

# **STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY**

**Planning Appeal by Exagen Development Ltd Against the  
Refusal of a Full Planning Application for the 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**

**at**

**Land West of Bradmore Road and North of Wysall Road, Land  
West of Wysall, Wysall**

**Known as: Old Wood Energy Park**

Planning Appeal Reference: APP/Y2430/W/24/3340258

Rushcliffe Borough Council Planning Application Reference: 24/00161/FUL

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Wysall Solar Farm (Planning Application Reference: 24/00161/FUL)  
Statement of Case

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## 1 INTRODUCTION

### 1.1 Background

- 1.1.1 This Statement of Case (SoC) is submitted on behalf of the Local Planning Authority, Rushcliffe Borough Council (RBC) in support of its refusal of planning application reference 24/00161/FUL for the following development on land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall:

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

- 1.1.2 This statement of case sets out the details of the case that RBC will put forward at this appeal in support of the Council's decision to refuse to grant planning permission.
- 1.1.3 The description of the appeal site and surrounding area and a description of the appeal proposals are set out in the officer's Committee Report (CR) that has already been submitted with the Questionnaire documents.
- 1.1.4 Details relating to the Council's suggested planning conditions is set out within Section 5 of this Statement of Case.
- 1.1.5 A draft Statement of Common Ground, draft Landscape Statement of Common Ground and draft Heritage Specific Statement of Common Ground have been received by the Council, and it is the Council's intention that these documents will be agreed well in advance of the Public Inquiry.

### 1.2 The Appeal Scheme

- 1.2.1 It is noted that the Appellant proposes several amendments to the scheme that was refused by the Council. The Appellant has described the changes proposed in its Summary of Changes accompanying plan documents (CD3.4 and CD3.5).
- 1.2.2 The Government's 'Procedural Guide: Planning Appeals – England' document (9<sup>th</sup> December 2025 states that (Para 12.1.1) '*a full statement of case contains all the details and arguments (as well as supporting documents and evidence) which a person will put forward to make their case in the appeal. In general, appeals are determined on the same basis as the original application. Therefore, the appellant's submissions, including the statement of case, should not normally include new evidence or additional technical data not previously seen by the LPA and interested parties at the*

*application stage, such as biodiversity report, highways statement or landscape and visual impact assessments.'*

- 1.2.3 Further, at paragraph 16.1, it states that, *'the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.'* At paragraph 16.2 it states that *'where amendments are proposed during the appeals process despite the general principle outlined above, the Planning Inspectorate will consider whether, exceptionally, to accept them.'*
- 1.2.4 The Council considers that these amendments fundamentally change the nature of the development under consideration at this appeal (as per the substantive test created by the *Holborn* principle). This relates, in particular, to the introduction of two above-ground fire water storage tanks that have a combined footprint of 104m<sup>2</sup> and being 3.3m high, along with additional land, outside the 'red line' application boundary, proposed for skylark mitigation purposes.
- 1.2.5 The Council also notes the proposed relocation of several electrically sensitive/vulnerable solar farm infrastructure. The Council considers that the totality of these amendments and additions constitutes a substantial change to the application scheme, are in conflict with the advice set out in the Government's Procedural Guide and, therefore, that the Appeal should be determined on the basis of what was before the Council when the application was determined.
- 1.2.6 The Inspector, when considering appeal reference APP/G5180/W/25/3362255 acknowledged that the 'appeal process should not be used to evolve a scheme' and that changes proposed in the Appeal scheme in that instance (changes to roof height, form and materials) were substantial.
- 1.2.7 Notwithstanding the foregoing, the Council accepts that the Appellant has undertaken a consultation exercise on its proposed amendments ahead of the Public Inquiry taking place.
- 1.2.8 Documents referred to in this Statement of Case are not attached as appendices but will be attached as Core Documents.

## 2 PLANNING POLICY

- 2.1.1 Section 38(6) Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.

### 2.2 The Development Plan

- 2.2.1 The Planning and Compulsory Purchase Act 2004 defines the Development Plan as the Development Plan documents (taken as a whole) which have been adopted or approved in relation to that area.
- 2.2.2 The relevant statutory Development Plan for the appeal site comprises:
- Rushcliffe Local Plan Part 1: Core Strategy (adopted December 2014);
  - Rushcliffe Local Plan Part 2: Land and Planning Policies (adopted October 2019).
- 2.2.3 The Council will assess the relevant provisions of the Development Plan, including its consistency with current national policy, in evidence. The key policies in relation to this appeal are considered to be as follows.

#### **Rushcliffe Local Plan Part 1**

- 2.2.4 **Policy 1 - Presumption in favour of Sustainable Development;** states that:
1. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
  2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.
  3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- b) Specific policies in that Framework indicate that development should be restricted.

2.2.5 **Policy 2 – Climate Change**, states that:

1. All development proposals will be expected to mitigate against and adapt to climate change, and to comply with national and local targets on reducing carbon emissions and energy use, unless it can be clearly demonstrated that full compliance with the policy is not viable or feasible.

Sustainable Design and Adaptation

2. Development, including refurbishment where it requires planning permission, will be expected to demonstrate the following:
  - a) how it makes effective use of sustainably sourced resources and materials and minimises waste and water use. For residential development, water use should be no more than 105 litres per person per day;
  - b) how it is located, laid out, sited and designed to withstand the long term impacts of climate change, particularly the effect of rising temperatures, sustained periods of high temperatures and periods of intense rain and storms;
  - c) that the building form and its construction allows for adaptation to future changes in climate; and
  - d) that the building form and its construction permits further reduction in the building's carbon footprint where feasible and viable.

Reducing Carbon Dioxide Emissions

3. Development should demonstrate how carbon dioxide emissions have been minimised in accordance with the following energy hierarchy:
  - a) Using less energy through energy efficient building design and construction, including thermal insulation, passive ventilation and cooling;

- b) Utilising energy efficient supplies, including connection to available heat and power networks;
  - c) Maximising use of renewable and low carbon energy systems.
4. Further policy on how development should contribute to reducing Carbon Dioxide emissions will be set out in the Local Plan Part 2: Land and Planning Policies Development Plan Document, where appropriate.

#### Decentralised, Renewable and Low Carbon Energy Generation

5. The extension of existing or development of new decentralised, renewable and low-carbon energy schemes appropriate for Rushcliffe will be promoted and encouraged, including biomass power generation, combined heat and power, wind, solar and micro generation systems, where these are compatible with environmental, heritage, landscape and other planning considerations. In line with the energy hierarchy, adjacent new developments will be expected to utilise such energy wherever it is feasible and viable to do so.

#### Flood Risk and Sustainable Drainage

6. Development proposals that avoid areas of current and future flood risk and which do not increase the risk of flooding elsewhere and where possible reduce flood risk, adopting the precautionary principle to development, will be supported.
7. Where no reasonable site within Flood Zone 1 is available, allocations and other development proposals in Flood Zone 2 and Flood Zone 3 will be considered on a sequential basis in accordance with national planning policy on flood risk and the Strategic Flood Risk Assessment.
8. Areas in Flood Zone 2 and Flood Zone 3 where windfall site development is appropriate in flood risk terms, subject to the application of the Exception Test, will be defined in the Local Plan Part 2 (Land and Planning Policies) in accordance with national planning policy on flood risk and the Strategic Flood Risk Assessment.
9. Where it is necessary to apply the Exception Test the following factors will be taken into account when considering if development has wider sustainability benefits to the community that outweigh flood risk:



- a) There are exceptional and sustainable circumstances for locating the development within such areas, including the necessary re-use of brownfield sites; and
  - b) The flood risk can be fully and safely mitigated by engineering and design measures.
10. All new development should incorporate measures to reduce surface water run-off, and the implementation of Sustainable Drainage Systems into all new development will be sought unless it can be demonstrated that such measures are not viable or technically feasible.

2.2.6 **Policy 3 – Spatial Strategy** (relevant sections only) states;

1. The sustainable development of Rushcliffe will be achieved through a strategy that supports a policy of urban concentration with regeneration for the whole of Greater Nottingham to 2028. The settlement hierarchy for Rushcliffe to accommodate this sustainable development is defined on the Key Diagram and consists of:
  - a) the main built up area of Nottingham; and
  - b) Key Settlements identified for growth of Bingham, Cotgrave, East Leake, Keyworth, Radcliffe on Trent and Ruddington. In other settlements (not shown on the Key Diagram), with the exception of Newton and the redevelopment of the former RAF Newton, development will be for local needs only.

2.2.7 **Policy 10 – Design and Enhancing Local Identity**, states that:

1. All new development should be designed to make:
  - a) a positive contribution to the public realm and sense of place;
  - b) create an attractive, safe, inclusive and healthy environment;
  - c) reinforce valued local characteristics;
  - d) be adaptable to meet evolving demands and the effects of climate change; and
  - e) reflect the need to reduce the dominance of motor vehicles.

2. Development will be assessed in terms of its treatment of the following elements:
  - a) structure, texture and grain, including street patterns, plot sizes, orientation and positioning of buildings and the layout of spaces;
  - b) impact on the amenity of occupiers or nearby residents;
  - c) incorporation of features to reduce opportunities for crime, the fear of crime, disorder and anti-social behaviour, and to promote safer living environments;
  - d) permeability and legibility to provide for clear and easy movement through and within new development areas;
  - e) density and mix;
  - f) massing, scale and proportion;
  - g) materials, architectural style and detailing;
  - h) the potential impact on important views and vistas, including of townscape, landscape, and other individual landmarks, and the potential to create new views; and
  - i) setting of heritage assets.
3. All development proposals, and in particular proposals of 10 or more homes, will be expected to perform highly when assessed against best practice guidance and standards for design, sustainability, and place making, as set out in Local Development Documents.
4. Development must have regard to the local context including valued landscape/ townscape characteristics, and be designed in a way that conserves locally and nationally important heritage assets and preserves or enhances their settings.
5. Outside of settlements, new development should conserve or where appropriate, enhance or restore landscape character. Proposals will be assessed with reference to the Greater Nottingham Landscape Character Assessment.

2.2.8 **Policy 11 – Historic Environment**, states that:

1. Proposals and initiatives will be supported where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance. Planning decisions will have regard to the contribution

heritage assets can make to the delivery of wider social, cultural, economic and environmental objectives.

2. The elements of Rushcliffe's historic environment which contribute towards the unique identity of areas and help create a sense of place will be conserved and, where possible, enhanced with further detail set out in later Local Development Documents. Elements of particular importance include:
  - a) industrial and commercial heritage such as the textile heritage and the Grantham Canal;
  - b) Registered Parks and Gardens including the grounds of Flintham Hall, Holme Pierrepont Hall, Kingston Hall and Stanford Hall; and
  - c) prominent listed buildings.
3. A variety of approaches will be used to assist in the protection and enjoyment of the historic environment including:
  - a) the use of appraisals and management plans of existing and potential conservation areas;
  - b) considering the use of Article 4 directions;
  - c) working with partners, owners and developers to identify ways to manage and make better use of historic assets;
  - d) considering improvements to the public realm and the setting of heritage assets within it;
  - e) ensuring that information about the significance of the historic environment is publicly available. Where there is to be a loss in whole or in part to the significance of an identified historic asset then evidence should first be recorded in order to fully understand its importance; and
  - f) considering the need for the preparation of local evidence or plans.
4. Particular attention will be given to heritage assets at risk of harm or loss of significance, or where a number of heritage assets have significance as a group or give context to a wider area.

2.2.9 **Policy 16 – Green Infrastructure, Landscape, Parks and Open Space**, states that;

1. A strategic approach to the delivery, protection and enhancement of Green Infrastructure will be taken, through the establishment of a network of primary Green Infrastructure corridors and assets (as shown on the Key Diagram), together with corridors and assets of a more local level which will be defined through Local Development Documents. The approach will require that:
  - a) existing and potential Green Infrastructure corridors and assets are protected and enhanced. Priority for the location of new or enhanced strategic Green Infrastructure will be given to locations for major residential development identified in Policy 3, the Strategic River Corridors of the Trent, and Soar rivers, Grantham canal corridor, and Urban Fringe areas;
  - b) where new development has an adverse impact on Green Infrastructure corridors or assets, alternative scheme designs that have no or little impact should be considered before mitigation is provided (either on site or off site as appropriate). The need for and benefit of the development will be weighed against the harm caused;
  - c) developments proposed through the Core Strategy should enhance the Strategic Green Infrastructure network (either on-site or off-site or through contributions as appropriate). Non-strategic sites will be assessed through the Local Plan Part 2 (Land and Planning Policies);
  - d) links to and between the Green Infrastructure network will be promoted to increase access, especially in areas of identified deficit, for recreational and non-motorised commuting purposes, and to allow for the migration of species; and
  - e) Landscape Character is protected, conserved or enhanced where appropriate in line with the recommendations of the Greater Nottingham Landscape Character Assessment.
2. Criteria for the assessment of proposals and any areas of locally valued landscape requiring additional protection will be included the Local Plan Part 2 (Land and Planning Policies).

3. New or enhanced Green Infrastructure corridors and assets should be as inclusive as possible, multifunctional and look to make provision for the following, where appropriate:
- a) access to employment and leisure facilities;
  - b) connections to the wider Green Infrastructure network and the countryside;
  - c) physical activity and well-being opportunities for local residents such as informal sports provision;
  - d) educational resource for local residents;
  - e) biodiversity opportunities;
  - f) tackling and adapting to climate change;
  - g) protection and/or enhancement of landscape character;
  - h) protection and/or enhancement of heritage assets; and
  - i) opportunities for sustainable leisure and tourism.
4. Parks and Open Space should be protected from development and identified deficiencies will be addressed through Local Plan Part 2 (Land and Planning Policies). Exceptions may be made if the development is a small part of the Green Infrastructure network and will not be detrimental to its function, or the development is a use associated with parks and open spaces or if none of the above apply the park or open space is shown to be underused or undervalued. Alternative scheme designs that have no or little impact should be considered before mitigation is provided (either onsite or off site or through contributions as appropriate). Where parks or open spaces are under used or undervalued, the reasons for this should be explored and where possible addressed prior to alternative uses being permitted.

2.2.10 **Policy 17: Biodiversity**, states that;

1. The biodiversity of Rushcliffe will be increased over the Core Strategy period by:
- a) protecting, restoring, expanding and enhancing existing areas of biodiversity interest, including areas and networks of priority habitats and species listed in the UK and Nottinghamshire Local Biodiversity Action Plans;

- b) ensuring that fragmentation of the Green Infrastructure network is avoided wherever possible and improvements to the network benefit biodiversity, including at a landscape scale, through the incorporation of existing habitats and the creation of new habitats;
  - c) seeking to ensure new development provides new biodiversity features, and improves existing biodiversity features wherever appropriate;
  - d) supporting the need for the appropriate management and maintenance of existing and created habitats through the use of planning conditions, planning obligations and management agreements; and
  - e) ensuring that where harm to biodiversity is unavoidable, and it has been demonstrated that no alternative sites or scheme designs are suitable, development should as a minimum firstly mitigate and if not possible compensate at a level equivalent to the biodiversity value of the habitat lost.
2. Designated national and local sites of biological or geological importance for nature conservation will be protected in line with the established national hierarchy of designations and the designation of further protected sites will be pursued.
3. Development on or affecting other, non-designated sites or wildlife corridors with biodiversity value will only be permitted where it can be demonstrated that there is an overriding need for the development and that adequate mitigation measures are put in place.

2.2.11 **Policy 18: Infrastructure**, states that:

- 1. New development must be supported by the required infrastructure at the appropriate stage. Rushcliffe will work in partnership with other Greater Nottingham local authorities, infrastructure providers, grant funders, the development industry and other delivery agencies in seeking the provision of necessary infrastructure to support new development.
- 2. Contributions will be sought from development proposals which give rise to the need for new infrastructure.
- 3. Critical infrastructure requirements are identified in the Infrastructure Delivery Plan (IDP), and these can be found in Appendix C. For the strategic allocations

included in Policy 3, the IDP identifies what, where, when and how critical new infrastructure will be provided;

4. There are known infrastructure and capacity constraints, in particular related to transport, education, open space and flood risk. Further detailed assessment of these issues will be required through Local Development Documents or masterplans.
5. The Council, working in partnership with other Greater Nottingham authorities, will seek to secure funding from Government and other sources to support infrastructure requirements.

### **Rushcliffe Local Plan Part 2**

2.2.12 **Policy 1 - Development Requirements;** states that planning permission for new development, changes of use, conversions or extensions will be granted provided that, where relevant, the following criteria are met:

1. 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;
2. a suitable means of access can be provided to the development without detriment to the amenity of adjacent properties or highway safety and the provision of parking is in accordance with advice provided by the Highways Authority;
3. sufficient space is provided within the site to accommodate the proposal together with ancillary amenity and circulation space;
4. the scale, density, height, massing, design, layout and materials of the proposal is sympathetic to the character and appearance of the neighbouring buildings and the surrounding area. It should not lead to an over intensive form of development, be overbearing in relation to neighbouring properties, nor lead to undue overshadowing or loss of privacy;
5. noise attenuation is achieved and light pollution is minimised;
6. there is no significant adverse effects on important wildlife interests and where possible, the application demonstrates net gains in biodiversity;
7. there is no significant adverse effects on landscape character;

8. the amenity of occupiers or users of the proposed development would not be detrimentally affected by existing nearby uses;
9. there is no significant adverse effect on any historic sites and their settings including listed buildings, buildings of local interest, conservation areas, scheduled ancient monuments, and historic parks and gardens;
10. it can be demonstrated that wherever possible, development is designed to minimise the opportunities for criminal activities;
11. the use of appropriate renewable energy technologies will be encouraged within new development and the design, layout and materials of the proposal should promote a high degree of energy efficiency; and
12. development should have regard to the best and most versatile agricultural classification of the land, with a preference for the use of lower quality over higher quality agricultural land. Development should also aim to minimise soil disturbance as far as possible.

2.2.13 **Policy 16 - Renewable Energy**, states that:

1. Proposals for renewable energy schemes will be granted planning permission where they are acceptable in terms of:
  - a) compliance with Green Belt policy;
  - b) landscape and visual effects;
  - c) ecology and biodiversity;
  - d) best and most versatile agricultural land;
  - e) the historic environment;
  - f) open space and other recreational uses;
  - g) amenity of nearby properties;
  - h) grid connection;
  - i) form and siting;
  - j) mitigation;
  - k) the decommissioning and reinstatement of land at the end of the operational life of the development;



- l) cumulative impact with existing and proposed development;
  - m) emissions to ground, water courses and/or air;
  - n) odour;
  - o) vehicular access and traffic; and
  - p) proximity of generating plants to the renewable energy source.
2. In addition to the above criteria, wind energy developments will be permitted provided:
- a) the development site is in an area identified as being suitable for wind turbine development in a Neighbourhood Plan; or
  - b) the development site is in an area identified as being of low or low medium sensitivity to wind turbine development in Appendix C; and
  - c) following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

2.2.14 **Policy 17 - Managing Flood Risk;** states that:

1. Planning permission will be granted for development in areas where a risk of flooding or problems of surface water disposal exists provided that:
  - a) the sequential test and exception test are applied and satisfied in accordance with the National Planning Policy Framework and National Planning Policy Guidance; or
  - b) where the exception test is not required, for example change of use applications, it has been demonstrated that the development and future occupants will be safe from flood risk over the lifetime of the development; or
  - c) the development is for minor development where it has been demonstrated that the Environment Agency's flood risk standing advice has been followed, including:
    - i. an industrial or commercial extension of less than 250 square metres;
    - ii. alterations to buildings that do not increase the size of the building;
    - iii. householder development including sheds, garages within the curtilage of the dwelling; and

- d) development does not increase the risk of flooding on the site or elsewhere, including through increased run-off due to areas of hardstanding, or reduction in ground water storage as a result of basements.
- 2. Development proposals in areas of flood risk will only be considered when accompanied by a site specific flood risk assessment. Proposals will be expected to include mitigation measures which protect the site and manage any residual flood risk, such as flood resistance/resilience measures and the provision of safe access and escape routes.

2.2.15 **Policy 18 - Surface Water Management**, states that:

- 1. To increase the levels of water attenuation, storage and water quality, and where appropriate, development must, at an early stage in the design process, identify opportunities to incorporate a range of deliverable Sustainable Drainage Systems, appropriate to the size and type of development. The choice of drainage systems should comply with the drainage hierarchy.
- 2. Planning permission will granted for development which:
  - a) is appropriately located, taking account of the level of flood risk and which promotes the incorporation of appropriate mitigation measures into new development, such as sustainable drainage systems;
  - b) reduces the risk to homes and places of work from flooding;
  - c) delivers a range of community benefits including enhancing amenity (ensuring a safe environment) and providing greater resistance to the impact of climate change;
  - d) contributes positively to the appearance of the area;
  - e) accommodates and enhances biodiversity by making connections to existing Green Infrastructure assets; and
  - f) retains or enhances existing open drainage ditches.

2.2.16 **Policy 19 - Development Affecting Watercourses**, states that:

In order to protect, conserve and enhance watercourse corridors, the Council will support development proposals that:

- a) reconnects land to the functional floodplain and restores natural flooding processes;
- b) does not have an adverse impact on the functions and setting of any watercourse and its associated corridor;
- c) seeks to conserve and enhance the biodiversity, landscape and recreational value of the watercourse and its corridor through good design;
- d) pursues opportunities for de-culverting of watercourses. Planning permission will only be granted for proposals which do not involve the culverting of watercourses and which do not prejudice future opportunities for de-culverting (including on sites specifically identified in the Local Plan);
- e) provides a minimum 10 metre buffer where physically feasible between the top of the watercourse and the development site which is free of built development, and includes a long term landscape and ecological management plan for this buffer; and
- f) includes, where appropriate, measures to allow for the natural movement of fish within the watercourse (where barriers to fish movement are present).

2.2.17 **Policy 20 - Managing Water Quality**, states that:

Where risks to water quality are identified, planning applications should ensure development proposals do not have an adverse effect on water quality through the pollution of surface water bodies or groundwater.

2.2.18 **Policy 22 - Development Within the Countryside**, states that:

1. Land beyond the Green Belt and the physical edge of settlements is identified as countryside and will be conserved and enhanced for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources, and to ensure it may be enjoyed by all.
2. Within the countryside development for the following uses will be permitted subject to the requirements set out in (3) below:
  - a) agriculture, equestrian, forestry and other uses requiring a rural location, including, where justified, associated workers dwellings;

- b) the re-use and adaptation of buildings for appropriate uses, including housing;
- c) exception sites for affordable housing;
- d) extension and replacement of dwellings;
- e) expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- f) small-scale employment generating development, retail and farm diversification;
- g) community services and facilities meeting a proven local need;
- h) recreation, wildlife conservation, leisure, tourism, and sports development which requires and is appropriate in a countryside location; and
- i) renewable energy in accordance with Policy 16.

3. Developments in accordance with (2) above will be permitted where:

- a) 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;
- b) except for replacement dwellings, conversions and changes of use, it does not constitute isolated residential development which is separated from the physical edge of the settlement;
- c) it does not create or extend ribbon development;
- d) built development is well integrated with existing buildings, where appropriate; and
- e) the development will not seriously undermine the vitality and viability of existing district and local centres, and centres of neighbourhood importance.

2.2.19 **Policy 28 Conserving and Enhancing Heritage Assets**, states that:

1. 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.

2. Proposals affecting a heritage asset and/or its setting will be considered against the following criteria:
  - a) the significance of the asset;
  - b) whether the proposals would be sympathetic to the character and appearance of the asset and any feature of special historic, architectural, artistic or archaeological interest that it possesses;
  - c) whether the proposals would conserve or enhance the character and appearance of the heritage asset by virtue of siting, scale, building form, massing, height, materials and quality of detail;
  - d) whether the proposals would respect the asset's relationship with the historic street pattern, topography, urban spaces, landscape, views and landmarks;
  - e) whether the proposals would contribute to the long-term maintenance and management of the asset; and
  - f) whether the proposed use is compatible with the asset.

2.2.20 **Policy 29: Development Affecting Archaeological Sites**, states that:

1. Where development proposals affect sites of known or potential archaeological interest, an appropriate archaeological assessment and evaluation will be required to be submitted as part of the planning application. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.
2. Where archaeological remains of significance are identified permission will only be granted where:
  - a) The archaeological remains will be preserved in situ through careful design, layout and siting of the proposed development; or

b) When in-situ preservation is not justified or feasible, appropriate provision is made by the developer for excavation, recording and for the post-excavation analysis, publication, and archive deposition of any findings (to be undertaken by a suitably qualified party), provided that it can be clearly demonstrated that there are wider public benefits of the development proposal which outweigh harm to heritage assets of archaeological interest in line with NPPF requirements.

2.2.21 **Policy 37 - Trees and Woodlands**, states that:

1. Adverse impacts on mature tree(s) must be avoided, mitigated or, if removal of the tree(s) is justified, it should be replaced. Any replacement must follow the principle of the 'right tree in the right place'.
2. Planning permission will not be granted for development which would adversely affect an area of ancient, semi-natural woodland or an ancient or veteran tree, unless the need for, and public benefits of, the development in that location clearly outweigh the loss.
3. Wherever tree planting would provide the most appropriate net-gains in biodiversity, the planting of additional locally native trees should be included in new developments. To ensure tree planting is resilient to climate change and diseases a wide range of species should be included on each site.

2.2.22 **Policy 38 - Non-Designated Biodiversity Assets and the Wider Ecological Network**, states that:

1. Where appropriate, all developments will be expected to preserve, restore and re-create priority habitats and the protection and recovery of priority species in order to achieve net gains in biodiversity
2. Developments that significantly affect a priority habitat or species should avoid, mitigate or as a last resort compensate any loss or effects.
3. In order to ensure Rushcliffe's ecological network is preserved and enhanced, development within Biodiversity Opportunity Areas should:
  - a) retain and sympathetically incorporate locally valued and important habitats, including wildlife corridors and stepping stones; and

b) be designed in order to minimise disturbance to habitats and species.

4. Outside of the Biodiversity Opportunity Areas developments should, where appropriate, seek to achieve net gains in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats, and the incorporation of features that benefit biodiversity.

2.2.23 **Policy 39 - Health Impacts of Development**, states:

1. The potential for achieving positive health outcomes will be taken into account when considering development proposals. Where any significant adverse impacts are identified, the applicant will be expected to demonstrate how these will be addressed and mitigated.
2. Where applicable, development proposals should promote, support and enhance health by:
  - a) providing the right mix of quality homes to meet people's needs and in locations that promote walking and cycling;
  - b) providing employment developments in locations that are accessible by cycling and walking;
  - c) supporting the provision and access to healthcare services;
  - d) retaining and enhancing accessible Green Infrastructure;
  - e) alleviating risks from unhealthy and polluted environments such as air, noise and water pollution and land contamination;
  - f) designing homes that reflect the changes that occur over a lifetime, meet the needs of those with disabilities and reduce the fear of crime; and
  - g) supporting and enhancing community cohesion.

2.2.24 **Policy 42 - Safeguarding Minerals**, states that development will not be permitted which would sterilise mineral resources of economic importance or pose a serious hindrance to future extraction in the vicinity. Where development proposals are located within minerals safeguarding areas, prior extraction of such minerals will be encouraged, subject to whether this is practicable or economically feasible.

## 2.3 Material Planning Policy Considerations

### Planning (Listed Buildings and Conservation Areas) act 1990

2.3.1 Section 66(1) of the above Act states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

2.3.2 The Wildlife and Countryside Act 1982 (as amended) and the Conservation of Habitats and Species Regulations 2017.

### The National Planning Policy Framework (December 2024)

2.3.3 The Council will demonstrate that, having regard to the Development Plan and proper application of the Framework, the appeal proposal fails to meet the three overarching objectives of sustainable development under paragraph 8.

2.3.4 Paragraph 48 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

2.3.5 Paragraph 85 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

2.3.6 Paragraph 88 states that planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and



- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 2.3.7 Paragraph 105 states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.
- 2.3.8 Paragraph 124 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
- 2.3.9 Paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 2.3.10 Paragraph 135 states (*inter alia*) that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 2.3.11 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be

given to: a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

- 2.3.12 Paragraph 161 states that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
- 2.3.13 Paragraph 162 states that plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.
- 2.3.14 Paragraph 164 states that new development should be planned for in ways that:
- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through incorporating green infrastructure and sustainable drainage systems; and
  - b) help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings in plans should reflect the Government's policy for national technical standards.
- 2.3.15 Paragraph 168 states that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with

renewable and low carbon energy generation and the proposal's contribution to a net zero future;

- b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;
- c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site.

- 2.3.16 Paragraph 170 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 2.3.17 Paragraph 173 states that a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps set out below.
- 2.3.18 Paragraph 174 states that within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test.
- 2.3.19 Paragraph 175 states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
- 2.3.20 Paragraph 177 states that having applied the sequential test, if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.
- 2.3.21 Paragraph 178 states that the application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being

applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

- the development would provide wider sustainability benefits to the community that outweigh the 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.

2.3.22 Paragraph 179 states that both elements of the exception test should be satisfied for development to be allocated or permitted.

2.3.23 When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

2.3.24 Paragraph 182 states that applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity. Sustainable drainage systems provided as part of proposals for major development should:

- a) take account of advice from the Lead Local Flood Authority;
- b) have appropriate proposed minimum operational standards; and

- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

2.3.25 Paragraph 187 states, the planning system should contribute to and enhance the natural and local environment by (*inter alia*):

- protecting and enhancing valued landscapes, geological conservation interests and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services – including the benefits of best and most versatile agricultural land, trees and woodland;
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs; and
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

2.3.26 Paragraph 193 states that when determining planning applications, local planning authorities should apply the following principles (*inter alia*):

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>70</sup> and a suitable compensation strategy exists; and

2.3.27 Paragraph 202 states that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their

significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

- 2.3.28 Paragraph 207 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 2.3.29 Paragraph 210 states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.3.30 Paragraph 208 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 2.3.31 Paragraph 210 states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.3.32 Paragraph 212 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 2.3.33 Paragraph 206 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
  - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
- 2.3.34 Paragraph 215 states that 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
- 2.3.35 Paragraph 216 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 2.3.36 Paragraph 222 states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.
- 2.3.37 Paragraph 225 states that local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

## **2.4 Planning Practice Guidance (PPG)**

- 2.4.1 The Council will refer to relevant elements of the suite of PPG documents as required within evidence. In particular, the PPGs on Historic Environment, Climate Change, Flood Risk and Coastal Change, Minerals, Natural Environment and Renewable and Low Carbon Energy will be relevant to the determination of this appeal.

## **2.5 Other Material Documents**

- 2.5.1 The following (non-exhaustive) list of documents are material planning considerations:

- Rushcliffe Borough Council Solar Farm Landscape Sensitivity and Capacity Study 2024;
- Melton and Rushcliffe Landscape Sensitivity Study: Wind Energy Development, LUC, 2014;
- The Greater Nottingham Landscape Character Assessment 2009;
- Overarching National Planning Policy Statement for Energy (EN-1);
- National Policy Statement for renewable energy infrastructure (EN-3);
- National Policy Statement for Electricity Networks Infrastructure (EN-5);
- Energy White Paper - Powering our Net Zero Future, December 2020;
- Fox, H. / Clarkson & Woods, CIEEM In Practice, 2022;
- Clarkson & Wood, 2023, BBS Report; and
- [https://wychwoodbiodiversity.co.uk/wp-content/uploads/2021/11/Montag-Parker-Clarkson-2016-Solar\\_Farms\\_Biodiversity\\_Study.pdf](https://wychwoodbiodiversity.co.uk/wp-content/uploads/2021/11/Montag-Parker-Clarkson-2016-Solar_Farms_Biodiversity_Study.pdf)

- 2.5.2 The above documents will be included within the Core Documents list to be agreed with the Appellant.

- 2.5.3 The Council may refer to other planning applications, appeal decisions and case law where relevant to the appeal proposal. Copies of such will be provided as Core Documents.



### 3 THE CASE FOR THE LOCAL PLANNING AUTHORITY

#### 3.1 Summary

3.1.1 This section details the reasons for refusal for the appeal and the main issues that were raised by RBC's Planning Committee leading to the refusal of the proposals, contrary to the planning officer's recommendation that planning permission should be granted.

3.1.2 The Council will present evidence to demonstrate that the Appeal should be dismissed and that the Council's reasons for refusal (RFR) are clear, reasonable and can be sustained. Notwithstanding this, no further evidence will be proffered in relation to RFR 4. The Council will submit that the Development subject to this Appeal does not accord with the adopted Development Plan when read as a whole. Further, the Council will demonstrate that the benefits arising from the proposed solar farm and BESS development do not outweigh the impacts and demonstrable conflict with the Development Plan.

3.1.3 The planning application was refused by RBC's Planning Committee on 12<sup>th</sup> June 2025 and this was confirmed in a Decision Notice dated 19th June 2025, which included the following four reasons for refusal:

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.*

3.1.4 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 can be mitigated to an acceptable level. Notwithstanding this, the key issues that are raised by the Appeal are considered to be:

1. The development would generate significant adverse visual impacts upon the area's landscape character, especially when considered cumulatively with the approved solar farm immediately to the west, and major adverse effects for users of public rights of way within and near the Appeal Site through the industrialisation of the Appeal Site;
2. The impacts of the development on the setting of heritage assets including the Grade I Listed Holy Trinity Church, other nearby grade II listed buildings and the Wysall Conservation Area;

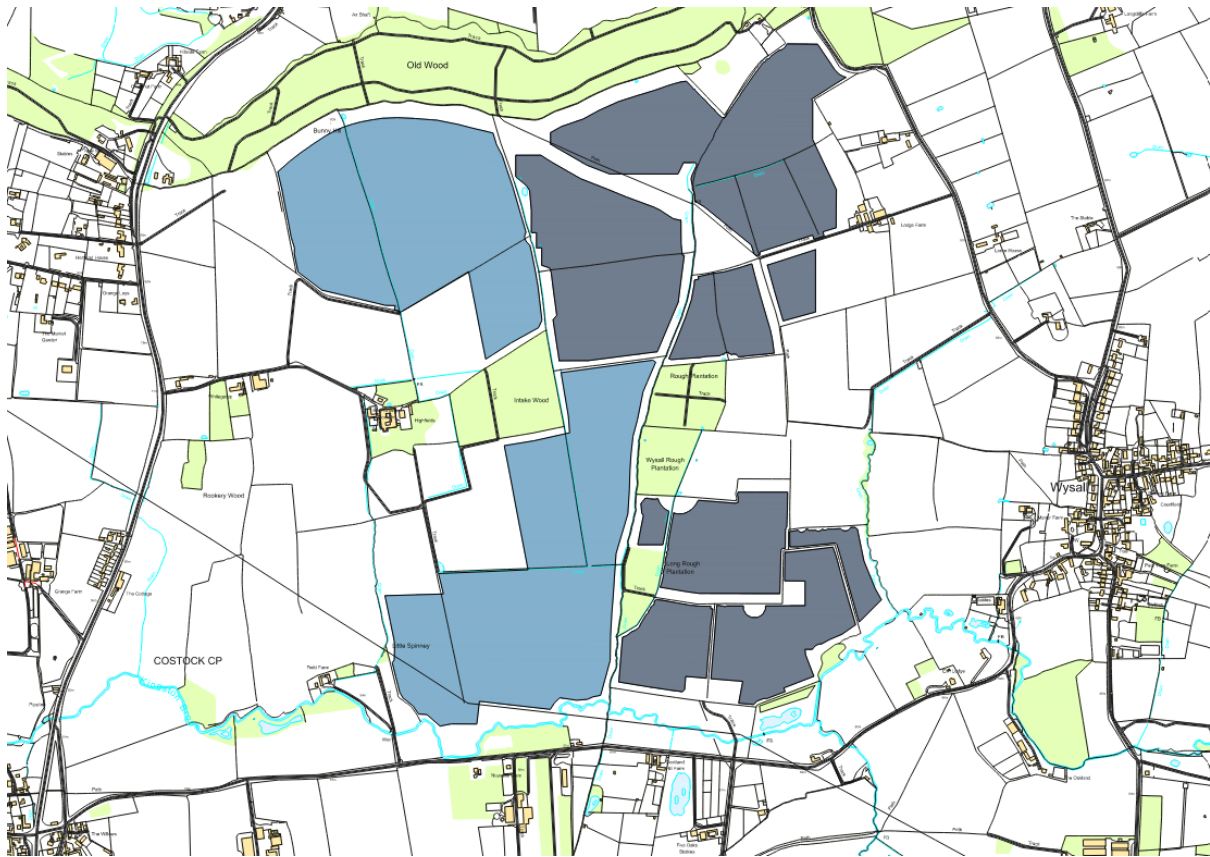
3. The development would generate significant detrimental impacts on protected species, notably skylarks, for which it is considered there is no adequate mitigation proposed to offset these impacts; and
  4. The benefits of the proposal arising from the production of renewable energy and reduction in carbon emissions and the weighing of these against the identified impacts.
- 3.1.5 These issues are addressed within this SoC and do not take into consideration the proposed amendments made by the Appellant within its Summary of Changes document (CD3.4) dated October 2025 for the reasons set out in paragraph 1.1.6 above. However, should the Inspector be minded to accept the changes proposed as part of the Appeal Scheme, then the Council reserves the right to address these changes within the individual Proofs of Evidence.

### **3.2 Reason No. 1 - Impact on the Landscape Character and Visual Amenity**

- 3.2.1 The proposed development would not conserve or enhance the appearance and character of the landscape, with detrimental consequences for its views and local distinctiveness.

#### *Site Selection*

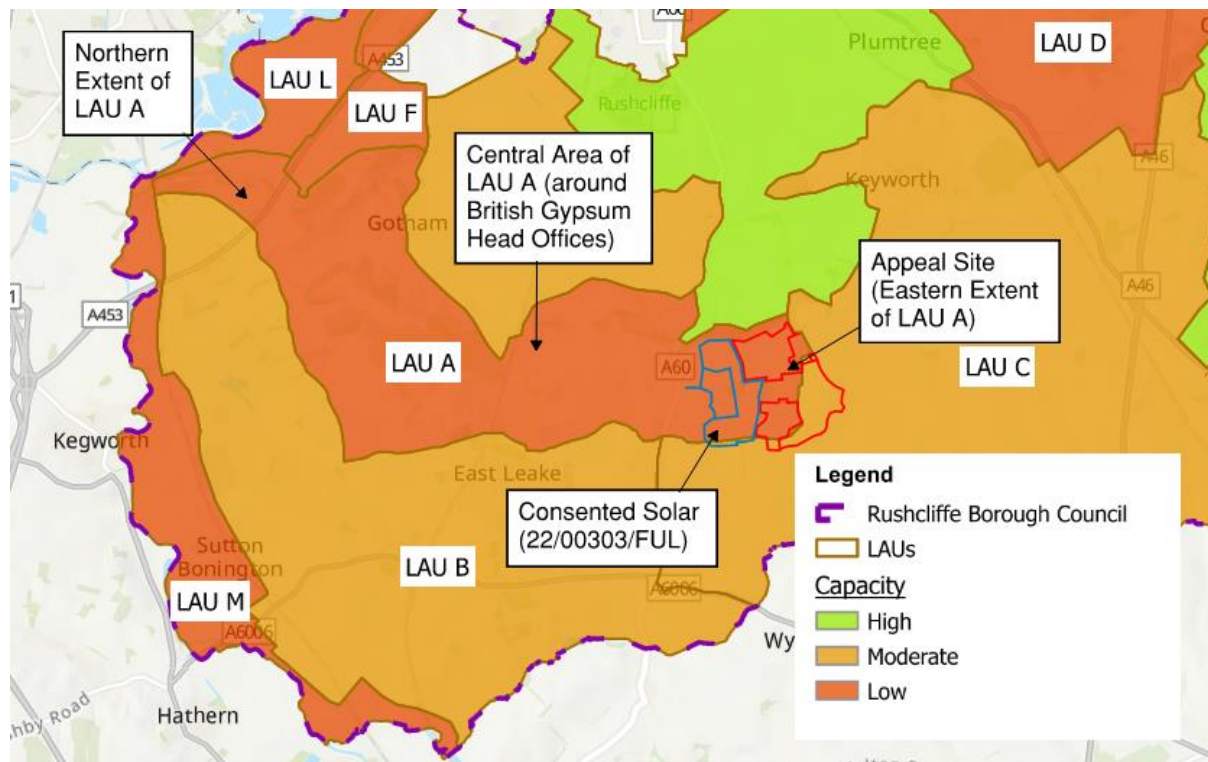
- 3.2.2 Located within open countryside and 'LAU A Gotham and West Leake Wooded Hills and Scarps', the proposed development would be within a part of the borough which has been independently identified as having one of the lowest capacities for additional large scale (i.e. between 61 – 100 ha) solar projects (Arup, Solar Farm Landscape Sensitivity and Capacity Study (SFLSCS), dated May 2024 and published by RBC in July 2024).
- 3.2.3 With reference to Table 33 in SFLSCS, which summarises the findings and judgements of the study for each LAU, 'LAU A: Gotham and West Leake Wooded Hills and Scarps' is one of 1 of 8 areas which are identified as having a 'low' capacity for large scale solar, whilst 3 areas have 'moderate' capacity for large scale solar and 3 areas have a 'high' capacity for large scale solar.
- 3.2.4 As the SFLSCS notes "*future baseline development 22/00303/FUL utilises a substantial area of land to the east of the LAU and this reduces its overall potential for large scale solar farm development*".
- 3.2.5 As illustrated by Figure SOC1 below, the Appeal Site is located immediately adjacent to the east of this consented development for a solar farm and battery stations on 81.58 ha land to the north-east of Highfields Farm (22/00303/FUL).



*Figure SOC1 – Combined Fenced off Areas from Landscape Strategy Plans for Consented Development 22/00303/FUL (in blue-grey scale) and Appeal Site (in grey scale).*

- 3.2.6 Figure SOC1 has been prepared by the Council for this Appeal by digitising the security fencelines from the approved Landscape Strategy Plan for the consented development 22/00303/FUL (solar panel fields with BESS compound in blue-grey) and the submitted Landscape Strategy the Appeal Site (solar panel fields, BESS compound and substation in darker grey).
- 3.2.7 The 100.96 ha proposed development would substantially increase the size of the consented large-scale solar project, more than doubling the overall site area. The two additional proposed parcels of land on the Appeal Site are effectively connected by the consented solar project potentially resulting in a combined solar farm which extends for over 1.5km.
- 3.2.8 Under the Key Design Principles for ‘LAU A Gotham and West Leake Wooded Hills and Scarps’, there is reference to how *“The northern extent of the LAU and central area around the British Gypsum Head Office are influenced by existing large-scale industrial development. Sensitively designed development may be more appropriate at these locations, minimising impacts to the overall rural character of the LAU.”* (page 21 of SFLSCS).

- 3.2.9 However, as indicated by *Figure ABC-2*, the Appeal Site is located on the eastern edge of LAU A, well away from the areas identified as being more appropriate for further large-scale solar projects.
- 3.2.10 Figure SOC2 below has been prepared by the Council for this Appeal by digitising the site boundaries for the consented development 22/00303/FUL and the Appeal Site onto Figure C9 in RBC's Solar Farm Landscape Sensitivity and Capacity Study and also marking up the northern extent and the central area around the British Gypsum Head Office.



*Figure SOC2 – Mark up of Figure C9 in RBC's Solar Farm Landscape Sensitivity and Capacity Study*

- 3.2.11 Accordingly, in landscape terms, this initial poor site selection hinders any subsequent attempts to sensitively design and successfully mitigate the adverse impacts of such a large-scale solar project.

#### *Review of Landscape and Visual Effects*

- 3.2.12 Acting on behalf of RBC, the landscape and visual impact assessment (LVIA) which accompanied the planning application was reviewed by Wynne-Williams Associates (WWA) in June 2024, with a subsequent response to the updated LVIA then provided by WWA in February 2025.
- 3.2.13 The key conclusions of the initial WWA review of the LVIA were as follows:

- *“With regards to the value of landscape receptors, it is my opinion that the LVIA, as currently presented, fails to provide an assessment for the individual factors in accordance with GLVIA3 and TGN 02/21, and further fails to provide a judgement regarding overall landscape value”*
- *“although the existing vegetation and proposed mitigation may reduce some visibility to the lower parts of the solar arrays, the loss of longer distance views from the elevated countryside represents a considerable reduction in visual amenity. It also prevents people from appreciating their location within the valley landscape, the enjoyment of recreational activity and the scenic qualities of the undulating hills”*
- *“the site would experience high levels of intervisibility in the long to medium distance views by people using the Public Rights of Way. For example, Public Footpath Costock FP4 which continues from Wysall Lane and adjacent to Public Footpath Rempston FP8 does not appear to have been assessed within the LVIA”*
- *“the LVIA does not provide commentary pertaining to the assessment of cumulative landscape effects of the proposed scheme in combination with the other solar farm development”*
- *“I would also expect that a cumulative visual assessment be provided and supported up by cumulative wireframes set beneath photographs and / or photomontages prepared from key viewpoints”*

3.2.14 The key conclusions of the subsequent WWA review of the updated LVIA were as follows:

- *“It is noted that the original LVIA (5.17) has been updated to show that effects on character of the site were previously “high, with effects major adverse”, whereas the updated LVIA (2024) (5.32) has downgraded this to “medium, with effects moderate adverse, with the residual effects diminishing to minor adverse given the proposed landscaping.”*
- *“We agree with Pegasus’ original conclusions as the solar array will appear as a new feature in the landscape, not in keeping with the current character. In*

*addition, introduced vegetation through the landscape proposals will likely long outlast the solar array itself, these are specific to the scheme and are incongruent with existing field patterns.”*

- *“We do not consider that the planting proposals will have a wholly positive influence on the landscape character”*
- *4 “It is considered that the mitigation planting will prevent people from appreciating their location within the valley landscape, changing the perceived sense of place and character, as open views would become enclosed and constrained. Again, these concerns still remain.”*
- *“We consider that the introduction of solar arrays and associated infrastructure on the combined scale proposed by the two solar farms would represent a notable change away from baseline landscape character and visual amenity. This would be perceived from the south with limited ability to appreciate the two developments as separate. We therefore conclude that the Pegasus assessment underestimates the cumulative effects.”*

#### *Landscape Character*

- 3.2.15 The Appeal Site is mainly productive farmland, consisting of arable cropping on the rising valley sides, with a smaller area of grazing pasture on the valley floor alongside the Kingston Brook. Part of the Appeal Site also follows the public highway network from the site access and through Wysall village, for the purposes of the proposed buried cable connection.
- 3.2.16 The elevated northern part of the Appeal Site is at c. 85m AOD and around 25m higher than the Kingston Brook at c. 60m AOD along the south of the Appeal Site. Relatively low hedgerows (managed to c 1.2-1.5m high) are characteristic of this landscape. Hedgerow trees are also present on the Appeal Site and there are blocks of woodland to its boundaries.
- 3.2.17 The countryside of the Appeal Site displays intrinsic beauty, not least by virtue of its medium scale, simple appearance, openness and sense of tranquillity, resulting from its location within a rural area of mainly farmland, with woodland blocks. This distinctiveness and appeal is enhanced by the views of heritage assets (such as Holy Trinity Church spire and Highfields Listed Buildings), ecological features (such as Bunny Old Wood Ancient Woodland and Nature reserve), as well as long distance views

across the Nottinghamshire Wolds more generally and to Charnwood from elevated areas.

- 3.2.18 Most of the Appeal Site and surrounding area are located within the National Character Area (NCA 74) 'Leicestershire and Nottinghamshire Wolds', with part of the northern parcel within NCA 48 'Trent and Belvoir Vales'.
- 3.2.19 At a more local level, as noted above, most of the Appeal Site and surrounding area to the west are located within NW01 / LAU1 'Gotham and West Leake Wooded Hills and Scarps'. However, a relatively small part of the Appeal Site (relating to the areas around each of the new site access points into each parcel and the buried cable connection between the parcels) is located within the adjacent 'Widmerpool Clay Wolds' which is referenced as NW03 / LAUC.
- 3.2.20 The key characteristics of 'Gotham and West Leake Wooded Hills and Scarps' are its prominent hills, largely rural character, modern field pattern, woodland on higher ground and channelled views on lower ground and extensive views from higher ground.
- 3.2.21 The landscape value of the Appeal Site varies as follows:
- the southern parcel of the Appeal Site is medium landscape value, being typical of 'Gotham and West Leake Wooded Hills and Scarps' and 'Widmerpool Clay Wolds';
  - the northern parcel of the Appeal Site rises to medium-high landscape value due to the presence of the PRoW which offers recreational opportunities where the experience of the landscape is important and is a promoted route (as both Notts Wolds Way and Midshires Way), connecting the ecological interest of Bunny Old Wood (Ancient Woodland and Nature Reserve) with the cultural interest of Wysall Conservation Area and Holy Trinity Church (Grade I), and with extensive views from higher ground / scenic quality (including towards the distant rugged skyline of Charnwood, as well as the undulating Nottinghamshire Wolds); and
  - the proposed route of the buried cable connection which passes through the Wysall Conservation Area, has a high landscape value.
- 3.2.22 There is a waymarker post for the Notts Wolds Way on PRoW Wysall FP3 within the Appeal Site. The Notts Wolds Way is described in the online booklet published by the



Nottinghamshire Footpaths Preservation Society as being one that *“traverses an area exceptionally rich in the natural and cultural heritage of Nottinghamshire.”*<sup>1</sup>

- 3.2.23 The landscape sensitivity of the Appeal Site as a whole can therefore be appropriately described as medium to high, whilst the sensitivity of the local landscape character areas ‘Gotham and West Leake Wooded Hills and Scarps’ and ‘Widmerpool Clay Wolds’ would be medium.
- 3.2.24 There would be major and adverse effects upon the aesthetic and perceptual aspects of the Appeal Site and its overall landscape character, with the creation of a large-scale and complex industrial facility, with reduced openness and tranquillity.
- 3.2.25 This would not be mitigated by the additional tree and hedgerow planting which is intended to screen and enclose the facility. Modification of the neat and well managed condition of the hedgerows to form taller belts of vegetation, creating new patterns and corridors, would alter the character of the area and be adverse in nature.
- 3.2.26 The proposed planting is incongruent with the existing field pattern and would not have a wholly positive influence on the landscape character. The mitigation planting would result in the loss of longer distance views from the elevated countryside, which would represent a considerable reduction in visual amenity.
- 3.2.27 The mitigation planting would prevent people from appreciating their location within the valley landscape, changing the perceived sense of place and character, as open views would become enclosed and constrained.
- 3.2.28 The online booklet for the Notts Wolds Way contains the following passage covering the Points of Interest and Walk Guide along the section of the route as it passes through the Appeal Site between Bunny Old Wood and Wysall describes the following experience for visitors:
- *“Turn left and then right to reach a gate and fingerpost at the top of wood. The path crosses a large arable field slightly diagonally left, to reach a foot bridge and marker post. Cross the next field diagonally right to reach a track and marker post at a junction of paths. Bear slightly right across a short stretch of arable field before reaching a field-edge section with hedge left.”*
- 3.2.29 The large arable field which is described at the top of the Appeal Site would be fundamentally altered by the proposals, creating an industrialised corridor, with

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<sup>1</sup> [https://905cb0a9-efd1-4a11-89e9-66f7398845a7.filesusr.com/ugd/a31aac\\_dc1e21661264467caa046b46dd0661a6.pdf](https://905cb0a9-efd1-4a11-89e9-66f7398845a7.filesusr.com/ugd/a31aac_dc1e21661264467caa046b46dd0661a6.pdf)

hedges not just on the left but containing the route on both sides. Legibility of this valued recreational route would be reduced.

3.2.30 The proposals would extend development over higher ground and would not be nestled on low ground. As such it would not offer a positive contribution to the following Landscape Actions in NW01 Gotham and West Leake Wooded Hills and Scarps:

- *“Ensure any new industrial development is nestled on low ground and has well wooded boundaries which integrate with woodland on higher ground to reduce its visibility”*

3.2.31 The extension of solar onto the higher ground of the northern parcel also conflicts with the Key Design Principles in the SFLSCS for LAU A which states that:

- *“Development should instead be considered on lower lying areas where there is greater potential for visual screening and integration within the LAU.”*

3.2.32 The proposals would create a new dominant industrial feature, which conflicts with the mainly rural character of the landscape, have an adverse effect on characteristic extensive views obtained from higher ground and diminish a sense of place. This would result in a moderate adverse effect for the landscape character area - ‘Gotham and West Leake Wooded Hills and Scarps’. The effects upon ‘Widmerpool Clay Wolds’ would be minor and adverse.

3.2.33 The effects upon ‘Widmerpool Clay Wolds’ would be negligible to minor and adverse, but rising to minor and adverse when considering the cumulative context.

#### *Views and Visual Amenity*

3.2.34 The Appeal Site is part of a swathe of rural land located alongside the approaches to Wysall village from roads and public rights of way (PRoW). Covering over the agricultural fields with industrial scale solar panels, BESS and ancillary structures would alter the distinctive sense of place and diminish the character of this important buffer zone, with potential for changes to views and visual amenity.

3.2.35 The Appeal Site extends over PRoW and up to the Bradmore Road. As noted by WWA, the proposed screening along the PRoW network would adversely impact the ability of users to appreciate the surrounding landscape, changing the perceived sense of place and character, as open views would become enclosed and constrained, with industrial elements.

- 3.2.36 The visual receptors which have a high sensitivity to the proposed changes include users of PRow, as well as local residents. Users of the local road network are identified as medium sensitivity.
- 3.2.37 There would be major and adverse visual effects for users of PRow within and around the Appeal Site (Costock FP7, Wysall FP3 and FP4), including users of the Midshires Way and Notts Wolds Way. The project would be at variance with character and substantially change a sense of place, with deterioration in the views.
- 3.2.38 The proposed development would conflict with NPS- EN-3, paragraph 2.10.43 which states that *“Applicants are encouraged where possible to minimise the visual impacts of the development for those using existing public rights of way, considering the impacts this may have on any other visual amenities in the surrounding landscape”*. In particular Footnote 83 states that *“screening along public right-of-way networks to minimise the outlook into the Solar Park may, impact on the ability of users to appreciate the surrounding landscapes”*. The proposals would impact on the ability of users to appreciate the surrounding landscapes, in particular the Nottinghamshire Wolds and more distant Charnwood. Views of the distinctive roofline of Highfields Listed Building would also be obscured from parts of the PRow.
- 3.2.39 Furthermore, as noted by WWA, the visual effects would not be restricted to localised areas. They would be experienced by people using footpaths from medium to longer distance at c. 2km to the south (southeast and southwest), due to its valley side position and elevation range. The visual envelope of the Development extends to A60 Nottingham Road / Bunny Hill road.
- 3.2.40 Consequently, there would be negligible to moderate and adverse visual effects for users of PRow to the south of the Appeal Site (Costock FP4, Rempstone FP9 and FP8 and HG61/3), when the proposed development is taken in isolation. However, when considered cumulatively with the adjacent consented site, these effects would rise to moderate adverse. The project would be at conflict with character and result in a deterioration in the views.
- 3.2.41 Cumulative photomontages from the elevated PRow to the south have not been submitted to assist decision-makers. Photomontages originally prepared for the planning application for the adjacent consented solar project 22/00303/FUL have been re-submitted and need to be reviewed alongside the separate photomontages prepared for the proposed development, adjacent. Nevertheless, it is clear that that the additional solar arrays and associated infrastructure resulting from the proposed development would noticeably and directly extend those at the consented site

22/00303/FUL. The combined scale of the two solar farms would be perceived from the south; the two developments would not be considered to be separate. Solar development would be also visible from additional sections of PRoW and road routes beyond the zone of visual influence of the consented scheme resulting in sequential visual effects.

- 3.2.42 Moderate adverse effects are identified for local residents to the east and within the valley to the south of the Appeal site in Year 1, although by Year 15 effects would reduce to negligible (to moderate) and neutral (to adverse). This would depend on the time of year and growth of the mitigation planting. These visual effects relate both for the proposals considered in isolation and cumulatively with the adjacent consented scheme.
- 3.2.43 Negligible to moderate adverse effects are also identified for local residents on elevated land to the south of the Appeal site, for the proposals considered in isolation. These visual effects would rise to moderate cumulative effect the adjacent, taking into account the consented scheme. Hedgerow management and tree planting would have limited screening effect due to the elevated nature of viewpoint and rising slopes of the Appeal Site.
- 3.2.44 There would be minor and adverse effects during Year 1 for users of the local road network overall, reducing to negligible (to minor) and neutral (to adverse) by Year 15, both for the proposal in isolation and cumulatively. However, the sections of Wysall Road and Rempstone Road which pass by the southern access would have clear views into the site.

#### *Landscape and Visual Summary and Conclusions*

- 3.2.45 Overall, there would be residual major adverse effects on landscape, views and visual amenity for receptors within and around the Appeal site. This takes account of the boundary planting and hedgerow management treatments which although would have some positive influence for certain receptors, does not offer a wholly positive solution or satisfactory mitigation for the project.
- 3.2.46 The proposals would represent a notable change away from the landscape baseline, in particular its largely rural character, with extensive views from higher ground.
- 3.2.47 The proposals would not be sensitive to place (by enclosing views along PRoW) or be matched by an appearance that demonstrates good aesthetic (by extending industrial scale solar development over more visible higher ground) and as such would be contrary to paragraph 4.7.2 of NPS EN-1.

- 3.2.48 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.

### **3.3 Reason No. 2 - Impacts on Heritage Assets**

- 3.3.1 In relation to Reason for Refusal 2 the Council agrees with the Appellant that the development would cause 'less than substantial harm' to the significance of the Wysall Conservation Area. Contrary to the Appellant, the Council maintains that the development would cause less than substantial harm to the significance of Holy Trinity Church and Highfields. The Council will demonstrate that the degree of less than substantial harm would be at the middle of the less than substantial scale for the Wysall Conservation Area and the Grade I listed building of Holy Trinity Church and at the lower end of the scale for the Grade II listed building of Highfields.
- 3.3.2 Upon reflection of the additional information submitted with the appeal, and contrary to Reason for Refusal 2, the Council does not consider that any harm would arise to the significance of the Grade II listed Manor Farmhouse. Although there are functional historical associations between the southern Site and Manor Farmhouse, a degree of inter-visibility between them did not develop during winter months (when trees are not in leaf) as anticipated when survey was first undertaken in summer. As such, and on the basis of a revised survey undertaken in December, the Council considers that the impact of the proposed development upon the Grade II listed building of Manor Farmhouse would be neutral.
- 3.3.3 The Council will assess and describe the nature, level and extent of the significance of designated heritage assets impacted upon by the proposed development. The Council will describe, including in relation to the Appeal Site, the contribution that the setting of those designated heritage assets makes to their significance.
- 3.3.4 The Council will identify that the following three designated heritage assets would be adversely affected by the development:
- Wysall Conservation Area
  - Grade I listed building of Holy Trinity Church, Wysall
  - Grade II listed building of Highfields.
- 3.3.5 The Council will explain that the Appeal Site forms part of the rural landscape setting of the designated heritage assets which makes a positive contribution to their significance and the ability to appreciate their significance.

- 3.3.6 The Council will demonstrate that the development would detrimentally intrude into the rural landscape setting of the designated heritage assets, curtailing the extent, and eroding the character of views which make a positive contribution to their significance. Notwithstanding the mitigation proposed, the Council will demonstrate that the experience of the designated assets in relation to their settings would be markedly diminished as a result of the proposed development, bringing harm to their significance.
- 3.3.7 In reaching this view, the Council has had special regard to its statutory duty within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to the desirability of preserving a listed building or its setting.
- 3.3.8 Any harm to a listed building or its setting should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise and gives rise to a strong presumption against the grant of planning permission (*Barnwell Manor Wind Energy Limited v. SSCLG* [2014] EWCA Civ 137).
- 3.3.9 Great weight should be given to the conservation of a designated heritage asset, and considerable importance and weight must attach to any harm to a designated heritage asset. Beyond this starting point, the further weight that is to be attributed to the harm is a product of the extent of assessed harm and the heritage value of the asset (*Palmer v. Hertfordshire Council* [2016] EWCA Civ 106).
- 3.3.10 The Council considers that archaeology can be dealt with by way of condition, although this is on the basis that there will need be a second phase of trenching and that the mitigation requirements are likely to be considerable. The application site contains significant areas of multi-period activity including two separate areas of human remains and a probable robbed-out Roman villa. If nationally significant remains are encountered during evaluation or mitigation for the access track and grid connection, then the Council believes that mitigation may not be able to provide a satisfactory route forwards.
- 3.3.11 Having regard to the heritage harm that the Council considers will arise as a consequence of the Appeal proposal to the assets identified, there is a strong statutory presumption in favour of the refusal of planning permission, and the Council’s case will be that the public benefits of the proposal do not outweigh that harm. In those circumstances, the proposed development offends section 66 of the Planning (Listed Buildings and Conservation areas) Act 1990 and is in conflict with Policy 11 of Part 1 of the Rushcliffe Local Plan and Policy 28 of Part 2 of the Rushcliffe Local Plan, in addition to Chapter 16 of the NPPF.

### **3.4 Reason No. 3 - Impacts on Protected Species**

- 3.4.1 RfR 3 relates to impacts upon protected species, including negative impacts upon skylarks. The Council's case in defending this RfR relates solely to the negative impacts upon skylarks and the Council accepts that impacts upon other protected species will not be unacceptable.
- 3.4.2 The Council agrees with the Appellant (8.50 of its Statement of Case) that skylarks are protected under the Wildlife and Countryside Act 1981. The Council also agrees with the Appellant (para. 7.149 of its Planning Statement) that the fields proposed to be developed with solar panels are likely to be incompatible with skylark nesting requirements.
- 3.4.3 The Council agrees with the Appellant's Environmental Impact Assessment (EIA) (Clarkson & Woods, Updated 2025), paragraph 3.5.67, that the loss of 94.89ha of nesting habitat would, individually, result in an adverse residual impact at Site level to skylark following implementation of mitigation proposed in the planning application.
- 3.4.4 While the amendments submitted by the Appellant as part of this Appeal include additional areas for skylark mitigation, when all data is assessed along with potential cumulative impacts from the adjacent solar development (22/00303/FUL), as per the Appellant's EIA paragraph 3.6.4, the Council considers that the residual adverse impact to this species increases to Local level.
- 3.4.5 The Council considers that the additional data submitted as part of the appeals process does not contain sufficient information to fully assess the impacts to all skylark territories that may be impacted by the proposals. This is due to two gaps in data:
- Firstly, the lack of pre and post development habitat data for the additional areas of mitigation restricts the ability to assess the value of these habitats and potential territory densities and carrying capacities; and
  - Secondly, a lack of offsite territory data limits the ability to accurately assess impacts to offsite territories from changes to onsite habitats and habitat use, large scale loss of habitat, habitat fragmentation and displacement of onsite territories to surrounding areas. The success of skylark territories being displaced to adjacent habitats is not yet known (CIEEM, 2022).
- 3.4.6 The Council considers that the updated EIA does not address the impacts to all nine recorded territories shown in the BBS report (Clarkson & Woods, 2023). With nine skylark territories marked in the submitted BBS report survey results plan, the EIA reports have only eight territories marked. One of the original territories may have

been left out during the EIA as it was previously off site, however, this territory is now on site due to being partially within the additional fields proposed for mitigation. Therefore, the Council considers that the EIA currently does not fully assess the impacts to all the territories that may be impacted now 'on site', assuming that the Inspector accepts the amendments proposed in the Appeal Scheme.

3.4.7 The proposed mitigation measures are not considered appropriate to offset the harm that would be generated to the identified skylark population. The Council accepts that there is no 'official' skylark mitigation guidance, but it does consider that there is sufficient scientific research and tested standard guidance on creation of mitigation and nesting habitat for skylark that assessments can be made as to the likely success of proposed mitigation.

3.4.8 The Council will set out in detail how the proposed mitigation measures (including the additional measures proposed under the Appeal Scheme), fail to meet the minimum standards as defined in guidance in this regard. The Council will provide evidence to demonstrate the following issues with the skylark mitigation strategy:

- The fields proposed for skylarks mitigation are less than 5ha and in general lack open aspects;
- The proposed mitigation strategy fails to provide adequate buffers around field edges as per guidance and includes no assessment of the impacts of hedgerows and trees etc bounding these fields;
- The northern field proposed as additional mitigation under the Appeal Scheme (if allowed by the Inspector) is wholly unsuitable for skylark due to overhead cables running across this field;
- Skylark territories exist within the additional mitigation areas proposed, and these have not been accounted for appropriately as per standard guidance in this regard; and
- Habitats within the additional mitigation areas have not been fully surveyed nor the mitigation type explained.

3.4.9 Further to the previous paragraph, the Council has prepared Plan ref. SOC-003 (see Appendix 1), which shows skylark records for the Appeal development alongside those identified previously for the approved solar development to the west. It also indicates the skylark territories within the Appeal development and the areas proposed for mitigation under the Appeal Scheme.



- 3.4.10 Appendix 2 contains Plan ref. SOC-004, and indicated those areas proposed for skylark mitigation under the appeal scheme, overlain with identified constraints to skylark habitat. The proposed mitigation areas under the Appeal Scheme and the areas within each field that disregarding the >5ha guidance could be appropriate as proposed nesting mitigation. This shows that on a best case of taking the whole field it would create up to 6ha of habitat. However, allowing for a 50m buffer due to the presence of fencing, planting and buildings, this area is reduced to <1ha in total.
- 3.4.11 The Council considers that the mitigation does not meet the Government's advice note for wild birds and development (Wild birds: advice for making planning decisions (last updated April 2025)) as it results in a significant net loss in habitat and, while the habitats are to be replaced, they are not replaced like for like with regard to size of overall available habitat, nor in type of habitat. Therefore, this proposal does not adequately consider protected species and does not comply with the Wildlife and Countryside Act 1982 (as amended) nor meet the requirements as per the Conservation of Habitats and Species Regulations 2017.
- 3.4.12 The Council considers that the impacts upon identified skylark population are not outweighed by the benefits of the scheme and that 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.

### **3.5 Other material considerations**

#### Flood Risk

- 3.5.1 With regard to flood risk, the Council agrees with the Appellant that the access road and proposed new bridge over the Kingston Brook would be sited within Flood Zones 2 and 3.
- 3.5.2 The Council does not accept the changes made via the Appeal Scheme and considers that the Appellant's Sequential Test is deficient. While the Council does accept that a search for sites of circa 80ha and within 3km of the 132kV line is reasonable, the Sequential Assessment and Exception Test document dated October 2025 does not assess sites outside Rushcliffe Borough, and does discount the four identified alternative options – particularly Area C, on purely non-flood risk and subjective grounds.
- 3.5.3 The Council agrees with Paragraph 4.21 of the Appellant's Sequential Assessment and Exception Test that *"The Exception Test is not a tool to justify development in flood*

*risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. It would only be appropriate to move onto the Exception Test in these cases where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified.”*

- 3.5.4 Thus, whilst this is not a reason for refusal, having regard to the Appellant’s updated evidence on this point, the Council now regard this to be a main issue in the appeal and that the failure to provide a robust sequential test amounts to strong reason to refuse planning permission.

#### Mineral Safeguarding

- 3.5.5 The Appeal Site lies within a Mineral Safeguarding Area for gypsum and the Appellant has failed to submit a Minerals Safeguarding Assessment to demonstrate that this mineral will not be sterilised. While the Planning Statement (paragraph 4.5.1) refers to this important resource being at depth and therefore capable of being worked using the ‘room and pillar’ method, this statement does not appear to be corroborated. It is noted that this vein of mineral can be at shallower depths and surface mined. A ‘temporary’ development of 45 years from start to finish may effectively sterilise this valuable resource.

#### Benefits Arising from the Proposed Development and the Planning Balance

##### *Principle of Renewable Energy and Climate Change*

- 3.5.6 The Council acknowledges the important role that the generation of renewable energy from all sources, including solar, currently makes to the nation’s energy mix, and notes the government’s objectives for the wider energy system are ‘to ensure our supply of energy always remains secure, reliable, affordable, and consistent with net zero emissions in 2050 for a wide range of future scenarios, including through delivery of our carbon budgets and Nationally Determined Contributions.’ (paragraph 3.2.1 of Overarching National Policy Statement (NPS) for Energy EN-1).
- 3.5.7 The Council also notes the contents on NPS EN-3, and the fact that ‘[t]here is an urgent need for new electricity generating capacity to meet our energy objectives. Electricity generation from renewable sources is an essential element of the transition to net zero and meeting our statutory targets for the sixth carbon budget (CB6). Our analysis suggests that demand for electricity is likely to increase significantly over the coming

years and could more than double by 2050. This could require a fourfold increase in low carbon electricity generation, with most of this likely to come from renewables.’

- 3.5.8 Assessing the proposal against Development Plan Policy 3 – Spatial Strategy, the Council notes that the Appeal Site is located outside the main built up area of Nottingham and also outside the boundaries of any of the Key Settlements listed in 1(b), and instead in a location which is considered to be open countryside. The Council accepts that an ‘open countryside’ location is, in principle, appropriate for solar farm development, although it does not consider that, notwithstanding the Government's desire to see an increase in renewable energy generation, that it is necessary to locate a solar farm on the Appeal Site.

#### Security of energy supplies

- 3.5.9 The Council notes the following Government publications relating to the supply of energy for the country as a whole:
- Energy White Paper - Powering our Net Zero Future (December 2020) addresses the transformation of our energy system, promoting high-skilled jobs and clean, resilient economic growth in order to deliver net-zero emissions by 2050 and outlines a strategy to transform the energy system, tackle emissions while continuing to ensure secure and reliable supply, and affordable bills for households and businesses. This document builds on The Ten Point Plan for a Green Industrial Revolution document published in November 2020, which notably does not contain specific policies/aims relating to solar energy production.
  - Net Zero Strategy (October 2021) and the updated 2023 Net Zero Growth Plan set out a long-term plan for the economy-wide transition to net zero that will take place over the next three decades and set out an update to the existing strategies, focusing on the scale up and deployment of technologies for decarbonising homes, power, industry and transport. The 2023 document sets a target of 70GW of solar generation capacity by 2035.
  - The British Energy Security Strategy (April 2022) builds on the Prime Minister's ‘Ten point plan for a green industrial revolution’ and the ‘Net zero strategy’ and indicates the need to increase renewable energy production.
  - Growth Plan of (September 2022) makes growth the government's central economic mission, setting a target of reaching a 2.5% trend rate. It reinforces the Government's ambitions to reduce reliance on foreign imports of oil and gas. To increase the UK's energy resilience, the Growth Plan states that the

North Sea Transition Authority will launch a new oil and gas licensing round. This is expected to deliver over 100 new licences.

- Powering Up Britain (March 2023) set out how government will enhance our country's energy security, seize the economic opportunities of the transition, and deliver on the Government's net zero commitments. It goes on to state that:
  - 'Our vision is to power the UK through affordable, home-grown, clean energy:
    - ensuring Britain has among the cheapest wholesale electricity prices in Europe by 2035;
    - moving towards energy independence through a potential doubling of Britain's electricity generation capacity by the late 2030s;
    - maximising the vital production of UK oil and gas as the North Sea basin declines; and
    - capturing global early mover advantages and capitalising on the decarbonisation needs of the more than 90% of the global economy that are now signed up to net zero targets.

- 3.5.10 The Department for Energy Security and Net Zero published (2<sup>nd</sup> May 2024) details of the UK fuel mix for the financial year 2024-25, as follows:

Energy Source %

Coal 5.9

Natural Gas 33.3

Nuclear 16.2

Renewables 42.1

Other 2.5.

- 3.5.11 The Council acknowledges that the following may be relevant to the determination of this Appeal:

- Climate Change Act 2008;
- Climate Change Act (2050 target amendment) Order 2019;
- Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy ("BEIS") in October 2017;
- UK Parliament's and RBC's declaration of an Environmental and Climate Change Emergency in May and March 2019 respectively;

- Energy White Paper: Powering our Net Zero Future published in December 2020;
- UK Government's press release of acceleration of carbon reduction to 2035, dated April 2021;
- 'Net Zero Strategy: Build Back Greener' published by the UK Government in October 2021;
- UK Climate Change Risk Assessment January 2022;
- British Energy Security Strategy April 2022;
- Future Energy Scenarios July 2022;
- Powering Up Britain suite of documentation March 2023;
- NPS EN-1, EN-3 and EN-5 designated in January 2024.

3.5.12 If relevant, any further announcements or updates to the aforementioned documents by the Government between the submission of the Appeal and the opening of the Public Inquiry will be referred to.

3.5.13 In the light of the above the Council acknowledges that there is support in principle for increasing the supply of renewable energy, including solar power, from within the UK as part of a broader strategy for reducing reliance on imported energy that includes the issuing of new licences for gas and oil exploration in the North Sea.

3.5.14 The desired increase in renewable energy will contribute to reducing climate change impacts arising from the production of energy and assist in the Government's clear aim to achieve a Net Zero economy.

3.5.15 In considering the planning application, Members of the Council's Planning Committee gave weight to the benefits of the proposal both in terms of renewable energy production and reducing the impacts of energy production on climate change. This is clearly demonstrated in both the Planning Officer's Report and the Minutes of the 12th June 2025 meeting, where it is noted that [the impacts] 'would not be outweighed by the benefits of the application.'

3.5.16 It is considered that the harm to the designated heritages assets is at the middle of the 'less than significant harm' spectrum and that the impacts on the setting of the nationally important Grade 1 Holy Trinity Church. Grade II Highfields and the Wysall Conservation Area, in particular, ought to be afforded significant weight against the proposal in the planning balance.

- 3.5.17 The cumulative harm of this Appeal proposal when considered in conjunction with the adjacent approved solar farm development is harmful to the sense of place and local distinctiveness of this part of the Borough. If the Appeal is allowed then the local landscape character could be changed due to the area covered by solar farms, creating a disproportionate impact on the local landscape.
- 3.5.18 Impacts on local rights of users are also important considerations that weigh against this proposal. The impacts of the solar panels and, importantly, the 2m high fencing in this rural location will undoubtedly generate harm for users of local rights of way and adversely impact the quality of the landscape.
- 3.5.19 The Council considers that its officers worked proactively with the Appellant to try and identify solutions which meant that the proposal could have been approved and in order to secure a development that improves the economic, social and environmental conditions in the area. Notwithstanding this, Members considered the impacts of the proposed solar farm and concluded that the scheme of conditions proposed in the Planning Officer's Committee Report were insufficient to mitigate for the unacceptable harm the proposed solar farm and associated development would cause.
- 3.5.20 Notwithstanding the benefits arising from the proposed solar farm in terms of renewable energy production and the contribution that the proposal would make to enabling the UK to reduce its carbon emissions and hit its Net Zero targets, the Council considers that, on balance, the totality of the impacts of the proposal, both individually and in combination with the approved solar farm to the west, on nationally important heritage assets, skylark populations and on the amenity of those using local rights of way and on the landscape are of such a degree that the benefits do not outweigh them. The Council considers that this Appeal should be dismissed for the above reasons.

## 4 EVIDENCE

4.1.1 The Council will prepare written proofs of evidence in advance of the Inquiry to address reasons for refusal 1 - 3 inclusive and explain why the appeal ought to be dismissed.

4.1.2 The evidence will also consider any other valid issues raised by Third Party objectors or by statutory consultees.

4.1.3 At this stage it is anticipated that evidence will be presented as follows:

### Landscape and Visual Considerations

- Mr Simon Higson BA(Hons), MA, CMLI, CMIHort, MIQ

### Heritage Considerations

- Mr Adam Partington BA (Hons), MSc

### Ecology Considerations

- Ms Rhia McBain BSc (Hons), MCIEEM

### Planning Policy Considerations (including sequential test) and the Planning Balance.

- Mr Peter Bond JP, BSc (Hons), MA, MRTPI

4.1.4 The Council reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the Appellant and/or any Third Parties.

## **5 PROPOSED DRAFT PLANNING CONDITIONS**

- 5.1.1 Should the Appeal be upheld, the Council proposes that all of the conditions suggested by the Planning Officer in the Committee Report be imposed on the Decision Notice. Notwithstanding this, it is considered that a full scheme of agreed conditions will be agreed with the Appellant following determination by the Inspector on whether the changes proposed within the Appeal Scheme are accepted.
- 5.1.2 The Council considers these conditions to be reasonable and relevant to the proposed development and in all other respects meet the tests set out in Paragraphs 55 – 58 of the NPPF and within the PPG note on the Use of Planning Conditions.



## **6 APPEAL DECISIONS**

6.1.1 The following Appeal Decisions may be referred to (although the Council reserves the right to refer to further appeal decisions that may be relevant to this Appeal):

- Appeal Decision 13 March 2024 - APP/W2845/W/23/3314266 - Land at Milton Road, Gayton, Northampton NN7 3HE;
- Appeal Decision 11 March 2024 - APP/X1925/V/23/3323321 - Land at Graveley Lane and to the East of Great Wymondley;
- Appeal Decision 11 March 2024 - APP/B1550/W/23/3329891 Land West of Great Wheatley Farm, Great Wheatley Road, Rayleigh, SS6 7AR; and
- Appeal Decision 8 April 2024 - APP/N1920/W/22/3295268 - Land North of Butterfly Lane, Land Surrounding Hilfield Farm and Land West of Hilfield Lane, Aldenham, Hertfordshire.

## **APPENDICES**

**Appendix 1** – Plan Ref. SOC 3

**Appendix 2** – Plan Ref. SOC 4

**Appendix 1** – Plan Ref. SOC 3

**Appendix 2** – Plan Ref. SOC 4