

**IN THE MATTER OF AN APPEAL PURSUANT TO S.78 OF THE TOWN AND
COUNTRY PLANNING ACT 1990**

**APPEAL BY EXAGEN DEVELOPMENT LIMITED
OLD WOOD ENERGY PARK
LAND WEST OF WYSALL, NOTTINGHAMSHIRE**

Planning Inspectorate reference: APP/P3040/W/25/3375110

Rushcliffe Borough Council reference: 24/00161/FUL

OPENING STATEMENT OF BEHALF OF THE APPELLANT

Introduction

1. Exagen Development Limited (“the Appellant”) specialises in the development and delivery of ground-mounted solar PV and battery energy storage projects in the United Kingdom.
2. In this case, the Appellant proposes “*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.*” (“the

Proposed Development”) at Land West of Bradmore Road and North of Wysall Road, Wysall, Nottingham, NG12 5QZ (“the Site”)¹

3. The Site comprises two land parcels located to the northwest and west of the village of Wysall, the closest settlement. Wysall is separated from the Appeal Site by various pastoral and arable fields, with the settlement edge largely enclosed by mature hedgerows and tree vegetation. A cable will link the two parcels under the road.
4. The essential backdrop to this appeal is that the United Kingdom faces a legally binding obligation to reach net-zero carbon emissions by 2050,² with an intermediate target to fully decarbonise the power sector by 2035.³ Delivering on those commitments requires renewable generating capacity to be built out at a rate and scale not previously seen in this country.
5. If the objectives of the Clean Power Action Plan are to be met, an additional 28 to 30 GW of solar generation needs to be connected by 2030. This is equivalent to approximately 100MW – or more than two projects of the size of the Appeal Scheme – per week. In the same timeframe, battery storage capacity must also increase by 400-500%, bringing it from 4.5GW to 23-27GW.⁴ The scale of the challenge is enormous.
6. Rushcliffe Borough Council is not a bystander to this challenge. The Council formally declared a Climate Emergency in 2020 and has set itself a target of carbon neutrality

¹ Is it worth noting that whilst amendments to the scheme are proposed through the appeal scheme, these changes fall within the red line and do not change the Description of Development, the amendments are not substantial and have been suitably consulted upon.

² CD5.8; CD5.9

³ CD5.25

⁴ CD5.25 Table 1, page 32.

by 2030, recognising that decisive local action is a necessary part of the wider response to climate change.⁵

7. Ground-mounted solar is central to the Government's decarbonisation strategy. It is cost-effective, proven at scale and capable of rapid delivery.⁶ The Government has gone further still: solar schemes of a larger scale have been designated as a Critical National Priority,⁷ carrying policy weight in constrained areas. By way of example, such is the need for solar energy that it has been sufficient to satisfy the Green Belt very special circumstances test, to clearly outweigh impacts on SSSIs, and to justify development in nationally designated landscapes and, in wholly exceptional circumstances, where substantial (not merely less than substantial) harm to heritage assets would arise. None of those characteristics are present here. The Proposed Development falls below the Nationally Significant Infrastructure Project threshold, but it serves precisely the same pressing national interest. That is a consideration the Inspector should keep in mind throughout this Inquiry.

8. Notwithstanding the strength of that policy position, the Climate Change Committee's most recent Progress Report⁸ records that solar deployment remains significantly off track⁹ and needs to “*accelerate significantly*”¹⁰ to meet the trajectory needed to hit the 2035 target, with planning decisions among the reasons for that shortfall.¹¹

⁵ Rushcliffe Borough Council Climate Change Strategy, November 2023 (CD 6.4).

⁶ Powering Up Britain, March 2023 (CD 5.20), page 40; NPS EN-1, para 3.3.20 CD5.55 and as reflected in the more recent and up to date NPS' EN1, §3.3.23 CD5.56

⁷ Note also that the transitional arrangements which apply for applications submitted before 1 January 2026

⁸ CD5.50A

⁹ CD5.50A, page 49, [Progress In Reducing Emissions 2025 Report to Parliament](#)

¹⁰ CD5.50A, page 60, [Progress In Reducing Emissions 2025 Report to Parliament](#)

¹¹ CD5.50A, page 6, [Progress In Reducing Emissions 2025 Report to Parliament](#)

9. Developments of this kind frequently generate local opposition, and this appeal is no different, but the national interest in securing a clean, affordable and secure electricity supply cannot be set aside in the face of it.
10. The Site is well-placed to make a meaningful contribution to that national effort. It carries no statutory landscape designation, does not constitute a valued landscape under paragraph 187(a) of the NPPF, falls outside the Green Belt, is subject to no ecological designation, and avoids Best and Most Versatile agricultural land entirely.¹²
11. Critically, the existing 132kV overhead electricity line crossing the southern parcel of the Site provides a direct and readily available grid connection, enabling the scheme to be brought forward quickly,¹³ an important material consideration given how acutely the country needs new renewable capacity.¹⁴ The Old Wood Energy Park would generate up to 49.9MW of clean electricity, powering approximately 24,900 homes and displacing some 31,500 tonnes of CO₂ each year. It has an early connection date for the solar part of the scheme, and the battery connection date would be confirmed post-planning.¹⁵ A site of this quality and readiness, capable of delivering benefit at that scale, is not to be turned away without compelling reason. The Appellant's evidence will show that no compelling reason exists.
12. This application was considered by the Council's professional planning officers and all statutory consultees. None objected to the Proposed Development and they concluded that:

¹² CD7.10; CD8.6 Nigel Cussen Proof, §5.4

¹³ For further detail on this see CD8.6 Nigel Cussen Proof, where it has a Gate 2 Offer.

¹⁴ See CD8.6 Nigel Cussen Proof §§11.52-60

¹⁵ Note that the scheme has a Gate 2, Phase 1 Offer for the Solar part of the scheme therefore it will be before 2030. The solar development would therefore connect before 2030.. The BESS offer is "protected" as planning was submitted before 20th December 2024 and NESO will consider it post appeal decision in a subsequent gating window.

“The undisputed urgent need for this form of development to assist in national and local targets for moving towards a low carbon future would clearly outweigh the identified harm in terms of landscape character, heritage assets and Skylark habitat.”

13. Members of the Council’s Planning Committee disagreed. They refused permission on four grounds: harm to landscape character and visual amenity (“RFR1”), harm to the settings of heritage assets (“RFR2”), harm to Skylarks (“RFR3”)¹⁶ and fire safety risk arising from the BESS (“RFR4”).
14. The Appellant will show that those RFRs were misconceived and ought not to have been imposed in the first place.
15. Since issuing its Decision Notice, issues have narrowed significantly between the parties.
 - a. On heritage, both the Council and the Appellant agree that any harm (where such harm is identified) falls within the *less-than-substantial* category, and the Council now agree that public benefits outweigh the harm.¹⁷ In other words, it should never have been a RFR. That is because, in neither case does the harm come close to justifying refusal when weighed against the scheme's considerable public benefits.

¹⁶ As clarified in the SoCG it is just Skylarks, not other protected species which were the LPA’s concerns.

¹⁷ CD8.5, Peter Bond Proof §4.14.

- b. On ecology, and any impacts upon skylarks, the Appellant's case was that even with the original or amended scheme, the Proposed Development would be acceptable and there would not be an unacceptable impact on skylark populations arising from the Proposed Development; however, since then, the Appellant has secured more skylark mitigation land which is closeby and suitable¹⁸ and the same can be secured.¹⁹
- c. In relation to fire and safety risk, the Proposed Development is now acceptable and RFR4 has been withdrawn.²⁰ This was agreed in the Statement of Case, and at the CMC.

16. The only matter that remained in dispute, therefore, related to landscape matters, but now, the Council are recalibrating their planning balance, provided that the relevant mitigation for skylarks can be secured.

17. However, and for completeness, the Appellant sets out its position on the main matters discussed in the Inspector's CMC Note.

Landscape

18. The Landscape Proof of Evidence²¹ addresses the landscape and visual effects of the development in detail. The Site is located in the open, low-lying agricultural landscape of the Nottinghamshire Wolds, characterised by large arable field enclosures, mature

¹⁸ Fox Rebuttal.

¹⁹ And note the email from Andrew Cullen to PINS on 6 March 2026 at 09.28 where he states that *"In light of the additional skylark mitigation being put forward by the appellant as part of their rebuttal evidence, the Council has resolved that they will no longer be moving forward with a defence against the appeal, and we will provide full reasoning at the opening of the inquiry. We are adopting this position on the proviso that the appellant has committed to securing this additional mitigation by way of a planning obligation which is currently in draft form. The Council's position here is therefore based solely on this planning obligation being forthcoming."*

²⁰ See §7.44 of the SocG

²¹ CD8.61

hedgerow boundaries and occasional woodland copses. It is not within any designated landscape. The Site benefits from a strong existing framework of boundary hedgerows and tree cover, including the screen provided by Bunny Old Wood to the north, which together provide a degree of natural enclosure.

19. A comprehensive Landscape and Visual Impact Assessment (“LVIA”) and LVIA Addendum (which addressed the Council’s consultants’ comments) were prepared by Pegasus Group as part of the planning application and inform the Landscape Proof of Evidence (“PoE”). The assessment follows the methodology of the Guidelines for Landscape and Visual Impact Assessment Third Edition (“GLVIA3”). The proposed solar panels would be, at most, 3.1 metres in height,²² equivalent to a mature hedgerow, and all built infrastructure has been designed to minimise visual prominence. The development has been set at least one field back from Bradmore Road to the east, and a minimum separation of approximately 30 metres (approximately 100 feet) has been maintained from the edge of Bunny Old Wood to the north.²³ There are also very limited impacts to the South and from Wysall Road given that it merely comprises the access track and buried cable in the southernmost field.

20. Mr Chanas demonstrates that the scheme would result in localised, temporary and reversible landscape and visual effects, primarily experienced from near-distance viewpoints on and immediately adjacent to the Site. Effects on landscape character are assessed as moderate-adverse at worst in Year 1, reducing to minor-adverse as the proposed mitigation planting, comprising extensive new native hedgerow planting with trees, woodland copses, and wildflower grassland, establishes over the first decade of

²² Solar Elevation Plan K010 P02 shows max panel height of up to 3.1m .

²³ Note the maximum and minimum offset distances from the wood in CD2.18 as illustrated on page 2.

operation. Crucially, the existing landscape framework substantially screens the development from longer-distance views, and the Inspector's site visit will confirm the degree to which the Site is already well-contained within the local landform and vegetation. Plainly, given that this is a Site visit in Winter/early spring, this will confirm the impacts against a worst-case scenario in terms of existing screening, as the vegetation is not in leaf.

21. The landscape mitigation proposals form an integral part of the scheme. There will be wildflower and species-rich grassland beneath and between the panel arrays. New native hedgerow and tree planting will reinforce and extend the existing field pattern, delivering significant landscape enhancement in addition to mitigation. New planting would provide a legacy benefit to the landscape character of the area, persisting well beyond the 40-year operational life of the development. Mr Chanas concludes that the residual landscape and visual effects are not of the severity to justify refusal, particularly when weighed against the substantial public benefits of the proposal.

Heritage

22. Ms Laura Garcia presents a systematic assessment of the historic environment within and surrounding the Site. This draws upon the Heritage Statement prepared by Pegasus Group and submitted with the planning application, which was itself informed by a desk-based archaeological assessment and geophysical survey. There was then a trial-trenching evaluation undertaken by York Archaeology.
23. The trial trench evaluation identified three areas of archaeological activity, principally boundary ditch systems associated with field enclosures and a possible post-medieval

kiln, none of which is of a character or significance that would justify refusal of the application. Ms Garcia confirms that the Appellant has engaged constructively with the County Archaeologist and that appropriate archaeological avoidance zones and a Written Scheme of Investigation can be secured by planning condition to ensure that any buried remains are appropriately managed during the construction phase.

24. In terms of designated heritage assets, the Heritage PoE addresses the potential for the proposals to affect the setting and, by extension, the significance of Listed Buildings and other assets within the vicinity of the Site. Having regard to the low-profile and reversible nature of the development, the substantial separation distances involved, and the screening provided by the intervening landform and vegetation, Ms Garcia concludes that any harm to the setting of designated heritage assets is at most less than substantial, and in many cases, no harm within the meaning of paragraph 208 of the NPPF.

- a. Ms Garcia draws attention to the fact that the Council's own Conservation Officer found no harm to Highfields (Grade II) from the consented solar farm that sits *between* this asset at the Site. It is simply not credible to justify finding harm from a scheme that is further away.²⁴
- b. In relation to Manor Farmhouse (Grade II), the asset is entirely screened by dense vegetation with no visual relationship to the Appeal Site whatsoever – a position that the LPA itself ultimately conceded by reversing its stance in its Statement of Case, accepting that there was a neutral impact.²⁵

²⁴ CD8.62 Laura Garcia §§6.13-15.

²⁵ CD8.62 Laura Garcia §§3.24 & 7.19-20.

- c. With regard to Wysall Conservation Area, only the Significant View is partially affected, showing only a sliver of the site's eastern edge – and even that harm is temporary, limited to roughly five years before landscape mitigation establishes and screens the distant proposed development entirely.²⁶

25. Finally, in relation to the Holy Trinity Church (Grade I), Historic England's initial concerns were alleviated following a site visit, but neither they nor the Conservation Officer were able to articulate what the Appeal Site actually contributes to the Church's significance. It is largely the churchyard and village which constitute its setting, and that will be unaffected by the Proposed Development.²⁷

26. For the Church and the two Grade II buildings of Highfields and Manor Farmhouse, there would be no harm. However, even if there was any heritage harm, such harm is plainly outweighed by the significant public benefits of the scheme (per NPPF §215). The Council now agree.²⁸

Ecology

27. Mr Harry Fox presents comprehensive ecological evidence²⁹ in support of the appeal. The ecological work underpinning this proof was prepared by Clarkson and Woods, who produced an Ecological Impact Assessment (including a Biodiversity Net Gain

²⁶ CD8.62 Laura Garcia §§8.33–8.37.

²⁷ CD8.62 Laura Garcia §§5.28–5.30.

²⁸ CD8.5, Peter Bond Proof §4.14.

²⁹ Harry Fox Proof, Rebuttal, but also the additional Note published in response to the Inspector's Pre Inquiry note. There was also an updated Ecological Impact Assessment as part of the appeal which included a site visit in August 2025.

Assessment³⁰) and a Breeding Bird Survey Report³¹ at the application stage, both of which form part of the application evidence base. Mr Fox addresses the baseline ecological value of the Site, predicted effects on habitats and species, with particular focus on Bunny Old Wood and farmland birds, and the significant ecological benefits that the scheme will deliver.

28. Mr Fox addresses the implications of the Proposed Development for farmland birds, including skylark (*Alauda arvensis*), lapwing (*Vanellus vanellus*) and other Red List species of conservation concern, which are present on the Site. An operational solar farm, with its extensive areas of new and enhanced hedgerows, woodland and copses, together with sympathetically managed grassland and wildflower meadow, will provide substantially improved nesting, foraging and roosting habitat for the majority of recorded bird species when compared to the current intensive arable regime. The Breeding Bird Survey confirms that, with appropriate habitat management secured by condition, the scheme will deliver a net benefit for farmland birds.

29. Mr Fox will explain that the impacts upon Skylark are not such as to justify refusal (resulting in a policy conflict), but, in any event, the Skylark mitigation can now be adequately resolved. Through the submission of a mitigation scheme to be approved by the Council, and which shall include land close to the Appeal Site which can accommodate all of the skylark territories which would be affected by the scheme, mitigation can be secured. Even if that were not so, Mr Fox explains how the Proposed Development would not have had an unacceptable impact on biodiversity (including Skylarks) in any event.

³⁰ CD1.9, CD2.23

³¹ CD1.14

30. The Biodiversity Net Gain (“BNG”) Assessment³² demonstrates that the Proposed Development will deliver substantial gains against the existing arable baseline. Both site parcels are currently in intensive agricultural use and are of limited intrinsic ecological value. The Proposed Development will transform large areas of that arable land into priority habitats of greatly enhanced value: species-rich grassland, native hedgerow with trees, scrub and woodland edge habitats. The BNG Assessment confirms that the scheme delivers 73.60% in habitat units, 60.77% in hedgerow units and 14.40% in watercourse units: significantly in excess of the mandatory 10% biodiversity net gain required under the Environment Act 2021, representing a powerful ecological benefit.³³

Development Plan and Material Considerations

31. Mr Cussen will explain that the Proposed Development is consistent with the Development Plan, in particular Policy 16 of LPP2, which explicitly supports renewable energy development in the countryside where impacts are acceptable or can be adequately mitigated.

32. Even if that were not the case, then national planning policy strongly supports the grant of permission in any event:

- a. The NPPF, the Climate Change Act 2008, the British Energy Security Strategy and EN-3 all require the planning system to positively enable schemes of this type.

³² CD2.32; CD3.8 Note that it was pre-statutory BNG.

³³ CD 3.81,

- b. Rushcliffe's own Climate Emergency declaration and carbon-neutrality ambitions are powerful local material considerations that point firmly in favour of the proposal.
 - c. Clean Power 2030 and the Solar Roadmap underscore how important this form of development is, which can readily and rapidly connect to the grid.
 - d. The landscape and visual effects are localised, temporary, reversible and proportionate, with mitigation planting delivering a lasting landscape legacy benefit beyond the operational life of the scheme.
 - e. Any harm to the setting of heritage assets is at most less than substantial and is plainly outweighed by the significant public benefits of the development.
 - f. Bunny Old Wood is fully protected by an appropriate buffer and construction exclusion zone; farmland birds will benefit from sympathetic habitat management; and the scheme delivers substantial biodiversity net gain well in excess of statutory requirements.
 - g. It will provide an important means for the farmers who own the land to diversify their farming operations.³⁴ The project provides the only option for farm diversification for them both in increasingly volatile commodity markets.
33. The Appellant respectfully submits that, upon a full and proper assessment of all the evidence, this appeal should be allowed and planning permission granted for the Old Wood Energy Park. The scheme is well-designed, sensitively located, and makes a compelling contribution to national and local renewable energy and net zero targets.

³⁴ CD8.7D, Appendix D

Sioned Davies
No5 Chambers

There is no credible basis upon which the planning balance could be said to favour refusal. The Inspector will, in due course, be invited to allow the appeal.

Sioned Davies

No5 Chambers

10 March 2026

LIST OF APPEARANCES

Sioned Davies, Counsel, instructed by Nigel Cussen, Pegasus Group

She will call

Harry Fox, CIEEM Associate Director, Clarkson and Woods

Ms Laura Garcia, BA (Hons) MCIfA, Senior Director, Pegasus Group

Mr Radek Chanas, M Eng, MA CMLI, Director, Pegasus Group

Mr. Nigel Cussen, BSc (Hons) Dip TRP, MRTPI, Senior Planning Director, Pegasus Group