be protected from development which adversely affects their green infrastructure function (or their contribution to a wider network) unless the need for the asset is proven to no longer exist and the benefits of development, in that location, outweigh the adverse effects on the asset" **(CD 6.3)**

8.24. Rights of way are included within '*Green Infrastructure Assets'* and policy 34 continues to state that ***"planning permission will not be granted for development which would adversely affect access to open spaces and opportunities should be sought to protect or enhance the rights of way network and, where applicable, its open environment"*** **(CD 6.3).**

8.25. To ensure compliance with Policy 34, the development safeguards all existing Rights of Way, and appropriate measures have been incorporated to preserve their current functionality and character. These measures include the provision of green corridors along the PROWs within the site, providing offsets in excess of 10m. In locations such as along Public Footpath Costock FP7, this would subdivide the current large scale field into two field parcels and this would be more akin to the current field pattern. These features are illustrated on the Enhanced Landscape Strategy Plan (CD 3.6- drawing ref P25-1631_EN_02E).

8.26. Paragraph 105 of the NPPF also outlines that ***"planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users".***

8.27. It is confirmed in the Landscape Hearing Statement (Appendix 2) that there are no public rights of way within or adjacent to the southern Parcel of the Appeal Scheme. There would be no direct physical effects on any of the PROWs within the Northern Parcel, including the Midshires Way. Prows within the Appeal Proposal would remain open in both the operational stages of the scheme and during construction when management measures would allow continued use in accordance with the Construction Traffic Management Plan Insert technical landscape text.

8.28. In terms of the cumulative impact upon the PRoW, the submitted LVIA as part of the original application, outlines that there are no opportunities where the receptors would appreciate the full extent of either of the two solar farms (the Appeal Proposal and Highfields Solar Farm). The landform in the foreground restricts views and the existing mature woodlands around the two sites compartmentalise the two solar farms.

8.29. It is also informative to note that PRoWs on the edge of Costock - on the lower ground, and those on the approach to Wymeswold - higher ground towards Wysall Lane, do not offer views of the Development. Therefore, the users of PRoWs: Costock FP2 and the northern low lying section of Costock FP4, and Public Footpath H62 would not experience any simultaneous cumulative views.

8.30. In addition, there are sections of PRoWs where the existing vegetation screens views out and none of the two solar farms are visible - for example along a section c. 280 m long on PRoW Costock FP9, which leads north west from Wysall Road.

8.31. Ultimately, simultaneous cumulative views would occur only along the elevated section of Costock FP4 and views would be interrupted by the intervening vegetation.

8.32. Taking the PRoWs in the round, it is judged that the degree of cumulative change would vary from negligible to low with effects at Year 1 negligible to moderate adverse - assuming that the Land To North East Of Highfields Farm, Bunny Hill, Costock (22/00303/FUL) scheme becomes operational.

8.33. In light of the acceptable level of effects on landscape matters, including cumulative effects, it is concluded that the proposal accords with the requirements of Policy 10 of LLP1 and Policies 1, 16, 22 and 34 of LPP2 and national policy in the NPPF.

Heritage

8.34. The second reason for refusal outlined in the Decision Notice outlines how the "***proposed development would cause harm to the setting of the Grade I listed Holy Trinity Church, Grade II listed Manor Farmhouse and Highfields and the Wysall Conservation Area. The harm identified is towards the middle level of the less than substantial scale and whilst the benefits of the proposal in terms of renewable energy are acknowledged, the public benefits do not outweigh the identified harm***" **(CD 4.2).**

8.35. The Officers Committee Report highlights that both Historic England and Conservation officer concluded that the proposal would alter the contribution the rural landscape makes to the character and significance of the conservation area and the historic buildings from certain viewpoints. Then the report advises that the level of harm is identified as being medium level of less than substantial harm and that this harm needs to be weighed in relation to the public benefits of the scheme.

8.36. As set out in Chapter 6 of this Statement of Case, the need for the development reflects the national significance of the Appeal Proposal in supporting the achievement of climate objectives.

8.37. A number of local plan policies are referenced in the second reason for refusal. Policy 11 of LPP1 recognises that heritage assets can contribute to a range of wider objectives — social, cultural, economic, and environmental — and that this contribution should be carefully considered in planning decisions. In assessing the balance required, it is concluded that the public benefits arising from the proposed development demonstrably outweigh the level of harm identified in relation to the affected heritage assets.

8.38. Policy 10 part 2 of the LPP1 outlines that development will be assessed in terms of its treatment of the setting of heritage assets, with part 4 going onto to outline how development be designed in a way that conserves locally and nationally important heritage assets and preserves or enhances their settings.

8.39. Policy 1 of the LPP2 outlines that planning permission for new development will be granted provided that "***there is no significant adverse effect on any historic sites and their settings including listed buildings***" **(CD 6.3).** As both the conservation officer and Historic England confirmed the level of harm inflicted from the development would be less than substantial harm, it is concluded that the proposals are in accordance with policy 1 of the LPP2.

8.40. Policy 16 of LPP2 indicates that planning permission will be granted for renewable energy schemes, provided they are acceptable with respect to a number of criteria, including considerations relating to the historic environment.

8.41. Policy 28 of the LPP2 states that:

"Proposals that affect heritage assets will be required to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development in order that a decision can be made as to whether the merits of the proposals for the site bring public benefits which decisively outweigh any harm arising from the proposals" **(CD 6.3).**

8.42. The planning application was supported by a Heritage Statement (CD 8.2.2) and the appeal includes a further Heritage Hearing Statement (Appendix 2) addressing matters raised in the heritage reason for refusal.

8.43. With regard to the heritage assets identified in the reason for refusal, the Heritage Hearing Statement addresses the listed buildings identified in the locality, including the Grade I listed Holy Trinity Church, the Grade II listed Highfields and the Grade II listed Manor Farmhouse. The Heritage Hearing Statement considers the buildings' setting, approaches and views, provides a statement of significance and the impact of the scheme on that significance. It is Ms Garcia's conclusion that there would be no harm to the significance of these assets.

8.44. The further asset considered in the Heritage Hearing Statement is the Wysall Conservation Area The statement provides consideration of the character and appearance f the Conservation Area, its setting, approaches, views and significance. In respect of the appeal site, it is concluded that this makes only a very small contribution to the overall significance of the Wysall Conservation Area through setting. The assessment concludes that the Appeal Scheme would result in a minor level of harm to the significance of the Wysall Conservation Area, noting this harm derives from the temporary change in character within the land at the southern end of the Scheme which forms part of the content of a Significant View. The change will result in a very slight reduction in the ability to appreciate the surrounding agricultural landscape of Wysall. The level of harm to significance is assessed as being "less than substantial at the lower end of the scale".

8.45. In accordance with the policy requirements in Policy 10 of LPP! And Policy 28 of LPP2, the Appeal Proposal has demonstrated a clear understanding of the significance of the affected heritage assets and their settings, identified the potential impacts of the Appeal Proposal, and provided a robust justification. In light of the absence of harm to the identified listed buildings and the less than substantial harm at the lower end found to the Conservation Area, it is demonstrated that this harm does not meet the threshold of significant harm referenced in the Local Plan Policies 1 and 16 of LPP2. The low level of heritage harm is considered to be outweighed by the substantial public benefits arising from the appeal scheme. This justification is grounded in the urgent need for the proposed renewable energy infrastructure, which will contribute directly to achieving climate change objectives and national net zero targets, thereby delivering substantial public benefits that decisively outweigh any identified harm.

8.46. The second reasons for refusal outlines conflict with Chapter 16 of the NPPF. Paragraph 215 of the Chapter 16 outlines the following:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the

public benefits of the proposal including, where appropriate, securing its optimum viable use."

8.47. In line with Paragraph 215 of the NPPF, it is acknowledged that the Appeal Proposal would result in less than substantial harm to the significance of a designated heritage asset. However, this level of harm must be weighed against the considerable public benefits of the scheme. In this case, the delivery of renewable energy infrastructure directly supports national and local climate change objectives, contributes to meeting net zero targets, and provides an essential service in the transition to a low-carbon future. These substantial public benefits are considered to decisively outweigh the limited heritage harm identified.

Impact upon Skylarks

8.48. Reason for Refusal three outlined within the decision notice outlines the following:

***"The impacts of the proposal upon protected species including the permanent negative residual impact upon Skylarks, is not considered to be adequately diminished by the proposed mitigation measures. The impact is not outweighed by the benefits of the scheme"* (CD 4.2).**

8.49. The Appellant's detailed response to this reason for refusal is provided at Appendix 3.

8.50. Skylarks are not protected in the same way as Bats or Great crested Newts which are European Protected Species under the Conservation of Habitats and Species Regulations 2017, however as with all birds species they are protected under the Wildlife and Countryside Act 1981.

8.51. Therefore, a range of mitigation measures have been proposed by providing approximately 3.62ha of arable land with a set-aside or spring-sown crop within the south eastern corner of the Northern Parcel (field 10). This land is to be retained as an open unpanelled area to provide enhanced nesting habitat for skylarks. Displacement of an estimated remaining 4-5 skylark territories into suitable neighbouring habitats is further partially mitigated for through the proposed grassland enhancement within the panelled fields which will increase their suitability as a skylark foraging source above that of previously arable land.

8.52. Notwithstanding the conclusions reached in the assessments for the planning application and the officer's conclusions in the Committee Report (CD 4.1), in order to further address the reason for refusal the Appellant has considered opportunities for additional Skylark mitigation. A further 6.75ha of land is available for mitigation use which is estimated to be able to accommodate a further 2-3 territories which would bring the residually displaced number of territories down to between 1 and 3, a level of residual impact which is considered 'not significant'. This area is identified within the Enhanced Landscape Strategy Plan, to the east of field 10 and Lodge Farm. (CD 3.6 – drawing ref P25-1631_EN_02E)

8.53. These mitigation measures would prevent significant adverse effects on the local Skylark population, and therefore the proposals would accord with Policy 1 of the LPP2, which outlines that planning permission for new development will be granted provided that there is no significant adverse effects on important wildlife interests.

8.54. Additionally with these mitigation measures along with reasonable avoidance measures secured by condition, it is considered in the Officers Committee Report the conflict with

policy 38 of LPP2 would only be limited, which would need to be assessed and weighed in the planning balance.

8.55. Policy 38 outlines that ***"Developments that significantly affect a priority habitat or species should avoid, mitigate or as a last resort compensate any loss or effects."*** **(CD 6.3)**. Additionally, Policy 16 of LPP2 states that renewable energy schemes will be granted planning permission where they are acceptable against a range of criteria, including impacts on ecology and biodiversity.

8.56. It is considered that, with the implementation of mitigation and reasonable avoidance measures secured by condition, the impact on skylarks would be less than significant. As such, the proposals would be in accordance with Policy 16 and 38 of the LPP2 and the NPPF.

8.57. It is concluded within the Ecology Statement at Appendix 3 that the low number of skylark territories (6) anticipated to be displaced by the original application proposal resulted in the potential significance of residual effects being low. The inclusion of the additional mitigation within the Appeal Scheme would bring the residually displaced number of territories down to between 1 and 3, a level of residual impact which is considered 'not significant' and well within an expected margin of annual population fluctuations the appeal site is likely to experience.

Fire Safety

8.58. The final reason for refusal outlined within the decision notice stated that ***"it has not been demonstrated to the satisfaction of the Local Planning Authority, that the battery storage element of the proposal would not result in potential adverse fire safety impacts to the detriment of the public through subsequent contamination impacts and risks to safety"*** **(CD 4.2).**

8.59. This is contrary to Nottinghamshire Fire and Rescue Service raising no objection and the suggested condition which requires the submission of a Risk Management Plan and Emergency Response Plan. The suggested condition requires the plan to be developed in conjunction with the Nottinghamshire Fire and Rescue Service using the best practice guidance as detailed and required in the published Grid Scale Battery Storage Energy Storage planning - Guidance for Fire and Rescue Services (FRS) published by National Fire Chiefs Council (NFCC) (CD 3.9).

8.60. The plan is required to include confirmation that Fire Service vehicles can easily access all of the BESS compound, final safety systems of the containers, final internal suppression system to be used, method of dealing with a fire, container heat output (energy density), contamination levels of gases and vapour and how will it be controlled.

8.61. With the attached condition the Officers Committee report outlined that the issue of fire safety would be satisfactorily addressed. (CD 4.1)

8.62. As set out above, the Appeal Proposal employs a 'maximum design scenario' approach which reflects the 'Rochdale Envelope' approach. It has not been possible to fix all of the design details at this stage and the Appellant has therefore sought to incorporate sufficient design flexibility, including in relation to the precise layout of the infrastructure. The original submitted Planning Statement therefore recommends the implementation of a suitably worded planning condition(s) to secure the submission and approval of the final detailed design, which would also include full details of the fire safety measures and mitigation to be

included as part of the detailed design. The Appellant has provided historic appeal decisions for similar development at Great Wymondley, Hertfordshire (CD 7.30) and Thaxted, Essex (CD 7.17), where similar conditions have been used to secure final design details prior to the commencement of development. Similar requirements are also common for Nationally Significant Infrastructure Projects (NSIP), such as Little Crow Solar Farm DCO (CD 7.52).

8.63. The Appellant provided an Outline Battery Safety Management Plan (OBSMP) (CD 1.12) as part of the original application to ensure that safety risks related to the BESS are understood, accounted for and mitigated as far as practicable. The OBSMP sets out the design approach to be taken, and the information which is required to be provided in advance of construction of the development to demonstrate that the BESS is constructed and operated safely.

8.64. In terms of Battery Safety and Fire Risk, it is noted that a number of public comments made on the application raise concern with the safety of the battery units and the potential fire risks associated with them. Further public comments also raise concerns that the proposed BESS development does not fully accord with the guidance produced by the National Fire Chiefs Council (NFCC) on grid scale BESS planning.

8.65. For the avoidance of doubt, the Appellant submits a revised layout and site design for consideration as part of this Appeal. The revised layout has been updated to include provision of two above ground fire water storage tanks within the main BESS compound. Each tank would have a capacity of circa 120,000 litres so together water capacity of 240,000 litres. The NFCC guidance requires a minimum of 1,900 litres per minute for 2 hours, totalling 228,000 litres, this is less that the capacity stored in the tanks on site.

8.66. The inclusion of the water tanks ensures that adequate supplies of fire water are stored on site, in compliance with the requirements of the NFCC guidance. Having two tanks in the locations they are proposed provides sufficient water capacity and ensures that fire fighters have a water supply within 120 m (two 60 m hoses joined together, not requiring a further pump) of all BESS units.

8.67. In the unlikely event that the BESS units near to the main gate catch fire and the wind direction is such that the emergency services are not able to enter the compound through that gate, or fight the fire from outside the fenced compound (to the point where they are then able to gain entry to the compound), then secondary access routes through the solar farm into the northwest and northeast corners of the BESS compound are included.

8.68. Furthermore, the Appellant has also prepared and submits under cover of this Appeal, an NFCC Compliance Report (CD 3.9) for consideration. This report confirms that the Appeal Proposal is compliant with the requirements of the NFCC guidelines with detailed compliance against the 14 recommendations in Table 4-1.

8.69. The battery technology is Lithium-ion based which is the basis for all manufacturers. The cells themselves are to contain materials in the event of a failure and sit within a wider containerised package providing added protection in the event a cell was to fail. All battery manufacturers have inherent electrical and fire suppression systems that prevent failure from leak, overheating and 'trips' which are automatically activated under circumstances which put the equipment outside of parameters. As well as electrical and fire control systems each cell module has a HVAC system that actively cools the batteries reducing the chances of issue under operation. The UK Government has widely recognised the use of this technology across its energy strategy which speaks about the practicality and safety of its widespread implementation in the UK. Health and safety of these sites are of

paramount importance which is why there are numerous procedures and design features put in place to combat hazards.

8.70. There are provisions in place for fire water storage as well as capacity for isolating the drainage system in the event of a fire and fire water being used on site, such that any potentially contaminated run off can be stored and tested and if necessary tankered offsite for treatment and or appropriate disposal. This ensures that such run off does not enter the wider environment, including Kingston Brook. It is noted that there were no objections to the planning application from the Environment Agency (CD 4.45).

8.71. It is therefore considered that the scheme is in accordance with Policy 40 of the LPP2, which states that planning permission will not be granted for development that would result in, for example, an unacceptable level of pollution, unacceptable exposure to sources of pollution or safety risks, or the infiltration of contaminants into groundwater resources.

8.72. The fire safety measures will provide reasonable mitigation of risks to health and environmental effects, including pollution to meet the requirements of the NPPF, including Chapter 15.

9. Other Material Planning Considerations

Renewable Energy and Flexible Energy Storage

9.1. None of the RfR listed by RBC related to the principle of development/proposed use of the Appeal Site, in which would see renewable energy development and energy storage be implemented.

9.2. RBC has outlined a clear and proactive approach to tackling climate change and supporting the transition to renewable energy through a series of strategic documents and planning measures. Central to this is the Carbon Management Plan 2020, which sets out the key actions the Council will undertake to implement its broader Climate Change Strategy. Among its priorities is the development of supplementary planning documents aimed at encouraging renewable energy developments. This initiative supports the wider ambitions of the D2N2 Energy Strategy, a regional framework for Derbyshire and Nottinghamshire focused on clean growth. The D2N2 strategy sets ambitious targets, including achieving a 100% low carbon energy supply by 2030, with 60% renewable energy generation output generated by local low carbon sources and an increase of 180MW of electricity storage capacity to be introduced.

9.3. The main element of the Development comprises the construction and operation of a solar farm with an export capacity of up to 49.9 MW. The solar farm will be connected to the grid via a new DNO substation and transformer in the Southern Parcel. The connection is into the existing 132kV overhead electricity line which extends east to west across the southern part of the Southern Parcel. Adjacent to the new DNO substation will be a BESS facility with a capacity of approximately 85 MW.

9.4. As outlined in the Officer's Committee Report, the Appeal Proposal is strongly supported in principle by both national and local policy. This includes adopted local policies that promote renewable energy generation, provided there are no unacceptable impacts. Furthermore, renewable energy proposals should be viewed favourably, even if they do not offer direct local benefits, as the energy produced constitutes a national benefit that can be shared across all communities. This national benefit is a material consideration that should be given significant weight in the planning balance. Accordingly, there is strong policy support for the proposed renewable energy development.

Residential Amenity

9.5. Policy 1 of the LPP2 outlines that planning permission for new development will be granted, provided that a range of criteria is met, including that there is "***no significant adverse effect upon the amenity, particularly residential amenity of adjoining properties or the surrounding area, by reason of the type and levels of activity on the site, or traffic generated"*** and ***"noise attenuation is achieved and light pollution is minimised".***

9.6. Policy 39 also highlights the importance of alleviating risks from noise pollution, while Policy 40 states that permission will not be granted for development that would result in an unacceptable level of pollution, or that is likely to lead to unacceptable exposure to sources of pollution or safety risks.

9.7. The rating levels due to noise from the proposed development (either in isolation or in combination with the consented Highfields Solar Farm) would be below the threshold of

adverse impact. Given that the submitted Noise Impact Assessment report (CD 1.20) presents a worst-case scenario, it is not considered that the Appeal Proposal would result in significant adverse noise impacts.

9.8. A glint and glare assessment (CD 1.18) was undertaken to evaluate potential effects on the 44 dwellings nearest to the Appeal Site. Following their review of the assessment, RBC's Environmental Health department raised no objection, subject to a condition.

9.9. The introduced built-in mitigation measures, such as offset from the site boundaries and considerable amount of woodland and tree planting assist in reducing the adverse effects and allowing the development to be assimilated into the receiving environment without any residual undue harm.

9.10. The Appellant considers that the proposal accords with Policy 1, 39 and 40 of the RBC LPP2.

Safety

9.11. The East Midlands Airport Safeguarding Team has been consulted on the Appeal Proposal (consultation response at CD 4.49) and, having reviewed the submitted Glint and Glare Assessment (CD 1.18), has raised no objection, subject to the inclusion of appropriate informatives to ensure ongoing compliance with aerodrome safeguarding requirements. There would therefore be no unacceptable impact on the safe operation of East Midlands Airport.

9.12. Additionally, as outlined previously the proposed development uses Lithium-ion battery technology, which is standard across BESS manufacturers. The battery cells are designed with containment measures and placed within a secure container for added protection. Built-in electrical and fire suppression systems, including automatic shutoffs and HVAC cooling systems, help prevent failures such as leaks and overheating. This technology is supported by the UK Government as safe and practical, with strict safety procedures and design features in place to manage potential hazards. The NFCC compliance statement (CD 3.9) confirms that the proposal is compliant with this guidance.

9.13. The Appellant considers that the Appeal Proposal accords with Policy 40 of the RBC LPP2.

Highways

9.14. Highways was not a reason outlined in the RfRs, and no objections were raised by the Local Highway Authority or National Highways (CD 4.61, CD 4.43).

9.15. A Transport Statement and Construction Traffic Management Plan were submitted with the planning application and subsequently amended during determination of the application in response to comments from both the Local Highways Authority and National Highways (CD 4.61, CD 4.43) which assesses the overall impact of the Development on the local highway network and recommends suitable traffic and construction management proposals to limit the overall impact of the Development on the surrounding highway network. Adequate visibility splays are confirmed as achievable and as referred to in the planning Committee Report, improvements to access points at the northern and southern parcels of the site are included in the proposal, as are widening small sections of Bradmore Road.

9.16. Overall, the level of traffic during the temporary six-month construction phase is not considered to be material and it is considered that this will not have a detrimental impact

on the safety or operation of the local or strategic highway network, in accordance with Policy 1 and Policy 16 of the RBC LPP2.

9.17. When the Appeal Proposal is in operation, visits will be undertaken by maintenance staff in vehicles which are unlikely to be larger than 7.5t vans. HGVs are not anticipated to be required during the operational phase, unless in the event of a replacement of a major component. There will be sufficient space within the Appeal Site to allow for operational vehicles and service vehicles to enter, manoeuvre, park and subsequently exit the site in forward gear.

9.18. The activities involved in the decommissioning process for the Development are not yet known in detail. There is expected to be some traffic movements associated with the removal (and recycling, as appropriate) of material arising from removal. However, vehicle numbers are not expected to be any higher than those experienced during the construction period.

9.19. The Appellant considers that the Appeal Proposal accords with Policy 1 and Policy 16 of the RBC LPP2.

Biodiversity & Ecology

9.20. The environmental impact of the proposed development has been robustly assessed and is considered acceptable in terms of biodiversity and ecology. A suite of ecological assessments accompanied the original planning application, including an Ecological Impact Assessment, which was amended in November 2024 during determination of the application and again updated as part of the Appeal submission (CD 3.8), a Breeding Bird Survey Report (CD 1.14), and Biodiversity Net Gain (BNG) metric spreadsheet, which was amended in November 2024 during determination of the application and again updated as part of the Appeal submission (CD 3.8.1).

9.21. The RBC Ecologist confirmed that no nationally designated sites are likely to be affected by the Appeal Proposal. In relation to nearby local wildlife sites, the RBC Ecologist advised that the impact would be negligible and that it could be mitigated with reasonable avoidance measures in place. Furthermore, the RBC Ecologist stated that the Appeal Proposal is unlikely to have a detrimental impact on populations of protected species, provided that the proposed reasonable avoidance measures, mitigation, and enhancements are implemented.

9.22. Although the Appeal Proposal is exempt from mandatory Biodiversity Net Gain under the Environment Act (due to the planning application being submitted and validated prior to the enactment of that requirement) biodiversity net gain is required under planning policy. A Biodiversity Net Gain assessment was submitted with the application and updated in November 2024. As noted above this has been updated again for the purposes of the appeal and the revised metric (CD 3.8.1) confirms a gain of 159.14 Habitat Units, or an overall net gain of 73.69% (previously 168.44 units and 81.94% gain). The proposal will result in a gain of 43.93 Hedgerow Units, or an overall net gain of 60.77% (previously 45.65 units and 66.24% net gain). Due to the addition of a prefabricated bridge over the Kingston Brook in order to accommodate heavy goods vehicles throughout construction and within the operational life of the solar site, there would be a slight loss of river units. However, the reduction of agricultural cultivation adjacent to the ditches and complete removal of grazing along the Brook is due to support a gain of 0.34 watercourse units, leading to an overall gain of 14.40% within the BNG metric, in line with previous calculations under the

Metric calculation v2.0.. The committee report confirms that this is in accordance with the aims of Policy 38 of the Local Plan Part 2 (LPP2).

9.23. Habitat creation and ongoing management practices are proposed to enhance the operational site for biodiversity. The design and long-term management of the land aim to maintain and improve functionality by protecting and enhancing potentially valuable wildlife corridors. This will be achieved by strengthening the hedgerow and woodland network within and around the Appeal Site.

9.24. Proposed habitat enhancement measures include planting new native species hedgerows, trees and woodlands; gapping up of existing hedgerows; and creating species-diverse grassland and wildflower meadow areas. Supplementary planting of native species is also proposed to further enhance existing hedgerows. The landscaping information submitted with the planning application provides additional details regarding planting and species.

9.25. These measures will provide dispersal, breeding, foraging and overwintering habitat for a range of wildlife, including invertebrates, birds, small mammals, amphibians and reptiles, if present. Grassland creation will include new wildflower meadows and enhanced meadowland and field margins sown with species-rich seed mixes. The extensive areas of continuous new grassland habitat within and around the proposed compound, linked to the wildflower meadows and species-rich field margins and habitats in the wider area, will provide improved connectivity and opportunities for a range of wildlife to forage, shelter and disperse across the Appeal Site.

9.26. The Appellant considers that the proposal accords with Policy 17 of the RBC LPP1 and Policy 1, 16, and 38 of the RBC LPP2.

Flood Risk and Drainage

9.27. No objection has been raised to the proposed development by either the Environment Agency or the Lead Local Flood Authority (LLFA). Notwithstanding the position of the statutory consultees at the time of determination of the planning application, the Appellant has prepared an updated flood risk assessment and drainage strategy in light of latest policy and EA flooding data, changes to the site layout and updated drainage strategy within the BESS element of the site.

9.28. According to the Flood Map for Planning, the majority of the Appeal Site is located within Flood Zone 1, which is defined as land at low risk of flooding and not impacted by a 1 in 1,000-year tidal flood event. Smaller areas at the southern end of the site fall within Flood Zones 2 and 3 associated with Kingston Brook. The overall fluvial flood risk is considered to be low.

9.29. The Risk of Flooding from Surface Water (RoFSW) dataset indicates that large areas of the Appeal Site are not predicted to be impacted by a 1 in 1,000-year rainfall event and are therefore considered to be at very low risk of surface water flooding. The dataset also identifies areas ranging from high to low surface water flood risk during events ranging from a 1 in 30 to a 1 in 1,000-year rainfall event, respectively.

9.30. The Appeal Proposal has been designed taking flood risk into account. The lowest edge of all proposed solar panels will be raised above the predicted 1 in 1,000-year surface water flood depths, and therefore are not expected to be impacted by surface water flooding or to negatively impact flood risk elsewhere. No inverters are proposed within the solar area

located inside the 1 in 1,000-year surface water flood extent. The proposed Battery Energy Storage System (BESS) area is also located outside this extent. Overall, the site is considered to be at low risk of surface water flooding.

9.31. The site lies within 10 metres of the Kingston Brook in relation only to access arrangements for the Southern Parcel of land and the connection to the existing pylon adjacent to the Brook. Due to the nature and location of these specific works, it is not considered physically feasible to maintain a full 10-metre buffer in this area. The solar panels and the remainder of the infrastructure are located outside this buffer zone.

9.32. Some parts of the Appeal Site are located within 10 metres of smaller watercourses, such as land drainage ditches or streams. These locations are free from built development and do not contain any solar panels. Given the nature of such smaller watercourses, it is not considered reasonable to require a full 10-metre buffer in these instances.

9.33. All electrical infrastructure associated with the Appeal Proposal is entirely within Flood Zone 1 and is also located outside of the modelled surface water flood events.

9.34. The site access to the Southern Parcel uses an existing culverted crossing point over Kingston Brook, which will need to be upgraded. Consideration was given to alternative access arrangements for the Southern Parcel that would avoid areas of Flood Zone 2 and 3, however no alternatives were available. The land between the Northern Parcel and the Southern Parcel is owned by a 3rd party landowner not involved with the wider project. When contacted with regards to the granting of an easement for both cabling and access tracks between the Northern and Southern Parcels the 3rd party landowner was not interested in granting rights of easement and no commercial agreement could be reached. Access options from the east are not possible as 3rd party and is required and the access would come from the settlement of Wysall. Any other access options from the south would involve the crossing of Kingston Brook which runs parallel with the southern boundary of the site. Access options from the west are not possible as this would need to be via the consented Highfields solar farm.

9.35. The FRA and Drainage Strategy has demonstrated that all electrical aspects of the Development are located within Flood Zone 1 and outside of modelled surface water flood extents. The above demonstrates that there are no alternative access options for the Southern Parcel that do not involve crossing the area of Flood Zone 2/3. Overall this demonstrates a sequential approach to the design.

9.36. Notwithstanding, as the proposed access to the Southern Parcel is located in Flood Zone 2 and 3, the Appellant has concluded that a Sequential Test is required. A Sequential Test is included as a standalone report within the planning appeal documents (CD 3.11). This concludes that there are no other reasonably available sites to accommodate the proposal which would be at a lower risk of flooding, therefore the sequential test is met.

9.37. As the Development is classified as Essential Infrastructure and the Appeal Site is partly located within Flood Zone 3, the exception test is required as outlined in Table 2 'Flood risk and coastal change' guidance. The exception test requires the Development to demonstrate the following:

- Developments that have to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and

- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

9.38. The first requirement of the exception test is met, due to the nature of the proposals which aligns the UK government plan to reach clean power by 2030.

9.39. The second requirement of the exception test is also met, as the flood risk to the Appeal Site is considered to be Low/ Very Low for all sources of flooding, and all electrical infrastructure is located in Flood Zone 1 and raised above surface water flood depths.

9.40. There are provisions in place for fire water storage and for isolating the drainage system in the event of a fire. This will ensure that any potentially contaminated runoff can be appropriately stored, tested, and, if necessary, tankered off-site for treatment and/or appropriate disposal. This arrangement ensures such runoff would not enter the wider environment, including Kingston Brook.

9.41. Overall, the Appeal Proposal is considered acceptable in relation to surface water management and flood risk, and accord with Policies 17, 18, and 19 of the RBC LPP 2, subject to a condition securing the recommendations detailed in the submitted reports.

Agricultural Land

9.42. The Planning Statement (CD 2.4 – CD 2.4.1) and the Design and Access Statement (CD 2.2), supported by a submitted Agricultural Land Classification Report (CD 1.7), confirms that both parcels of the Appeal Site are currently in arable agricultural use and are classified as lower-grade agricultural land - either Grade 3b or Grade 4. The report was prepared by a professional qualified through the Central Association of Agricultural Valuers (CAAV) and included sampling of soil across 14 enclosures covering the entire Appeal Site. The monitoring locations were not included in the ALC Report however a plan was submitted to RBC in June 2025 showing the locations (CD2.29).

9.43. The findings of the ALC survey confirmed that the majority of the site is Grade 3b, with the remainder being Grade 4. As such, none of the land within the Appeal Site is considered to be Best and Most Versatile (BMV) agricultural land.

9.44. Comments from Natural England affirm these findings, stating that as the development does not involve over 20 hectares of BMV land, they do not raise any concerns with respect to this issue.

9.45. The National Planning Policy Framework (NPPF) recognises that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land (non-BMV) in preference to higher quality land. In this case, the development does not result in any temporary or permanent loss of BMV land.

9.46. It is widely accepted, and supported by numerous appeal decisions (e.g., APP/G2713/W/23/3315877), that temporary solar PV developments, such as the Appeal Proposal, do not result in permanent loss of agricultural land. In the case of the Appeal Proposal, sheep grazing activities will be carried out during the operational life of the development so an agricultural function of the land will be maintained. On cessation of use, the land will be returned to full agricultural use. The introduction of a 40-year fallow period

will bring benefits including rebalancing of soil nutrients, re-establishment of soil biota, breaking crop pest and disease cycles, and providing habitat for wildlife, thereby enhancing future agricultural potential post-decommissioning. While 40 years is a considerable amount of time, the development is nonetheless classified as temporary.

9.47. According to the independent National Food Strategy Review, solar farms do not present any risk to the UK's food security. Presently, solar farms occupy less than 0.1% of UK land. In its roadmap to net zero, the Climate Change Committee estimates that the UK will require 90GW of solar generation by 2050 (70GW by 2035), which would result in solar farms occupying a maximum of around 0.6% of UK land - less than the land area currently used by golf courses.

9.48. Furthermore, the UK Government Food Security Report (December 2021) identifies the primary medium- to long-term risks to domestic food production as climate change and environmental pressures such as soil degradation, water quality, and biodiversity loss. The report highlights that under a medium emissions scenario, climate change could reduce the availability of BMV land from 38.1% to 11.4% by 2050, representing a 70% reduction.

9.49. Given these findings, the Appeal Proposal would not result in the loss of any best and most versatile agricultural land, and is in accordance with Policies 1 and 16 of the RBC LPP 2.

Decommissioning

9.50. The Development is for a temporary period with a modelled operational lifespan of 40 years.

9.51. Following cessation of energy generation/storage at the Appeal Site, and as part of the contractual obligations with the landowner, all panels, BESS, security fence and inverters will be decommissioned, and all plant and machinery (with the possible exception of the DNO substation) will be removed from the Site. The extant use of the Site will be restored thereafter. It is recommended that the decommissioning and restoration of the site can be secured through the use of a suitably worded planning condition as has been implemented on other similar permitted schemes within the District.

9.52. With such a condition in place, it is considered that the Appeal Proposal is in accordance with Policy 16 of the RBC LPP2.

10. Matters of Agreement

10.1. This section sets out the matters that the Appellant and RBC agree on and so which are not disputed for the purposes of this Appeal.

10.2. Having regard to the RBC Committee Report, it is considered that the following matters are not in dispute with the Council:

- That the Development is not EIA Development
- There is strong in principle support for the proposed renewable energy development
- The impact on residential amenity, in terms of, air quality, noise and glint and glare is acceptable
- No concerns in relation to the safe operation of The East Midlands Airport
- The impact on archaeology is acceptable
- The impacts on highways and access is acceptable
- The impact on ecologically designated sites, protected species and biodiversity is acceptable with the only dispute over the residual impact on breeding skylark.
- The impact on flooding and drainage is acceptable
- The impact on the agricultural land is acceptable
- The impacts are reversible at the end of the temporary 40 year operational period

10.3. The Appeal Proposal accord with the relevant development plan policies in relation to these issues.

10.4. The Appellant is seeking to agree the above with the RBC in the Statement of Common Ground (CD 8.3) and topic specific Statements of Common Ground on Landscape and Heritage Matters (CD 8.3.1 and CD 8.3.2 respectively)

11. Third Party Representations

11.1. A number of matters have been variously raised in representations on the Planning Application .

11.2. The representations made at the planning application stage were also summarised in the Officer's Report to the planning committee (CD 4.1, paragraph 48).

11.3. The material planning considerations raised in the comments do not raise any matters not covered in the points contained in other sections of this statement and the associated appendices and do not raise issues which should lead to the dismissal of the appeal.

12. The Overall Planning Balance, Summary and Conclusions

Development Plan Conformity

12.1. Section 38(6) of the Planning and Compulsory Purchased Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

12.2. Policy 2 of the adopted LPP1 and Policy 16 of the LPP2 sets out how the Council will take a positive stance on renewable energy development providing that it is compatible with environmental, heritage, landscape and other material considerations such as Green Belt policy, best and most versatile agricultural land, flood risk and residential amenity.

12.3. As outlined in this Statement of Case, it is considered that the Appeal Proposal accords with the relevant policies of both the Local Plan Part 1 and Part 2 and represents sustainable development in accordance with the Development Plan when read as a whole.

Overall Planning Balance Considerations

12.4. Taken overall, the Appellant considers that the Appeal Proposal is are broadly in accordance with the Development Plan and this would normally indicate that planning permission should be approved without delay (NPPF, Paragraph 11). There are no material considerations that indicate permission should be refused.

12.5. However, should the Inspector conclude that the Development Plan indicates that the Appeal should be dismissed, then, applying S38(6), there is a need to consider whether material considerations indicate otherwise.

Material Considerations and Weight

12.6. In considering the weight that should be afforded to each consideration in the overall planning balance, the Appellant has applied the following scale ranging from high to low:

Substantial

Significant

Moderate

Limited

12.7. Such weight may be 'positive' as a benefit, 'adverse' as a harm, or of 'neutral' effect.

12.8. The following subsection provides an assessment of each of these material considerations followed by a conclusion on whether the benefits outweigh any adverse impacts identified when taken as a whole.

Material Considerations which are Benefits

12.9. The Appellant considers that the following material considerations are benefits which are positive:

1. Increasing Renewable Energy Generation

12.10. The Planning Application subject of this Appeal seeks Planning Permission for the construction of a solar farm and BESS with an export capacity of not more than 49.9MW and is expected to generate enough clean renewable electricity to offset the annual electricity usage of more than 24,900 homes. It is anticipated that approximately 31,500 tonnes of CO_2 will be displaced each year.

12.11. As explained above, there is an urgent and compelling need for this type of development and very strong policy support for solar development to help increase the supply of domestic renewable energy.

12.12. The NPPF says that local plans should provide a positive strategy for energy that maximises the potential for suitable development and that plans should consider identifying suitable areas for renewable energy schemes.

12.13. In reviewing appeal decisions, it is clear that 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 'substantial' or 'significant' weight should be given to this benefit. This approach accords with the range of information stressing the urgent and significant need for additional renewable energy generation set out in section 6 above.

12.14. Further, the publication of the latest suite of NPS's, 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 2008. Whilst it is accepted that this policy statement applies to NSIP projects, the policies in the NPS are capable of being a material consideration in determining this Appeal and, given their direct relevance to the Appeal Scheme which is only just under the current 50MW threshold, carry substantial weight in the determination of this Appeal.

12.15. The Clean Power 2030 Action Plan and the more recent Solar Roadmap are the latest statement of policy from the current Government. These include an objective of creating essential new energy industries as a key aspect of the overall economic growth plan, targeting specifically 45-47 GW of solar power and introducing flexible capacity including 23-27 GW of battery capacity.

12.16. It is also 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 for solar PV schemes.

12.17. At Halloughton in February 2022, Inspector Baird afforded 'significant weight' to the early and significant contribution that the proposal could make to the imperative to reduce emissions by generating 49.9MW of electricity from a clean, renewable source (Core Document 7.1, paragraph 55).

12.18. In December 2022, at Langford the Secretary of State allowed a 49.9MW solar farm and considered that weighing in favour of the proposal in the production of electricity to be afforded "significant weight" (Core Document 7.2, paragraph 26).

12.19. Also in December 2022, at Bishops Itchington, 'substantial positive weight' was given by Inspector Major to the provision of clean renewable energy (Core Document 7.7, paragraph 33).

12.20. At Bramley, a 45MW solar farm was allowed and the Inspector opined that 'substantial weight' should be given to the generation of renewable energy in February 2023 (Core Document 7.49, paragraph 76).

12.21. 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 7.3, paragraph 86), and later in the decision, that the benefits of renewable energy 'raise substantial benefits' in favour of the proposal (Core Document 7.3, paragraph 91).

12.22. 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 7.4 paragraph 23).

12.23. 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 7.8, paragraph 43).

12.24. 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 7.5, paragraph 46).

12.25. In November 2023, the Inspector afforded "very significant weight" to renewable energy production at Halse Road, Greatworth in respect of a 49.9MW solar farm (Core Document 7.9, paragraph 120).

12.26. In December 2023, the Inspector afforded "substantial weight" to generation of renewable energy at Cutlers Green Lane, Thaxted in respect of a 40MW solar farm (Core Document 7.17, paragraph 141).

12.27. At Hall Lane, Kemberton, the Inspector in allowing the appeal for 22MW solar farm in February 2024 afforded "substantial weight" to the renewable energy benefit of the development (Core Document 7.13, paragraph 65).

12.28. In March 2024, at Graveley Lane the Secretary of State allowed a 49.9MW solar farm and considered that weighing in favour of the proposal in the production of electricity to be afforded "substantial weight" rather than the Inspector's conclusion of "significant weight" (Core Document 7.10, paragraph 18).

12.29. At Great Wheatley Farm, Rayliegh, the Inspector in allowing the appeal for 30MW solar farm in March 2024 afforded "substantial weight" to the renewable energy benefit of the development (Core Document 7.11, paragraph 47).

12.30. Finally, in July 2024, at Honiley Road, the Secretary of State allowed a 23.1MW solar farm and 57MW battery storage facility considered that the benefits associated with the provision of renewable energy should collectively carry "substantial weight" (Core Document 7.15, paragraph 24).

12.31. Taking all the above into account, the Appellant considers that, due to imperative to deliver renewable energy schemes which can assist in decarbonising the UK's electricity supply, that the benefit of a 49.9 MW solar farm's renewable energy generation should be afforded **substantial weight** in determining this Appeal.

2. Climate Emergency at a National and a Local Level

12.32. A national climate emergency was declared by the UK Parliament in May 2019 (Core Document 4.11).

12.33. As explained at Section 6 above, RBC voted to declare a climate emergency in March 2020, committing the Council to becoming a carbon neutral organisation by 2030.

12.34. At the Southlands Appeal, the inspector accorded significant weight in favour of the appeal to the issue of climate emergency (CD 7.25, paragraph 99).

12.35. The Clean Power 2030 Action Plan (CD 5.25) underlines the objective of urgently delivering clean energy to limit our contribution to the damaging effects of climate change. The call to act with urgency adds to the weight which would be afforded to the climate emergency. The Appeal Proposal has an agreed grid connection with immediate capacity and is intended to export power to the grid within approximately 2 years of the grant of planning permission.

12.36. Through the generation of renewable energy, the Appellant considers that the Appeal Proposal will contribute towards addressing these declarations of climate emergencies.

12.37. By providing a positive, deliverable action on these statements of intent, it is considered that the declaration of climate emergencies at both the national and local level is a material consideration which should be afforded **significant weight** in the planning balance.

3. Energy Security

12.38. The Appeal Proposal will provide a source of renewable energy, comprising secure, distributed and diversified energy generation which fully accords with the Government policy on energy security. In Section 6 of this Statement a summary of the latest Government energy policy is provided, notably the British Energy Security Strategy published in 2022 and the Energy Security Plan published in March 2023.

12.39. The Appellant considers 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, attention is drawn to the latest published version of NPS EN-3 (Core Document 4.4) 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 to on to state that:

"Solar <u>also</u> has an important role in delivering the government's goals for greater energy independence…" *(our emphasis)*

12.40. At *Cutlers* Green *Lane, Thaxted*, the Inspector in allowing an appeal for a 40 MW solar farm in December 2023 afforded substantial weight to the contribution the development would make to a low carbon economy and the provision of low cost and secure energy (*CD 7.17, paragraph 141*). Similarly in the cases of *Hall Lane, Kemberton* and *Great Wheatley Farm* the renewable energy benefit of the proposal in terms of its contribution towards energy security and resilience was afforded "substantial weight" (*CD 7.13, paragraph 65 and 9.28, paragraph 47 respectively*).

12.41. Given the above recent policy statements and appeal decisions, the Appellant considers that delivering energy security is both 'urgent' and of 'critical importance' to the country (Southlands Appeal decision *CD 7.25, page 38),* and as such should be afforded **substantial weight** in the planning balance.

4. <u>Availability of Grid Connection</u>

12.42. A critical aspect of any renewable energy generation project is the ability for energy which is to be generated to be transmitted into the electricity grid, so that it can be distributed to homes, business and all other locations which require power from this source. In most locations within the UK there are significant issues with the availability of grid capacity and the ability to connect into the electricity grid. This makes the identification of an available grid connection, with sufficient capacity, a critical aspect of the site identification and selection process.

12.43. It is well established that grid-connections are a scarce resource in the UK and represents a major barrier to the transition to net zero. The Energy Security Strategy 2023 (CD 5.18, page 50) explains that connections times are a very significant issue, with over 250GW of generation in the transmission queue. To put the scale of that connection queue into context, that is over 3 times the schemes currently connected into the grid of 80GW. The availability of a grid connection offer for both solar and BESS of up to 49.9MW for the solar and 85MW for the BESS is a significant benefit.

12.44. NESO, the National Energy System Operator, is in the process of reforming the grid connection process in the UK, aiming to accelerate the connection of viable renewable energy projects, particularly solar, to the electricity grid. These reforms, driven by the Clean Power 2030 Action Plan (CP30AP), shift from a traditional "first come, first served" queue to a "first ready and needed, first connected" approach. This involves prioritising projects that are more advanced in their development, such as those with planning permission and land rights secured.

12.45. NESO is reviewing the entire grid connection queue in order to accelerate any projects which clearly have land agreements in place and planning suitably progressed, giving additional certainty that the project will actually go ahead. This is to address the reality that there are many 'zombie' projects that are holding spaces in the queue but have no prospect of ever progressing as a result of lack of land agreements and/or planning. This means that critical capacity on the grid to enable renewable energy is being wasted where it is not likely to be used. The aim of the reforms is to remove these projects from the queue and accelerate those that can move forward in order to help meet the clean power 2030 objectives.

12.46. On the 15th April 2025 Ofgem published its decision to approve NESO's suite of documents which comprise the 'TM04+' grid reform package, including the 'CMP435' proposals for applying reform to the existing queue. Projects will be assessed based on "Gate" criteria, with those meeting "Gate 2" criteria (e.g. land rights) receiving protections to secure accelerated connection offers. Projects within the revised queue of Gate 2-compliant projects will then be prioritised by 'strategic alignment', including whether or not a planning application has been lodged, or a planning permission has been granted. Projects which are strategically aligned will receive protections, and projects which submitted valid planning applications before 20th December 2024 receive additional protections compared with those submitted after this date via 'Protection Clause 3a'.

12.47. The Ofgem decision confirmed protections for projects that had submitted valid planning applications on or before 20th Dec 2024 but did not have a planning decision by the closure of the CMP435 window (i.e. 29th July 2025) and subsequently achieved consent (e.g. through appeal). These projects would fall under Protection Clause 3a and will therefore receive a Gate 2 offer even if they breach zonal or national permitted capacities as allocated in the CP30AP.

12.48. The original grid offer dated 29 June 2022 received from Western Power Distribution (who subsequently became NGED) provided a potential grid connection date in 2028 and confirmed that the connection would be into the 132kV line crossing the Southern Parcel.

12.49. Under the old grid application procedure, the initial offer made by the DNO then required a formal review of wider grid works on the network undertaken by National Grid Electricity Transmission (NGET), via a process known as Project Progression or Transmission Impact Assessment (TIA). This has the scope to increase grid connection costs and timescales for connection by considering all other proposed connections to the grid in the area. Project Progression was received and the original grid offer was updated with a Variation Agreement dated 13 August 2024 to reflect this change (noting that this variation was after the submission of the relevant planning application for the proposed development).

12.50. By the criteria of grid reform, the project is progressed and therefore benefits from Protection Clause 3a. It has land rights secured and is progressed in planning terms, having been submitted in February 2024 (i.e. well before NESO'S key date of 20th December 2024) and was taken to planning committee with a recommendation for approval in June 2024. However, because the appeal decision was not available before the closure of the Gate 2 evidence window under CMP435, the evidence will need to be provided to NESO under a future evidence window under CMP434. As a result of this, whilst the project will get a Gate 2 offer, details of this offer, including a revised connection date will not be available until after the appeal decision is made.

12.51. EN 3 paras 2.10.22 to 2.10.25 (Core Document 5.4) acknowledges the capacity of the local grid network to accept the likely output from a proposed solar farm and BESS as being critical to the technical and commercial feasibility of a development proposal and that the connection voltage, availability of network capacity, and the distance from the solar farm and BESS to the existing network can have a significant effect on the commercial feasibility of a development proposal. Para 2.10.25 states that:

> ***"To maximise existing grid infrastructure, minimise disruption to existing local community infrastructure or biodiversity and reduce overall costs,***

applicants may choose a site based on nearby available grid export capacity."

12.52. The opportunity which the Appeal Proposal presents to utilise an early grid connection and that this will assist in fulfilling the objectives of the Clean Power 2030 Action Plan (Core Document 5.25) are referred to above.

12.53. The need to take up the opportunity for an early grid connection was recognised by the Planning Inspector in determining the appeal at Southlands noting (Core Document 7.25, para 77):

> *"It is therefore important, to meet the urgent need for solar energy, for capacity to be taken up where it is available and the prospect of an early connection for the appeal scheme is an important factor in its favour."*

12.54. The Inspector at Southlands (Core Document 7.25 paragraph 101) disagreed with the assessment of the appeal parties that moderate weight be applied to the available grid connection allowing an early contribution to legally binding targets for net zero. Instead, the Inspector accorded this significant weight, as a result of the urgency of need and the difficulties experienced in obtaining grid connections currently.

12.55. The Appellant accords **significant positive weight** to this consideration as a benefit of the Appeal Proposal.

5. Biodiversity Net Gain

12.56. The Ecological Impact Assessment report submitted as part of the Planning Application and updated in advance of the appeal, set out the measures which would be included in the scheme to provide enhanced biodiversity (CD 2.17).

12.57. Overall, the Appeal Scheme would result in an on-site Biodiversity Net Gain of 73.69% for area-based habitat units, a gain of 60.77% for linear-based habitat units and a gain of 14.40% for watercourse habitats, primarily achieved through change of land-use. It is acknowledged in the planning committee report that the Statutory 10% net gain requirement is not applicable in the case of the appeal application due to the date of submission of the application. The committee report states that the proposal accords with the relevant planning police 38 of the LPP2.

12.58. The Appellant notes that in recent solar farm appeals that either 'substantial weight' or 'significant weight' has been afforded to BNG enhancements.

12.59. Given the precedents of biodiversity net gain for solar farms, the Appellant considers that the in BNG should also be afforded **moderate** weight in the planning balance.

6. Soil Regeneration

12.60. The Appeal Site is lower quality Grade 3b and 4 quality agricultural land, predominantly the latter, which is not classed as 'Best and Most Versatile Agricultural Land'.

12.61. Further, the use of the land as grassland which is uncultivated for a period in excess of 12 years will increase soil organic matter and hence soil organic carbon will assist in protecting

and improving the soil structure and resource. The duration of the development of 40 years would exceed the 12 years suggested for soil improvement to occur.

12.62. At Crays Hill, it is noted that the Inspector accepted that the longer-term benefits to soil structure added weight to the environmental benefits of the project overall (*Core Document 7.51, 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 7.51, paragraphs 126 and 127).*

12.63. The Appellant therefore attaches **moderate weight** to this consideration as a benefit of the Appeal Proposal.

7. Green Infrastructure Enhancements

12.64. The proposed enhancements to landscape structure will greatly improve green infrastructure, including enhanced connectivity across and within the Appeal Site and contribute to the wider network beyond, whilst incorporating features to address habitat and wildlife creation and secure net gains in green infrastructure.

12.65. These measures would serve to create a more coherent landscape framework across the Appeal Site which would enhance landscape character both during the operational lifetime of the Proposed Development, and once it is decommissioned.

12.66. The Appellant therefore attaches **moderate weight** to this consideration as a benefit of the Appeal Proposal.

8. Farm Diversification

12.67. The NPPF at paragraph 88 acknowledges that the diversification of agricultural businesses should be enabled.

12.68. Due to the relatively low income received from agricultural activities, many farmers seek to diversify their income to secure an economically sustainable profit. Income from renewable energy is an important form of farm diversification.

12.69. The National Farmers Union see renewable energy as an important step towards making British agriculture carbon neutral within two decades, an important consideration as farming is responsible for around one tenth of UK greenhouse gas emissions (Core Document 5.54).

12.70. The Appellant therefore attached **limited weight** to this consideration as a benefit of the Appeal Proposal.

9. Economic Benefits

12.71. The Appeal Proposal 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).

12.72. Business rates would become payable RBC, which are not currently paid as a result of only the agricultural use of the land, and these would be estimated to be some £74,850 per annum[5], equating to £2,994,000 over the 40-year operational period of the Appeal Proposal.

12.73. The Appeal Proposal will help to address energy security and increase low cost and subsidy free energy generation, which is particularly important at a time of a cost-of-living crisis and energy security crisis. This is a clear economic benefit to the households and business owners in the local area, many, if not all of whom, will be experiencing the negative effects of rapidly rising energy costs.

12.74. The Clean Power 2030 Action Plan (Core Document 5.25, pages 20, 43 and 44) identifies significant beneficial impact for businesses from clean power, including price stability, market certainty encouraging investment and job opportunity. The Action Plan places the clean energy industries as a priority growth sector as part of the Government's Industrial Strategy. Clean energy is noted as creating employment and delivering price stability with is crucial for businesses.

12.75. At Bramley, it is noted that the Inspector afforded 'significant' weight to economic benefits associated with that solar farm scheme (Core *Document 7.36, paragraph 79*), whereas at Copse Lodge the Inspector gave *'moderate'* weight to the temporary construction jobs and longer term business rate benefits (*Core Document 7.9, paragraph 124*).

12.76. The Appellant therefore attaches **moderate weight** to this consideration as a benefit of the Appeal Proposal.

Other Considerations which are Neutral

12.77. With reference to the Planning Officer's committee report, a number of material considerations were assessed upon which it was considered the Appeal Proposal was not held to have an adverse impact upon.

12.78. These matters are set out above and included the effects on:

- Sustainable drainage (subject to appropriate conditions);
- Impact on archaeology (subject to appropriate conditions);
- Residential amenity, including Glint and Glare (subject to appropriate conditions);
- Highways safety and traffic (subject to appropriate conditions);
- Fire Safety; and

[5] Based on a maximum installed solar generating capacity of 71.67 MWp, a rateable value of £2,040 / MWp for unsubsidised sites and a Universal Business Rate of £0.512. Rates are subject to inflationary rises in line with the Consumer Price Index. (National Valuation Unit and Gerald Eve LLP (2023) *Revaluation 2023 Photovoltaics. Memorandum of Agreement*. Accessed online at: 2023-Solar-PV-Memorandum-of-Agreement-signed-by-SEUK-GE-VOA.pdf for full details.

- Noise.

12.79. In respect of these material considerations, the Appellant considers that these should be afforded **neutral weight** in the planning balance.

Material Considerations which are Adverse

Effect on Landscape

12.80. The matters outlined above and in the Landscape Hearing Statement (Appendix 1) conclude that whilst there would be some limited adverse effects on landscape character and visual amenity, including cumulatively with other consented solar farms, these would be localised. Therefore, it is considered there are no substantive landscape character, visual amenity reasons from a landscape planning perspective, for refusing planning permission for the Proposed Development.

12.81. The Appellant therefore considers that these limited landscape effects should be given **limited adverse** weight in the planning balance.

Effect on Heritage Assets

12.82. As set out in relation to the heritage reason for refusal, the proposal has been assessed on behalf of the Appellant as having no harm to the significance of listed buildings and a less than substantial harm at the lower end of the scale to the significance of the Conservation Area. In the heritage balance and with reference to the policies of the Local Plan and NPPF, it is concluded that the public benefits of the proposal would clearly outweigh the heritage harm.

12.83. Whilst the Appellant considers that "great weight" should be given to the conservation of heritage assets, the steps taken to minimise that harm in the iterative reversible scheme design and that the harm identified is at the lowermost end of the spectrum, it means that this matter should be given **limited adverse** weight in the overall planning balance. It is noted that case law explains that duty to accord considerable weight to the desirability of avoiding harm does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight. As clarified in the Court of Appeal in the case of *Palmer* (*CD 7.39*), whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require Planning Permission to be refused.

Effect on Skylarks

12.84. It is concluded noted above, with reference to the statement at Appendix 3 that the low number of skylark territories (6) anticipated to be displaced by the original application proposal resulted in the potential significance of residual effects being low. The inclusion of the additional mitigation within the Appeal Scheme would bring the residually displaced to a level of residual impact which is considered 'not significant' and well within an expected margin of annual population fluctuations the appeal site is likely to experience.

12.85. Accordingly the effect on Skylarks is given **limited adverse** weight in the planning balance.

Overall Planning Balance

12.86. Having considered the range of material considerations that are positive, adverse and neutral, the Appellant considers that any adverse impacts of the Appeal Proposal would be outweighed by the benefits, were it to be found that the Appeal Proposal did not accord with the Development Plan as a whole. The below summary table illustrates how the benefits clearly and decisively outweigh the harms:

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	**Significant** positive weight
Energy Security	**Substantial** positive weight
Availability of Grid Connection	**Significant** positive weight
Biodiversity Net Gain	**Moderate** positive weight
Soil Regeneration	**Moderate** positive weight
Green Infrastructure Enhancements	**Moderate** positive weight
Farm Diversification	**Limited** positive weight
Economic Benefits	**Moderate** positive weight
Material Considerations which are Neutral	**Weight (Neutral)**
Sustainable drainage	**Neutral** weight
Archaeology	
Residential Amenity	
Glint and Glare	
Highway safety and traffic	
Fire Safety	
Noise	
Material Considerations which are Adverse	**Weight (Adverse)**
Effect on Landscape Character and Visual Amenity	**Limited adverse** weight
Effect on Heritage Assets	**Limited adverse** weight

Effect on Skylarks	**Limited adverse** weight

12.87. The Appellant also notes that the Planning Officer in their committee report considered that having taken into account the overall environmental, social and economic impacts of the Appeal Proposal, that it should be supported.

Overall Conclusion

12.88. The Appellant considers that the Appeal Proposal is in general accordance with the Development Plans when read as a whole and, even if the Inspector were to conclude that there would be some conflict with relevant policies:

i. That would not necessarily lead to a conflict with the Development Plans taken as a whole; and

ii. If it did, there are significant identified benefits that constitute material considerations indicating development should be approved notwithstanding that conflict.

12.89. This statement of Case has been prepared by Pegasus Group on behalf of Exagen Development Ltd (the Appellant). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in connection with Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall ('the Appeal Site').

12.90. The Appeal follows the decision of RBC (CD 4.2) to refuse planning permission (against officer recommendation) for a planning application comprising:

"Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling."

12.91. The Appeal Proposal represents sustainable development as defined by the NPPF.

12.92. The principle of renewable energy and low carbon energy technology, such as solar power and battery energy storage, is supported by local and national planning policy. Furthermore, RBC has declared a climate emergency and the UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050. There is therefore a significant and demonstrable national and local need for the Development, as set out throughout this document, and the Development will achieve significant contributions towards local renewable energy targets.

12.93. The Applicant has clearly demonstrated that the Development is essentially required to secure reductions in greenhouse gas emissions and support the delivery of renewable and low carbon energy both nationally and locally.

12.94. Overall, the proposals are considered entirely suitable to the Site and its surrounds; is consistent with Planning Policy and all relevant material planning considerations; and will achieve a high-quality design as envisaged by the Appellant and as required by RBC.

12.95. Reflecting on the planning balance and turning to sustainable development, it is widely understood in planning that there are three dimensions to sustainable development, these

are economic, social and environmental. National Policy advises that in order to achieve sustainable development, economic, social and environmental gains should be pursued in mutually supportive ways through the planning system. The Development has been shown to achieve the main objectives of sustainable development (environmental, social and economic) without causing undue detriment to any of these matters. As the NPPF at paragraph 11 directs, in circumstances where the application complies with the Development Plan, the application should be approved without delay.

12.96. These factors, when combined with the significant need for renewable energy, mean that the planning balance (and, in particular, when considered in the context of the tests under Section 38(6) Planning and Compulsory Purchase Act 2004) is weighted significantly in favour of the Appeal Proposal.

12.97. Even if there is found to be limited conflict with the Development Plan, the benefits and other material considerations far outweigh this limited harm.

13. Planning Conditions

13.1. The Appellant is of the opinion that appropriate control over the form of the Appeal Proposal can be achieved through the imposition of planning conditions.

13.2. A set of conditions on a without prejudice basis, shall be agreed with the Local Planning Authority and provided to the Planning Inspector in advance of the Hearing.

Appendix 1 Landscape Hearing Statement (Bounded Separately)

Appendix 2 Heritage Hearing Statement (Bounded Separately)

Appendix 3 Statement of Case for Ecology

STATEMENT OF CASE: ECOLOGY APPENDIX

OLD WOOD ENERGY PARK, WYSALL, NOTTINGHAMSHIRE

Client:	Exagen Development Ltd.	Author:	Harry Fox
Version:	1	Issued on:	08/10/25

1 INTRODUCTION

1.1.1 This Statement of Case for Ecology has been prepared by Clarkson and Woods Ltd. on behalf of Exagen Development Ltd (the Appellant). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in connection with Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall ('the Appeal Site'). A planning application was submitted to RBC on the 31st January 2024 and validated on 16th February 2024, and was ascribed the reference number 24/00161/FUL.

1.1.2 This document concerns Ecology and Biodiversity matters relating to the proposal and appeal, with particular reference to potential impacts on skylark which was listed as reason for refusal no.3 on the decision notice issued by Rushcliffe Borough Council ("RBC") dated 19th June 2025.

2 PLANNING BACKGROUND

2.1.1 The appeal follows the decision of RBC to refuse planning permission for a planning application comprising:

"Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling."

2.1.2 The RBC Planning Committee resolved to refuse the planning application at a meeting held 12 June 2025 against the advice and the recommendation of the Officer's Report to Committee, which was that planning permission should be granted subject to the imposition of 23no. planning conditions.

2.1.3 Reason for refusal no.3 listed in the Decision Notice is as follows:

"The impacts of the proposal upon protected species including the permanent negative residual impact upon Skylarks, is not considered to be adequately diminished by the proposed mitigation measures. The impact is not outweighed by the benefits of the scheme and the proposal is therefore contrary to Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the LPP2 and Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF."

2.1.4 Comments from consultees received during the planning process, as well as relevant planning committee materials are summarised below.

2.2 Consultee Comments

Senior Ecology and Sustainability Officer (Paul Phillips)

"The Breeding Bird survey identified eight red-listed and 14 amber-listed species of conservation concern, of which 10 of are also Species of Principal Importance, breeding on site. However the only bird of conservation concern recorded in high numbers within the fields themselves being the skylark, partial on-site mitigation is proposed and should be implemented, however this is likely to lead to a permanent negative impact. Reasonable avoidance measures for other birds is proposed which should also be implemented…"

"…It is unlikely that this development will have a detrimental impact on populations of protected species provided the proposed reasonable avoidance measures, mitigation and enhancements are implemented."

Natural England

No Objection.

Nottinghamshire Wildlife Trust

"The [Ecological Impact Assessment] predicts a loss of 6 skylark territories from Old Wood proposed solar farm (we think this is 7) and, potentially, 11 will likely be displaced from the consented Highfields Farm application. This makes a total of 17 (or 18) territories lost. With the skylark mitigation area, if successful, only able to support one breeding pair, we do not find that the mitigation proposed is adequate. The EcIA acknowledges there will be a residual impact on skylark (3.5.67). With residual impacts arising from both applications, mitigation proposals for skylarks requires further consideration. We would certainly expect to see a more detailed and

robust cumulative impact assessment regarding skylark and all ecological receptors, following CIEEM Guidelines for EcIA. Other environmental impacts should also be subject to a cumulative impact assessment."

Wysall Action Group (Neil Hartley)

"In relation to the Breeding Bird Survey Report carried out by Clarkson and Woods, we would question the methodology used as our understanding is that the British Trust for Ornithology (BTO) Common Birds Census (CBC) guidelines followed became obsolete in 2000. Current guidance for ecologists (htps://birdsurveyguidelines.org/methods/surveymethod/) suggest 6 site visits including one night time visit, this has not been followed here and the survey should be deemed insufficient and unreliable on that basis. Commenting on what was found however, Sky larks are a red listed protected bird species. There were 12 skylark territories on the Highfield site that has been approved and 8 on the Old Bunny Wood. The Old Bunny wood skylark population mitigation is 3.62 Ha in an undeveloped field, there is no replacement mitigation for the Highfield skylarks, which would have potentially migrated to the Old Wood site. No one, even the RSPB, can say what will happen to the sky larks but we cannot be optimistic as to their fate. So no longer will we hear the 'lark ascending 'as we walk the midshire way. How can anyone propose that a 3.62 area of grassland will suddenly be an attraction for nesting skylarks currently having 100 hectares as their available natural habitat – the proposed mitigation is clearly inadequate and the application should be refused on this basis."

2.3 Planning Officer's Committee Report

"In light of the above, it is considered that due to the identified impact to Skylarks habitat, there is a degree of conflict with Policy 38 of the LPP2. However, with recommended mitigation and reasonable avoidance measures secured by condition, the conflict would be limited. However, this needs to be assessed and weighed in the planning balance."

"In summary, it is therefore considered that when assessing the planning balance of the application as a whole, the undisputed urgent need for this form of development to assist in national and local targets for moving towards a low carbon future, would clearly outweigh the identified harm in terms of landscape character, heritage assets and Skylark habitat."

"It is RECOMMENDED that planning permission be granted subject to the following conditions:… …10. The ecological enhancements and reasonable avoidance measures shall be carried out in accordance with the recommendations within the Ecological Impact Assessment (EcIA) report by Clarkson and Woods received 4th November 2024."

3 ECOLOGICAL BACKGROUND

3.1.1 Skylarks are a 'Species of Principal Importance' (as listed under Section 41 of the Natural Environment and Rural Communities Act 2006) and so are capable of being a material consideration during the planning process. These species are generally those which are in recent population decline and are of conservation concern in the UK.

3.1.2 A suite of four breeding bird surveys was conducted between 19th April 2022 and 12th July 2022 which was considered sufficient to record the number, location and species of birds using the site and evaluate the likely importance of the site to breeding birds. The surveys followed standard Common Bird Census methods devised by the British Trust for Ornithology. It should be noted that the Bird Survey Guidelines committee was established in 2023 and published the first industry guidance on survey effort in the same year, whereby a minimum of six visits was recommended unless fewer visits could be ecologically justified.

3.1.3 It remains our opinion that four survey visits were adequate considering the modest size and scale of the development and generally lower impact nature of solar farm development whereby the most notable habitats are typically retained and enhanced. In addition, since skylark are a vocal species which actively displays territorial behaviour, it was considered likely that all established territories could be detected by the four surveys with the methods used.

3.1.4 The site comprises 101.13ha of mixed use agricultural fields split across two separate parcels (Old Wood North and Old Wood South). 95.6ha of the fields were in arable rotation, and therefore suitable for nesting skylark,

with the remaining two fields comprising modified grassland. This configuration and arable cropping greatly matched that which was found during an update habitat survey undertaken to obtain current baseline habitat data in 2025. Consequently, it can be reliably assumed that the number and density of skylark territories is likely to be the same or similar to that as in 2022.

3.1.5 Analysis of the pattern and location of territorial behaviour recorded during the surveys indicated that a conservative estimate of eight skylark territories were likely supported by the site at the time of survey. This represents a territory density of approximately 0.08 territories per hectare, which is relatively very low even for intensive, winter-sown cereal crops, being approximately one third of that which would normally be expected in such cropland habitats elsewhere in Britain.

3.1.6 The assemblage of breeding bird species was assessed as being of Local level ecological importance. An assessment for individual species or groups of species separated by associated habitat type was not given.

3.1.7 Other notable bird species of conservation concern associated with the footprint of the development (i.e. the open arable fields as opposed to the boundary habitats) were grey partridge and lapwing, although these were rarely recorded.

3.1.8 Since the PV arrays will occupy the arable land and skylark have evolved to select habitats with relatively short vegetation and long, unbroken sightlines for predator avoidance, it can be reasonably assumed that territories would be displaced from developed fields as they become incompatible with skylark nesting ecology. This predicted effect is corroborated by extensive monitoring of over 100 active solar farms in the UK by Clarkson and Woods which has consistently observed the continued foraging by a proportion of skylark within solar farms (including the direct feeding of young within margins and field edges), but no confirmed successful breeding. Furthermore, it would appear that the gradual decline of singing male birds advertising territories over panelled areas over the first few years following development, with the attendant absence of successful nests, demonstrates a waning 'nest site fidelity' effect. This is the effect whereby skylark return to the same location in which they were either raised or previously successfully nested in order to attempt to hold a new territory and/or nest. It has been observed that individual males may return and sing in these locations to advertise a territory even if land-use change has degraded the suitability of the site for nesting such that females are unlikely to select it for nesting. Consequently, the persistence of skylark singing over solar farms in the first years following construction cannot be taken as indication of successful nesting occurring.

3.1.9 One recorded territory was located largely within the undeveloped area of Field 7 (see Figures 2 and 3 at the end of this document for field number references) and so would be unlikely to be impacted. One further territory lies on the northeastern edge of Old Wood South, likely overlapping with adjacent fields and so is assumed to be able to be 'absorbed' by the neighbouring arable land. This absorption is thought to be possible due to the higher quality of solar farms as foraging habitat compared to the previous arable management. Our (and others') observations of skylarks using solar farms preferentially for foraging and as 'nursery' sites where precocial young are fed suggests that the presence of a solar farm confers an advantage to territories held on suitable adjacent farmland. Consequently, this would mean a total six territories can be expected to be displaced.

3.1.10 It should be noted that this total results from a single breeding season's worth of data. This number is subject to variation according to the farm's cropping and rotation plan as different management and crop types have different suitability for nesting skylark. In fallow years, or years where spring-sown crops are planted, densities may increase; however these may drop dramatically in years where less suitable crops such as maize or oilseed rape are planted (oilseed rape covered much of the northern site in 2023, while maize covered the majority of the southern in 2024 and 2025). Indeed, the population dynamics of the wider skylark population are at the mercy of the annual variations of arable management within the entire local region. This may even explain why in this particular year, the density of territories seen on site were lower than might otherwise be expected. Therefore, the data (as in all cases) can only represent a snapshot in time of the status of skylark at the site.

3.1.11 Mitigation proposed within the planning application comprised the seeding and management of 3.62ha of Field 8 (an open, elevated field located east of the northern parcel to the south of Lodge Farm) as a set-aside or spring-sown cereal crop which are both of greater suitability for nesting foraging skylark than baseline arable habitats, alongside the management of grassland and marginal habitats within the site for foraging birds, including skylark. The mitigation field is considered to be physically suitable in terms of size, configuration and presence of long sightlines for skylark nesting. Given the ambiguities over being able to

confidently estimate the number of displaced skylark territories mitigated by these measures, no calculations were made. However, since research[12] shows that territory densities in the proposed mitigation habitats are in the region of 0.46 (spring-sown cereals) to 0.56 (set-aside) territories per hectare, it can be assumed that even factoring in an existing baseline territory density at the mitigation land of 0.2 territories per ha, between at least 1 and up to 2 of the displaced territories could be accommodated by the mitigation land. This would lead to a residual displacement of 4 or 5 territories which represents a tiny proportion of the local skylark population (estimated at being approx. 2000 pairs in Rushcliffe District – see para 4.1.3 below). This residual impact is considered to be of Site level significance in ecological terms, which is the lowest level of effect significance which can be ascribed under the CIEEM Ecological Impact Assessment guidance.

3.1.12 It should be noted that the nearby Highfields Solar Farm (planning reference 22/00303/FUL), measuring some 81.58ha in size, recorded 8 skylark territories on site, although no mitigation was proposed. Despite this, the planning application was approved with no concerns raised regarding impact on breeding skylark.

4 ECOLOGY CASE

4.1.1 It is observed that skylarks often forage within the margins of solar farms since the abundance of invertebrate prey items is higher in permanent grassland habitat as opposed to intensive arable land. Juvenile skylarks are preferentially fed on soft-bodied invertebrates, principally spiders, which can be expected to occur in greater abundance within the grasslands under and surrounding solar panels. Indeed, adult skylark have been observed feeding young within solar farms on several occasions and are known to lead their young away from nest sites to feeding sites at an early age[3]. While no data yet exists to quantify the effect, it is considered likely that some benefit to breeding success or carrying capacity is conferred to habitat or territories located within a foraging bout distance of a solar farm. The EcIA incorporated this effect into the assessment of the absorption of a single 'edge' territory from the site, but stopped short of suggesting that further displaced territories may be absorbed in this way. In truth, we suspect that this effect is significant and could contribute to mitigation in a substantial way but in the absence of empirical data, it is difficult to substantiate.

4.1.2 To provide increased confidence in our conclusion that the residual effect of 4-5 skylark territories would be significant only at Site level, some understanding of the local population of skylark is required. There are no published estimates for the population of skylark in Nottinghamshire, so an estimation by some method is necessary. Various research studies place the population of skylark in the UK at between 1 and 2 million pairs or territories, with 1.6million being taken to be the most likely[4]. It is estimated that arable land covers 6.2 million hectares in the UK[5]. Since the majority of skylark in the UK occur on arable land (other habitats such as coastal marshes and upland moorland also contribute)[1], an average territory density on farmland of 0.26 territories per hectare can be calculated. This density is very much aligned with research into territory densities of skylark within arable systems in lowland Britain, with various studies providing a territory density range of between 0.15 (highly intensive cereals) and 0.46 (organic cereals) and a typical average on arable farms of 0.28[12]. In turn, with an arable farmland coverage in Nottinghamshire of around 100,000ha[6][7], one can reasonably predict there to be a county-wide population of approximately 26,000-28,000 pairs or territories of skylark. For a more conservative estimate in the context of the site's density of 0.08 territories/ha, a lower population of only 8,000 territories is produced, although a density of 0.08 is likely only to be reliably representative of the local area, perhaps at a parish or a district scale at most. Figure 1 at the end of this note indicates that the Nottinghamshire population is relatively stable and its density ranges between the upper and lower estimates calculated.

---

[1] Donald, P. F. (2004). The Skylark. T & A D Poyser.
[2] S. Browne , J. Vickery & D. Chamberlain (2000) Densities and population estimates of breeding Skylarks Alaudaarvensis in Britain in 1997, Bird Study, 47:1, 52-65
[3] Fox, H. (2022). In Practice, 117, 47–51. September 2022. CIEEEM, London.
[4] Woodward, I., Aebischer, N., Burnell, D., Eaton, M., Frost, T., Hall, C., Stroud, S., & Noble, D. (2020). APEP 4 - Population estimates of birds in Great Britain and the United Kingdom. British Birds, 113(3), 69–104.
[5] https://www.gov.uk/government/statistics/agricultural-land-use-in-the-united-kingdom/agricultural-land-use-in-united-kingdom-at-1-june-2023
[6] https://nottsbag.org.uk/wp-content/uploads/2020/10/Farmland-and-arable-HAP-version-2009.pdf
[7] https://www.gov.uk/government/statistics/agricultural-facts-england-regional-profiles/agricultural-facts-east-midland-region

4.1.3 The table below shows the percentage of the various estimated populations at different scales that the number of territories discussed so far represent. The District estimate assumes there to be 27,000ha of arable land in Rushcliffe Borough[8].

Table 1. Estimated residual unmitigated territories after all mitigation considered, in a population context.

Appeal Site Territories / Population	UK: 1.6m territories (6.2m ha arable, 0.26t/ha)	Nottinghamshire: 27,000 (100,000ha arable, 0.26t/ha)	Rushcliffe District: 2,160 (27,000ha arable, 0.08t/ha)
8 (total)	0.0005%	0.03%	0.37%
6 (after natural 'absorption'))	0.0004%	0.02%	0.28%
4-5 (with 3.62ha mitigation factored in)	0.0003%	0.01-0.02%	0.19-0.23%

4.1.4 It is clear that by any measure that either the residual number of displaced territories or the absolute number of territories on site at baseline is very small. In ecological impact assessment, a typical threshold used to determine whether an impact is significant – and at which geographic scale it might be felt – is 1%. If an action is deemed likely to impact 1% or more of, for example, the population of a protected species supported by a designated site, the impact may be said to be significant in terms of affecting its ecological integrity, and be felt at the geographic scale which best matches the importance of the designated site. Here, we are in no danger of approaching the 1% threshold at any geographical scale and it may even be justifiable to declare that the impact post additional mitigation (i.e. factoring in the design avoidance, absorption and 3.62ha of mitigation habitat) is negligible. However, a Site level residual significance is a comfortable and conservative position to take and accords with a residual significance classification of 'not significant' when the conventional 'not significant, low, medium and high' categorisation is used, as in other disciplines.

4.1.5 The assessment of residual significance at any considered geographical scale also holds true when considering the potential for cumulative impacts on skylark if the displacement of 8 territories by the adjacent Highfields Solar Farm is factored in. Even without the appeal site's mitigation factored in, the combined displacement would represent less than 1% of the estimated Rushcliffe District population.

4.1.6 The above exercise supports the position that the mitigation provided is proportionate and, although it does not do everything to remove the impact, the residual effect is minimal and should be capable of being outweighed in the planning balance by the various benefits of the scheme, including those for ecology such as Biodiversity Net Gain commitments.

5 POTENTIAL ADDITIONAL MITIGATION

5.1.1 As part of the appeal some minor changes have been made to the Development. These are set out in a Summary of Changes document prepared by Exagen, September 2025. These changes are being consulted upon by the Appellant and the decision on whether or not to accept the changes will rest with the appointed Planning Inspector. One of these changes includes 6.75ha of additional land adjacent to the appeal site which is available for management and use as further skylark habitat. This would be managed in the same manner as the 3.62ha already proposed. The land is physically suitable for skylark nesting, being adjacent to the original mitigation land and adjacent to part of the solar farm. Whilst this land is located outside of the planning application boundary it is located within land the Appellant has control over and as such can be adequately secured via a Grampian planning condition and does not require a S106 or other legal agreement. This additional mitigation land area, and the land the Appellant has control over (blue line boundary), are included on the submitted Enhanced Landscape Strategy Plan.

5.1.2 Table 2 below gives estimates for the number of territories which could be accommodated by the additional 6.75ha of mitigation land depending on management prescriptions and two possible assumptions for the

[8] https://www.rushcliffe.gov.uk/about-us/about-the-council/policies-strategies-and-other-documents/accessible-documents/rushcliffe-nature-conservation-strategy/

existing baseline skylark territory density (one being an average for winter cereals derived from research and the other being the observed density on site). 2 to 3 whole territories can evidently be mitigated on this additional land. Although 3.24 is the maximum figure given, territories cannot be split over two separated parcels, so only whole territories should be considered.

Table 2. Estimations of territory numbers mitigated by additional mitigation

Mitigation type/ Baseline territory density	0.15 (derived from research)	0.08 (observed on the Site)
Spring-sown cereals (ha)	2.09 terrs.	2.57 terrs.
Set-aside (ha)	2.77 terrs.	3.24 terrs.

5.1.3 Therefore, with a total of 10.37ha of mitigation land, a total of between 3 and 5 territories could be accommodated. This would be considered sufficient to reduce the residual impact to negligible levels, with the remaining 1-3 territories being well within an expected margin of annual population fluctuations the appeal site is likely to experience.

5.1.4 The residual loss as a % of total skylark populations, nationally, at a county and district level are reflected within the Table 3 below alongside the analysis and population estimates previously presented in Table 1, for comparison.

Table 3. Estimated residual unmitigated territories after all mitigation considered, in a population context.

Appeal Site Territories / Population	UK: 1.6m territories (6.2m ha arable, 0.26t/ha)	Nottinghamshire: 27,000 (100,000ha arable, 0.26t/ha)	Rushcliffe District: 2,160 (27,000ha arable, 0.08t/ha)
8 (total)	0.0005%	0.03%	0.37%
6 (after natural 'absorption'))	0.0004%	0.02%	0.28%
4-5 (with 3.62ha mitigation factored in)	0.0003%	0.01-0.02%	0.19-0.23%
1-3 (with 3.62 and an addition parcel of 6.75ha factored in)	**0.0001%[9]**	**0.007%**	**0.093%**

6 CONCLUSION

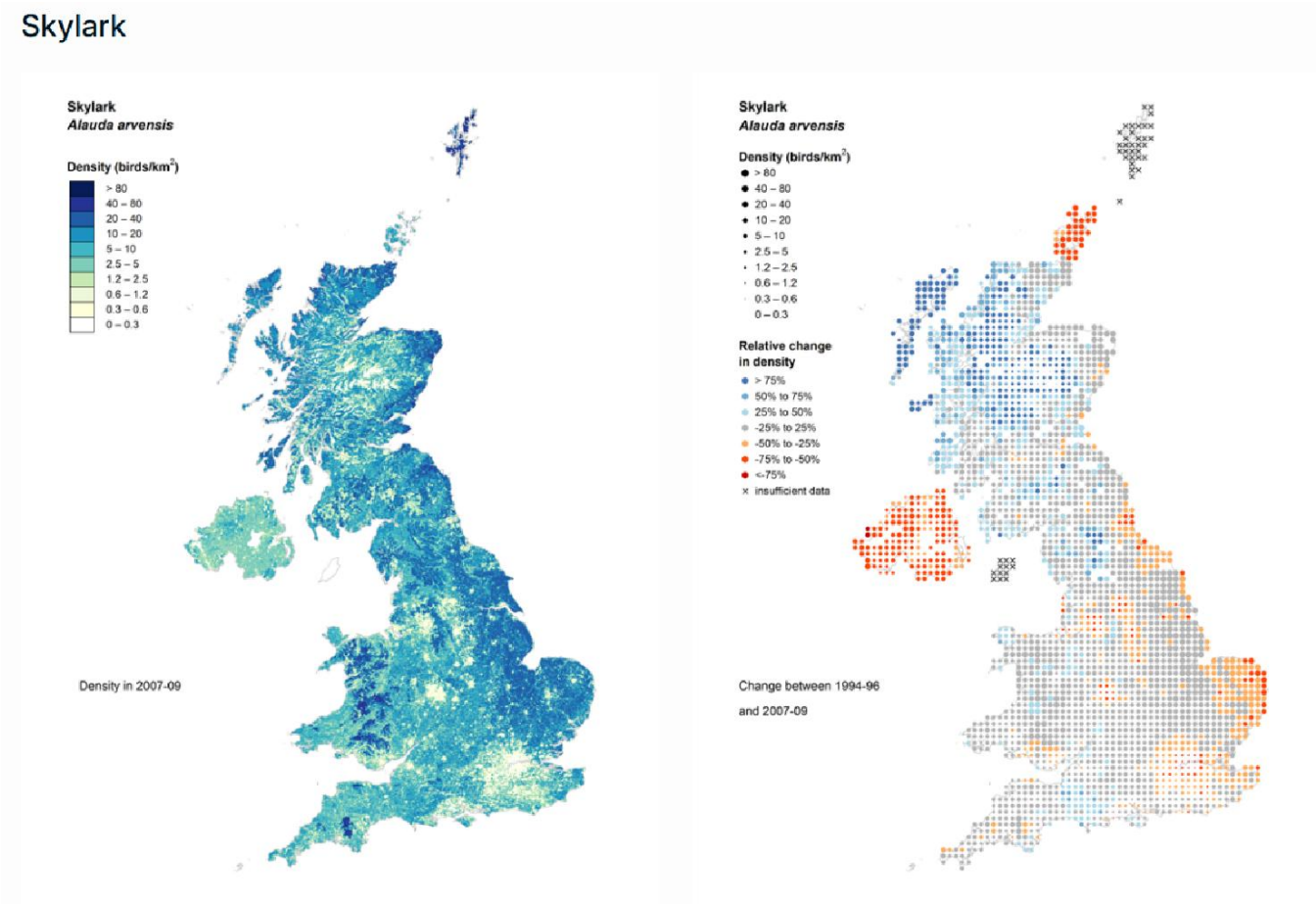
6.1.1 An objectively low number of skylark territories (6) stand to be displaced by the proposed development. Taking into account the context of the estimated local, regional and UK population context for skylark, the potential significance of residual effects is low. This remains true even in the absence of the proposed mitigation and when cumulative impacts arising from the nearby Highfields Solar Farm scheme are factored in.

6.1.2 Proposed mitigation in the form of 3.62ha of sensitively managed farmland would likely accommodate 1-2 skylark territories, reducing the residual impact further, to a 'Site-level' ecological effect.

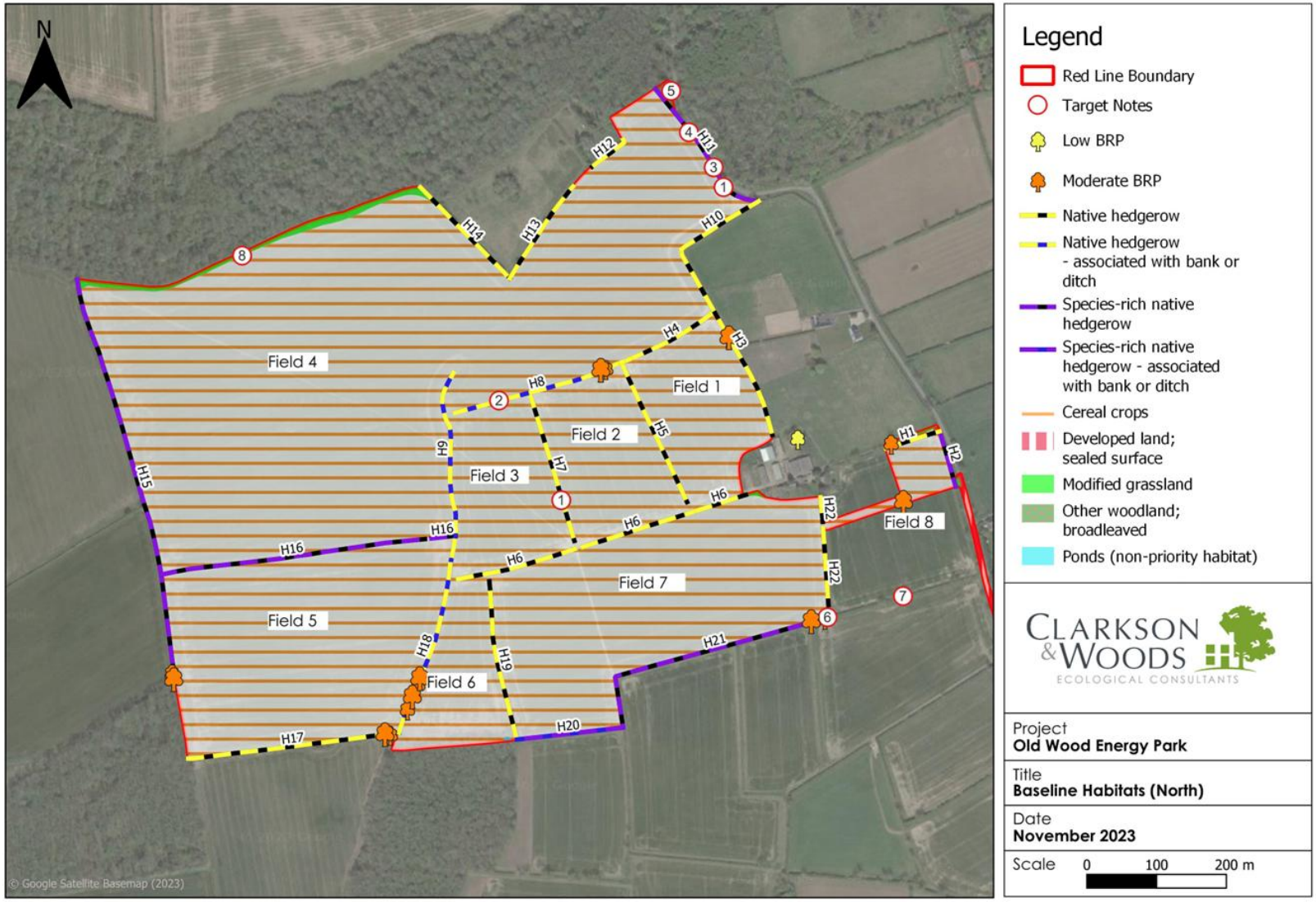
6.1.3 A further 6.75ha of land is available for mitigation use which is estimated to be able to accommodate a further 2-3 territories which would bring the residually displaced number of territories down to between 1 and 3, a level of residual impact which is considered 'not significant' and well within an expected margin of annual population fluctuations the appeal site is likely to experience.

[9] Where a % of a range (e.g. 1-3) is required the average % within this range is presented.

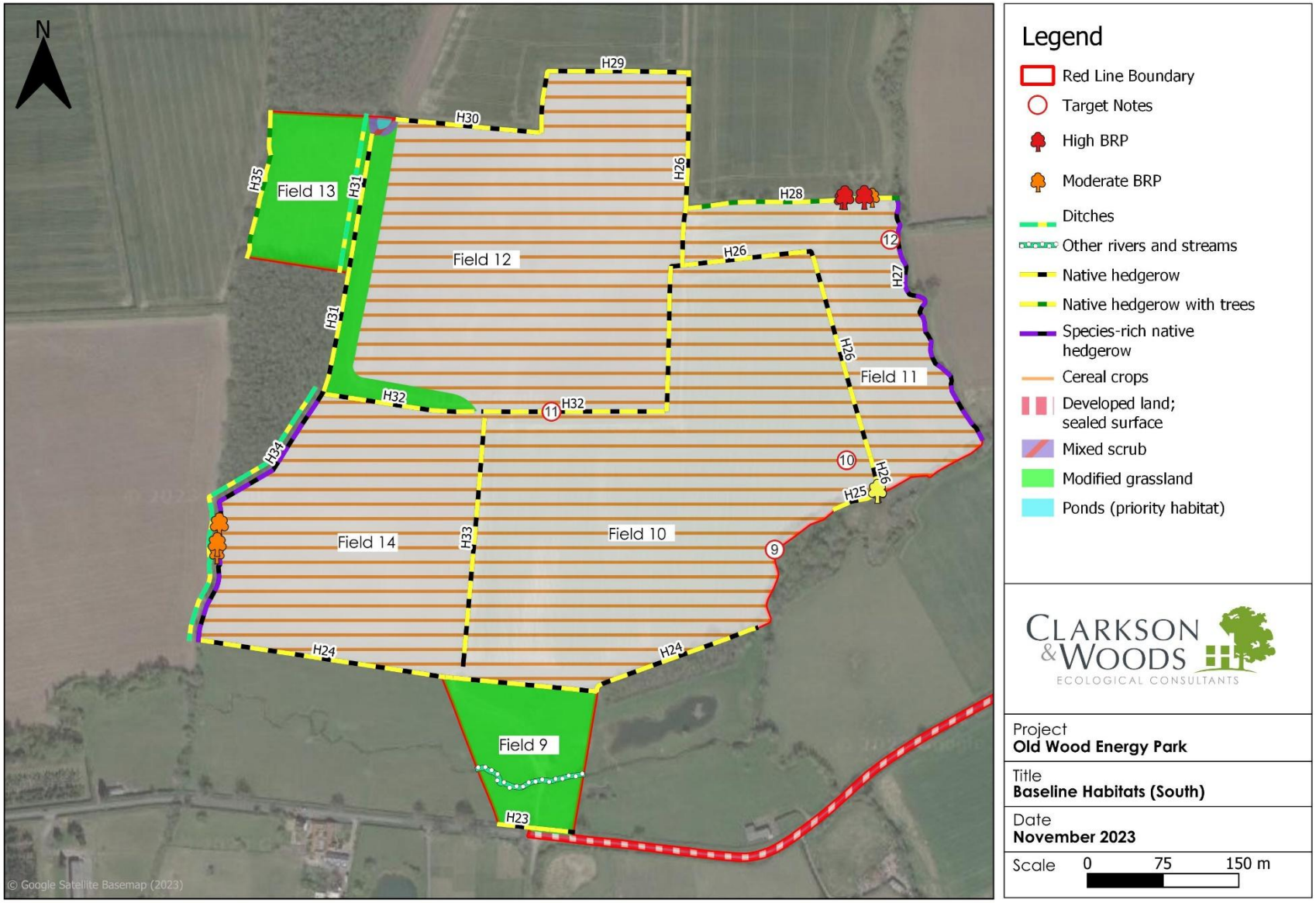
6.2 Figure 1


Skylark
Skylark
Alauda arvensis
Density (birds/km²)
> 80
40 – 80
20 – 40
10 – 20
5 – 10
2.5 – 5
1.2 – 2.5
0.6 – 1.2
0.3 – 0.6
0 – 0.3
Density in 2007-09
Skylark
Alauda arvensis
Density (birds/km²)
> 80
40 – 80
20 – 40
10 – 20
5 – 10
2.5 – 5
1.2 – 2.5
0.6 – 1.2
0.3 – 0.6
0 – 0.3
Relative change in density
> 75%
50% to 75%
25% to 50%
-25% to 25%
-50% to -25%
-75% to -50%
<-75%
insufficient data
Change between 1994-96 and 2007-09

6.3 Figure 2 – Baseline Habitat Map of Northern Parcel Showing Field Numbers



6.1 Figure 3 – Baseline Habitat Map of Southern Parcel Showing Field Numbers



CLARKSON & WOODS

Clarkson and Woods Ltd.
Overbrook Business Centre,
Poolbridge Road, Blackford,
Somerset BS28 4PA

t: 01934 712500
e: info@clarksonwoods.co.uk

www.clarksonwoods.co.uk

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

Leeds
5th Floor (East), Capitol, Russell Street,
Leeds. LS1 5SP
T 0113 2878200
E Leeds@pegasusgroup.co.uk
Offices throughout the UK

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE

Pegasus_Group pegasusgroup Pegasus_Group

PEGASUSGROUP.CO.UK