

Planning Proof Of Evidence.

Evidence of Nigel Cussen.

In Respect of Section 78 Appeal: Land West of Bradmore Road
and North of Wysall Road, Land West of Wysall, Wysall.

On behalf of Exagen Development Ltd.

Date: February 2026 | Pegasus Ref: P25-1631

Appeal Ref: APP/P3040/W/25/3375110 | LPA Ref: 24/00161/FUL

Author: Nigel Cussen





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1. Personal Background

- 1.1. This Proof of Evidence has been prepared by Mr Nigel Cussen. I hold a BSC(Hons) in Geography with Economics and a Diploma in Town and Regional Planning.
- 1.2. I am a Chartered Town Planner having been elected over twenty-five years ago and I hold the position of Senior Planning Director at the consultancy Pegasus Group.
- 1.3. I have considerable experience in advising on planning matters arising in respect of a wide range of development sectors, including utility scale ground mounted solar photovoltaic (solar farms) and Battery Energy Storage System (BESS) projects.
- 1.4. The evidence that I have prepared and provide for this Section 78 appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions.
- 1.5. I was instructed to provide planning expert witness evidence in respect of the appeal scheme after the planning application had been refused. My initial instruction was received in August 2025. Prior to accepting the instruction, I reviewed the application documents, consultation responses and the Planning Officers' report and satisfied myself that I supported the Appellant's case. I have familiarised myself with the Appeal Site, the Appeal Scheme and the process of the Council's refusal, and I have visited the Appeal Site and the surrounding area.
- 1.6. I note that the appeal was originally submitted with a Full Statement of Case, provided by the Appellant, as the Appellant sought for the appeal to be determined by way of a hearing process. I provided the planning case within the Appellant's statement of case, supported by specialist witness advice on Heritage and Landscape Matters. As PINs have determined that the Appeal should be considered under the inquiry Process, I have prepared my proof of evidence with regard to the originally submitted Statement of Case and provide supplemental evidence following consideration of the Council's Statement of Case and the discussions at the CMC held on 07 January 2026.
- 1.7. In my evidence I refer to and rely upon the evidence of Mr. Radek Chanas in respect of landscape matters, of Mrs Laura Garcia in respect of heritage matters and Mr Harry Fox in relation to skylark matters.

2. Introduction

- 2.1. My Planning Proof of Evidence has been prepared on behalf of Exagen Development Ltd ('The Appellant') and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall ('the Appeal Site').
- 2.2. The appeal follows the decision of Rushcliffe Borough Council ("RBC") (CD 4.2) to refuse the application for full planning permission (ref. 24/00161/FUL) ("the Planning Application") on the 19th June 2025. The Planning Application relates to a proposed development ("the Appeal Scheme") comprising the following:

"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."

- 2.3. The RBC Planning Committee resolved to refuse the planning application at a meeting held 12th June 2025 against the advice and the recommendation of the Officer's Report to Committee (CD 4.1), 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.
- 2.4. 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.*

- 2.5. I note that a main Statement of Common Ground (SoCG) has been agreed between the Appellant and the LPA on 30th January 2026 (CD8.3A). That statement, along with the Council's Statement of Case (CD 8.4) confirms that the Council does not consider that any harm would arise to the significance of the Grade II listed Manor Farmhouse and that the Council considers that the impact of the proposed development upon the Grade II listed building of Manor Farmhouse would be neutral. Therefore the parties are agreed that impacts on Manor Farmhouse do not form part of the considerations in regard to Reason No 2.
- 2.6. Additionally, it is confirmed that the Council is offering no additional evidence in support of Reason No. 4 on the basis that subject to appropriately wording planning conditions, the control of potential contamination impacts and risks to safety associated with BESS can be mitigated to an acceptable level. This reason for refusal is therefore withdrawn by the Council. Notwithstanding, I have addressed the matter of fire safety in my evidence and include updated NFCC Compliance reports in respect of the Application Scheme and Appeal Scheme at Appendices 1.1 and 1.2 respectively.
- 2.7. Further to the main SoCG (CD 8.3A), separate Landscape (CD 8.3.1A), Heritage (CD 8.3.2A) and Ecology SoCGs (CD 8.3.3) have all been agreed, thereby reducing the scope of matters to be addressed at the inquiry.
- 2.8. Notwithstanding the common position of the parties in regard to the reasons for refusal, I set out in my evidence my considerations in respect of the main issues which I consider to arise from the original reasons for refusal and in doing so I also address matters which are raised by 3rd parties' comments on the appeal.
- 2.9. The Inspector held a Case Management Conference (CMC) on the 7th January 2026. I note that the main matters to be considered arising from the appeal, as confirmed in the inspector's post CMC note, are:
 - Impact on the landscape character and appearance of the area, including nearby public footpaths, having regard to other renewable energy developments nearby.
 - Impact on heritage assets.
 - Impact on skylark.
 - Benefits / planning policy, sequential test & overall planning balance.

- 2.10. Reason for refusal 3 referenced impact on “..protected species including Skylarks”. During the CMC and as outlined in the Ecology SoCG (CD 8.3.3), both parties confirmed that skylarks were the only species potentially affected. I comment further on this at the section on main issues below.
- 2.11. I address the issues referenced above in Section 9 of my evidence below.
- 2.12. My Planning Proof of Evidence addresses the Planning Policy matters raised in the Reasons for Refusal in Section 9. I address the relevant other policies in the development plan in my consideration of the topics which I consider to be other material considerations in Section 10. I address matters raised by third parties at Section 11 of my evidence, with reference to the summary of responses to those issues which I provide as Appendix 5. The overall planning balance is set out along with my conclusions in Section 12.

3. The Appeal Site and its Surroundings

- 3.1. An agreed description of the Appeal Site and its surroundings is set out in the Statement of Common Ground with the LPA (CD 8.3A).
- 3.2. The Appellant's Design and Access Statement (CD 2.2) provides further appraisal of the Appeal Site context in Section 2. I note also that the full Statement of Case (CD 8.2) submitted with the Appellants appeal provided further detailed consideration of the Appeal Site and its surroundings. I rely on that and for brevity do not repeat those sections in my proof.
- 3.3. I note and refer to Mr Chanas' evidence, where he provides comment on the Appeal Site and surrounding, as context to the landscape considerations.
- 3.4. Additionally, I note and refer to Mrs Garcia's evidence, where she provides comment on heritage assets surrounding the Appeal Site, as context to heritage considerations.

4. The Appeal Proposals

- 4.1. 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.”***
- 4.2. An Environmental Impact Assessment (EIA) Screening Opinion Request (ref. 23/O1010/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.
- 4.3. 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 include the cable route beneath the public highway). In the second EIA Screening Opinion (CD 4.5.1), dated June 2025, it was considered, given the same considerations, that the proposal still did not constitute EIA development. This is agreed by the parties at paragraph 7.3 of the SoCG (CD 8.3a).

Main Components

- 4.4. I note that the Appellant’s Full Statement of Case submitted with the appeal provided a detailed description of the Appeal Proposals, which I rely on and do not repeat in this proof of evidence.

Design Flexibility

- 4.5. The Appellant’s SOC (CD 8.2) explains that the Appeal Proposal has employed a 'maximum design scenario' approach which reflects the Rochdale Envelope approach and I support the value of doing so, as explained in the SOC. I agree that the Appellant’s approach to this has been to assess the maximum (and where relevant, minimum) parameters for the elements where flexibility is required ensuring that a worst-case approach has been taken to potential impacts.
- 4.6. Therefore, should the Inspector be minded to allow the appeal, 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 similar appeals including land

adjacent to Harlow Road, Essex (Appeal Ref APP/J1535/W/23/3334690 – CD 7.21). Such conditions are included in the draft conditions list and I consider this to be a suitable and robust approach.

Amendments made as part of the Appeals

- 4.7. 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.
- 4.8. 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).
- 4.9. 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 Enhanced Landscape Strategy (CD 3.6).
 - Provision of additional Skylark mitigation land
- 4.10. A comparison plan illustrating the changes was provided with the appeal submission (CD 3.5).
- 4.11. I note that the details of the amendments proposed as the Appeal Scheme were set out in Section 3 of the Appellant's statement of case (CD 8.2). The Appellant requested that the Inspector takes the revised information submitted under cover of the appeal into consideration in their determination. The changes were consulted on at the time of lodging the appeal in accordance with the Holborn principles.¹
- 4.12. The judgment reached in the Holborn Studios case, refined the 'Wheatcroft principles', set out that two tests will be considered. These are:
1. Whether the proposed amendment involves a "substantial difference" or "fundamental change" to the application; and

¹ R (Holborn Studios Limited) v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

2. Whether, if accepted, the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the appeal.

4.13. The parties agree that the consultation process meets the consultation test created by second aspect of the Holborn principle, as confirmed at paragraph 7.6 of the SoCG (CD 8.3a)..

4.14. I note that the LPA, within their Statement of Case (CD 8.4), asserts that these changes fundamentally alter the nature of the development under consideration at this appeal. This view relates particularly to the introduction of two above-ground fire water storage tanks and the proposed relocation of electrically sensitive solar farm components in four locations. I disagree with this position and maintain that the changes are minor in nature. These changes do not affect the appeal description, are within the location plan red line, and do not affect any conclusions from support documentation considered by the local planning authority as part of the planning application and this subsequent appeal.

4.15. There are a number of recent solar farm appeals where Inspectors have accepted amendments to schemes during the appeal process, concluding that such changes were minor in nature, did not materially alter the proposal, and caused no procedural unfairness or prejudice to interested parties.

Land Located to the South-East of Bottesford (Appeal Ref: APP/Y2430/W/24/3340258) (CD 7.59)

4.16. In this recovered appeal, the Appellant proposed amendments following refusal and prior to the case management conference. These included a reduction of the solar panel extent by approximately 2.2 hectares in one field, relocation of orchard planting, the inclusion of an information board, the addition of hedgerow trees elsewhere on the site, and corrections to reflect existing public rights of way and vegetation. The Inspector described the changes as “relatively minor”, noted that they had been the subject of consultation, and recorded that no objection was raised to their inclusion. The Inspector concluded that the amendments would not materially alter the proposal nor cause prejudice, and therefore determined the appeal on the basis of the amended scheme.

Land North of Canworthy Water, Canworthy Water, Launceston (Appeal Ref: APP/DO840/W/24/3358031) (CD 7.60)

4.17. In this appeal, an amended site layout plan and amended landscape and ecological masterplan were submitted with the appeal. The amendments included additional hedgerow planting, minor repositioning of solar panels, changes to access tracks and fencing, and the removal of panels from areas of archaeological sensitivity. Updated supporting documents and technical material were also provided. The Inspector accepted that, while the amendments introduced changes compared to the scheme considered by the Council, they were not so significant as to fundamentally change the development or result in a substantially different proposal. It was concluded that the Environmental Statement remained valid, that the Council had no concerns with the amended plans being considered, and that there would be no procedural unfairness or prejudice. The appeal was therefore determined on the basis of the amended plans.

Land North of Halloughton, Southwell, Nottinghamshire (Appeal Ref: APP/B3030/W/21/3279533) (CD 7.1)

- 4.18. In this case, the appellant requested that the appeal be determined on the basis of an amended site layout and planting plan. The amendments involved the removal of solar panels and associated infrastructure from two fields, the introduction of additional planting in specific locations, and the creation of a rewilding area, with no change to the site boundary. Following public consultation, the local planning authority confirmed that it had no objection to the appeal being determined on the amended plans. The Inspector concluded that no party would be prejudiced and proceeded to determine the appeal on the basis of the amended drawings.

Appeal Ref: APP/T3725/W/24/3347315 Land to the south of Birmingham Road, Kenilworth and Appeal Ref: APP/Q4625/W/24/3347316 Land to the east of Holly Lane, Meer End, Solihull (Conjoined Appeal) (CD 7.15)

- 4.19. These appeals, relating to a solar farm and battery storage scheme which formed a single scheme and were dealt with by Inspector Major as a single proposal, although the two elements fell across 2 local planning authority areas.
- 4.20. The proposal was subject of amendments made at the appeal stage, including the provision of 2 No. water storage tanks of 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, adjustments to the surface water drainage strategy, amended access arrangements, minor change to the red line boundary and inclusion of additional planting.
- 4.21. In the decision, the Inspector confirmed that the proposals were minor, dealing with matters raised in consideration of the original applications and that no parties had been prejudice following the consultation undertaken. The revisions were accepted for consideration in the appeals and the appeals were allowed.
- 4.22. The Appellant considers that the potential scheme amendments would not constitute a substantial difference or fundamental change to the application. The Description of Development initially applied for by the Appellant to RBC would not require changes to accommodate the amendments. The changes proposed fall within the scope of that which has been seen as acceptable elsewhere, including the introduction of the same size of water tanks at the Kenilworth/Solihull appeal referenced above (CD 7.15). The changes have been considered by the landscape and heritage witnesses and do not introduce additional adverse environmental effects on landscape or heritage matters. The changes are considered to fall well within the scope of the 'substantive limitations' on powers to amend planning permissions that are referred to in the Holborn Studios case.
- 4.23. Regarding procedural fairness, further consultation was 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 Enhanced Landscape Strategy plans (CD 3.6).
- 4.24. Furthermore, these potential scheme amendments put forward as part of the appeal submission, means that landowners to whom notice is served pursuant to Articles 13 and 36 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 will be made aware of potential scheme amendments. In addition to the Appellants own consultation process, interested people have also been notified by the LPA of the appeal, inviting them to submit representations, through which any views and comments on

the potential scheme amendments can be made. Therefore, it is not considered that there is any procedural unfairness to anyone involved in the appeal through proposing these potential minor scheme amendments.

- 4.25. The Appeal Scheme maintains the elements of the original Application Scheme in accordance with the description of development. It remains a renewable energy park comprising solar PV and co-located battery energy storage. The point of connection is unchanged. The Appeal Scheme will maintain the level of renewable energy generation and benefits of the Application Scheme.
- 4.26. In light of the limited degree of change proposed by the amended scheme, I conclude that the proposed changes are minor in nature and do not result in a development which is substantially different from that applied for. The amendments to the proposal are minor and go towards addressing the reasons for refusal. This is similar to the finding in the *Bramley Solar Farm Residents Group Vs SoS DLGC* ([2023] EWHC 2842 (Admin) CD 7.36). I also consider that the consultation undertaken ensured that no party is prejudiced by the consideration of the amendment as the Appeal Proposal.
- 4.27. Nevertheless, for completeness, the original scheme which I will refer to as the “*Application Scheme*” will continue to be referenced in my evidence and considered alongside the amended scheme, which I will refer to as the “*Appeal Scheme*”, to ensure both scenarios for development are comprehensively addressed, should the appeal be allowed.

Appeal Proposal Benefits

- 4.28. I consider that the principal benefits of the Appeal Proposal arise from both the Application and Appeal Schemes and in summary I note that these benefits 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 CO₂ per annum².
 - 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

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 49.9GWh of generation per year.

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.
- Substantial Biodiversity Net Gain across the Appeal Site through the provision of new hedgerows, trees and woodland, the retention of field margins, and the creation of wildflower meadow and wet meadow grassland habitats. The revised net biodiversity net gain metric confirms net gains of 73.60% in habitat units, 60.77% in hedgerow units and 14.40% in watercourse units (CD 3.81). 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 PRow 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 the 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 and other small mammals 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. During the operational period of the proposal the solar park will maintain agricultural production from the site through the inclusion of sheep grazing alongside the biodiversity gain and renewable energy generation.
- Rural diversification;
- 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.

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

5. Planning History

- 5.1. 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 OO/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 |
- 5.2. The planning history outlined above is reflective of the Appeal Site's status as being safeguarded for future mineral (gypsum) extraction. I note that the Council's SOC (CD 8.4) refers to this at paragraph 3.5.5 and I consider this further in my policy analysis and consideration of other material considerations.
- 5.3. I also note that details regarding planning applications for the land surrounding the Appeal Site are summarised within the submitted Planning Statement (CD 2.4 – CD 2.4.1).
- 5.4. 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 (Application ref 22/00303/FUL).
- 5.5. Other applications in the immediate vicinity largely comprise householder applications or applications for mixed-use development for residential, agricultural and other similar uses.

6. Planning Policy Framework

- 6.1. In this section of my evidence, I identify the planning policies and guidance that will be of most relevance to the determination of this Appeal.

The Development Plan

- 6.2. 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.
- 6.3. I set out below the policies applicable to the Appeal Proposal, as referenced within the Planning Officers Committee report (CD 4.1), and the Reasons for Refusal stated in the Decision Notice (CD 4.2).

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

RBC Decision Notice (CD 4.2)

- 6.4. 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
- 6.5. 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
- 6.6. 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)

6.7. 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

6.8. 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

6.9. I note that the Council have identified in correspondence that Policy 17 of LLP1 was not referred to in the Decision Notice (CD 4.2) but the Council state that this policy was covered in the Council's Statement of Case (CD 8.4). I address this policy in my consideration of the Skylark and ecology matters below.

6.10. 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

- 6.11. My 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 Proof of Evidence, and in the Proofs of Evidence in respect of Landscape, Heritage, Ecology and in my consideration of Fire Safety and Battery Energy Storage Matters.

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 2025) (CD 5.55)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2025) (CD 5.56)
- 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)

6.12. I note that on 16th December 2025 the Government published a revised NPPF for consultation purposes (CD 5.57). As the Draft Framework is open for consultation until 10th March 2026 and there is no information on when any final changes would be incorporated into a revised version of the NPPF, I consider that the policies carry only limited weight, however I have had regard to this new policy. I provide comment at relevant points in my evidence below and I have also provided at Appendix 2 a summary of the main aspects of the Draft Framework which I consider to be of particular relevance to the appeal.

Supplementary Planning Guidance and Documents

6.13. 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 (CD 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)

7. Need for the Appeal Proposal

- 7.1. I rely on the outline of the urgent and substantial need for the Appeal Proposal provided at Section 7 of the Appellant's Full Statement of Case (CD 8.2).
- 7.2. I note that paragraph 168a of the NPPF (CD 4.2) confirms that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy. Notwithstanding, the need for solar power and BESS is both established and compelling. In my evidence I refer to the following in addition to the policy referred to above.

UK Legislation and Policy

- Climate Change Act 2008; (CD 5.8)
- Climate Change Act (2050 target amendment) Order 2019; (CD 5.9)
- Clean Growth Strategy (2017) (CD 5.10)
- Department for Business, Energy and Industrial Strategy (BEIS) Outcome Delivery Plan (2021) (CD 5.39)
- The Sixth Carbon Budget: The UK's path to Net Zero (2020) (CD 5.40)
- The Ten Point Plan for a Green Industrial Revolution (2020) (CD 5.41)
- Industrial Decarbonisation Strategy (2021) (CD 5.42)
- UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019 (CD 5.11)
- Energy White Paper: Powering our Net Zero Future published in December 2020; (CD 5.12)
- 'Achieving Net Zero' published by the National Audit Office in December 2020 (CD 5.16)
- Net Zero Strategy: Build Back Greener, dated October 2021 (CD 5.17)
- British Energy Security Strategy, dated 7 April 2022 (CD 5.18)
- 'Powering up Britain' suite of documentation, dated March 2023; (CD 5.20)
- 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)

Climate Change Emergency

- 7.3. The UK’s ‘Climate emergency’ declaration provides further context for this Appeal (Core Documents CD 4.50).
- 7.4. Rushcliffe Borough Council 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 (CD 6.4), and Carbon Management Plan (2020) (CD 6.7) 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. It is stated that 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. 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.
- 7.5. The Appeal Proposal would support the intentions of these declarations.

Summary

- 7.6. The above matters emphasise the immediate and pressing need for deployment of both renewable energy generation and energy storage infrastructure in the UK, to assist with meeting the challenging, legally binding, obligations to reach “net zero” by 2050. It is clear that the continued deployment of Solar PV, and low carbon technologies more generally, are and have been consistently recognised by the Government as a key part of the UK’s transition to achieving a low carbon economy and tackling Climate Change.
- 7.7. Having regard to the above, the Application and Appeal Proposals make an appreciable contribution to meeting the amended Climate Change 2008 targets. It is clear that in order for the UK to meet the ambitious target of reducing greenhouse gas emissions by 100% or “net zero” compared to 1990 levels by 2050, a presumption in favour of increasing the number and output of low carbon energy sources, such as solar farms, is entirely appropriate and necessary.

- 7.8. The application of the Government's energy policy framework is a highly significant material consideration to this Appeal and is further considered in the balance of material considerations at Section 9 of my Evidence. This is complemented by national planning policy in the NPPF (CD 5.1), the NPPG (CD 5.2) and the NPS documents EN-1 (CD 5.55) and EN-3 (CD 5.56).

8. Case for the Appellant

- 8.1. Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the LPA's full reasons for the refusal, specifying all policies and proposals in the Development Plan which are relevant to the decision.
- 8.2. I have noted that the RBC Planning Committee resolved to refuse the planning application at a meeting held on the 12th June 2025 against the advice and the recommendation of the Officer's Report to Committee (CD 4.1), which was that planning permission should be granted subject to the imposition of 23no. planning conditions. The advice of the LPA's Officer to the Planning Committee 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.
- 8.3. 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 2 above.
- 8.4. As previously I have noted the Council does not consider that any harm would arise to the significance of the Grade II listed Manor Farmhouse and that the Council considers that the impact of the proposed development upon the Grade II listed building of Manor Farmhouse would be neutral. Therefore, the parties are agreed that impacts on Manor Farmhouse do not form part of the considerations in regard to Reason No 2, as confirmed in the SoCG (CD 8.3A).
- 8.5. Additionally, the Council is offering no additional evidence in support of Reason No. 4 on the basis that subject to appropriately wording planning conditions, the control of potential contamination impacts and risks to safety from the BESS can be mitigated to an acceptable level. This reason for refusal is therefore withdrawn by the Council, as confirmed in the SoCG (CD 8.3A).
- 8.6. I set out my evidence for the case for the Appellant in this section which responds to the Main Issues identified in the Inspector's CMC note.
- 8.7. As I have noted above these main issues are:
- Issue 1 – Impact on the landscape character and appearance of the area, including nearby public footpaths, having regard to other renewable energy developments nearby.
- Issue 2 – Impact on heritage assets.
- Issue 3 – Impact on skylark.
- Issue 4 – Benefits / planning policy, sequential test & overall planning balance.
- 8.8. In considering these issues, I draw on the detailed Proofs of Evidence on Landscape Matters, Heritage Matters and Ecology Matters.

Main Issues

Issue 1 – Impact Upon Landscape Character and Appearance

- 8.9. 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).***
- 8.10. The Appeal 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 Appeal Site is not constrained by any landscape designations that relate to its value or scenic beauty.
- 8.11. 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).
- 8.12. 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 , as also acknowledged in EN 1 (CD 5.55 para 3.3.61) and the NPPF (CD 5.1 – para 168) , it is considered acceptable.
- 8.13. 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).
- 8.14. 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).
- 8.15. Landscape mitigation for both the Application Scheme and the Appeal Scheme has been fully established with measures such as offset from the site boundaries and a considerable amount of woodland and tree planting which assist in reducing the adverse effects and

allowing the development to be assimilated into the receiving environment without any residual undue harm.

- 8.16. 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.”

- 8.17. Particular factors identified in the NPPG which 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 Application Scheme and Appeal Scheme as it would be for a temporary period for up to 40 years after which the Appeal 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.

- 8.18. I note that in relation to the effects on landscape features, Mr Chanas identifies beneficial effects on land cover, trees and hedges and comments that these beneficial effects will mature and provide beneficial legacy as advocated by the Landscape Character Assessments.

- 8.19. The Council’s first reason for refusal states that the Application Scheme would have an industrialising effect and the Council’s SOC states that the development would result in a

“large-scale and complex industrial facility, with reduced openness and tranquillity”.

- 8.20. Contrary to this I would agree with Mr Chanas who comments that the change in landscape character of the Appeal Site would be:

“from a series of arable fields to one of a solar farm set within pastoral grassland and structural vegetation with BESS and substation compound also set within pastoral grassland and structural vegetation. However, the elements that currently contribute to defining the character of the Appeal Site, namely trees and hedgerows would be retained and enhanced to form a more robust collection of landscape elements.”

- 8.21. Unlike industrial development, following construction and in operation the Application Scheme and Appeal Scheme would differ significantly from industrial development. In physical terms the development would be low lying, with the solar panels not exceeding 3m in height and the scheme would sit lightly in the environment. There would be no dust, fumes or emissions from the development and noise generation would be low. Levels of traffic generation would be low, with no requirement for large HGV vehicles and no daily arrival or departures of employees to/from the site. My view that the proposal does not introduce an industrial form of development into the countryside is also supported by Government policy and other appeal decisions.

- 8.22. The potential industrialising effect of solar development is also considered in the “Solar Misconceptions” set out by the Government in the Appendix II of the Solar Roadmap (CD

5.38.3). In response to the misconception that “Solar is industrialising in the countryside”, the Government’s response states that:

“Solar farms are carefully designed to have a minimal visual impact. They can usually be easily screened by hedges and other vegetation, and visual impact is carefully considered during the planning process. They operate almost silently, without pollution, and once operational generate very little maintenance traffic.”

8.23. I am conscious of the policy in the NPS which states in EN3, at paragraph 2.10.28 (CD 5.56) that ***“potential solar farm sites are largely in rural areas”***.

8.24. A number of Planning Inspectors have also found that solar farm development does not have an industrialising effect. At a solar proposal to the East of Denchworth, Oxfordshire (CD 7.61 – Appeal ref APP/V3120/W/24/3356504) the Inspector found at paragraph 11:

“The proposed layout has used the existing field pattern and is set within the hedgerow boundaries. The solar panels themselves would essentially be placed on the fields, with little change in surfacing needed throughout the development as proposed. The solar farm would appear as a development within fields, where the agricultural fields and their historic layout would still be discernible. The Council has described the development as industrial in character, but this is a proposed development which would have a ‘light footprint’ on the land and would also be generally reversible after decommissioning. As such, though there would be a change in character to these fields and to the eastern side of Denchworth, this is not an industrial proposal where the fields would be lost. Indeed, grazing of sheep would still take place within the site, typical of agricultural land.”

8.25. It is confirmed in Mr Chanas’ evidence that in relation to landscape character “the Proposed Development would bring about a low degree of change resulting in minor adverse 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.”

8.26. Overall Mr Chanas considers the effects on landscape character to be minor adverse as it applies to the host Draft Policy Zone NW01 ‘Gotham and West Leake Wooded Hills and Scarps’ only. The identified effects would be temporary and reversible and only the positive effects of the landscape enhancements could remain beyond the decommissioning of the Appeal Scheme. 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 I consider the Appeal Scheme is in accordance with the development plan and the NPPF in this regard.

8.27. When considering the Application Scheme, I still considered that 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 I consider the Application Scheme is also in accordance with the development plan and the NPPF in this regard.

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

8.28. 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.

- 8.29. 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 regard 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 Appeal 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.
- 8.30. 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.
- 8.31. 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.
- 8.32. The temporary nature of the Application and Appeal Proposals 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.
- 8.33. Further detailed consideration of the cumulative effects of the Appeal scheme and the Highfield Solar Farm is provided within the Landscape Proof of Evidence. 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.
- 8.34. These findings equally apply to the Application Scheme, given that the amendments represent only minor changes.

Impact upon users of nearby PRowS

- 8.35. 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”***.
- 8.36. This is contrary to the view of the Nottinghamshire County Council Rights of Way Officer who raised 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).

8.37. 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)

8.38. 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).**

8.39. 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 (as illustrated in the cross sections provided in Appendix 2 of Mr Chanas’ proof of evidence). 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).

8.40. 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”.**

8.41. It is confirmed in the Landscape Proof of Evidence 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 Site 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 (CD 2012).

8.42. 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.

8.43. 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.

- 8.44. 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.
- 8.45. Ultimately, simultaneous cumulative views would occur only along the elevated section of Costock FP4 and views would be interrupted by the intervening vegetation.
- 8.46. 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.

Effects on Residential Receptors

- 8.47. Mr Chanas' evidence considers the effects on residential properties, concluding that only 2 properties would have views affected in the first year of the development and that these views would be distant and filtered by intervening trees, resulting in at worst moderate adverse effects in winter. As the mitigation planting matures over the early years of the operation of the development, Mr Chanas assesses that these effects would reduce to negligible residual effects at year 15. In light of the acceptable level of effects on landscape matters, including cumulative effects, I conclude that the Appeal Scheme accords with the requirements of Policy 10 of LLP1 and Policies 1, 16, 22 and 34 of LPP2 and national policy in the NPPF.
- 8.48. When considering the Application Scheme, I still consider that it accords with the requirements of Policy 10 of LLP1 and Policies 1, 16, 22 and 34 of LPP2 and national policy in the NPPF.

Issue 2 – Impact on Heritage Assets

- 8.49. 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).
- 8.50. In my consideration of this issue I refer to the evidence of Ms Garcia.
- 8.51. It is confirmed in within the Heritage SoCG (CD 8.3.2a) and Main SoCG (CD 8.3a) that the Council does not consider that any harm would arise to the significance of the Grade II listed Manor Farmhouse and that the Council considers that the impact of the proposed development upon the Grade II listed building of Manor Farmhouse would be neutral. Additionally it is agreed that Archaeology does not form part of the Reason for Refusal for this Appeal Scheme.
- 8.52. I note that the Officers Committee Report highlights that both Historic England and Conservation officer concluded that the Application Scheme 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 Application Scheme.

- 8.53. As set out in Chapter 7 of my Proof of Evidence, the need for the development reflects the national significance of the Appeal and Application Schemes in supporting the achievement of climate objectives.
- 8.54. 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, I conclude that the public benefits arising from the proposed development demonstrably outweigh the level of harm identified in relation to the affected heritage assets.
- 8.55. 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 on to outline how development be designed in a way that conserves locally and nationally important heritage assets and preserves or enhances their settings.
- 8.56. 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, I conclude that the proposals are in accordance with policy 1 of the LPP2.
- 8.57. 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.
- 8.58. 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).***
- 8.59. The planning application was supported by a Heritage Statement (CD 8.2.2) and the appeal includes a further Heritage Proof of Evidence addressing matters raised in the heritage reason for refusal.
- 8.60. With regard to the heritage assets identified in the reason for refusal, the Ms Garcia’s Heritage Proof of Evidence 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 Proof of Evidence 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.
- 8.61. The further asset considered in the Heritage Proof of Evidence is the Wysall Conservation Area. Ms Garcia’s evidence provides consideration of the character and appearance of 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 Appeal 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”*.

8.62. In accordance with the policy requirements in Policy 10 of LPP1 and Policy 28 of LPP2, the Appeal Scheme 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.

8.63. 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.”

8.64. In line with Paragraph 215 of the NPPF, it is acknowledged that the Appeal Scheme would result in less than substantial harm to the significance of a designated heritage asset. I also note that the proposal is time limited, particularly in the context of the lifespan of heritage assets. I consider this to be a factor mitigating the harm. 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, provides an essential service in the transition to a low-carbon future and will contribute to the national policy objective of achieving energy security. These substantial public benefits are considered to decisively outweigh the limited heritage harm identified.

8.65. Given that the proposed appeal amendments are minor, I consider that the findings remain unchanged for the Application Scheme. Accordingly, the Application Scheme would also only result in less than substantial harm (at the lower end of the scale) to the significance of the conservation area, and no harm to the other listed heritage assets, and the substantial public benefits are deemed to decisively outweigh the limited heritage harm identified.

Issue 3 – Impact upon Skylark

8.66. 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).

- 8.67. I note it is agreed in the SoCG (CD 8.3a – paragraph 7.33) that the effect of the proposals on protected species other than Skylarks are acceptable.
- 8.68. 'I refer to the detailed response to this reason for refusal is provided within the Skylark Proof of Evidence of Mr Fox.
- 8.69. Mr Fox concludes within the Skylark Proof of Evidence that the low number of skylark territories (6) anticipated to be displaced by the Application Scheme, with its embedded mitigation, results 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.
- 8.70. 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, as with all birds species they are protected under the Wildlife and Countryside Act 1981.
- 8.71. Therefore, a range of mitigation measures were included in the Application Scheme 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.
- 8.72. 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. Through the Appeal Scheme a further 6.75ha of land is available for skylark 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 within levels expected for natural fluctuations year to year. This area is identified within the Enhanced Landscape Strategy Plan, to the east of field 10 and Lodge Farm, between the Northern site and Bradmore Road, adjacent to the red line in land under control of the Appellant. (CD 3.6 – drawing ref P25-1631_EN_02E)
- 8.73. These mitigation measures for both the Appeal and Application Schemes would prevent significant adverse effects on the local Skylark population, and therefore the proposals would accord with Strategic Policy 17 of LPP1 and 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.
- 8.74. Additionally with these mitigation measures along with reasonable avoidance measures secured by condition, it is considered in the Officers Committee Report (CD 4.1) the conflict

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

- 8.75. 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.
- 8.76. I consider 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 Application and Appeal Schemes would be in accordance with Policy 16 and 38 of the LPP2 and the NPPF.

Issue 4 – Benefits / Planning Policy, Sequential Test & Overall Planning Balance

Benefits

- 8.77. I have set out a summary of what I see to be the key benefits of the Appeal Scheme at Section 4 of my evidence above. I further discuss the benefits and the weight I have accorded to each aspect in the planning balance section of my evidence in Section 10 below.

Flood Risk and the Sequential Test

- 8.78. I note that Flood risk is not a reason for refusal but has been raised latterly by RBC as part of the appeal process in respect of compliance with the sequential test for flood risk.
- 8.79. Paragraphs 29 and 30 of RBC Committee report (CD4.1) confirms no objection from Nottinghamshire County Council (as the Lead Local Flood Authority) and the Environment Agency. In the comments from the Environment Agency the proposed access road over watercourses, including Kingston Brook, is acknowledged, accepted and advice provided regarding other consents (in addition to planning permission) that may be necessary.
- 8.80. Paragraphs 127 to 142 of RBC’s committee reports considers flood risk and concludes *“Subject to a condition to secure the recommendations detailed in the report, the proposal is considered to be acceptable in relation to surface water management and flood risk and would accord with policies 17, 18 and 19 LPP2”*. I agree with this conclusion.
- 8.81. I note that agreed flood risk matters are considered from paragraph 7.34 of the SoCG (CD 8.3a) and it is confirmed at paragraph 7.39 that:
- “It is agreed that the Council’s concerns in relation to flood risk and drainage relate solely to the application of the sequential test.”*
- 8.82. I understand this to be the Council’s position in relation to both the Application Scheme and the Appeal Scheme.
- 8.83. I also note that the recently approved adjoining solar farm and BESS development, 22/00303/FUL, proposed a new access and culvert over Kingston Brook. RBC raised no objection to this before planning permission was granted.

- 8.84. As part of this appeal a sequential test and exception test has been undertaken and submitted as evidence based on amendments proposed as part of the Appeal Scheme (CD 3.11). In conclusion, the Sequential Assessment and Exception Test demonstrates the Appeal Site is suitable for the Proposed Development. No alternative 'reasonably available' sites within the 3km buffer of the 132kV overhead line have been identified through the Sequential Test. This is primarily due to significant constraints within the buffer area, particularly to the west. Furthermore, the nature of the proposed infrastructure necessitates existing, suitable access to the highway network to ensure the safe and efficient movement of construction vehicles during the build phase of the Development. These requirements further limit the number of viable alternative sites. Those that do exist, appear to be comparable to the Appeal Site in terms of constraints and development suitability, offering no clear advantage.
- 8.85. I note that whilst the Sequential Assessment and Exception Test submitted as part of the appeal related to the amended Appeal Scheme, the conclusions of the assessment set out in Section 4 of the report (CD 3.11) apply equally to the Application Scheme. Irrespective of the scheme considered, given the similarity of the proposals:
- There are no suitable or available brownfield sites to accommodate the proposal.
 - Three greenfield sites and four broad areas of search identified on Figure 4 of the Sequential Test report (CD 3.11) do not represent sequentially preferable locations.
 - There are no other suitable and available sites to accommodate the proposal in sequentially preferable locations.
- 8.86. Notwithstanding the above points, even if it were determined that an alternative site were suitable to accommodate the proposal, as set out in the Sequential Test report the current position in respect of available grid connections means that an alternative site would not be in a position to connect to the grid in the same timescale as the Appeal Scheme and would not contribute to the urgent need for new renewable energy generation prior to 2030, as set out in the Clean Power 2030 Action Plan. It is confirmed that the solar element of the Appeal Scheme has received a NESO Gate 2 Phase 1 grid offer and therefore has a grid connection date prior to 2030. The BESS connection is proposed for a further phase.
- 8.87. Layout of the Appeal Scheme has taken a sequential approach with greater vulnerability infrastructure (sensitive equipment) including inverters, auxiliary transformers, BESS and substation located in low risk flood zone 1 and only cover a small percentage of the Appeal Site. Whilst the access to the southern parcel involves crossing medium-risk flood zone 2 and high-risk flood zone 3, it will utilise an existing access and bridge used to access this land. Alternative vehicular access points for the Southern Parcel have been considered but are not available as set out in the Sequential Test Report.
- 8.88. Additionally, it has been demonstrated that the Development would remain operational and safe during flood events. This is because none of the infrastructure classified as having greater vulnerability is located within medium-risk Flood Zone 2 or high-risk Flood Zone 3, nor within areas identified as being at risk of surface water flooding according to the RoFSW dataset. Furthermore, a range of sustainable drainage measures has been incorporated into the scheme to effectively manage surface water and reduce flood risk.

- 8.89. The site would be within 10 metres of the Kingston Brook. However, this relates only to the access arrangements to the southern parcel of the land and connectivity to the existing pylon therein which sits adjacent to the Brook. There are other parts of the Development which fall within a 10m buffer to a watercourse. However, these are small land drainage ditch/streams free of built development and the panels themselves. Further, as the watercourses themselves are free from built form, the proposal for the buffers adjacent to these watercourses include long term landscape provision and ecological management plans that can be secured by a planning condition(s).
- 8.90. The Appellant has provided information on the consideration of alternative access arrangements to avoid flood zone 2/3 and stated that no alternative could be found due to access between the north and south parcels being through 3rd party land, with the owners not interested in granting rights of easement. Access options to the west were discounted due to this being through the consented solar farm site, and access from the east was unavailable due to the existing village. Alternative access from the south would involve crossing the Kingston Brook which runs parallel with the southern boundary and the Development utilises an existing access and crossing over the Kingston Brook.
- 8.91. It has also been demonstrated that the Development would deliver a range of wider sustainability benefits to the community. These include economic sustainability through job creation and investment; farm diversification, social sustainability by supporting local infrastructure and enhancing energy resilience; and environmental sustainability through biodiversity and landscape improvements, alongside the generation of low-carbon energy.
- 8.92. I consider that the Development complies with Policy 17, Policy 18 and Policy 19 of the LPP2 as well as the Council's solar farm planning guidance with regards flood risk and drainage.
- 8.93. Ultimately, it can be concluded that the Development has passed both the Sequential and Exception Tests and therefore the Development is acceptable in relation to flood risk.
- 8.94. Notwithstanding the agreement of the Council that flood risk and drainage matters other than the sequential test are acceptable, I have nevertheless considered flood risk and drainage against the most up-to-date flood risk evidence from the Environment Agency, relevant policies from the local plan as well as national policy and guidance. I refer to the updated FRA and Surface Water Drainage Strategy submitted with the Appeal (CD 3.7). That document was prepared in light of publication of revised EA Flood Mapping in March 2025 and it is concluded in respect of the Appeal Scheme that
- "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."*
- 8.95. In the event that the Inspector is minded to consider the Application Scheme rather than the Appeal Scheme, I attach at Appendix 3 a further FRA addendum note which has been prepared to consider the Application Scheme in light of the revised EA Flood Mapping. It is similarly confirmed in this note that the Application Scheme is suitable in respect of flood risk, will suitably address drainage from the development and will not result in an increase in flood risk elsewhere, subject to the mitigation suggested at paragraph 3.3 of Appendix 3. This mitigation proposes raising the sensitive infrastructure by 500 to 600mm above existing ground levels. This mitigation would have a no discernible effect on the wider scheme in terms of landscape and heritage impacts.

- 8.96. Should the Inspector disagree with the Appellant that the Sequential Test is passed, I refer to the Mead judgment ([2024] EWHC 279), (CD 7.62) which established that failure to comply with the Sequential Test is not necessarily fatal to an application. The Mead decision clarified that paragraph 162 of the NPPF is deliberately broad, requiring decision-makers to exercise judgement in identifying what constitutes "reasonably available" and "appropriate" alternative sites. It also confirmed that general housing shortfalls are not, in themselves, a reason to bypass the Sequential Test — but that where there is a specific, evidenced need for a particular form or timing of development, this may legitimately influence the assessment.
- 8.97. Crucially, Mead emphasised that the NPPF is not a rulebook. As Mr Justice Holgate stated:
- "The policy objective is to direct development away from areas at highest risk, not to preclude development altogether."*
- 8.98. In the recent Yatton appeal (7.63 – APP/D0121/W/24/3343144) the Inspector acknowledged the failure of the Sequential Test but emphasised that it did not, in itself, justify a refusal. The Inspector considered that a rigid application of the test, in the face of urgent housing need and the site's relatively low flood hazard (with a long lead time to flood onset), would be disproportionate. This aligns with the principle from Mead that flood risk policy should be applied with flexibility and discretion, especially where other material considerations weigh heavily in favour of development as is the case with this appeal.
- 8.99. Since the Yatton appeal, a High Court's judgment in Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government and Lancaster City Council from January 2026 ([2026] EWHC 51 (Admin) – CD 7.64) has quashed an Inspector's decision to refuse planning permission for two linked appeals at Bailrigg Lane, Lancaster, including a proposal for up to 644 homes. It did not do so because the Inspector was wrong to require a Sequential Test, nor because flood risk policy was misdirected in principle. Reading the decision letter as a whole, the Court found that the Inspector treated the absence of a Sequential Test as fatal, without carrying out a lawful and meaningful planning balance under section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 8.100. In practical terms, the Inspector appeared to stop once she had identified a policy breach capable of being a "clear reason" for refusal under footnote 7 to the National Planning Policy Framework. The Court held that this was a mechanistic approach and therefore unlawful.
- 8.101. I refer to Section 8 of my proof that sets the benefits and overall balance that, in my opinion, would outweigh conflict with the Sequential Test, were this to be found.

Fire Safety

- 8.102. Reason for Refusal four outlined within the decision notice outlines the following:

"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" (CD4.2).

- 8.103. I note that RBC have withdrawn this reason for refusal, as confirmed in the SoCG para 7.44 (CD 8.3a). it is confirmed by the Council that the matter can be satisfactorily addressed through planning conditions.
- 8.104. Nevertheless, I reaffirm that the Proposed Development is safe. Paragraph 31 of RBC's committee report (CD 4.1) confirms there were no objections from Nottinghamshire Fire and Rescue Service and suggested pre-commencement condition for a Risk Management Plan and Emergency Response Plan. Paragraphs 143 to 148 of RBC's Committee report sets out that fire safety is satisfactorily addressed. I agree with this conclusion and can that confirm the requested Risk Management Plan and Emergency Response Plan pre-commencement condition is still acceptable to the Appellant, which will provide further fire safety safeguards.
- 8.105. I provide further consideration of the Fire Safety matters at Section 9: Other Material Planning Considerations and an updated Fire Safety NFCC compliance statements in respect of the Application Scheme and the Appeal Scheme, at Appendix 1.1 and 1.2 respectively.

Development Plan Policy

- 8.106. I provide commentary on the Development Plan Policies referred to in the reasons for refusal under the main issues for the landscape, heritage and skylark matters considered above. However I also provide below comment on the Policy 2 of LPP1 and Policy 16 of LPP2, which I consider to be the key policies for determination of the application. Following this, I also provide below additional summary comments on those policies referred to in the reasons for refusal. The Council have produced Supplementary Planning Guidance (SPG) with specific reference to Solar Farm Development (CD 6.5). This outlines the Council's underlying positive approach acknowledging the Government's national objectives for a fourfold increase in the use of 'clean electricity generation' from renewable technologies such as solar photovoltaics.
- 8.107. The SPG provides the policy context for stand alone solar schemes of up to 50MW in Rushcliffe. It notes that the key strategic policy in this regard is Policy 2 of LPP1 and Policy 16 of LPP2. The SPG then proceeds to review the key matters which the Council consider to be "Key Material Planning Considerations" for the determination of applications to which the guidance is directed. These topics being:
- Green Belt Policy
 - Landscape & Visual Impacts
 - Ecology & Biodiversity
 - Best Most Versatile Agricultural Land (BMV)
 - Historic Environment
 - Open Space, Green Infrastructure Network & Other Recreational Uses
 - Site and Internal Access
 - Grid Connection & Potential Generating Profile
 - Form and Siting
 - Decommissioning and Restoration
 - Cumulative Impacts

- Amenity, Pollution, Glint and Glare & Safety
- Flood Risk & Drainage
- Minerals Safeguarding
- Site Security (fencing and CCTV)

- 8.108. I consider the main development plan policy for the determination of Policy 16 of the Local Plan Part 2 (LPP2). I note that the criteria of this policy reflect the majority of the considerations set out in the SPG. The policy confirms the Council's positive approach to Renewable Energy development, stating that planning permission would be granted where the proposal is acceptable in terms of a range of matters.
- 8.109. The supporting text to the policy outlines the basis for the policy, acknowledging that Core Strategy Policy 2 states that decentralised renewable and low carbon energy scheme will be promoted and encouraged where they are compatible with environmental, heritage, landscape and other planning considerations. Such considerations are covered by LPP2 Policy 16.
- 8.110. I note that the local plan paragraph 5.8 states that Policy 16:
- “acts as a checklist and sign post which should be used to determine whether proposals are acceptable or not. If proposals are not acceptable in terms of one or more of the identified factors, a decision will be taken balancing the benefits and impacts of the proposal. The more significant the impact, the more likely it is that planning permission would be refused.”*
- 8.111. It is clear therefore that the intent of the Local Plan is that impacts of the proposal are balanced against the benefits and the policy provides for impacts to be acceptable. The policy does not require no impact. I consider this approach to be in accordance with national policy, as required by Paragraph 11 of the NPPF.
- 8.112. Policy 16 does not attempt to define the types of impacts that will be acceptable. That matter is left to the judgment of the decision-maker. In my view, it cannot sensibly be suggested that Policy 16 requires proposals for renewable energy to cause no adverse impacts at all. Renewable energy schemes are always likely to result in some adverse impacts, for example, to the landscape or visual amenity of the area in which they are located. If they are to come forward as required to meet the urgent national need, local planning authorities will plainly have to accept that at least some adverse impacts are acceptable.
- 8.113. When considering compliance with **Policy 16**, I note that the policy is positively worded to confirm that proposals will be granted planning permission where each element of the policy can be addressed. I comment on these matters with reference to the Application and Appeal Schemes as follows:

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
a) Compliance with Green Belt Policy.	The Appeal Site does not involve any greenbelt land.	<ul style="list-style-type: none"> • Core Strategy Policy 2 • Core Strategy Policy 4

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
		<ul style="list-style-type: none"> LPP Policy 21
b) Landscape and Visual Effects.	Visual effects of the Appeal Scheme are very localised due to existing and proposed screening. This is discussed in the Evidence provided by Mr Chanas. In my view, these effects are “acceptable” (per the policy wording) given they have been minimised as far as practicable and in light of the need for and benefits of the Appeal Scheme.	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 4 Core Strategy Policy 16 LPP Policy 34
c) Ecology and Biodiversity.	<p>There are no designated or non-designated ecology sites within the Appeal Site and no significant adverse effects on any such sites are anticipated as a result of the Appeal Scheme. The effects on Skylarks are addressed in the evidence of Mr Fox and it is common ground that the effects on other species are acceptable (SoCG – CD 8.3a)</p> <p>A significant net gain in biodiversity of 81.94% for habitats and 66.24 % for hedgerows for the Application Scheme and 73.69% for habitats and 60.77% for hedgerows for the Appeal Scheme will occur with the implementation of the Landscape Mitigation Plan and Enhanced Landscape Mitigation Plan.</p>	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 16 Core Strategy Policy 17 LPP Policy 36 LPP Policy 37 LPP Policy 38
d) Best and Most Versatile Agricultural Land.	The site is confirmed as being the majority Grade 3b and remaining area being Grade 4 agricultural land and therefore the proposal does not have any effect on BMV agricultural land (which is Grades 1, 2 and 3a).	<ul style="list-style-type: none"> Core Strategy Policy 1 Core Strategy Policy 2

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
e) The Historic Environment.	<p>I refer to the evidence of Ms Garcia. As set out under Issue 2 above, I consider that the less than substantial harm to Wysall Conservation Area is outweighed by the substantial public benefits.</p> <p>It is common ground that the Appeal Scheme has an acceptable effect on Archaeology.</p>	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 11 LPP Policy 28 LPP Policy 29
f) Open Space and Other Recreational Uses.	Green infrastructure across the Appeal Site is retained, protected and enhanced where practicable and PROWs will remain open and fully functional during construction and operation of the Appeal Scheme.	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 16 Core Strategy Policy 17 LPP Policy 34
g) Amenity of Nearby Properties.	There are no significant impacts on the amenity of nearby properties once mitigation is taken into account.	<ul style="list-style-type: none"> Core Strategy Policy 2
h) Grid Connection.	The Appeal Site has a viable Grid Connection which is within the southern parcel of the Appeal Site. The Appellant has secured a grid connection offer for the solar farm and the BESS. NESO have confirmed that the solar connection is allocated a Gate 2 Phase 1 offer (pre 2030 connection)..	<ul style="list-style-type: none"> Core Strategy Policy 2
i) Form and Siting.	The Appeal Scheme has been designed to respect the character of the landscape and uses the strong field pattern to integrate the scheme as far as practicable. Existing landscape features would	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 4 Core Strategy Policy 10

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
	be retained, protected and strengthened including the retention of all existing field margins (hedgerows and ditches) except where necessary for access and standoffs from boundary habitats. Most trees on the site would be retained and additional planting provided, where necessary, to fill gaps in the existing boundary planting.	<ul style="list-style-type: none"> Core Strategy Policy 16
j) Mitigation.	Significant mitigation is provided in the Landscape Mitigation Plan and the Enhanced Landscape Mitigation Plan, as outlined in the evidence of Mr Chanas.	<ul style="list-style-type: none"> Core Strategy Policy 2 Core Strategy Policy 16 Core Strategy Policy 17 LPP Policy 36 LPP Policy 37
k) The Decommissioning and Reinstatement of land at the end of the Operational Life of the Development.	At the end of the operational lifespan (40 years), the solar panels and the majority of other infrastructure would be removed, and the site restored back to agricultural use. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 8.3a).	<ul style="list-style-type: none"> Core Strategy Policy 2
l) Cumulative Impact with existing and proposed development.	There is limited potential for cumulative effects, as outlined in the evidence of Mr Chanas.	<ul style="list-style-type: none"> Core Strategy Policy 2
m) Emission to Ground, Water Course and/or Air.	The development is unlikely to cause any forms of pollution during its operational stage. Effects at the construction phase would relate to construction vehicles and it is considered would not be of a level to cause harm to the environment. This matter is agreed within the	<ul style="list-style-type: none"> Core Strategy Policy 2 LPP Policy 17 LPP Policy 18

Policy 16 Requirement	Scheme Compliance with Policy	Other Applicable Policies in Compliance
	Statement of Common Ground with the LPA (CD8.3a).	
n) Odour	Given the nature of the Appeal Scheme no odour would be generated during the construction or operational stages and it is acceptable in respects of effects on Air Quality. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 8.3a).	<ul style="list-style-type: none"> Core Strategy Policy 2
o) Vehicular Access and Traffic	<p>During operation of the Appeal Scheme, it is anticipated only infrequent visits would be required for the purposes of equipment maintenance or cleaning of the site on an as required basis. A such, the operational access would be associated with a low number of trips (around one per month).</p> <p>In respect of the construction and operational traffic the Highway Authority do not object to the number of vehicle movements and note that this would be appropriately managed. Construction traffic matters are proposed to be appropriately addressed through the CTMP, controlled by a suitable planning condition. This matter is agreed within the Statement of Common Ground with the LPA (Core Document 8.3a).</p>	<ul style="list-style-type: none"> Core Strategy Policy 2
p) Proximity of Generating Plants to the Renewable Energy Source	The proposed development is for solar development. The site is deemed suitable for solar energy generation in terms of solar radiance, orientation and topography.	<ul style="list-style-type: none"> Core Strategy Policy 2

In light of the above, the Appeal Scheme would not result in any unacceptable impacts and accords with Policy 16.LPP1 Policy 10 – DESIGN AND ENHANCING LOCAL IDENTITY

- 8.114. Policy LPP10 is referred to in the Council's reasons for refusal in respect of both the landscape and heritage matters.
- 8.115. I note that Policy 10 is a strategic policy guiding developers on the general approach to designing developments. The first part of the policy sets out general objectives. And paragraph 3.10.1 of the Plan confirms the plan aspirations for highest standards of design. These objectives are not strict criteria which developments must meet.
- 8.116. Whilst I note that the policy applies to "All new development", I consider that much of the policy is directed towards urban built forms of development. The supporting text refers to "built up areas", "new housing" and "neighbourhoods".
- 8.117. Section 2 of the policy outlines factors against which development would be assessed, again a significant proportion of these factors are directed towards urban built forms of development, including factors such as structure and grain, street pattern, plot sizes, permeability, density, mix and architectural style and detailing.
- 8.118. I note that the aspects of Policy 10 which are highlighted in the Solar Development SPG (CD 6.5), stating at paragraph 6.54 that:

"Policy 10 of LPP1 requires that all new development is designed to make, amongst other things, a positive contribution to the public realm and sense of place; create an attractive, safe, inclusive and healthy environment; reinforce valued local characteristics; and be adaptable to meet evolving demands and the effects of climate change. The policy also requires that outside of settlements new development should conserve or where appropriate, enhance or restore landscape character and proposals will be assessed with reference to the GNLCA (see Landscape and Visual Impacts section above and appendix 2)".

- 8.119. With regard to design matters for renewable energy proposals, I consider it relevant to also note national policy given in NPS EN1 (CD 5.55) which states at paragraph 4.7.12 that:

"In considering applications, the Secretary of State should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy."

- 8.120. Noting that Policy 10 sets aspirational objectives against which development proposals would be measured and does not require that proposals not meeting these objectives are refused, I consider that the Application Scheme and the Appeal Scheme meet these broad principles. The scheme is shown to be acceptable in terms of the effects on landscape character.

LPP1 Policy 11 – HISTORIC ENVIRONMENT

- 8.121. I consider this policy to be the strategic policy which guides the Council's approach to development affecting the historic environment, confirming where proposals and initiatives will be supported. The policy defines the elements which the Council consider to be of

importance to the District's historic environment and the approaches which the Council advocate in assisting the protection and enjoyment of the historic environment.

- 8.122. I note that Policy 11 does not include detailed criteria for assessing development proposals and does not suggest that proposals not meeting the policy should be refused. I consider that the assessments undertaken in respect of the potential heritage effects of the proposal are appropriate and the proposal meets the objectives of the policy.

LPP1 – Policy 17: BIODIVERSITY

- 8.123. I note that Policy 17 of LPP1 was not identified in the Council's reason for refusal. Whilst correspondence from the Council has latterly noted that the policy was omitted from the 3rd reason for refusal in error and was referenced in the Council's SoC (CD 8.4). I note however that the reference to the policy in the SOC is limited to re-stating the policy as a relevant policy in section 2 of the statement. There is no suggestion that the Application Scheme or the Appeal Scheme do not accord with the policy.
- 8.124. Policy 17 is a strategic policy explaining how the biodiversity of the District will be increased over the period of the Core Strategy. The biodiversity assessment has demonstrated the significant biodiversity net gain which will arise as a result of the Application Scheme or the Appeal Scheme and as such I consider that the objectives of the strategic policy are met.

LPP2 – Policy 1: DEVELOPMENT REQUIREMENTS

- 8.125. I note that Policy 1 of LPP2 is the Council's sustainable development policy. This policy is referred to in each of the 3 remaining reasons for refusal. I have addressed the detail of these reasons for refusal and the specific relevance of the policy above. I note however in general terms that the policy incorporates the planning balance approach adopted in Paragraph 11 of the Framework. A number of the key criteria of the policy accept that a degree of impact is likely to arise from development proposals and the criteria require assessment as to whether the proposal gives rise to significant adverse effects.
- 8.126. For the reasons set out under the main issues above, I do not consider that the Application Scheme or the Appeal Scheme give rise to significant adverse effects, in particular in respect of landscape, heritage or skylark matters. The proposal meets the requirements of this policy in terms of the main issues and other matters I have outlined below as material considerations.

LPP2 – Policy 22 – DEVELOPMENT WITHIN THE COUNTRYSIDE

- 8.127. I note that Policy 22, which is referred to in the first reason for refusal, applies to countryside land outside of the Green Belt and outside the boundaries of defined settlements. The Appeal site falls within this definition.
- 8.128. The second part of the policy defines uses which will be permitted in the countryside and I note that this includes renewable energy development which is in accordance with Policy 16 and which meets the 3rd aspect of the policy.
- 8.129. As I have noted above, I consider the requirements of Policy 16 have been met by the proposal. In relation to section 3 of Policy 22, I consider that only criterion a) is relevant to the Application Scheme or Appeal Scheme. The other criteria relate to housing

development, ribbon development, buildings or town centre development, none of which are relevant.

- 8.130. The aspects of criterion 3a) relate to matters of landscape, heritage and ecology, which I have addressed above and I consider the proposal suitably meets the relevant policies relating to these matters. I note that the Criterion states that development will be permitted where these matters are conserved and enhanced. I do not consider that the policy requires that proposals which do not conserve or enhance these factors should be refused. To do so the policy would be in conflict with Policy 16 and Policy 1 of LPP2, both of which allow for a degree of impact. It would also conflict with the presumption in favour of sustainable development set out in paragraph 11 of the Framework (CD 5.1)

LPP2 Policy 28 – CONSERVING AND ENHANCING HERITAGE ASSETS

- 8.131. I note LPP2 Policy 28 is referred to by the Council in the second reason for refusal. I have referred to the detail of the heritage matters raised by the Appeal proposal in my consideration of the second main issue above.
- 8.132. I note that the first aspect of Policy 28 relates to the consideration of the significance of heritage assets and the consideration of whether effects on heritage assets, where they arise, are outweighed but public benefits. To this degree the policy accords with the policy of the Framework (CD 5.1).
- 8.133. The second part of the policy sets out a number of considerations in respect of proposals affecting heritage assets. I note that the policy is positively framed and outlines how development will be assessed and justified. It does not require that development s have no impact on heritage assets. For the reasons which I have detailed under the second main issue above, I have concluded that Policy 28 is met.

LPP2 Policy 34 – GREEN INFRASTRUCTURE AND OPEN SPACE ASSETS

- 8.134. I note that Policy 34 is referenced in the Council's first reason for refusal, which I have addressed in detail under the first main issue above.
- 8.135. The policy defines a list of green infrastructure which the policy seeks to protect from adverse effects of development, unless the need for the asset no longer exists and the benefits of the development outweigh the adverse effects. The only category of Green Infrastructure defined by the policy which relates the Appeal are Rights of Way.
- 8.136. I note that Mr Chanas has outlined the effect of the proposal on Rights of Way and the implications for users of rights of way, noting in respect of Policy 34 that public rights of way are not directly affected. He also concludes that the effect on existing network of Green Infrastructure including upon the tree and hedgerow vegetation are judged to be major beneficial.
- 8.137. I have concluded that the requirements of Policy 34 are met by the Appeal Proposal, in respect of both the Application Scheme and the Appeal Scheme.

LPP2 Policy 38 – NON-DESIGNATED BIODIVERSITY ASSETS AND THE WIDER ECOLOGICAL NETWORK

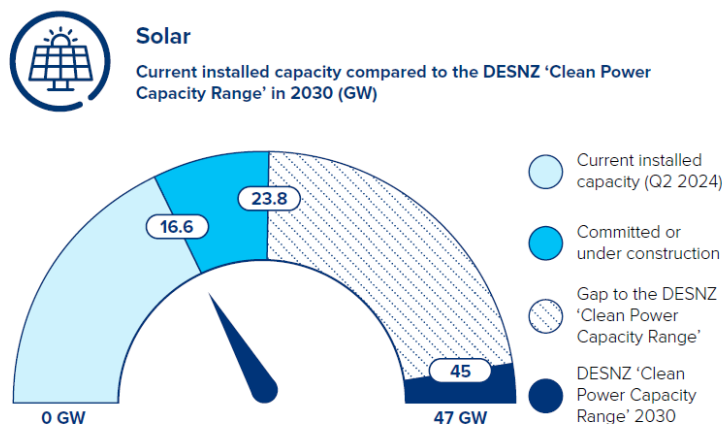
- 8.138. I note that Policy 38 addresses both priority species, and the provision of biodiversity net gains.
- 8.139. I have set out above in respect of the 3rd reason for refusal and 3rd main issue that the focus of the Council's reason for refusal relates to Skylarks. I have noted that it is confirmed in the SoCG (CD 8.3a – paragraph 7.33) that it is agreed that the effect of the proposals on protected species other than Skylarks are acceptable.
- 8.140. It is concluded in the evidence of Mr Fox that there would not be a significant effect on Skylarks and in any event the effects are mitigated.
- 8.141. In terms of the delivery of biodiversity net gain, it has been demonstrated that net gain significantly in excess of the statutory minimum, which in any event does not apply to the Application or Appeal Schemes.
- 8.142. For the reasons set out in main issue 3, I consider that policy 34 is met by the proposals.
- 8.143. Other policies within the development plan are considered in the following section, where they are pertinent to the matters considered as other material considerations.
- 8.144. Overall, I conclude that the Application Scheme and the Appeal Scheme accords with the development plan policy when read as it should be as a whole.

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 where renewable energy development and energy storage would 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 need for the proposal is addressed above in Section 7 and I have referred to the detailed information on this provided in the Appellant's SOC (CD 8.2).
- 9.4. Additionally I note that 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**. (Core Document CD 5.25)
- 9.5. 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 (page 6).
- 9.6. The Action Plan follows the Government's commissioning of expert advice from the National Energy System Operator (NESO) and builds on that advice, setting out the need to **"move fast and build things to deliver the once in a generation upgrade of our energy infrastructure Britain needs"**.(page 7)
- 9.7. The Government's summary identifies a requirement for rapid deployment of new clean energy, setting a high ambition for 2030 of **"43–50 GW of offshore wind, 27–29 GW of onshore wind, and 45–47 GW of solar power, significantly reducing our fossil-fuel dependency. These will be complemented by flexible capacity, including 23–27 GW of battery capacity"**. (Page 10)
- 9.8. The figure below from the Clean Power Action Plan suggests that in 2024 some 23.8 GW of solar was installed, committed or under construction. Therefore to meet the overall 47 GW

of solar requires approximately 4GW per year, equating to almost 2 solar farms of the scale of the Appeal Scheme being brought forward each week.³



Source(s): Table 1, Low Carbon Contracts Company (LCCC) (2024), 'CfD register' (viewed in November 2024).

Notes: Committed / under construction is defined as projects that have secured a Contract for Difference (CfD) but not yet become fully operational. For onshore wind and solar PV, 'merchant' (non-CfD) capacity that has not yet deployed has not been counted. Any pre-2030 asset retirements are not considered in these estimates.

- 9.9. 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.
- 9.10. As outlined in the Officer's Committee Report, the Application Scheme 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.
- 9.11. The benefits outlined above are equally applicable to the Appeal Scheme.

Residential Amenity

- 9.12. 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"***.
- 9.13. 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

³ 47GW minus 23.8GW = 23.2GW over 6 years = 3.8 GW per year/40GW (capacity of appeal scheme) = 96.66 per year/52 = 1.8 40MW schemes per week required

unacceptable level of pollution, or that is likely to lead to unacceptable exposure to sources of pollution or safety risks.

- 9.14. 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, I consider that neither the Application Scheme nor the Appeal Scheme would give rise to significant adverse noise impacts.
- 9.15. 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.
- 9.16. 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.
- 9.17. I consider that the Appeal Scheme accords with Policy 1, 39 and 40 of the RBC LPP2.
- 9.18. When considering the Application Scheme, it remains the case that it accords with Policies 1, 39, and 40 of the RBC LPP2, given that the differences between the schemes are only minor.

Fire Safety

- 9.19. 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).
- 9.20. I note that it is common ground (CD 8.3a – paragraph 5.3) that the Council is offering no evidence in support of Reason No. 4 on the basis that subject to appropriately wording planning conditions, the control of potential contamination impacts and risks to safety can be mitigated to an acceptable level. This reason for refusal is therefore withdrawn by the Council.
- 9.21. Notwithstanding, in order to provide assurance to the Inspector and to address 3rd party comments, I address the fire safety matter below.
- 9.22. The reason for refusal on fire safety was 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 (FRMPERP). This condition was recommended by the Fire Service, as outlined in the committee report, and is listed as Condition 16 in the condition list of the committee report. 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) . I note that this guidance has been updated with revised guidance published in February 2026..

- 9.23. The FRMPERP 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.
- 9.24. With the attached condition the Officers Committee report outlined that the issue of fire safety would be satisfactorily addressed (CD 4.1).
- 9.25. As set out above, the Appeal Scheme 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).
- 9.26. 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.
- 9.27. 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.
- 9.28. For the avoidance of doubt, the Appellant submitted as the Appeal Scheme a revised layout and site design for consideration as part of this Appeal. The revised layout has been updated to include the 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 than the capacity stored in the tanks on site.
- 9.29. 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.
- 9.30. 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.

- 9.31. Furthermore, the Appellant has also prepared and submitted under this Appeal, an NFCC Compliance Report (CD 3.9) for consideration. This report confirms that the Appeal Scheme is compliant with the requirements of the NFCC guidelines with detailed compliance against the 14 recommendations in Table 4-1.
- 9.32. 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 were 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.
- 9.33. 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 off-site 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).
- 9.34. Additionally, the Solar Roadmap 2025 (CD 5.58), outlines how there is a general misconception that large batteries on solar farms pose an unacceptable fire risk. It states that *"Battery Energy Storage Systems (BESS) in the UK must comply with strict health and safety regulations, both for installation and operation"*. It goes on to state how BESS *"incorporate safety features like temperate control, fire detection, and continuous monitoring so that if any problems arise they are tackled quickly and the system can be isolated."*
- 9.35. Further to the publication of the revised NFCC Guidelines in February 2026, I provide as Appendix 1.2 an update to the NFCC Compliance Report (CD 3.9) taking account of the previous and revised guidelines. This report confirms compliance of the Appeal scheme with both the 2022 and 2026 NFCC Guidance. I therefore consider that the Appeal 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.
- 9.36. 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.
- 9.37. I note, as set out above that the Council have not accepted the Appeal Scheme as the basis for consideration of the appeal. Consequently I have also taken into account fire safety matters as they relate to the Application Scheme.

- 9.38. The Application Scheme attracted no objection from Nottinghamshire Fire and Rescue Service. Furthermore, the Council has withdrawn Reason No. 4 and provided no additional evidence to support it, acknowledging that, subject to appropriately worded planning conditions, potential contamination impacts and safety risks can be mitigated to an acceptable level.
- 9.39. I also append to my evidence a second NFCC Compliance Report, (Appendix 1.1) which considers the Application Scheme, without the proposed amendments and also taking account of the revised 2026 NFCC Guidance. In that scenario it confirms that the site design is for a water supply capacity of 228,000 litre (1900l/min for 2 hours) catered for in a below ground water storage pipe, that will be closed off in the event of a fire, via a penstock. This will allow for the FRS to recirculate any runoff and use it for boundary cooling. The water storage pipe has a greater than 228,000 litre capacity as required by the 2022 NFCC Guidance, but reduced to 180,000 litre required by the 2026 NFCC Guidance. Access to the water storage pipe will be via a manhole covered sump the location of which will be signposted and details contained in the Emergency Response Plan held in the site entrances GERDA boxes. The report concludes that the original site layout and construction is compliant with the recommendations detailed in the NFCC Planning Guidance for BESS, both the original 2022 version of the guidance and the guidance updated in February 2026.
- 9.40. On this basis, I consider the Application Scheme is also acceptable in terms of fire safety.

Safety

- 9.41. 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.
- 9.42. 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.
- 9.43. I consider that the Appeal Scheme accords with Policy 40 of the RBC LPP2.
- 9.44. The minor amendments to the scheme mean that the Application Scheme would still have no unacceptable impact on the safe operation of East Midlands Airport, and the same battery technology, which is supported by the UK Government as safe and practical, would also be used. I therefore consider that the proposals would continue to accord with Policy 40 of the RBC LPP2.

Highways

- 9.45. 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).

- 9.46. 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 officer's Planning Committee Report, improvements to access points at the northern and southern parcels of the Appeal Site are included, as are widening small sections of Bradmore Road to provide passing places.
- 9.47. 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.
- 9.48. When the Appeal Scheme 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.
- 9.49. 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.
- 9.50. I consider that the Appeal Scheme accords with Policy 1 and Policy 16 of the RBC LPP2.
- 9.51. The Application Scheme would lead to no additional impact to highways, when compared against the amended scheme, and therefore I consider that the Application Scheme also accords with Policy 1 and Policy 16 of the RBC LPP2.

Biodiversity & Ecology

- 9.52. 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).
- 9.53. 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.

- 9.54. Although the Appeal Scheme 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 SoCG (CD 8.3a, paragraph 7.32) confirms that this is in accordance with the aims of Policy 38 of the Local Plan Part 2 (LPP2).
- 9.55. 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.
- 9.56. 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.
- 9.57. 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.
- 9.58. I consider that the Appeal Scheme accords with Policy 17 of the RBC LPP1 and Policy 1, 16, and 38 of the RBC LPP2.
- 9.59. I also consider that the Application Scheme is acceptable in terms of biodiversity and ecology and also accords with Policy 17 of the RBC LPP1 and Policy 1, 16, and 38 of the RBC LPP2.

Flood Risk and Drainage

- 9.60. No objection has been raised 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 Appeal Scheme.

- 9.61. 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.
- 9.62. 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.
- 9.63. 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.
- 9.64. The Appeal 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.
- 9.65. 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.
- 9.66. All electrical infrastructure associated with the Appeal Scheme is entirely within Flood Zone 1 and is also located outside of the modelled surface water flood events.
- 9.67. The 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.

- 9.68. 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.
- 9.69. 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.
- 9.70. 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.
- 9.71. 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.
- 9.72. 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.
- 9.73. 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.
- 9.74. Overall, I consider that the Appeal Scheme is acceptable in relation to surface water management and flood risk, and in accordance with Policies 17, 18, and 19 of the RBC LPP 2, subject to a condition securing the recommendations detailed in the submitted reports.
- 9.75. In light of the additional FRA addendum provided at Appendix 3, taking account of the Council's position in respect of the acceptability of considering the Appeal Scheme amendments, I consider that the Application Scheme, with the mitigation measures set out in the FRA addendum, would also be acceptable in relation to surface water management and flood risk, given the minor differences between the amended and original schemes. I therefore consider that the Application Scheme would accord with Policies 17, 18, and 19 of the RBC LPP2, subject to a condition securing the recommendations detailed in the submitted reports.

Agricultural Land

- 9.76. 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), confirm 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).
- 9.77. 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, which is land graded as Grade 1, 2 or 3a.
- 9.78. 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.
- 9.79. 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.
- 9.80. 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.
- 9.81. 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.
- 9.82. 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.
- 9.83. Given these findings, the Appeal Scheme would not result in the loss of any best and most versatile agricultural land, and I consider is in accordance with Policies 1 and 16 of the RBC LPP 2. My conclusion remains valid for the Application Scheme also.

Decommissioning

- 9.84. The Development is for a temporary period with an operational lifespan of 40 years.
- 9.85. 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.
- 9.86. With such a condition in place, I considered that the Appeal Scheme is in accordance with Policy 16 of the RBC LPP2.
- 9.87. The Application Scheme would also follow the same decommissioning process and therefore I consider it too would be in accordance with Policy 16 of the RBC LPP2.

Minerals

- 9.88. 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. Minerals note at Appendix 4
- 9.89. Notwithstanding 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.
- 9.90. I note planning permissions for gypsum extraction at the Marblaegis Mine extended to 3852 hectares underneath settlements, farmstead, roads, watercourses, woodlands and the adjoining approved solar farm and BESS development (application reference 22/OO303/FUL). The Appeal Site covers a very small area, around 3%, of the permitted mineral extraction area.
- 9.91. Whilst RBC suggest in their SoC (CD 8.4) that surface mineral extraction will be required this is not how RBC assessed the last planning application (Ref: 8/16/O1432/CMA) at the Marblaegis Mine site as confirmed in paragraph 23 of the local planning authorities Committee report, for that application:
23. Extraction of gypsum occurs below ground and the nature of the mining operations is such that there is no adverse impact on the character and appearance of the area and dust and noise are not issues. The proposed conditions listed in the schedule submitted with the application cover matters such as the extent and duration of operations, mine design, blasting, drainage and restoration. The conditions appear to be necessary, reasonable, relevant to the operations in question and precise.
- 9.92. Furthermore, condition 1 of planning permission 8/16/O1432/CMA specifically defines the planning permission as all underground mining:

1. This permission is for the completion by 22nd February 2042 of all underground gypsum extraction by pillar and stall methods from the area edged in red shown on Plan titled 'Extent of Planning Permission 8/00/01321/CMA' Reference MM2/2A received by the Minerals Planning Authority (MPA) on 4th May 2016 and the restoration and management of the Silver Seal Mine entrance area in accordance with the details contained in the Silver Seal, Bunny Nature Conservation Management Plan dated October 2012 by FPCR Environment and Design Ltd received by the MPA on the 30th October 2012 and revised Figure 3: Ecological Management Plan Reference No. 3311/P/10 Rev B received by the MPA on 12th November 2012.

Reason: In order to define the permission.

- 9.93. On this basis surface mining is not allowed by the current planning permissions the Marblaegis Mine operates under.
- 9.94. I also draw the Inspector's attention to the recent approved solar farm and BESS development that adjoins the appeal site, reference 22/00303/FUL This recent approval wholly sites above Marblaegis Mine and was determined under the same local plan and planning policies as this appeal. RBC raised no mineral safeguard concerns at all in granting planning permission for that adjoining site. I cannot find any assessment by RBC regarding mineral safeguarding or impact to Marblaegis Mine in the officer report before planning permission was granted. Consideration by the applicant of that application is limited to a paragraph in the Planning Statement that was ultimately acceptable by RBC for planning permission to be granted in that recent case.
- 9.95. I note that the site is not subject of any safeguarding requirements in respect of other minerals. I therefore consider that the Appeal Scheme is in accordance with Policy 42 of the RBC LPP2 as set out in a Mineral Note at Appendix 4.
- 9.96. The above is equally applicable to the Application Scheme as the Appeal Scheme , and therefore both schemes would be considered acceptable and in accordance with Policy 42 of the RBC LPP2.

10. Third Party Representations

- 10.1. A number of matters have been variously raised in representations on the Planning Application.
- 10.2. 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).
- 10.3. The material planning considerations raised in the comments do not raise any matters not covered in the points contained in other sections of my statement and the associated appendices and do not raise issues which should lead to the dismissal of the appeal.

11. The Overall Planning Balance, Summary and Conclusions

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

The Decision-Making Framework

- 11.2. The starting point for the determination of this appeal is the Development Plan. The planning system is “plan led” and planning law required that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 11.3. Before reaching a conclusion on this matter I turn to consider whether there are material planning considerations which clearly outweigh any potential harm resulting from the Appeal Scheme.

Material Considerations and Weight

- 11.4. In considering the weight that should be afforded to each consideration in the overall planning balance, I have applied the following scale ranging from high to low:
- Substantial
 - Significant
 - Moderate
 - Limited
- 11.5. Such weight may be ‘positive’ as a benefit, ‘adverse’ as a harm, or of ‘neutral’ effect.
- 11.6. In the following subsection I provide 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.
- 11.7. In considering the weight to the benefits and harms of proposals for renewable energy generation, I am conscious of the policy of the NPS at paragraphs 4.2.29 and 4.2.30, in relation to Critical National Priority infrastructure. The Government’s policy states that the ***“the Secretary of State will take as the starting point for decision-making that such infrastructure is to be treated as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances”***.
- 11.8. It is clarified at paragraph 4.2.30 that the starting point for such proposals is that they would meet policy tests, such as in Green Belt or national landscapes where exceptional circumstances need to be demonstrated or in the instance where substantial harm or loss of significance of a heritage asset should be exceptional or wholly exceptional.

- 11.9. Whilst I acknowledge that the CNP policy applies to NSIP development which the Appeal Proposal is not, the scheme is for large scale renewable energy generation which at the time of submission was very close to the threshold for NSIP development. In addition I note that the site is not within any designated national landscape or Green Belt and the impacts of the proposal do not have a significantly adverse effect on any material considerations, including heritage assets, habitats or species.
- 11.10. My assessment of each material consideration has been undertaken primarily with reference to the Appeal Scheme. However, given that the changes from the Application Scheme are minor in nature, I consider that the conclusions reached and the weight attributed to these considerations would remain the same for the Application Scheme.

Material Considerations weighting in favour of the Appeal Scheme

- 11.11. I consider that the following material considerations are benefits which are positive:

Increasing Renewable Energy Generation

- 11.12. The Appeal Scheme is 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 CO₂ will be displaced each year.
- 11.13. 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.
- 11.14. 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.
- 11.15. 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.
- 11.16. 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. It is Common Ground that the NPS's are material considerations (CD 8.3a, paragraph 6.4). 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 carry substantial weight in the determination of this Appeal, given their direct relevance to the Appeal Scheme, which is only just under the 50MW threshold applicable at the time of making the planning application..
- 11.17. The Clean Power 2030 Action Plan (CD 5.25) and the more recent Solar Roadmap (CD5.38) 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.

- 11.18. 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 utility scale ground mounted solar PV schemes.
- 11.19. 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).
- 11.20. 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).
- 11.21. 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).
- 11.22. 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).
- 11.23. 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).
- 11.24. 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).
- 11.25. 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).
- 11.26. 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).
- 11.27. 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).
- 11.28. 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).

- 11.29. 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).
- 11.30. 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).
- 11.31. At Great Wheatley Farm, Rayleigh, 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).
- 11.32. 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).
- 11.33. Taking all the above into account, I consider 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, alongside a BESS with a capacity of 85MW should be afforded **substantial weight** in determining this Appeal.

Battery Storage

- 11.34. I note that the proposal incorporates battery storage. This element of the scheme provides additional benefits.
- 11.35. I note that there is an urgent and compelling need for this development and very strong policy support Battery Storage Schemes to help increase the supply of renewable energy.
- 11.36. 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 infrastructure relating to renewable energy schemes.
- 11.37. In reviewing appeal decisions, I note that there is very clearly a consistent approach from the Secretary of State and appointed Inspectors in determining BESS 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 which I have set out in section 9 above.
- 11.38. As I have identified above, The Clean Power 2030 Action plan is the latest statement of policy from the new Government, published in December 2024. This includes an objective of creation of essential new energy industries as a key aspect of the overall economic growth plan.
- 11.39. A number of appeals relating to BESS schemes have accorded substantial weight to the need for renewable energy. At the Werrington appeal for a BESS proposal in Green Belt (APP/B3438/W/23/3335922, Core Document 7.65) the Inspectors report states:

“I have had regard to the substantial benefits that the proposal would bring in terms of energy infrastructure that would increase capacity relating to

the flexible supply and storage of renewable energy. Taking into account the significant weight I am to give, in accordance with national policy, to the provision of this type of development, considering its merits and circumstances, and having regard to other relevant appeal cases, I find that the provision of the infrastructure and its benefits weigh substantially in favour of the proposal, particularly in terms of contributing towards the Government's intention to move to a low carbon and renewable energy network and to meet net zero targets."

- 11.40. At Land East of Hodgett's Lane, Berkswell (APP/Q4625/W/24/3348223, Core Document 7.66) the Inspector's decision noted:

"There is a clear national need for BESS facilities and the proposal would make a small but nevertheless important contribution to ensuring local and national energy security and supply, serving increasing demand and moving towards a low carbon future".

- 11.41. Taking all the above into account, I am of the opinion that, due to the imperative to deliver renewable energy schemes and associated infrastructure, which includes BESS, which can assist in decarbonising the UK's electricity supply, the benefits should be afforded **substantial** weight in determining this appeal.

Climate Emergency at a National and a Local Level

- 11.42. A national climate emergency was declared by the UK Parliament in May 2019 (CD 4.11).
- 11.43. As explained in Section 6 above, RBC voted to declare a climate emergency in March 2020, committing the Council to becoming a carbon-neutral organisation by 2030.
- 11.44. 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).
- 11.45. 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 Scheme 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.
- 11.46. Through the generation of renewable energy, I consider that the Appeal Scheme will contribute towards addressing these declarations of climate emergencies.
- 11.47. By providing a positive, deliverable action on these statements of intent, I consider that the declaration of climate emergencies at both the national and local level is a material consideration which should be afforded **significant weight** in the planning balance.

Energy Security

- 11.48. The Appeal Scheme 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 7 of my Proof of Evidence 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.

- 11.49. I consider that energy security should be regarded as a material consideration in its own right, one which is separate to the generation of renewable energy per se. In this regard, 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 on to state that:
- "Solar also has an important role in delivering the government's goals for greater energy independence..."** (*our emphasis*)
- 11.50. 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 CD 7.11, paragraph 47 respectively).
- 11.51. Given the above recent policy statements and appeal decisions, I consider 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.
- Availability of Grid Connection
- 11.52. A critical aspect of any renewable energy generation project is the ability for the energy which is to be generated to be transmitted into the electricity grid, so that it can be distributed to homes, businesses 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.
- 11.53. 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 connection 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.
- 11.54. 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 (CP3OAP – CD 5.25), 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.

- 11.55. NESO carried out a review of 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.
- 11.56. On the 15th April 2025 Ofgem published its decision to approve NESO's suite of documents which comprise the 'TMO4+' 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'.
- 11.57. 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.
- 11.58. 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.
- 11.59. 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).
- 11.60. 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.

- 11.61. In December 2025 NESO contacted applicants to update on the gate status of their applications. Through this it was confirmed that the solar aspect of the scheme has been given a Gate 2 Phase 1 offer (i.e. date pre-2030), and the BESS element has a Gate 1 offer. Full details on the connection date will not be provided until a revised grid offer is issued, expected to be October 2026, and so after the determination of the Appeal. The BESS does not (currently) have an energisation date at all. However, because the planning application was submitted before 20th Dec 2024, the BESS will be 'protected' and a gate 2 offer would be issued if the appeal is allowed during a subsequent gate window, though its likely the BESS connection date would be post 2030 given the number of BESS projects in the area.
- 11.62. 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."***
- 11.63. 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.
- 11.64. 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."***
- 11.65. 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.
- 11.66. I accord **significant positive weight** to this consideration as a benefit of the Appeal Scheme, and this is the same also for the Application Scheme.
- Biodiversity Net Gain
- 11.67. 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).
- 11.68. 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 policy 38 of the LPP2.

- 11.69. It is common Ground (CD 8.3a. paragraph 7.29) that the Application Scheme also provided a Biodiversity Net Gain, a 168.44 unit (81.94%) gain in area habitats and a 45.65 unit (66.24%) gain in hedgerow habitats, and is agreed to be in accordance with the aims of Policy 38 of the LPP2.
- 11.70. I note that in recent solar farm appeals, either 'substantial weight' or 'significant weight' has been afforded to BNG enhancements.
- 11.71. Given the precedents of biodiversity net gain for solar farms, I consider that the in BNG should also be afforded **significant weight** in the planning balance.

Soil Regeneration

- 11.72. 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'.
- 11.73. 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.
- 11.74. Recent empirical evidence on the soil-health benefits of converting arable land to pasture has been provided by the laboratory used by Reading Agricultural Consultants for soil-sample analysis (CD 5.59). This laboratory is the UK's leading provider of agronomic analysis, with its most recent annual soil summary drawing on data from more than 25,000 soil samples collected between June 2023 and May 2024.
- 11.75. The 2023–2024 soil summary confirms that:

"Analysing soil for organic matter is essential as it helps determine soil health and productivity. Soil organic matter (SOM) enhances nutrient cycling, improves soil structure, and boosts water retention, all of which are vital for sustainable agriculture production"
- 11.76. The soil summary reported significant contrasts in SOM levels between arable and grassland soils. Arable soils, which are frequently subject to intensive cultivation, showed an average SOM of 5.4%, with values ranging from 1.7% to 10.4%. In contrast, grassland soils had an average SOM of 10.5% and displayed wider variability.
- 11.77. The soil summary concludes that grassland soils are healthier and more resilient, benefiting from reduced soil disturbance and the addition of organic inputs such as plant residues and manure from grazing animals. Owing to their higher SOM content, grassland soils function as significant carbon sinks, and the summary states that *"preserving and enhancing SOM in these soils through sustainable practices, including rotational grazing and minimising soil disturbance, is essential to maintain and/or further increase carbon sequestration."*
- 11.78. 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 (CD 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 (CD 7.51, paragraphs 126 and 127).

- 11.79. The Department for the Environment, Food and Rural Affairs (DEFRA) commissioned research concluding that climate change, not solar-farm development is the *“biggest medium- to long-term risk to the nation’s domestic food supply... climate impacts under a medium-emissions scenario could cut the proportion of best and most versatile arable farmland from a baseline of 38% to 11% by 2050”* (CD 5.58).
- 11.80. I therefore attach **moderate weight** to this consideration as a benefit of the Appeal Scheme which would be the same for the Application Scheme.

Green Infrastructure Enhancements

- 11.81. 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.
- 11.82. 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.
- 11.83. I therefore attach **moderate weight** to this consideration as a benefit of the Appeal Scheme which would be the same for the Application Scheme.

Economic Benefits

- 11.84. The Appeal Scheme also represents a significant financial investment, with benefits to the local economy during the construction period including from the temporary jobs created (both direct jobs on-site and indirect/induced roles in the wider economy).
- 11.85. 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 annum⁴, equating to £2,994,000 over the 40-year operational period of the Appeal Scheme.
- 11.86. The Appeal Scheme 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

⁴ 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.

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.

- 11.87. 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.
- 11.88. The Solar Roadmap 2025 (CD 5.38) states that *"ramping up deployment is crucial for creating new, good quality jobs and promoting stable and consistent economic growth. Solar has the potential to drive a surge in job opportunities across various sectors, from manufacturing and installation to maintenance and research. We estimate that solar could support up to 35,000 direct and indirect jobs in Great Britain by 2030."*
- 11.89. At Bramley, it is noted that the Inspector afforded 'significant' weight to economic benefits associated with that solar farm scheme (CD 7.36, paragraph 79), whereas at Copse Lodge the Inspector gave 'moderate' weight to the temporary construction jobs and longer term business rate benefits (CD 7.9, paragraph 124).

I therefore attach **moderate weight** to this consideration as a benefit of the Appeal Scheme, which would be the same for the Application Scheme.

Farm Diversification

- 11.90. The NPPF at paragraph 88 acknowledges that the diversification of agricultural businesses should be enabled.
- 11.91. 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.
- 11.92. The National Farmers Union sees 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).
- 11.93. One of the two landowners of the Appeal Site has outlined that their land has historically been used for the production of cereals alongside a small proportion of grassland, both of which are utilised as animal feed within their mixed livestock holding. In the absence of the Appeal Scheme, this pattern of production would continue. The proposed solar installation would occupy only a modest proportion of the wider farm (between approximately 5–10% of the holding) therefore retaining the predominant agricultural function of the enterprise. The landowner highlights the increasing pressures faced by the agricultural sector, noting that the past season was particularly challenging, with severe summer drought resulting in little or no grass growth and very poor cereal yields. This volatility underscores the vulnerability of traditional farming systems and the need for greater business resilience. The landowner also notes that farmers are consistently encouraged to diversify to maintain economic viability, and that opportunities such as renewable energy provide an important

means of stabilising income in difficult years. They confirm that there are currently no other diversification projects in place on the holding.

- 11.94. I therefore attach **limited weight** to this consideration as a benefit of the Appeal Scheme which would be the same for the Application Scheme.

Other Considerations which are Neutral

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

- 11.96. 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);
- Minerals;
- Fire Safety (subject to appropriate conditions); and
- Noise (subject to appropriate conditions).

- 11.97. In respect of these material considerations, I consider that these should be afforded **neutral weight** in the planning balance for both the Appeal and Application Schemes.

Material Considerations which are Adverse

Effect on Landscape Character and Visual Amenity

- 11.98. The matters outlined above and in the Landscape proof of Evidence 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. I have noted that the effects are localised and would reduce with time as the mitigation planting establishes. The adverse effects are also time limited and reversible, whereas the beneficial aspects of new planting could remain following decommissioning.
- 11.99. Therefore, it is considered there are no substantive landscape character, visual amenity reasons from a landscape planning perspective, for refusing planning permission for the Appeal Scheme.
- 11.100. I therefore consider that these limited landscape effects should be given **limited adverse weight** in the planning balance for the Appeal Scheme, which would be the same for the Application Scheme.

Effects on Heritage Assets

- 11.101. As set out in relation to the heritage reason for refusal, the Appeal Scheme 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 Wysall 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 Appeal Scheme would clearly outweigh the heritage harm.
- 11.102. Whilst I consider 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 for the Appeal Scheme, which would be the same for the Application Scheme. 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.
- 11.103. My approach on the weight to be accorded to the less than substantial harm at the lowest end of the spectrum accords with that of the Inspectors at Burcot (CD 7.16) and Chimmens (CD 7.31), where low less than substantial harm to heritage assets were found to be outweighed by the public benefits of the schemes and carried low levels of weight in the planning balance.

Effect on Skylarks

- 11.104. It is concluded above that the low number of skylark territories (6) anticipated to be displaced by the 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. I have found that this accords with the relevant local plan policy.
- 11.105. Accordingly, the effect on Skylarks is given **limited adverse weight** in the planning balance for the Appeal Scheme, which would be the same for the Application Scheme.

Overall Conclusion

- 11.106. I have assessed the proposals reasons for refusal, relevant planning policy and other material considerations. Having examined the benefits outlined above, and also the limited harm to Landscape character and appearance of the wider area, the effect on heritage assets, and effect on Skylarks, I consider that substantial benefits arise from the Appeal Scheme that outweigh the limited harm identified.
- 11.107. I have assessed the relevant policy and have concluded that the Appeal Scheme accords with both Local and National planning policy. I have also identified that there are material considerations that weigh in favour of granting planning permission, and that there are no material considerations which indicate planning permission should be refused. This is the same for both the Appeal Scheme and the Application Scheme.

11.108. In light of the above assessment, is it my firm view that this Appeal should be allowed, on the basis of the changes made under the cover of the appeal, and planning permission granted. The following table summarises the weight attached to the material considerations.

Planning Balance Summary Table

Material Considerations which are Benefits	Weight (Positive)
Generation of renewable energy (49.9MW of solar capacity and 85MW of BESS capacity) and subsequent reduction in carbon emissions	Substantial positive weight
Provision of flexible energy storage to facilitate increased uptake of renewable energy and provide grid balancing services	Substantial positive weight
Climate Emergency	Significant positive weight
Energy Security	Substantial positive weight
Availability of Grid Connection	Significant positive weight
Biodiversity Net Gain	Significant positive weight
Soil Regeneration	Moderate positive weight
Green Infrastructure Enhancements	Moderate positive weight
Economic Benefits	Moderate positive weight
Farm Diversification	Limited positive weight
Material Considerations which are Neutral	Weight (Neutral)
Sustainable drainage	Neutral weight
Archaeology	
Residential Amenity	
Glint and Glare	
Highway safety and traffic	
Minerals	
Fire Safety	
Noise	

Material Considerations which are Adverse	Weight (Adverse)
Effect on Landscape Character and Visual Amenity, including cumulative effects	Limited adverse weight
Effect on Heritage Assets	Limited adverse weight
Effect on Skylarks	Limited adverse weight

12. Planning Conditions

- 12.1. I am of the opinion that appropriate control over the form of the proposed development can be achieved through the imposition of planning conditions.
- 12.2. A set of conditions on a without prejudice basis is being agreed with LPA.

Appendix 1.1 – NFCC Compliance reports in respect of the Application Scheme

Appendix 1.2 – NFCC Compliance reports in respect of the Appeal Scheme

Appendix 2 – Draft NPPF Summary

Appendix 3 – Application Scheme FRA Addendum Note

Appendix 4 – Minerals Safeguarding note

Appendix 5 – 3rd Party Comment Summary

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

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