



APPEAL BY JBM SOLAR PROJECTS 10 LTD

**FIELDS OS 6700 6722 AND 5200, OFF MUSTON LANE, EASTHORPE,
BOTTFESFORD**

**IN RELATION TO THE REFUSAL OF PLANNING PERMISSION BY MELTON
BOROUGH COUNCIL – PLANNING APPLICATION REFERENCE 22/00537/FUL**

**FULL PLANNING APPLICATION FOR THE CONSTRUCTION OF A SOLAR FARM
TOGETHER WITH ALL ASSOCIATED WORK, EQUIPMENT AND NECESSARY
INFRASTRUCTURE**

Rebuttal Proof of Evidence: Mr Peter Bond BSc (hons), MA, MRTPI

Acting on behalf of Melton Borough Council

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

September 2024

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1 Introduction and Scope

- 1.1 I am Peter Bond and I am a Planning Director at Heaton Planning Limited (Heatons). Heatons are a planning, environment, and design consultancy, with an experienced team of planners, landscape architects and ecologists.
- 1.2 Heatons was instructed by Melton Borough Council in April 2024 to represent the local planning authority at the Inquiry.
- 1.3 I prepared my proof of evidence (PoE) in August 2024 which considered the assessments made by Mr Tim Malim and Mr Simon Higson and provided a detailed consideration of the relative planning policies to which the proposal ought to be assessed and also the planning balance between the impacts of the proposal and the benefits that would arise therefrom.
- 1.4 This document is my rebuttal prepared in response to the Planning Proof of Evidence prepared by Mr Paul Burrell of Pegasus Group on behalf of JBM Solar Projects 10 Ltd, August 2024, hereafter referred to as 'Appellant's Planning PoE'.

2. Comments on Appellant's PoE

- 2.1 The Appellant's PoE states at paragraph 7.5 that the proposal would provide the equivalent electrical needs of 23,100 homes, whereas the Appellant's Pamphlet distributed by the Appellant prior to the Planning Committee and the Officer's Report both refer to 19,000 homes, even though the Appeal proposal (Holburn scheme) is of a reduced scale. Similar disparities exist with reference to CO2 displacement.
- 2.2 It is accepted that the proposal will generate renewable energy to the national grid, and appropriate beneficial weight is to be afforded to this matter. The value of that weight is dependent on the amount of renewable energy to be produced, but there are marked differences between the Appellant's Planning PoE and previous documents.
- 2.3 Notwithstanding paragraph 8.14 of the Appellant's PoE, The LPA maintains that the loss of BMV agricultural land weighs against the proposal and that there is conflict with Policies SS1 and E10 of the Melton Local Plan and Policy 9 of the

Bottesford Neighbourhood Plan in this regard. The LPA accepts that should Reasons for Refusal (RfR) 2- 4 inclusive fall away, then RfR 1 would not stand on its own and justify refusal of the Appeal, but it is not correct to state that 'the LPA are no longer contesting the matter of loss of agricultural land...'

- 2.4 At paragraph 9.45, Mr Burrell affords 'significant weight' to the revisions set out in the draft revised NPPF document published on 30th July 2024 (CD4.30). I remain of the opinion that only **limited weight** should be afforded to this document, in line with the Inspector's conclusion when considering Appeal reference APP/C5690/W/24/3340234 at Raymond Close, Lewisham (CD6.46). In his Decision Notice, he stated at paragraph 2 that,

"Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published".

- 2.5 Such an approach to the weight of the NPPF consultation document is supported by other recent Appeal Decisions, including APP/H1840/W/23/3333122 Land to the East of Main Street, Bishampton WR10 2NL (CD6.47), where at paragraph 26, the Inspector stated the following:

"I agree with the appellant that the consultation and the statement indicate a clear direction of travel. However, given that any changes are at the consultation stage they can only be given limited weight in the determination of the appeal ..."

Appeal Ref: APP/J2373/W/24/3338290 Land adjacent to Virginia Cottage, Bennetts Lane, Blackpool FY4 5BE (CD6.48); Appeal Ref: APP/F5540/W/23/3334862 6 & 8 Hounslow Road, Feltham TW14 9DG (CD6.49) and Appeal Ref: APP/Z3635/W/23/3334656 Osmanstead, Condor Road, Laleham, Surrey, TW18 1UG (CD6.50) also support the affording of only limited weight to the NPPF consultation document.

- 2.6 In paragraph 11.31 of the Appellant's Planning PoE, 'significant weight' is afforded to the fact that both the UK Government and MBC have declared a 'Climate Emergency'. While I accept that these are material considerations, I would draw the Inspector's attention to the following Appeal Decisions, where it

was concluded that there are no legal/specific planning policy implications of such declarations and that such declarations do not add weight to the proposal:

Appeal Decision APP/U1105/W/20/3247638 – Liverton Business Park, Exmouth – see paragraph 9 (CD6.51); and

Appeal Decision APP/M1595/W/23/3328712 – Marsh Farm, Fobbing – see paragraph 65 (CD6.52).

- 2.7 The Appellant's Planning PoE affords 'Moderate' weight to the use of Best Available Techniques (BAT) in the design of the proposed scheme. The Inspector, when considering the Marsh Farm appeal, considered this matter at length in paragraph 64 of the Decision Notice. He concluded that the use of BAT was very clearly in the operator's best commercial interest and that no additional weight should be afforded to the use of BAT.
- 2.8 With regard to proximity to the grid connection, the Appellant's Planning PoE at paragraph 11.46 affords this matter 'Significant' weight. The Inspector in the Marsh Farm appeal Decision Notice concluded in paragraph 65 that 'no' additional weight should be afforded to this matter. Noting that the two schemes are not directly comparable (as no two can be), I remain of the opinion that 'Moderate' weight ought to be afforded to grid connection matters.
- 2.9 With regard to BNG, in my Proof of Evidence I referred to an Appeal Decision where the Inspector applied 'Modest' weight to this matter, while Mr Burrell concluded that 'Significant' weight should be afforded in paragraph 11.50 of his PoE. Again, no two proposals are the same, and even where identical percentage increases in BNG can be achieved, the actual scale of that increase can be materially different. In the Marsh Farm appeal the Inspector concluded that the BNG would provide 'Moderate' weight in favour of the proposal, and I remain of the opinion that 'Modest/Moderate' weight in favour of the proposal is the right conclusion in this instance.
- 2.10 It is considered that the issue of farm diversification is an economic benefit and there is an element of double counting in the Appellant's Planning PoE. This is supported by the conclusion of the Inspector at the Marsh Farm Appeal, where at paragraph 71 he concluded that 'no' additional weight should be afforded to

farm diversification. Weighing all the economic benefits together I consider that they offer 'limited' benefits in favour of the proposal.

Edith Summerskill Decision

2.11 In the Appellant's Heritage PoE, at paragraphs 4.50 – 4.52 reference is made to the Secretary of State Appeal Decision reference APP/H5390/V/21/327713 [2023] - Edith Summerskill House, Clem Attlee Court, London - CD 6.35. While it is a matter for the heritage witnesses, it is important to note that the approach to assessing harm to the setting of heritage assets in this case was not supported by Historic England in the subsequent New City Court decision (CD6.53) (see paragraphs 8.16 – 8.19 of the Inspector's Report). It is also noteworthy that the Inspector in that appeal opined that there is no one correct approach to assessing impacts and ultimately it is a matter of judgement for the decision-maker, a position supported by the Secretary of State at paragraph 22 of the Decision Letter.

CONCLUSION

- 10.1 The Appellant has in some instances overplayed the benefits of the proposed solar farm and underplayed the harm to the landscape and, in particular, nationally important heritage assets.
- 10.2 The extensive reference to previous appeal decisions by the Appellant offers limited assistance to the Inspector as it is rarely possible to truly compare differing proposals. This is supported by the recent judgment of Mr Justice Holgate in *Vistry Homes Ltd v SSLUHC* and *Fairfax Acquisitions Ltd v SSLUHC* [2024] EWHC 2088 at paragraph 160 (CD6.54).
- 10.3 It is considered that the harm arising from the proposed solar farm would not be outweighed by the benefits and that, on balance, the Appeal should be dismissed.