

STATEMENT OF COMMON GROUND

Section 78 of the Town and Country Planning Act 1990, Article 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rule 2002

Appeal by Renewable Energy Systems Ltd

at

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

APP/P3040/W/23/3329235

Renewable Energy Systems Ltd (1)

and

Rushcliffe Borough Council (2)

Signed: N Cussen

2nd May 2024

On behalf of the Appellant

Dated

Signed

On behalf of the Council:

Dated

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1 INTRODUCTION AND SCOPE

1.1 This Statement of Common Ground (“**SoCG**”) is made between the follow parties:

(a) Renewable Energy Systems Ltd (the “**Appellant**”); and

(b) Rushcliffe Borough Council (the “**Council**”)

together the “**Parties**”.

1.2 This SoCG has been jointly prepared by the Appellant and the Council and establishes the general matters on which the Parties agree and disagree.

1.3 Appendix 1 of this SoCG provides a complete schedule of the planning application documents submitted to the Council and relevant to the Refusal issued by the Council. It does not form a complete list of documents submitted to the Planning Inspectorate as part of the Appeal. A separate list of core documents has been prepared between the parties.

2 FACTUAL BACKGROUND

2.1 On 11 February 2022, the Appellant’s submitted to the Council a planning application for the *installation of a renewable energy generating solar farm comprising, ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancements* (application reference 22/00319/FUL) (the “**Proposed Development**”).

2.2 Initial pre-application advice was received from Council on 13 May 2021 (21/00551/ADVICE) and the Proposed Development was validated on the 18 February 2022. A negative screening direction was issued by the Council on the 26 April 2021. The Council undertook consultation and considered the application, during which time the Proposed Development was amended on two separate occasions with solar panels removed from Fields 15 and 16. The application was subsequently refused at Planning Committee on the 9 March 2023 against Officer recommendation for approval.

2.3 An EIA Screening Opinion was received from the Council on the 26 April 2021, confirming that the Proposed Development would not constitute EIA development. The Screening Opinion was based on a site area of 89.1 hectares (ha) within 17 agricultural fields. In providing its response the Council stated in the EIA Screening Opinion that: *“It is not considered that the sites are located within a sensitive area for the purposes of Environmental Assessment as set out in the Regulations.”*

- 2.4 The planning application was recommended for approval by Council Officers, but Committee Members disagreed with the recommendation and refused the application. In refusing the application the Council gave one Reason for Refusal:

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

(the “**Refusal**”).

- 2.5 On 9 September 2023, the Appellant made an application to the Secretary of State under section 78 of the Town and Country Planning Act 1990 (the “**Act**”) to appeal the Refusal (appeal reference APP/P3040/W/23/3329235) (the “**Appeal**”).
- 2.6 On 1 December 2023, the Planning Inspectorate, on behalf of the Secretary of State, informed the Parties that the Appeal would be dealt with by way of a Public Inquiry and on 14 December 2023 the Planning Inspectorate notified the Appellant that this SoCG must be prepared for the Appeal to be validated.

The Appeal Site and Proposed Development

- 2.7 The Appeal Site is undeveloped land located entirely in the green belt approximately 1.3km south of Gotham and 0.75km northwest of East Leake, Nottinghamshire; the approximate centre point of which is Grid Reference E453185, N328739. Comprising 16 agricultural fields and additional ancillary areas, the Appeal Site measures an approximate total of 80.65 ha, with approximately 55.65 ha under panel.
- 2.8 The Appeal Site is split into two sections, north and south, by Leake New Wood. Both sections lie on elevated, gently undulating land ranging between 87 – 96m AOD. The northern section extends across several rectilinear agricultural fields. These include Gotham Wood to the north, Cuckoo Bush to the east, Leake New Wood to the south and Crownend Wood to the west. The southern section is also surrounded by pockets of woodland including Oak Wood, Crow Wood and Ash Spinney.
- 2.9 Within the Appeal Site there is a telecoms mast located on the southwestern boundary of Field 7, a wood pole line along the boundary between Fields 7 and 8 and within the

southern section of Fields 4 and 5 and overhead lines located along the southern boundary of Field 16 and the eastern boundary of Field 15.

- 2.10 The Appeal Site would be accessed from Wood Lane, which is an unadopted road. Construction vehicles will exit the M1 at junction 24, signposted A453 Nottingham (S), onto the A453 and travel in a northeast direction for approximately 4.3km, before taking the exit onto West Leake Lane. This road will be travelled on in a southern direction for approximately 1.5km, before turning left onto Kegworth Road. Vehicles will travel northeast along this road for approximately 1.3km before turning right into Wood Lane and the Appeal Site. The junction of Kegworth Road and Wood Lane will require widening with a temporary surface area to ensure the largest construction vehicle can access the site. To facilitate this, 11m of hedgerow will need to be trimmed and as a result of the required widening of the entrance to Wood Lane, off of Kegworth Road to ensure suitable visibility splays are achieved the realignment of 152m of hedgerow would also be required.
- 2.11 The surrounding area is rural in nature punctuated by individual farmsteads and Rushcliffe Golf Club on the eastern boundary of Field 15 in the southern section of the Appeal Site.
- 2.12 Recreational routes include several Bridleways which cross or abut the Appeal Site, providing connectivity to the wider Kingston Estate. These include Gotham Bridleways No. 10, 11 and 12 and West Leake Bridleways No. 5 and 13. West Leake Bridleways No. 5 is also known as the Midshires Way and is a Long-Distance Walking Association Route bordering the southern boundary of Fields 15 and 16.
- 2.13 While there are several field drains throughout the Appeal Site, it lies entirely within Flood Zone 1, an area described as having a “Low probability” of flooding.

3 PLANNING POLICY

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.2 Relevant legislation, policy and guidance considered relevant to the Proposed Development is contained in:
- 3.3 Rushcliffe Local Plan Part 1: Core Strategy¹;

¹<https://www.rushcliffe.gov.uk/media/1/rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/corestrategyexamination/9%20Local%20Plan%20Part%201%20Rushcliffe%20Core%20Strategy.pdf>

- 3.4 Rushcliffe Local Plan Part 2: Land and Planning Policies²;
- 3.5 The Gotham Neighbourhood Plan³;
- 3.6 The East Leake Neighbourhood Plan
- 3.7 Planning and Compulsory Purchase Act 2004⁴;
- 3.8 National Planning Policy Framework (2023);
- 3.9 National Planning Practice Guidance (NPPG) (2014)⁵;
- 3.10 Climate Change Act 2008⁶;
- 3.11 Overarching National Policy Statement for Energy EN-1 (2024)⁷;
- 3.12 National Policy Statement for renewable energy infrastructure EN-3 – (2024) ⁸
- 3.13 Clean Growth Strategy (2017)⁹;
- 3.14 Department for Business, Energy and Industrial Strategy (BEIS) Outcome Delivery Plan (2021)¹⁰;
- 3.15 The Sixth Carbon Budget: The UK's path to Net Zero (2020)¹¹;
- 3.16 The Ten Point Plan for a Green Industrial Revolution (2020)¹²;
- 3.17 Energy White Paper (2020)¹³;

²https://www.rushcliffe.gov.uk/media/1/rushcliffe/media/documents/pdf/planningandbuilding/planningpolicy/lapp/adoption/Rushcliffe%20LP%20Part%202_Adoption%20version.pdf

³<https://www.rushcliffe.gov.uk/media/1/rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/gotham/Gotham%20Adopted%20NP.pdf>

⁴ <https://www.legislation.gov.uk/ukpga/2004/5/contents>

⁵ <https://www.gov.uk/government/collections/planning-practice-guidance>

⁶ <https://www.legislation.gov.uk/ukpga/2008/27/contents>

⁷https://assets.publishing.service.gov.uk/media/64252f3b60a35e00120cb158/NPS_EN-1.pdf

⁸ <https://assets.publishing.service.gov.uk/media/65a7889996a5ec000d731aba/nps-renewable-energy-infrastructure-en3.pdf>

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700496/clean-growth-strategy-correction-april-2018.pdf

¹⁰<https://www.gov.uk/government/publications/department-for-business-energy-and-industrial-strategy-outcome-delivery-plan/beis-outcome-delivery-plan-2021-to-2022>

¹¹ <https://www.theccc.org.uk/publication/sixth-carbon-budget/>

¹²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936567/10_POINT_PLAN_BOOKLET.pdf

¹³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945899/201216_BEIS_EWP_Command_Paper_Accessible.pdf

- 3.18 Industrial Decarbonisation Strategy (2021)¹⁴;
- 3.19 Net Zero Strategy (2021)¹⁵; and
- 3.20 British Energy Security Strategy (2022).¹⁶
- 3.21 For the purposes of this Appeal, the Development Plan comprises the *Rushcliffe Local Plan Part 1: Core Strategy* (“**Core Strategy**”) and the *Local Plan Part 2: Land and Planning Policies* (“**LPP**”).
- 3.22 The southern section of the appeal site abuts an identified ridgeline covered by the East Leake Neighbourhood Plan. Due to the location of the Appeal Site, the *Gotham Neighbourhood Plan*, adopted January 2020¹⁷ and the *East Leake Neighbourhood Plan*, adopted November 2015¹⁸, are therefore material considerations.
- 3.23 The Core Strategy was adopted in December 2014 and is a long- term plan to regenerate Rushcliffe by establishing the strategic approach to new development and identifying the main strategic allocations in the area. In support of the Core Strategy, the LPP was adopted in October 2019 and identifies non-strategic allocations and designations and sets out more detailed policies for use in determining planning applications.
- 3.24 The following policies are of particular relevance to the Proposed Development:
- (a) Core Strategy Policy 1: Presumption in Favour of Sustainable Development;
 - (b) Core Strategy Policy 2: Climate Change;
 - (c) Core Strategy Policy 4: Nottingham-Derby Green Belt;
 - (d) Core Strategy Policy 16: Green Infrastructure, Landscape, Parks and Open Spaces;
 - (e) LPP Policy 16: Renewable Energy;
 - (f) LPP Policy 21: Green Belt; and
 - (g) LPP Policy 34: Green Infrastructure and Open Space Assets.

¹⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/970229/Industrial_Decarbonisation_Strategy_March_2021.pdf

¹⁵<https://www.gov.uk/government/publications/net-zero-strategy>

¹⁶<https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>

¹⁷<https://www.rushcliffe.gov.uk/media/1/rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/gotham/Gotham%20Adopted%20NP.pdf>

¹⁸<https://www.rushcliffe.gov.uk/media/1/rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/ELNP-Final%20version.pdf>

- 3.25 Gotham Neighbourhood Plan:
- (a) Policy GS1: Protective and Enhancement Measures for a Green Network; and
 - (b) Policy T1: Traffic Calming, Congestion and Parking.

3.26 East Leake Neighbourhood Plan Policy E1: Containment of the Built Environment.

3.27 ¹⁹ [climate-change-strategy-2021-30.pdf](https://www.rushcliffe.gov.uk/about-us/about-the-council/policies-strategies-and-other-documents/accessible-documents/climate-change-strategy/) (rushcliffe.gov.uk)

National Policy and Guidance

3.28 National Planning Policy Framework (2023)²⁰:

- (a) Chapter 2 (Achieving Sustainable Development), paragraphs 7, 8c and 10 - presumption in favour of sustainable development;
 - (b) Chapter 13 (Protecting Green Belt Land);
 - (c) Chapter 14 (Meeting the challenge of climate change, flooding and coastal change); and
 - (d) Paragraphs 152, 153, 156, 157 and 163.
- 3.29 National Planning Practice Guidance on Renewable and Low Carbon Energy Paragraph 013.
- 3.30 National Planning Policy Statement (NPS) (EN-1) paragraph 5.10.1 – 5.10.19.
- 3.31 The NPS on Energy (EN-3).

Supplementary Planning Documents/Guidance

3.32 The Greater Nottingham Landscape Character Assessment including appendings 9 area NW01

4 MATTERS AGREED

4.1 Effect on the Green Belt

- (a) The development is inappropriate in principle,
- (b) The appeal development does not conflict with Purposes A, B, D and E of the Green Belt.

¹⁹ <https://www.rushcliffe.gov.uk/about-us/about-the-council/policies-strategies-and-other-documents/accessible-documents/climate-change-strategy/>

²⁰ https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

4.2 Effect on Landscape

- (a) The site is not a valued landscape as defined in paragraph 180(a) of the NPPF.
- (b) That any adverse landscape character effects associated with the Proposed Development would last for the 40-year duration of the installation.

4.3 Effect on visual amenity of PRow users and residential occupiers

- (a) No conflict with policy is raised in relation to overlooking, overshadowing or overbearing residential receptors.
- (b) Any adverse visual effects associated with the Proposed Development would last for the 40-year duration of the installation.
- (c) That both parties will agree on the locations the Inspector will visit during the site visit.

4.4 Other matters

- (a) No conflict with policy is raised in relation to drainage, highways, archaeology, ecology, sustainability, heritage, noise, glint or glare, trees or agricultural land food production.
- (b) Benefits of the scheme include renewable energy generation, economic benefits, an additional permissive right of way and biodiversity net gain.
- (c) The appeal development operational period is 40 years following which the development will be decommissioned.

5 MATTERS NOT AGREED

5.1 Matters not agreed:

- (a) The level of harm to openness of the Green Belt that would be caused by the Proposed Development in both spatial and visual terms;
- (b) Whether the development conflicts with the purpose (C) of the Green Belt;
- (c) Where not addressed above in respect of effect on openness of the Green Belt, the effects of the Proposed Development on visual amenity within the Green Belt, including the visual amenity of users of rights of way;
- (d) Where not addressed above in respect of the effect on landscape character.
- (e) Whether the wider benefits of renewable energy generation associated with the Proposed Development and other environmental benefits it would deliver are

sufficient to clearly outweigh the level of harm by reason of inappropriateness, and any other harm resulting from the proposal.

- (f) whether the appellants assessment of sites within 2km of a grid connection is reasonable
- (g) Whether there are alternative sites for the proposed development
- (h) The viewpoints in the LVIA are relevant to the determination of the appeal and evidenced to an acceptable standard. The Council has raised the view north from BW10 across field 11 for assessment and the access junction between Kegworth Road and Wood Lane.
- (i) Whether the physical character of the surrounding landscape would remain and prevail unchanged with the proposed solar farm in place.

6 PROPOSED DRAFT PLANNING CONDITIONS

6.1 Draft planning conditions has been prepared and the final list is still under consideration by the parties at the time of agreeing this statement. The list of conditions will be provided separately setting out the respective positions in relation to the proposed conditions.

Appendix 1

Schedule of Documents Submitted to Council

6.2 Volume 1

- (a) Application Form
- (b) Design and Access Statement
- (c) Planning Statement
- (d) Statement of Community Involvement

6.3 Volume 2 Figures

- (a) Site Location Plan
- (b) Site Location Map
- (c) Field Numbers
- (d) Site Layout Plan
- (e) Infrastructure Layout
- (f) Access Track Detail
- (g) Construction Compound Detail
- (h) PV Module and Rack Detail
- (i) Security Fence Detail
- (j) CCTV Detail
- (k) Inverter Substation
- (l) Client DNO Substation
- (m) Deer Fence Detail
- (n) Public Rights of Way Section Plans (updated Aug 22)
- (o) Cumulative Map
- (p) Public Rights of Way Plan
- (q) Indicative Track with Bridleway Crossings (added Aug 22)

6.4 Volume 3 Technical Appendices

(a) Landscape and Visual Assessment (LVA)

- (i) LVA Appendix A - Figure 1.1 Land Character Area map
- (ii) LVA Appendix A - Figure 1.2 Land Designations map
- (iii) LVA Appendix A - Figure 1.3 Public Rights of Way Plan
- (iv) LVA Appendix A - Figure 1.4 Viewpoint Locations
- (v) LVA Appendix A - Figure 1.5 ZTV with woodland
- (vi) LVA Appendix A - Viewpoint 1 (Gotham) and Viewpoint 2 (Near Hillside Farm)
- (vii) LVA Appendix A - Viewpoint 3 (PRoW South of Wood Lane) and Viewpoint 4 (PRoW Wood Lane at the corner of BW10 & BW11)
- (viii) LVA Appendix A - Viewpoint 5 (PRoW Near Oak Wood) and Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course)
- (ix) LVA Appendix A - Viewpoint 7 (PRoW Fox Hill) and Viewpoint 8 (PRoW Near Grange Farm)
- (x) LVA Appendix A - Viewpoint 9 (East Leake) and Viewpoint 10 (West Leake)
- (xi) LVA Appendix A - Viewpoint 4 (PRoW Wood Lane at the corner of BW10 & BW11 year 0 and year 10)
- (xii) LVA Appendix A - Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course year 0 and year 10)
- (xiii) LVA Appendix A - Viewpoint 7 (West Leake year 0 and year 10)
- (xiv) LVA Appendix A - Figure 1.14a - Landscape and Ecological Management Plan
- (xv) LVA Appendix A - Figure 1.14b - Landscape and Ecological Management Plan
- (xvi) LVA Appendix A - Figure 1.14c - Landscape and Ecological Management Plan

- (b) **Ecological Assessment (EcA)**
 - (i) EcA Appendix 2A - Figure 2.1 Statutory Environmental Designations
 - (ii) EcA Appendix 2A - Figure 2.1.1 Pond Map
 - (iii) EcA Appendix 2A - Figure 2.2 Non-Statutory Environmental Designations
 - (iv) EcA Appendix 2A - Figure 2.3 Habitat Survey Map
 - (v) EcA Appendix 2.1 - Extended Phase One Survey Report
 - (vi) EcA Appendix 2.2 - Biodiversity Management Plan
 - (vii) EcA Appendix 2.3 - Net Gain Assessment
 - (viii) EcA Appendix 2.4 - Bird Hazard Management Plan
- (c) **Cultural Heritage Impact Assessment (CHIA)**
 - (i) CHIA Appendix 3a - Figures
 - (ii) CHIA Appendix 3b - Methodology and Asset Tables
 - (iii) CHIA Appendix 3c - Site Inspection Plates
 - (iv) CHIA Appendix 3d - Geophysical Survey Report Part 1
 - (v) CHIA Appendix 3d - Geophysical Survey Report Part 2
- (d) **Flood Risk and Drainage Impact Assessment (FRDIA)**
 - (i) FRDIA Appendices
- (e) **Construction Traffic Management Plan (CTMP) (updated Aug 22)**
 - (i) CTMP Appendix 5a - Figure 5.1 Proposed Haul Route
 - (ii) CTMP Appendix 5a - Figure 5.2 Swept Path Analysis
 - (iii) CTMP Appendix 5a - Figure 5.3 Visibility Splay
- (f) **Noise Assessment**
- (g) **Glint and Glare Assessment (G&G)**
 - (i) G&G Appendix 7a - Figures
 - (ii) G&G Appendix 7b & 7c - Residential Receptor Glare Results

- (iii) G&G Appendix 7d & 7e - Road Receptor Glare Results
- (iv) G&G Appendix 7f & 7g - Aviation Receptor Glare Results
- (v) G&G Appendix 7h & 7i - Rail Receptor Glare Results
- (vi) G&G Appendix 7j - Visibility Assessment Evidence
- (vii) G&G Appendix 7k - Solar Module Glare and Reflectance Technical Memo

- (h) **Outline Construction Environmental Management Plan**
- (i) **Agricultural Land Classification Survey**
- (j) **Arboricultural Impact Assessment**
- (k) **Public Rights of Way Management Plan (updated Aug 22)**

6.5 Additional Information 1

- (a) Ecology Rebuttal
- (b) Response to Concerns

6.6 Additional Information 2

- (a) Greenbelt Assessment
- (b) Site Layout Plan
- (c) Landscape and Visual Assessment Addendum
- (d) Figure 1.4 Viewpoint Locations_
- (e) Viewpoint 5 (PRoW Near Oak Wood) and Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course)
- (f) Viewpoint 7 (PRoW Fox Hill) and Viewpoint 8 (PRoW Near Grange Farm)
- (g) Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course year 0 and year 10)
- (h) Figure 1.13a - Landscape and Ecological Management Plan
- (i) Figure 1.13b - Landscape and Ecological Management Plan
- (j) Figure 1.13c - Landscape and Ecological Management Plan

6.7 Additional Information 3

- (a) Site Layout Plan
- (b) Infrastructure Layout
- (c) Landscape and Visual Assessment Addendum
- (d) Viewpoint 5 (PRoW Near Oak Wood) and Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course)
- (e) Viewpoint 6 (Midshires Way Near Rushcliffe Golf Course year 0 and year 10)
- (f) Figure 1.13a - Landscape and Ecological Management Plan
- (g) Figure 1.13c - Landscape and Ecological Management Plan
- (h) Addendum to Biodiversity Net Gain Assessment

Signed: <i>E. Temple</i>	Signed: N Cussen
Name: Emily Temple	Name: Nigel Cussen
Job Title: Executive Director, ET Planning Ltd On behalf of Rushcliffe Borough Council	Job Title: Senior Planning Director, Pegasus Group On behalf of Renewable Energy Systems Ltd