

APPEAL BY JBM SOLAR PROJECTS 10 LTD

LAND LOCATED TO THE SOUTH EAST OF BOTTESFORD

CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

XIC = Examination in Chief, XX = Cross-Examination, Re-X = Re-Examination

Introduction

1. At the close of the Inquiry, it is common ground with Melton Borough Council (“the Council”) that there is a climate emergency, and that failing to tackle it will result in *“natural catastrophes and changing weather patterns, as well as significant economic damage, supply chain disruption and displacement of populations.”*¹ The high cost of inaction is not just to the environment, but also to human life and the economy.²
2. It is now also common ground that deployment of solar is critical to the delivery of this country’s net zero ambitions.³ However, the level of solar that needs to be delivered combined with the barriers to delivery – including lack of grid connections and the consenting process – presents a *“colossal challenge”*.⁴ Meeting that challenge will require bold action. Mr Bond acknowledged that the *“usual approach”* cannot continue.⁵
3. Yet, the Appeal Site is unconstrained by policy designations.⁶ It is not a valued landscape and is not designated, whether for its landscape character, nature conservation, or any other reason. It does not lie in a Conservation Area or the Green Belt. It lies in the wider setting of, but at some distance to, a number of heritage assets. There would be no direct harm to

¹ Mr Bond in XX, having regard to the Energy White Paper CD4.12 foreword at p.2. Melton Borough Council declared a Climate Emergency in July 2019 (CD5.8)

² Agreed Mr Bond in XX as per Energy White Paper CD4.12 at pp.9-10 of the PDF

³ Agreed Mr Bond in XX

⁴ Agreed Mr Bond in XX – those are also the words of the National Audit Office CD4.16 at p8/67

⁵ Mr Bond in XX

⁶ Agreed Mr Bond in XX

any such assets, and even on the Council's case the heritage harm is nowhere near substantial.⁷ The Council has found other solar farms in the area to be acceptable.

4. The professional officers of the Council, including the Assistant Director for Planning, consider that permission should be granted.⁸ Mr Burrell concurs.

Landscape

5. While each scheme must be assessed on its merits and landscapes will vary from one place to another, it is agreed that almost any solar project of this scale will give rise to some adverse landscape and visual effects.⁹ It is also common ground that despite such impacts, solar farms represent an acceptable form of development in the open countryside.¹⁰
6. In this case, the final Proposed Development has resulted from an extensive iterative design process, responding positively to consultation advice, including via additional improvements at appeal stage to the scheme recommended for approval by officers.¹¹ Mr Kratt explained that key mitigation measures proposed include:¹²
 - a. The omission of solar from some fields originally included following consultation comments;¹³
 - b. Offsetting of solar arrays from the boundaries and security fencing, with offsets from the "green lanes" of between 4 to 36m¹⁴;
 - c. The hedge planting associated with the final layout, with hedges softening visual impacts, supported by the principle of providing generous widths for users of the new "green lanes" in the order of 10m¹⁵;
 - d. Ensuring that public rights of way ("PRoW") are not framed on both sides by solar arrays, such that open views are generally retained in one direction; and

⁷ Agreed Mr Malim in XX

⁸ CD 3.1 and 3.2

⁹ Agreed Mr Higson in XX, also recognised in CD4.3 National Policy Statement EN-1 at §5.10.5

¹⁰ Mr Higson in XX, SOCG CD9.4 at §7.5

¹¹ Mr Kratt in XIC. Summarised in the Design and Access Statement (CD1.25), documented in the Design Evolution Report (CD10.13) and summarised within Section 7.0 of Mr Kratt's Proof. Officer Report is at CD3.1.

¹² Mr Kratt in XIC and in response to a question from the Inspector

¹³ including the omission in the "Holborn" scheme of 2ha of solar arrays to the south of Site to allow for fuller views across the valley

¹⁴ Green Lane Offset Information Plan submitted on 17 September 2024 CD11.14

¹⁵ with the Ramblers in their third party comments requesting a minimum of 8m

- e. Provision of new green infrastructure comprising trees, woodlands, an orchard, native hedgerows and grassland habitats, which provide landscape character as well as biodiversity benefits.¹⁶
7. As to the receiving landscape, Mr Kratt explained that, in his extensive experience, this countryside has the right characteristics to accommodate solar of the type proposed.¹⁷ He pointed to the flat but gently undulating landform and vegetation cover, which together contain effects to an appropriate level. He noted the relatively limited zone of visual influence, confined largely to about 1km.¹⁸ Mr Kratt also told the Inquiry that while a number of PRoW are found in and around the Site, their concentration is not atypical of the wider vale landscape.¹⁹ Furthermore, it is agreed that the Appeal Site is not a valued landscape, which are those of the highest sensitivity.²⁰ That is not to say that being a valued or designated landscape prohibits solar development, and examples of such schemes granted on appeal are before the Inquiry.²¹

Landscape Character

8. The focus of reason for refusal 2 is on cumulative character impacts. However, Mr Kratt told the Inquiry that it is necessary to first consider the effects of the Proposed Development itself on the landscape, in order to make ensuing judgements regarding broader landscape capacity related to cumulative judgements. Mr Kratt also explained that the landscape context and nature of the place should be properly understood.²²
9. Landscape character impacts can be assessed at a number of scales, from the National Character Areas (“NCA”) down to local level. The choice of the scale of receptor is critical to understanding the level of effects in context and their acceptability.

¹⁶ Mr Kratt’s Proof at §2.2.2, §7.3.1 and his Figures 8-11

¹⁷ Mr Kratt in XIC

¹⁸ Mr Kratt’s Fig 07

¹⁹ Mr Kratt’s appendix Fig 04-C and 04-B

²⁰ Mr Higson in XX, SOCG at §2.6 and §7.13. It was agreed this means that the correct approach is set out in the NPPF at §180(b) rather than §180(a)

²¹ See the discussion of the import of the critical national priority designation in EN-1 in the Planning section below. Two consents for solar schemes within valued landscapes and in the settings of an Area of Outstanding Natural Beauty (now a National Landscape) are at CD6.15 DL1, DL3 and DL15; CD6.17 at DL17

²² Mr Kratt in XX

10. Starting with the high level, the Site and wider area broadly align with the key descriptors of the NCA 48 Trent and Belvoir Vales and NCA 74 Leicestershire and Nottinghamshire Wolds.²³ That includes the low-lying landform, agricultural land use, medium fields, red brick architecture, and rural villages linked by quiet lanes.²⁴ No party has relied on impacts at the NCA scale. However, it is notable that the NCA guidance encourages conversion of arable to pasture and grassland habitats to, amongst other things, benefit local character.²⁵ The guidance also encourages enhancement of the woodland and hedgerow network, supporting new planting to enhance landscape diversity and counteract threats to landscape character.²⁶
11. At the more local level, the Appeal Site falls within the expansive gentle vale landscape of Landscape Character Area (“LCA”) 1 “Vale of Belvoir”, with LCA2 “Bottesford” to the north east and LCA 9 “Parkland” to the south.²⁷
12. To understand the sensitivity of the receiving landscape, it is important to consider both value and susceptibility to the particular development under consideration.²⁸ In the context of the Vale of Belvoir, the development proposed is low-lying (with the dominant element 3m high), it works within the framework of existing fields and vegetation, and it can be draped over rather than altering the existing landform.²⁹ Mr Higson accepted that were the solar farm to be constructed on the Appeal Site, it would still be perceived as development in fields in the countryside.³⁰
13. Taking these matters into account, Mr Kratt and Mr Higson agree that LCA1 has medium sensitivity.³¹ The 2014 sensitivity study “Melton and Rushcliffe: Wind Energy Development” concluded that LCA1 has “low-medium” sensitivity to turbine heights of

²³ Mr Kratt’s Proof at §§6.4.1-6.4.4, NCA documents are CD8.5 and CD8.12

²⁴ Mr Kratt’s Proof at §6.4.4

²⁵ page 17 of CD8.5 SEO1

²⁶ page 18 of CD8.5 SEO2

²⁷ Mr Kratt’s Figure 6, with the key characteristics and descriptors set out in Mr Kratt’s Proof at §§6.4.8-6.4.10

²⁸ Mr Kratt in XIC

²⁹ Mr Kratt in XIC. See also Mr Kratt’s Proof at §§7.5.4-7.5.5. See also decisions of Inspectors at e.g. Middle Road CD6.43 DL12-13, Halse Road CD6.22 at DL40.

³⁰ Mr Higson in XX

³¹ As summarised at §§8.2.7-8.2.13 of Mr Kratt’s Proof, full detail in his Summary LVIA at Appendix 3, see Mr Higson’s Appendix 1 table SH-3

under 25m.³² While that guidance does not relate specifically to solar, it does indicate that renewable energy of an appropriate scale can be accommodated within the vale landscape.³³

14. Mr Higson finds a higher sensitivity for the Appeal Site itself than for LCA1. Mr Kratt told the Inquiry that such a conclusion is not justified. The 2014 landscape sensitivity study, on which Mr Higson relies, does not elevate the sensitivity of this location.³⁴ Mr Higson suggested that the value is elevated due to three factors. However, Mr Kratt explained:

- a. Cultural heritage: time depth and views for Belvoir Castle – views of the castle are possible across a wide area of the vale;
- b. Distinctiveness: including intact historic field patterns – this is not borne out by the historic mapping³⁵; and
- c. Recreation Access: the use of local rights of way – the Appeal Site does not have an unusually high number of footpaths as compared to the wider area.³⁶

15. Furthermore, Mr Higson accepted that the Appeal Site contains some features that detract from sensitivity, including pylons and road noise from the A52.³⁷

16. Mr Kratt has assessed the effects to LCA1 within the Appeal Site itself including its immediate context³⁸, within its local context (up to 1km), and beyond 1km.

- a. In relation to the Site and its immediate context, Mr Kratt finds the change of land use and introduction of new structures would result in a large scale, permanent impact, with a high-medium magnitude and moderate adverse effect.³⁹
- b. In terms of the surrounding landscape up to around 1km, before planting matures there would be a medium scale, medium to long-term effect, which is moderate adverse.⁴⁰ While the Proposed Development would be visible and would change the land use, the distinctive character of the expansive vale with a strong defined field pattern would prevail.⁴¹ By year 15, the effects would reduce to a medium-small

³² CD8.8, Mr Kratt's Proof at §§6.5.1-6.5.6

³³ Mr Kratt's Proof at §§6.5.1-6.5.6

³⁴ Mr Kratt in XIC, referring to Mr Higson's §3.3.3

³⁵ See CD11.10

³⁶ Mr Kratt's appendix Fig 04-C and 04-B

³⁷ Mr Higson in XX

³⁸ which Mr Kratt indicated included an approximate boundary of one field beyond the red line boundary

³⁹ Mr Kratt's Proof at §8.5.3 – this is not considered "significant"

⁴⁰ Mr Kratt's Proof at §8.5.8 – this is also not considered "significant"

⁴¹ Mr Kratt's Proof at §8.5.8

scale, with the proposed planting strengthening landscape structure and fabric and reducing intervisibility, resulting in a moderate-slight effect.⁴²

- c. Beyond 1km from the Site within the 5km study area, Mr Kratt concludes that effects would be negligible scale, with limited intervisibility and little discernible change to landscape character and key characteristics.⁴³

17. Mr Higson has assessed both the Site itself and LCA1 taken as a whole.

- a. In terms of the Appeal Site itself, he finds a high magnitude of change and a major and significant effect during operations.⁴⁴
- b. As to LCA1 taken as a whole, Mr Higson finds the magnitude of effect is medium during operations, resulting in a moderate and not significant effect at year 1.⁴⁵

18. A key focus of the XX of Mr Kratt was to suggest that at a site level the magnitude of change must be high, resulting in a significant effect. However, the purpose of that line of questioning was unclear. The Council accepts that solar is acceptable in the open countryside and has consented a number of schemes, including of 49.9MW, within the study area. There is likely to be a similar magnitude of effect at a site-level in all those cases. So, a significant effect at site level, even were that to occur, does not provide much assistance in determining overall acceptability. Reason for refusal 2 does not allege unacceptable landscape character harm to the Site itself.⁴⁶

19. Similarly, while it was put to Mr Kratt that the Scheme would introduce a range of “industrial” elements – from panels to fencing and CCTV – Mr Kratt explained that (a) in his view the elements are not industrial, but simply characteristic of solar development, (b) some elements such as fencing and storage containers do have echoes in the surrounding countryside, and (c) that solar farms with such features are becoming increasingly common experiences in worked farming landscapes.⁴⁷ The reality is that the core elements of the Appeal Scheme will be similar to the other solar farms the Council has consented nearby.

⁴² Mr Kratt’s Proof at §8.5.9

⁴³ Mr Kratt’s Proof at §8.5.12

⁴⁴ Mr Higson’s Appendix 1 Table SH-4 and SH-5

⁴⁵ Mr Higson’s Appendix 1 Table SH-4 and SH-5

⁴⁶ Agreed Mr Bond in XX

⁴⁷ Mr Kratt in XX

20. Mr Kratt also told the Inquiry that while the development would impact elements of the landscape to varying degrees (land cover, topography and vegetation), it is important to also consider aesthetic and perceptual aspects as advised by GLVIA. He explained that views across undeveloped land are a character of the proposal in the immediate Site context and within the Site itself; that long ranging views beyond the Site to the extent they influence perception of landscape character would remain; and that existing vegetation would be retained such that the solar arrays sit within the existing landscape framework.
21. While Mr Higson finds no significant effects to the published LCAs beyond the Site level, he has nonetheless managed to generate a significant effect at a character area level by creating a new “local character area” – “The ‘Vale’ around Bottesford”.⁴⁸ Mr Higson accepted that he has “*contrived the geography*” of this new character area by drawing a line around the boundaries of five solar schemes.⁴⁹ Oddly, the boundary of Mr Higson’s ‘Vale’ does not extend to the zone of visual influence of those five schemes.⁵⁰
22. Mr Kratt explained that by pruning the study area to the red line boundaries, Mr Higson has not assessed impacts in an appropriate level of context, which is what GLVIA directs.⁵¹ While it was suggested that the reason the boundary has been drawn in this way is that this is where a new landscape subtype would arise, Mr Kratt explained that is not how landscape characterisation is carried out according to established methodologies: boundaries are typically drawn by more dominant features such as the nature of farming practice.⁵²
23. Having identified this new character area, Mr Higson ascribes it a medium / high sensitivity, higher than LCA1, despite accepting that the area currently shares the same characteristics of LCA1.⁵³ Mr Kratt explained that by including the Proposed Development to complete the definition of the boundary of the ‘Vale’, Mr Higson has “pre-loaded” the sensitivity.⁵⁴ While Mr Higson has elevated the sensitivity due to the presence of a number of solar farms, another understanding of the defined area is that the presence of existing solar and

⁴⁸ see p.8 of Appendix 2 to Mr Higson’s Proof. NB Mr Higson finds neutral effects to LCA2 and LCA9 as a whole - see his Appendix 1 Table SH-5

⁴⁹ Conceded by Mr Higson in XX

⁵⁰ Figure in Appendix 1 LDA proof – cumulative ZTV extends outside the vale LCA p.17

⁵¹ Mr Kratt in XIC, referring to GLVIA 3 at §7.20

⁵² Mr Kratt in XX

⁵³ Mr Higson in XX

⁵⁴ Mr Kratt in XIC

energy infrastructure reduces the susceptibility to such development.⁵⁵ It is also relevant that the locations in which those other schemes have been regarded as appropriate for solar by the Council share characteristics with the Appeal Site. Mr Higson accepted that might suggest solar is an appropriate land use within the character area.⁵⁶

24. Mr Higson finds a “high” magnitude of change to the new LCA as a whole, the highest magnitude available, resulting in a major effect.⁵⁷ That magnitude simply cannot be right. A key component of magnitude is geographical extent, and yet the “new LCA” defined by Mr Higson extends to some 3,000ha of which the vast majority would remain unaffected by solar.⁵⁸ More generally, significant caution needs to be applied to Mr Higson’s results:

- a. First, Mr Higson accepted that his new character area would only come into being if the Proposed Development was built. As such, it is unclear against what baseline he has assessed the effects – an assessment has been carried out on a character area that does not yet exist.
- b. Secondly, the effects Mr Higson identifies on the new LCA do not relate to the impacts of the Proposed Development alone but are inherently bound up with the Council’s cumulative case.⁵⁹
- c. Thirdly, Mr Higson finds a major effect because he considers the addition of the Appeal Site would turn the LCA into an area with solar as a key characteristic.⁶⁰ However, he has provided no analysis of the impacts of the other four solar schemes in establishing the proper baseline within which the Scheme should be assessed.⁶¹
- d. Fourthly, while it was suggested that Mr Higson has followed GLVIA⁶², which explains that one way cumulative impacts can arise is through creation of a new character area, that is not an accurate description of what Mr Higson has done. Instead, he has assessed landscape change (in terms of sensitivity, magnitude and effect) against the new character area. He has also failed to assess whether a new character area sub-type has arisen against the appropriate baseline for such a characterisation, which Mr Kratt explained would be LCA1 as a whole.⁶³

⁵⁵ Mr Kratt in XIC

⁵⁶ Mr Higson in XX

⁵⁷ See Mr Higson’s Appendix 1 SH-5

⁵⁸ Agreed Mr Higson in XX

⁵⁹ Mr Higson in XX, his §3.3.14 Appendix 1

⁶⁰ Mr Higson in XX

⁶¹ CD7.19B

⁶² CD8.1 at section 7

⁶³ As Mr Kratt explained in XX

25. Mr Kratt’s approach to cumulative impacts follows that set out at §7.20 of GLVIA. He has defined an agreed 5km study area, understood what that study area encapsulates (essentially the Belvoir Vale characteristics), then included all four consented schemes in the baseline.⁶⁴ This (and not Mr Higson’s approach) is also essentially the approach advocated by CEC.⁶⁵
26. To make a properly informed judgment on cumulative effects, and in particular whether the balance has been “tipped” bringing about a change so significant that the description of the landscape is fundamentally altered, several levels of information are relevant.⁶⁶
27. First, the physical proportion of the study area taken up by solar. Mr Higson’s new Vale ‘LCA’ by chance allows him to conclude, in line with the reason for refusal, that 10% of an identified area would be comprised of solar. Given that the Committee did not have this new ‘LCA’ before it, it is unclear where the 10% figure first came from. Even with that 10%, Mr Higson accepted that solar would represent a small proportion of the new ‘LCA’, with the vast majority of the area remaining undeveloped.⁶⁷ When the same calculation is applied to the 5km study area agreed by Mr Kratt, Pegasus, the Committee Report and CEC, solar makes up just 2%.⁶⁸ That is not a substantial footprint, which is important when determining if the balance has been tipped or if solar has become a “key” characteristic.⁶⁹
28. Secondly, there is the visual envelope. Even restricting the analysis to Mr Higson’s new LCA, the cumulative Zone of Theoretical Visibility (“ZTV”) shows no visibility of the Appeal Site across the majority of the area. Where views do arise of solar they are mostly of only one scheme.⁷⁰ It is agreed that due to the topography and vegetation there are only limited opportunities to experience any combined or successive cumulative impacts.⁷¹ It is also important to keep in mind that while a ZTV shows potential visibility, it cannot characterise the extent, character or nature of that visibility.⁷² Mr Kratt described the schemes’ visual influences as “*siloed*”, with cumulative effects “*not extensive*” and

⁶⁴ Mr Kratt in XIC

⁶⁵ CD7.19B (§3.1.2, §§5.1.7-5.1.8, §§5.2.1-5.2.2), as explained in detail by Mr Kratt in XIC

⁶⁶ Mr Kratt in XIC, referring to §7.28 of GLVIA

⁶⁷ Mr Higson in XX

⁶⁸ Mr Kratt’s Proof at §8.6.11, agreed Mr Higson in XX. This 5km area is 3x the size of Mr Higson’s new LCA

⁶⁹ Mr Kratt in XIC

⁷⁰ Cumulative ZTV is at Mr Kratt’s Figure 13

⁷¹ Agreed Mr Higson in XX

⁷² Mr Kratt in XIC

primarily picked up on areas of high ground or elevated undulations.⁷³

29. Mr Higson relied on only two viewpoints from such higher ground, VP9 in the vicinity of Belvoir Castle and VP15 from Beacon Hill, to make out his cumulative case. However, he accepted they are panoramic views in which none of the solar developments would be “*prominent*”.⁷⁴ From VP9, the Scheme would not interrupt the view to St Mary’s spire.⁷⁵ From VP15, the Scheme would not interrupt the view to Belvoir Castle.⁷⁶ In both viewpoints, all the solar farms would sit below the skyline; the expansiveness of the views would remain; the open aspect across the landscape would be retained; and the overriding scene would still be rural countryside with elements of development – the visible landscape character would prevail.⁷⁷ In that light, Mr Higson’s moderate/major significant effect is not borne out.⁷⁸ Mr Kratt is clear that no significant cumulative effects arise.⁷⁹

30. Thirdly, there would be significant spatial separation, with a minimum of c. 4km between solar developments.⁸⁰ That represents at least an hour’s walk between boundaries, accepting there is likely to be a degree of visual influence beyond the boundary.⁸¹ Car users are typically considered less sensitive, given their speed, focus, and purpose of travel, and there is no evidence that cars would travel in a circular route around multiple schemes.⁸² While Mr Higson sought to emphasise the sequential experience, he has not provided any photographic evidence to justify his conclusions.

31. Concluding on cumulative effects, Mr Kratt explained that the existing description of the landscape would not alter, and the landscape character would not “tip” to become something new.⁸³ Having regard to §7.28 of GLVIA, Mr Higson accepted that existing key characteristics would prevail: this would remain an expansive vale landscape with a strong

⁷³ Mr Kratt in XIC

⁷⁴ Mr Higson in XX, Mr Kratt’s Proof at §8.6.10

⁷⁵ Mr Higson in XX

⁷⁶ Mr Higson in XX

⁷⁷ Agreed Mr Higson in XX

⁷⁸ Mr Higson’s Appendix 1 Figure SH-9

⁷⁹ Mr Kratt in XIC

⁸⁰ This was agreed to be relevant by Mr Higson in XX, Mr Kratt’s Proof at §§9.4.43-9.4.44

⁸¹ Agreed Mr Higson in XX, Mr Kratt’s Proof at §9.4.44

⁸² Mr Kratt explained in XIC that the principal road corridor of the A52 extends E-W

⁸³ Mr Kratt in XIC

pattern of pastoral and arable fields with managed hedgerow, the Grantham Canal and punctuated by nucleated villages with prominent church spires.⁸⁴

Visual Amenity

32. Mr Higson accepts that the significant visual effects of the Scheme would be predominately felt within 1km, mostly limited to footpath users and visitors to areas adjacent to the Site.⁸⁵ Mr Higson also explained that this 1km of visibility is not continuous, with views of the Site cutting in and out, depending on topography and vegetation.⁸⁶
33. While it was put to Mr Kratt having regard to the 2015 Planning Practice Guidance (“PPG”) that it is possible in theory for a solar farm to have zero visual influence, that is impossible in reality for a scheme of this size, as the landscape would have to be entirely flat with no undulations above 3m and with continuous hedgerow containment of that height.⁸⁷ It is not a requirement of policy that schemes should have zero visual influence.⁸⁸
34. Mr Kratt ascribes the footpath receptors in the vicinity of the Appeal Site community value, on the basis that this is a landscape which serves a community function, representing ordinary countryside rather than a location to which people drive specifically to walk and take in a view.⁸⁹ Those footpath users have a medium-high sensitivity.⁹⁰
35. Mr Kratt acknowledged that the character of some views would change and some would be curtailed for receptors in close proximity to the Site, but noted that expansive views out to the wider landscape would also remain, including to St Mary’s and the Castle.⁹¹ In terms of the magnitude of change, a key aspect of the design strategy is to set solar arrays back by at least one field on at least one side of each PRow.⁹² Further provision for regular walkers includes the new permissive looped path from Muston.⁹³

⁸⁴ Mr Higson in XX

⁸⁵ Mr Higson in XX, his Appendix 1 §5.7.6 on page 47/91

⁸⁶ Mr Higson in response to a question from the Inspector

⁸⁷ Mr Kratt in XX and Re-X

⁸⁸ Mr Kratt in Re-X. It is also important to note that at the time the PPG was drafted there were not many large solar farms operational

⁸⁹ Mr Kratt in XX, referring to his Proof at §9.3.3

⁹⁰ Mr Kratt’s Proof at §9.3.3

⁹¹ Mr Kratt in XX

⁹² Mr Kratt in XIC, pointing as an example to viewpoints 6, 7 and 13 on the path going east-west through the Site

⁹³ Mr Kratt in Re-X

36. A key aspect of Mr Higson’s case related to the hedgerows being allowed to grow. However, he accepted there are no existing controls to prevent the landowner managing the hedges however they like, and there is already a variety of hedge types in the local area, not all of which are cut uniformly or to consistent heights.⁹⁴ Hedgerows do not remain static over time, with changes to farming practice and cultural changes meaning hedges are now more frequently allowed to mature, due to recognition of wider green infrastructure and nature benefits.⁹⁵ Once the scheme is decommissioned, the farmer could cut the hedges back.
37. Mr Higson focused on views to the Castle and St Mary’s spire in his narrative. Yet, these are not designed views related to the assets but incidental; the assets cannot in any event be seen simultaneously at present; and views of those buildings are already variable throughout the Site due to existing hedgerow screening.⁹⁶ Even with the Scheme in place, there would remain places on Site to have a view of both buildings.⁹⁷
38. Mr Kratt told the Inquiry that the proposed hedgerow screening is an appropriate approach to mitigation and that landscape guidelines generally suggest planting of new native hedgerow to be a positive thing.⁹⁸ Where ‘green lanes’ are proposed, they would be 10m or wider, representing an attractive environment for a walker and similar to walks in local lanes including the route to Muston on F89.⁹⁹
39. In all, the Proposed Development would give rise to some “moderate” adverse visuals effects for those receptors in close proximity to the Site.¹⁰⁰ Mr Kratt concludes, in line with the Committee Report, that there would be no unacceptable impact on any key views identified in the Bottesford Neighbourhood Plan.¹⁰¹ Mr Higson also finds no significant impact for any of those key views, concluding only a low degree of change.¹⁰²

⁹⁴ Mr Higson in XX. Mr Kratt explained in Re-X that routes with high hedges, including “green lanes” already exist in the vicinity of the Appeal Site, such as at Castle View Lane to the West (where hedges are higher than 3m), and the route back to Church Lane from where FP87 and 90 meet

⁹⁵ Mr Kratt in Re-X

⁹⁶ Agreed Mr Higson in XX

⁹⁷ which Mr Kratt highlighted with reference to Heritage Viewpoint 6 and 7

⁹⁸ As is indeed the case with the NCA here - page 18 of CD8.5 SEO2

⁹⁹ Mr Kratt in Re-X

¹⁰⁰ Mr Kratt’s Proof at §9.4.5

¹⁰¹ Neighbourhood Plan is CD5.2, map 9a is on p.33, Mr Kratt’s Proof at §§3.2.16-3.2.19

¹⁰² Agreed Mr Higson in XX – see his SH-9 final receptor §4.4.15 ‘A low degree of change’

40. The final point relates to the benefits of the Scheme in terms of landscape enhancements and provision of green infrastructure. Mr Kratt explained in response to a question from the Inspector that there would be landscape character benefits arising from new native planting. His Proof also points to other benefits that arise from the landscape strategy, including in relation to biodiversity and resting of soils. However, he confirmed that he had not taken those additional benefits into account when coming to an overall conclusion on the harm arising.¹⁰³

41. The overall conclusions of Mr Kratt align with those of Pegasus and are further corroborated by the Council's professional officers, who concluded that:¹⁰⁴

"... the proposed development could be successfully accommodated within the existing landscape pattern and could be assimilated into the surrounding landscape without causing any long-term harm to the landscape character, visual amenity, or existing landscape attributes of the area".

Heritage

42. Historic England did not object to the application but noted that less than substantial harm would arise to a number of assets, on a varying scale.¹⁰⁵ Historic England's response was available to the Council officers who recommended approval, and the Proposed Development has been further improved since that response via the *Holborn* amendments.

43. Any harm to the significance of the assets concerned derives from a change in views to or from an area that lies within their setting. In terms of how to assess that harm, and in terms of the application of that approach to the specific assets in question, at the close of the Inquiry there is now a great deal of common ground between the parties.

44. In terms of the correct approach to setting and significance, it is agreed that:¹⁰⁶

- a. The elements that make up the significance of an asset will contribute differently and to different degrees;
- b. Some parts of an asset's setting may not contribute to its significance at all;

¹⁰³ This is the Appellant's clear note of the evidence despite what was put to Mr Burrell in XX

¹⁰⁴ CD3.2 Committee Meeting transcript comments of Sarah Legge, Report at CD3.1 at §8.3.15

¹⁰⁵ Cd7.14A. While Mr Malim suggested Historic England does not object to less than substantial harm, Ms Armstrong told the Inquiry in XIC that is not her experience of such consultation responses

¹⁰⁶ Agreed Mr Malim in XX

- c. Not all parts of the setting will be equally sensitive to change, and a change in the setting does not automatically equate with harm to significance of the asset itself;
- d. To understand if change within the setting is harmful, we first need to understand what contributes to the significance of the asset as a whole and to what extent (“what matters and why”)¹⁰⁷ – including the specific contribution made by the site;
- e. Where the impact is on the setting, it is only the part of the significance derived from setting that is affected. All the significance embodied in the asset itself would remain intact. That totality is relevant to assessing the level of harm arising.¹⁰⁸

45. There is also common ground in terms of the correct approach to assessing impacts arising from changes in views to and from an asset:¹⁰⁹

- a. Historic England’s guidance recognises that some views will contribute more to the understanding of significance (where, for example, they are a fundamental aspect of the design or function of the asset);¹¹⁰
- b. The guidance also calls for judgment as to the importance of those views, and part of that consideration is whether views are incidental or designed;¹¹¹
- c. In relation to spires, the guidance specifically notes that being tall structures these are often widely visible, but that it should not be assumed that simply because a site allows a view of a church that automatically contributes to its significance, or that change would necessarily be harmful.¹¹²

46. Finally, there are also a number of overarching conclusions relating to this specific scheme that are now common ground:

- a. Even on the Council’s case, the harm alleged to any of the assets is “nowhere near” substantial harm.
- b. It is no part of the Council’s case that the scheme threatens the viability, status and importance of the assets in question.

¹⁰⁷ GPA 3, CD4.22 page 8 box at the bottom

¹⁰⁸ This is per the decision at CD6.35 Summerskill House at §12.50, agreed by Mr Malim in XX to be a fair approach. While the later New City Court appeal decision was put to Ms Armstrong in XX, neither the Inspector in that case nor Mr Malim considered anything said in the Summerskill decision to be wrong in terms of approach (see CD6.53 at §13.41)

¹⁰⁹ Agreed Mr Malim in XX

¹¹⁰ CD4.22, GPA 3, §11 page 6

¹¹¹ CD4.22, GPA 3, §14 page 7

¹¹² CD4.22, GPA 3, box on page 7

- c. This is a time limited development for 40 years. The assets affected have existed for hundreds of years and will likely stay for hundreds more.

Grade I Listed Belvoir Castle

47. A detailed analysis of the significance of Belvoir Castle is set out in Ms Armstrong's Proof.¹¹³ Mr Malim agreed with Ms Armstrong on a number of key points:¹¹⁴

- a. The significance of the asset is principally derived from the architectural, historic, aesthetic and archaeological interest of its physical fabric;
- b. The setting, while important, contributes less to the Castle's significance;
- c. Of the elements of the setting that contribute to significance, the most important are the spatial and visual relationships between the Castle and associated designated heritage assets which together form the Conservation Area;
- d. The designed gardens and then the wider parkland are where the physical form and fabric of the Castle is best understood from;
- e. While the wider landscape which allows views out from the Castle and back to it does make a contribution to significance through setting, it is of lesser importance;
- f. The latest iteration of the Castle as a domestic residence places a greater emphasis upon the interior design and the relationship with the domestic grounds and parkland which lie to the south and southeast.¹¹⁵

48. The Appeal Site forms part of that wider landscape setting of the Castle, and is intervisible with it, albeit with no designed views in either direction.¹¹⁶ The Appeal Site was also part of the estate by 1849, such that there is a historic functional and associative connection.¹¹⁷

49. The Proposed Development would not affect the physical fabric of the Castle, from which its significance is principally derived. It would also not change the most important parts of the setting: the relationship between the Castle, Conservation Area and designed gardens would prevail.¹¹⁸ With the Proposed Development, the Appeal Site would remain in the

¹¹³ Ms Armstrong's Proof at §§4.5-4.48

¹¹⁴ Mr Malim in XX

¹¹⁵ See Ms Armstrong's Proof at §4.15

¹¹⁶ Agreed Mr Malim in XX

¹¹⁷ Ms Armstrong's Proof at §4.12, agreed Mr Malim in XX

¹¹⁸ Agreed Mr Malim in XX

estate's ownership and continue to contribute economically.¹¹⁹ In fact, the clean energy use proposed is supported by the estate as part of its aspirations for future generations.¹²⁰

50. What would change is some incidental views from the Castle over the wider landscape to the north and some views back to the asset from the Appeal Site.¹²¹

51. In terms of the change in views out from the Castle, it is common ground that:¹²²

- a. There is no historic reference before the Inquiry that suggests views from the Castle due north west are important;
- b. Indeed, designed planting introduced in the 18th century controls and curtails views of the vale to the north-west, and a tree belt to divide the park and garden from views in that direction was proposed by Brown himself;¹²³
- c. There are no designed eye catchers in that view associated with the Castle's design;
- d. The landscape setting has undergone visible change over its long lifespan to respond to evolving social, economic, and technological conditions (including introduction of roads, pylons, turbines, and even the canal);¹²⁴
- e. Where views would be possible to the Proposed Development, those are wide- and far-reaching views of which the Appeal Site forms a small part at some 2km distance;
- f. The Proposed Development would be perceived as a discrete change in that view;
- g. The dynamic patchwork field pattern of the working agricultural landscape would remain with the Proposed Development in place.

52. A point of difference between the parties relates to the King's Rooms. While Mr Malim suggested that the King was placed in the north rooms to enjoy the view, it is Ms Armstrong's understanding that these rooms were converted for use for logistical reasons to accommodate three connecting rooms of a suitable size.¹²⁵ Indeed, the north-west view has been described in both recent and 19th century sources as "*dreary*", "*dull*", or "*the least*

¹¹⁹ Agreed Mr Malim in XX, Ms Armstrong in XIC, referring to p.42 of her Proof.

¹²⁰ Ms Armstrong in XIC, referring to the letter from the current Duchess at Appendix 7 of Mr Burrell's Proof

¹²¹ Agreed Mr Malim in XX

¹²² A photomontage is available at CD9.6A visualisation pack HVP 9 – page 36/73

¹²³ We can see an example of that plate 15, p.23 of Ms Armstrong's proof; Plate 24, page 30 para 4.29 – view north-west curtailed by planting – see also Ms Armstrong's Proof at §§4.28-4.31 (compare with Plate 27 view to the north-east). Capability Brown's Plans are Appendix 3 of Ms Armstrong's Proof pp.20-21

¹²⁴ See Ms Armstrong's Proof at §4.15

¹²⁵ Ms Armstrong's Proof at §4.29

pleasing aspect".¹²⁶ 19th century commentary suggests that historically it was views to the south or east that were most prized.¹²⁷ It is also agreed that because of planting there are no longer views from the King's Rooms to the Appeal Site.¹²⁸

53. Another point of difference relates to the significance of the portrait of the 5th Duchess.¹²⁹ While the portrait shows people standing on the balcony with what appears to be the spire of St Mary's in the background, Ms Armstrong explained historians have highlighted the considerable artistic license in this painting.¹³⁰ That license is also clear from the chronology: the Duchess died before the portrait was painted, and before either the Elizabeth Saloon or the spire at Bottesford were completed.¹³¹ Mr Malim accepted that (a) there is no evidence that views to the Church of St Mary influenced the design or construction of the Castle, and (b) even with the Proposed Development in place, St Mary's would not be removed from the view.¹³²
54. The final point on views outwards is that Mr Malim's assessment of harm relied in part on his assumption that glint and glare from the panels could lead to a "*significant detraction in appreciation*" of St Mary's and the Registered Park and Garden ("RPG").¹³³ However, Mr Malim did not dispute the conclusions of the specialist technical glint and glare study (which shows no such impacts would arise) and agreed that the harm would consequently be less than identified in his Proof.¹³⁴
55. As to views back towards the Castle, what can readily be understood from the Appeal Site is that the Castle is a residence of status which sits on high ground. The finer architectural details cannot be appreciated given the distance.¹³⁵
56. Mr Malim considers that the significance of views from the Appeal Site derives from it being a "rare" location from which one can see both the Castle and St Mary's.¹³⁶ However,

¹²⁶ Ms Armstrong's Proof at §4.30, Ms Armstrong's Appendix 3 at §3.49 on p.30

¹²⁷ Ms Armstrong's Appendix 3, pp. 27-29 §3.39 et seq, agreed by Mr Malim in XX

¹²⁸ Agreed Mr Malim in XX

¹²⁹ Painting provided both in Mr Malim's Proof and as Ms Armstrong's Appendix 3

¹³⁰ Ms Armstrong's Appendix 3 at §3.43

¹³¹ Ms Armstrong in XIC

¹³² Agreed Mr Malim in XX

¹³³ Mr Malim's Proof at §4.5.2.1

¹³⁴ Glint and Glare Study is at Appendix 7 of Ms Armstrong's Proof, Mr Malim in XX

¹³⁵ Agreed Mr Malim in XX

¹³⁶ Mr Malim in XIC and XX

he accepted that views from within and around the Appeal Site to the Castle are incidental rather than designed.¹³⁷ Furthermore, Ms Armstrong’s evidence was that such views are not “rare”, pointing to a number of other locations from which both can be seen.¹³⁸ Mr Malim also relied on the 2014 wind sensitivity study to suggest this is a particularly sensitive landscape to be protected in light of the views to those assets.¹³⁹ That is simply not what that landscape sensitivity study says – it does not identify this as a sensitive landscape that should be “protected”, nor does it purport to be a document of relevance for carrying out heritage impact assessment in respect of a solar farm.

57. Some views of the Castle from the Appeal Site would change, some would remain, and some would be lost.¹⁴⁰ Where the context of views would change by way of introduction of solar panels, the Castle would still be appreciated as being a residence of status which sits on high ground.¹⁴¹ The Proposed Development would also introduce a new publicly accessible recreational area that affords clear views towards Belvoir Castle with picnic seating and interpretation boards.¹⁴² Historic England has welcomed the proposals for the heritage trail and interpretation panels.¹⁴³

58. Taking the nature of change into account, and that the significance of the asset is primarily derived from its physical form and that elements of its setting that make a greater contribution to its significance would not be harmed, Ms Armstrong concludes that any harm arising would be at the lower end of the spectrum of less than substantial.¹⁴⁴

Grade II* Registered Park and Garden

59. While Mr Malim treated all the Belvoir assets together in his Proof, he accepted in XX that the role, purpose, function and significance of each is different, and the Appeal Site may

¹³⁷ Mr Malim in XX – Historic England Guidance GPA3 at §14 calls for a recognition when considering the interaction of two assets in the landscape that an asset may represent an incidental element within the wider landscape rather than a major element of setting

¹³⁸ Ms Armstrong in XIC. A plan has been submitted showing the location of these CD11.16- it is not an exhaustive record of everywhere that a view might be had of the two assets.

¹³⁹ Mr Malim’s Proof at §4.5.2.1 referring to CD8.8

¹⁴⁰ Agreed Mr Malim in XX

¹⁴¹ Agreed Mr Malim in XX

¹⁴² Views toward Belvoir Castle from the new publicly accessible recreational area are detailed on the photomontage for Holborn Viewpoints 5 and 6. See Ms Armstrong’s Proof at §4.77

¹⁴³ CD7.14A at p.5/7

¹⁴⁴ Ms Armstrong’s Proof at §§4.86-4.88

not contribute in the same way each. That is supported by Historic England, who found the harm to the RPG would be lower than to the Castle.¹⁴⁵

60. The RPG is located at its nearest point approximately 1.3km south of the Appeal Site.¹⁴⁶ It covers some 900ha, mostly to the south of the Castle and largely laid out to a plan of 1780 by Capability Brown.¹⁴⁷
61. Mr Malim agreed with Ms Armstrong that the heritage significance of the RPG is principally embodied in the historic, aesthetic and archaeological interest of its physical form, as well as its connections with Brown and with the Castle itself.¹⁴⁸
62. The Appeal Site forms part of the wider setting of the RPG but there is no evidence that the design of the gardens sought to borrow from the wider landscape in the same way as later Reptonian or Picturesque style gardens.¹⁴⁹ There is also no evidence of any designed views out from or back to the RPG in the wider landscape. In fact, Brown's design sought to separate the RPG from that wider landscape with screening tree belts.¹⁵⁰ Mr Malim agreed that the RPG demonstrates an intention to define the Castle, providing enclosure for family and guests and separation from the wider working landscape.¹⁵¹
63. Where the RPG can be seen from the Appeal Site, it is essentially appreciated as planting associated with the Castle.¹⁵² Mr Malim accepted that while the Appeal Site forms part of the history and landscape setting of the RPG, it makes a "very limited contribution at most" to its significance.¹⁵³
64. In terms of the impact that would arise, the Proposed Development would be visible from isolated parts of the RPG. However, it would be viewed as a change within the working landscape some distance away. The visibility of the Proposed Development would not alter the overall design intent of the designed landscape, nor the understanding and experience

¹⁴⁵ CD7.14A

¹⁴⁶ Ms Armstrong's Proof at §4.89

¹⁴⁷ See Ms Armstrong's Proof at §4.92

¹⁴⁸ Mr Malim in XX, Ms Armstrong's Proof at §4.93

¹⁴⁹ Agreed Mr Malim in XX, Ms Armstrong's Proof at §4.101

¹⁵⁰ Agreed Mr Malim in XX, see Plate 4.7 at Appendix 4 of Ms Armstrong's Proof

¹⁵¹ Mr Malim in XX

¹⁵² Agreed Mr Malim in XX

¹⁵³ Mr Malim in XX

of the spatial and visual relationships between the Castle and its gardens and parkland.¹⁵⁴ With the Proposed Development in place there would also remain a number of opportunities to appreciate views back to the RPG from the Appeal Site.¹⁵⁵

65. Ms Armstrong is clear that any harm arising from the Proposed Development can only be considered less than substantial and at the lower end of that spectrum, with this taking a precautionary approach.¹⁵⁶ In light of his concession in relation to the Appeal Site's very limited contribution to the RPG's significance, it is unclear how Mr Malim reaches a different conclusion. The level of effect identified in Mr Malim's Proof must also be reduced, as with the Castle, in light of the glint and glare evidence.

Belvoir Conservation Area

66. It is common ground that any impact on the Conservation Area via a change in its setting is not a separate harm to that to the individual heritage assets located within its bounds.¹⁵⁷

Grade I Listed Church of St Mary, Bottesford

67. The Church of St Mary is a parish church dating to 13th century with a particularly tall spire rebuilt in the 19th century.¹⁵⁸ There is a connection with the Earls and Countesses and later Dukes and Dutchesses of Rutland, which contributes to the historic interest of the building. The Church was once a place of burial for the Earls and Countesses, until in the 18th century a mausoleum was built at Belvoir Castle.¹⁵⁹ Today, a connection between the Manners family and the Church remains, with the family continuing to hold some events there.¹⁶⁰

68. However, it must be kept in mind that St Mary's is a parish church and not an estate church, and there is no evidence that its construction was funded by the Belvoir estate.¹⁶¹ Ms Armstrong told the Inquiry that there are other places of worship associated with the

¹⁵⁴ See summary of the position at §2.16 of Ms Armstrong's Proof.

¹⁵⁵ Agreed Mr Malim in XX

¹⁵⁶ Ms Armstrong's Proof at §§4.111-4.117

¹⁵⁷ Ms Armstrong's Proof at §4.128 – agreed with Mr Malim in XX

¹⁵⁸ Ms Armstrong's Proof at §6.27, agreed Mr Malim in XX

¹⁵⁹ Agreed Mr Malim in XX, Ms Armstrong's Proof at §5.5

¹⁶⁰ Mr Malim in XX, Ms Armstrong's Proof at §5.5

¹⁶¹ Agreed Mr Malim in XX, Ms Armstrong's Proof at §5.6

Castle.¹⁶² Belvoir Castle has its own chapel where services are held.¹⁶³ Woolsthorpe Church, which serves the village that serves the Castle, also has tangible and visual connections: the foundation stone of the rebuilt 19th century church was laid by a member of Manners family, who also painted some murals inside; there is a memorial plaque to the 7th Duke; and the tower of the church was funded by the Duke.¹⁶⁴

69. Beyond the historical connection between the Castle and St Mary’s, it is agreed that:¹⁶⁵

- a. There are no connections between the architectural styles of the assets.
- b. There are also no designed visual connections – the view from one to the other is a result of the topographical situation of the Castle on higher ground, the tall spire, and the low-lying agricultural land between.
- c. There are similarly no designed routes between the Castle and St Mary’s.

70. Like the Belvoir assets, it is common ground that the heritage significance of St Mary’s is principally derived from the historic, architectural, aesthetic and archaeological interest of the physical fabric of the Church itself.¹⁶⁶ Setting contributes to a lesser extent. It is also common ground that the Church is best appreciated from that part of its setting which encompasses the churchyard and settlement it serves.¹⁶⁷ Incidental views from the wider landscape, including the Appeal Site, make a lesser contribution to significance.¹⁶⁸ Insofar as St Mary’s acts as a waymarker in the landscape, that is the function of many church spires.¹⁶⁹ Mr Armstrong is clear that the Appeal Site makes a limited, at most, contribution to the overall heritage significance of the asset.¹⁷⁰

71. Mr Malim’s Proof does not explain why the Appeal Site contributes to the significance of St Mary’s to any greater degree than other surrounding agricultural land. In XX, Mr Malim explained that what he considers the particular contribution to be is the “rare” ability to understand both St Mary’s and the Castle from the Appeal Site. However, as set out above such views are not “rare”. It must also be borne in mind that while both assets can be seen

¹⁶² Ms Armstrong in XIC

¹⁶³ Ms Armstrong in XIC, agreed Mr Malim in XX

¹⁶⁴ Ms Armstrong in XIC

¹⁶⁵ Agreed Mr Malim in XX

¹⁶⁶ Mr Malim in XX, Ms Armstrong’s Proof at §6.28

¹⁶⁷ Agreed Mr Malim in XX

¹⁶⁸ Agreed Mr Malim in XX

¹⁶⁹ Agreed Mr Malim in XX

¹⁷⁰ Ms Armstrong’s Proof at §5.26

from parts of the Appeal Site, they are not co-visible from any particular location. Mr Malim accepted that if the views are not “rare”, then the contribution of this part of the setting would be less significant than he had suggested in his Proof.

72. In terms of the impact of the Proposed Development, some views from the Appeal Site would be lost, some would be changed, and some would be retained.¹⁷¹ Yet, the experience of the Church in the landscape is already kinetic one, with the Church coming into and out of view depending on the direction and orientation of the walker, topography and vegetation.¹⁷² Mr Malim considers that there would be a minor adverse impact to a small part of the overall landscape setting for Church.¹⁷³

73. Taking the nature of change into account in light of a holistic understanding of the primary elements that contribute to the asset’s significance, Ms Armstrong concludes that any harm must be at the lower end of the less than substantial spectrum.¹⁷⁴

Grade II* Church of St John the Baptist, Muston

74. Ms Armstrong considers that the Appeal Site forms a small part of the setting of the Church of St John the Baptist and makes a limited, at most, contribution to its heritage significance.¹⁷⁵ Whilst the Proposed Development would result in a change to incidental views of the Church from the Appeal Site, in the majority of views the change would be limited to the foreground only. The resulting change at some distance from the asset and its associated settlement would not alter the understanding of the Church as a waymarker in the landscape.¹⁷⁶ Mr Malim considers there would be no harm, and Ms Armstrong finds some less than substantial harm at the lower end of the spectrum.¹⁷⁷

Scheduled Moated Grange, Muston

¹⁷¹ Agreed Mr Malim in XX

¹⁷² Agreed Mr Malim in XX

¹⁷³ Mr Malim in response to a question from the Inspector

¹⁷⁴ Ms Armstrong’s Proof at §§5.47-5.48

¹⁷⁵ Ms Armstrong’s Proof at §§6.27-6.36

¹⁷⁶ Ms Armstrong’s Proof at §§6.37-6.45

¹⁷⁷ Ms Armstrong’s Proof at §§6.37-6.45

75. The final asset is the Scheduled Moated Grange at Muston. Ms Armstrong considers no harm would arise as the Appeal Site does not contribute to the asset’s significance. Mr Malim finds a minor impact with harm at the lower end of the spectrum.¹⁷⁸
76. It is agreed that there is no inter-visibility and no co-visibility between the Appeal Site and the asset.¹⁷⁹ The reason Mr Malim finds this limited harm arising is because of the potential that the landholding associated with the Grange would have included the Appeal Site.¹⁸⁰ There is no definitive proof of any historic connection.¹⁸¹ However, even were such a connection to exist, it would have been severed following the dissolution in the 1500s, with the landscape subject to enclosure since.¹⁸² Ms Armstrong explained that over time the Grange has been separated from the Appeal Site by agricultural fields and a road, and that the parts of the landscape that now contribute to its significance through setting are those that lie adjacent to the monument where spatial and visual connections can be understood through visible ridge and furrow earthworks.¹⁸³ In short, the Appeal Site does not contribute to the understanding and experience of the asset in the landscape today.¹⁸⁴

Nature Conservation

77. The Council raises no objections on the grounds of nature conservation, nor does Leicestershire County Council ecology who provided a series of consultation responses.¹⁸⁵
78. Third party groups have suggested the potential for the Scheme to impact the Muston Meadows Site of Special Scientific Interest (“SSSI”) and National Nature Reserve (“NNR”). However, at the inquiry both Bottesford Parish Council and SAVE suggested that their concerns were not based on any evidence that impacts would arise to the ecology of these sites. Their concerns related more to landscape and amenity.

¹⁷⁸ Mr Malim’s Proof at §4.5.4.1

¹⁷⁹ Mr Malim in XX

¹⁸⁰ Agreed Mr Malim in XX, his Proof at §4.3.2.5

¹⁸¹ Agreed Mr Malim in XX

¹⁸² Agreed Mr Malim in XX, Ms Armstrong in XIC

¹⁸³ Ms Armstrong in XIC

¹⁸⁴ Ms Armstrong in XIC

¹⁸⁵ CD7.6A, 7.6B and 7.6C

79. Mr Fearn explained that the potential construction-related effects over a period of months would be indirect and very limited.¹⁸⁶ They would be managed by way of the proposed construction management plan, the purpose of which is to ensure any potential effects on the environment are avoided, minimised, and mitigated through appropriate measures.¹⁸⁷
80. As to the operational phase, any impacts on designated sites would be limited to periodic maintenance of panels and would represent a likely improvement on current conditions of arable farming (including spraying chemicals and use of farm vehicles), ultimately leading to a positive impact.¹⁸⁸ The Environmental Statement concludes in line with Mr Fearn that due to the potential for reduced runoff and increased physical separation, the operations of the Proposed Scheme would have a minor positive effect on designated sites.¹⁸⁹
81. While Natural England’s consultation response from May 2022 suggests additional buffering of 10m to the SSSI, no evidence supports that inclusion.¹⁹⁰ It is Mr Fearn’s professional view that there is no justification for an additional buffer, given the extent of the buffer already proposed, with solar panels set back from 14.5m-27.2m (and the fence 11.2m-19.5m) from the SSSI boundary.¹⁹¹
82. In respect of the Grantham and Banks Local Wildlife Site (“LWS”), Mr Fearn finds there is no potential pathway for impacts from the Proposed Development by virtue of the separation distance and lack of hydrological connectivity.¹⁹²
83. Third parties also raised the issue of skylarks. The breeding bird survey identified 10 skylark territories on the Site, which could be displaced from nesting (albeit skylarks would still willingly use the Site for foraging).¹⁹³ The view of the County ecologist with which

¹⁸⁶ Mr Fearn in XIC, referring to CD1.31.5 at §§5.5.4-5.5.8 and CD1.35.2 at §3.2.5

¹⁸⁷ Mr Fearn in XIC, referring to the proposed CMP at CD1.35.10

¹⁸⁸ Mr Fearn in XIC, Mr Fearn’s Statement at Appendix 3 to Mr Burrell’s Proof §§6.1.6-6.1.7, Mr Fearn’s Rebuttal at Appendix 2 to Mr Burrell’s Rebuttal at §2.1.3, Mr Fearn’s Statement at §5.1.3, referring to Plates 1 and 2. CD1.31.5 at p.20/36 onwards, Mr Fearn in XIC. While SAVE suggested that chemical weed spraying on the current farmland of the Site is helping the SSSI, Mr Fearn told the Inquiry the exact opposite is correct: natural environments are negatively impacted by chemical spray. There will currently be some drift of chemicals from the Site to adjacent surrounding land, and this impact of farm chemicals in the SSSI would be stopped with the cessation of arable farming. Natural England themselves have stated that the application of pesticides to the SSSI would be very damaging (CD9.8B – at §3.1.2 on p.9/10)

¹⁸⁹ CD1.31.5 at §5.5.50. It is also the conclusion of the Further report from Avian Ecology (CD1.35.2) at §3.2.10

¹⁹⁰ Response is at CD7.10A

¹⁹¹ Mr Fearn in XIC, referring to CD1.35.2 at §3.2.2

¹⁹² Mr Fearn’s Statement at §6.1.5

¹⁹³ Mr Fearn in XIC, referring to the breeding bird survey at CD1.35.5 table 3.1

Mr Fearn concurs is that the population is of no more than local significance, and that although there would be loss of farmland habitat, “*some habitat creation of higher value is proposed, and species will also be displaced to adjacent farmland habitats which are the dominant land-use in this area.*”¹⁹⁴

84. Mr Fearn explained to the Inquiry that he does not consider impacts on skylarks to represent a significant effect that requires mitigation, for the following reasons:¹⁹⁵

- a. First, the number of skylark territories identified is small. There would be no impact on favourable conservation status of the species beyond the Site.
- b. Secondly, skylark numbers fluctuate each year in any event with crop rotation. As such, movement due to modern agriculture is already part of skylark ecology.
- c. Thirdly, skylarks typically only live for about two years. Critical to their success as a species is breeding frequently and producing large numbers of young. The change on the Site from pasture to arable would increase the breeding productivity of pairs in the immediate vicinity and allow them to raise more young, as the change of habitat to grassland pasture provides a better foraging resource than arable.
- d. Fourthly, the skylarks would be able to relocate to the other agricultural fields in the area, the dominant surrounding habitat.
- e. Fifthly, the wider ecological benefits of the change from arable to pasture and associated biodiversity improvements proposed are “*very substantial*”. It is counter to good conservation to practice to suggest that an intensive arable landscape should be retained above these ecological benefits secured over a long period.

85. Nonetheless, if considered necessary, mitigation can be provided by way of the agreed pre-commencement condition.¹⁹⁶ The well-established approach to mitigation is to provide skylark plots, 16sqm patches of bare earth within arable land that boost skylarks’ foraging resource.¹⁹⁷ According to Government guidance, these should optimally be provided at 2 plots per ha, and it is standard practice to provide 2 plots for each displaced skylark.¹⁹⁸ As such, full mitigation would require approximately 10ha of land. Mr Fearn explained that

¹⁹⁴ County ecologist response at CD7.6A

¹⁹⁵ Mr Fearn in XIC and in response to questions from the Inspector

¹⁹⁶ As Mr Fearn explained in XIC. The condition proposed is based on that used very recently by the Inspector and approved by the Secretary of State in the *Honiley Road* appeal decision CD6.31

¹⁹⁷ Mr Fearn in XIC

¹⁹⁸ Mr Fearn in XIC

the Belvoir estate is willing if required to accommodate plots in their wider landholding comprising some 647ha.¹⁹⁹

86. Mr Fearn told the Inquiry that, overall, the Proposed Development would be a very positive change for nature, contributing to a resilient ecological network through habitat enhancement and cessation of modern agricultural practice, which in turn would be beneficial to the SSSI.²⁰⁰ Any potential for negative effects would be restricted to short-term construction impacts, and would be far outweighed by the positive committed ecological enhancements over 40 years.²⁰¹
87. These ecological benefits are demonstrated in part by the substantial biodiversity net gain (“BNG”) of some 144.6% in habitat units and 32.13% in hedgerow units.²⁰² That is a substantially greater gain than the mandatory system now in place for new applications, which requires 10%. Mr Fearn explained that the reason there is now a national BNG requirement is that Government has recognised a biodiversity loss crisis and has committed to restoring nature and having species diversity recovering and increasing by 2042.²⁰³ The Appeal Scheme contributes to achieving those objectives.

Other Matters

88. Only a small part of the Appeal Site qualifies as best and most versatile (“BMV”) (some 7ha), and the Council no longer pursues its reason for refusal relating to food production. Mr Bond accepts there is no policy requiring agricultural land to be used for food production or for arable in particular, and the Government is actively encouraging taking arable land out of food production under the Countryside Stewardship Scheme.²⁰⁴
89. Mr Bond further agreed that the agricultural land would not be “lost” as it would be available for agricultural use when the scheme is decommissioned, and indeed grazing

¹⁹⁹ Mr Fearn in XIC

²⁰⁰ Mr Fearn in response to a question from the Inspector

²⁰¹ Mr Fearn in response to question from the Inspector.

²⁰² The figures are agreed in the Statement of Common Ground at §7.32. Mr Fearn explained in response to a question from the Inspector that the hedgerow gain would be achieved by new planting or gapping up, and the habitat units through creation of various types of grassland, meadow, wetter features. The BNG would be delivered via a biodiversity management plan secured by condition (CD1.35.8 section 3 p.6/19 (i2))

²⁰³ Mr Fearn in XIC

²⁰⁴ Mr Bond in XX. See Mr Kernon’s Statement at §§6.1-6.10 at §6.5(v)

could continue even while the Scheme is operational.²⁰⁵ It is common ground that the installation and decommissioning process would not result in the permanent loss or any downgrading of the land quality of the agricultural land, and that following decommissioning the land could revert to arable farming.²⁰⁶ Mr Kernon’s professional opinion is that resting the soil from intensive arable production over some 40 years is likely to be a benefit to the soil resource.²⁰⁷

90. Third parties also raised the issue of the efficiency of the site, with SAVE alleging that either the solar farm would produce too much energy, or it would not produce enough. However, the relevance of the comparator sites put forward by third parties is unclear: in particular it is unclear whether they have been measured in AC or DC, and whether the measurements are for panelled areas or total site boundaries.²⁰⁸ Appended to Mr Burrell’s Proof is an “overplanting” statement that explains the efficiency of the Scheme and his energy calculations. That shows that the Scheme falls squarely within the size range anticipated by policy and is not dissimilar to other solar farms with the same output.²⁰⁹

Benefits and Balance

91. The starting point is s.38(6) of the Planning and Compulsory Purchase Act 2004, by which the determination must be made in accordance with the development plan, unless material considerations indicate otherwise.

92. The statutory development plan comprises the Melton Local Plan 2011-2036 (adopted October 2018) (“the Local Plan”) and the Bottesford Neighbourhood Plan (made October 2021) (“the Neighbourhood Plan”). Neither of these allocate any sites for solar development, nor do they identify broad areas where the Council would welcome applications for such schemes.²¹⁰

²⁰⁵ Mr Bond in XIC, see Mr Kernon’s Statement at §1.3, §6.6

²⁰⁶ SOCG at §7.40. Mr Kernon’s evidence explains that appropriate methods can be deployed to mitigate construction and decommissioning impacts. Conditions are proposed that would ensure appropriate protective measures are taken, and a draft soils management plan is at CD2.6

²⁰⁷ See CD6.14A at 59

²⁰⁸ As Mr Burrell explained in XIC

²⁰⁹ Mr Burrell’s Appendix 2

²¹⁰ Agreed Mr Bond in XX, Agreed in the SOCG at §7.11

93. Nonetheless, the development plan does encourage renewable energy in appropriate places – in Mr Bond’s words it is “*quite positive*” in that regard.²¹¹ The Local Plan notes that the Borough has “*a strong potential to develop renewable energy*”, including solar, and notes that there is likely to be continued demand for large scale renewable proposals.²¹² The Plan also indicates – and Mr Bond agrees – that of such proposals wind turbines are likely to have the greatest impact on landscape character, visual receptors and heritage assets.²¹³ The area in which the Appeal Site is located has been identified by the Council as having low-moderate sensitivity to wind turbines of 25m or less.²¹⁴ Thus even with respect to turbines, said to bring about the greatest harm, criterion 17 of policy EN 10 is met. There is no comparable policy or study in relation to solar.²¹⁵

94. Mr Burrell has carried out a very detailed analysis of the proposal against all policies identified as relevant in Appendix 5 to his Proof. There is also a considered review of local policy in the Committee Report that reaches similar conclusions.²¹⁶ In XIC, Mr Burrell provided a summary of the policies he considers to be the most relevant.

- a. Policy EN10 is a permissive policy that provides support for solar schemes subject to a number of criteria. Mr Bond agreed that the key criteria for the Council’s case are parts 2 and 3.²¹⁷ He also acknowledged that it is possible to comply with this policy despite causing some harm to heritage and landscape.²¹⁸ Mr Burrell is clear that each of the assessment criteria are satisfied.²¹⁹
- b. Policy EN13 is the principal heritage policy.²²⁰ It is agreed between Mr Burrell and Mr Bond that when this policy properly reflects the approach of the NPPF’s heritage balance at §208, then EN13 is complied with as the heritage harm arising in this case is outweighed by the public benefits.²²¹
- c. Policy EN1 relates to landscape. The key question with respect to this policy is not whether there are any adverse effects, but whether any effects cross the threshold

²¹¹ Agreed Mr Bond in XX – see Strategic Environmental Objective number 24 on p.18

²¹² See local plan at §§7.19.1-7.19.2 and §§7.20.4-7.20.5 on p.118 et seq.

²¹³ Mr Bond in XX, Local Plan at §7.20.5

²¹⁴ the Melton and Rushcliffe Landscape Sensitivity Study 2014 at CD8.8, as referenced at §7.20.8 of the Local Plan and within policy EN10 part 17.

²¹⁵ Agreed Mr Bond in XX

²¹⁶ CD3.1, including §10.8 on p.28/49 which deals with the renewable energy policies

²¹⁷ Mr Bond in XX

²¹⁸ Agreed Mr Bond in XX

²¹⁹ Mr Burrell’s Proof at §§8.3-8.19

²²⁰ Agreed Mr Bond in XX

²²¹ Mr Bond in XX

of unacceptability.²²² When considering compliance with EN1, it is relevant that Mr Bond accepted that the landscape impacts identified by Mr Higson taken in isolation would not be sufficiently serious to outweigh the benefits.²²³ Mr Burrell finds accordance with the policy.

95. As to the Neighbourhood Plan, Mr Burrell considers the following to be the most relevant:

- a. Policy 9 provides in principle support for renewable energy developments, provided the criteria are met.²²⁴ Again, the question in part (a) of the policy is whether the impacts are “*unacceptably adverse*”.²²⁵ Mr Burrell is clear that having regard to all the relevant criteria, the Appeal Scheme complies with this policy.²²⁶
- b. Policy 2 in relation to landscape character provides for a number of criteria to assess the Scheme against, again noting that impacts should not be “*unacceptable*”.²²⁷ Mr Burrell finds that where relevant, these criteria are met by virtue of the proposal being sympathetic to the landscape and not bringing about unacceptable effects.²²⁸

96. Mr Burrell concludes that the proposal complies with the development plan.²²⁹ Even if there were to be a conflict with part of a policy, or even with one or more policies, it is agreed that such a conflict would not automatically lead to conflict with the development plan taken, as it must be, as a whole.²³⁰

97. Turning then to a national level. Since the adoption of the Local Plan in 2018, the supportive policy context for solar has significantly evolved and strengthened.

- a. First, in 2019, the UK established a world-leading legislative commitment to achieve net zero by 2050.²³¹
- b. In 2020, with the Energy White Paper, solar was identified as a “*key building block*” of the future energy mix, with the Government noting that a low-cost, net zero consistent system “*is likely to be composed predominantly of wind and solar*”.²³²

²²² Agreed Mr Bond in XX

²²³ As he conceded in XX

²²⁴ Agreed Mr Bond in XX

²²⁵ Agreed Mr Bond in XX

²²⁶ Mr Burrell’s Proof at §§8.44-8.52

²²⁷ Agreed Mr Bond in XX

²²⁸ Mr Burrell’s Proof at §§8.54-8.60

²²⁹ Mr Burrell’s Proof at §§8.65-8.66

²³⁰ Agreed with Mr Bond in XX. The relevant principles are set out in *R. (on the application of William Corbett) v The Cornwall Council* [2020] EWCA Civ 508 at CD 6.8

²³¹ CD4.8 and 4.9

²³² December 2020’s Energy White Paper CD4.12, pp. 15, 45 and 47.

- c. In 2021, with the publication of the Net Zero Strategy, the Government established the ambition that the UK should be entirely powered by clean energy by 2035 subject to security of supply, whilst meeting a 40-60% increase in demand.²³³ Low carbon energy infrastructure will need to be deployed at an “*unprecedented*” scale and pace.²³⁴
- d. The British Energy Security Strategy in 2022 then established the ambition of 70GW of solar by 2035 – just over 10 years from now – against 14GW existing capacity.²³⁵ Weak growth has resulted in the country only meeting 23% of the equivalent annual target over the two years since – meaning the challenge is now even greater for the remaining decade.²³⁶
- e. The newly designated NPS EN-3 notes an “*urgent need*” for electricity and explains that renewables are an “*essential element*” of the transition to net zero.²³⁷ It describes solar as “*a key part*” of the government’s strategy for low-cost decarbonisation and repeats the ambition for a five-fold increase in solar by 2035.²³⁸ Mr Burrell explained there is now a need to deploy two solar farms of the size of the Appeal Scheme each week to reach that target.²³⁹

98. A further agreed material consideration is the new policy contained within NPS EN-1, the critical national priority (“CNP”) for nationally significant low carbon infrastructure.²⁴⁰ Mr Bond agreed that the closer a scheme is in size to a nationally significant infrastructure project (“NSIP”), the greater the weight that can be given to EN-1.²⁴¹ EN-1 also states that the materiality of the policies contained within it depends on the extent to which the matters are already covered by applicable planning policy.²⁴² In this case there are no development plan policies dealing with large-scale solar specifically, nor with CNP infrastructure.²⁴³

²³³ CD4.17 at p.19

²³⁴ CD4.17 Net Zero Strategy, pp. 98 and 102

²³⁵ CD4.18 p.34/38 and p.19

²³⁶ Agreed Mr Bond in XX. The figures are set out in Mr Burrell Proof at §9.32.

²³⁷ CD4.4 at §§1.1.1-1.1.2

²³⁸ CD4.4 at §2.10.10, April 2022 British Energy Security CD4.18 at p.88

²³⁹ Mr Burrell in XIC

²⁴⁰ CD4.3 at §§4.2.2-4.2.17

²⁴¹ M Bond in XX, Mr Burrell’s Proof at §9.62, having regard to the recent appeal decision at *Fobbing* CD6.38, at §9 and §66

²⁴² EN-1 at §1.2.2

²⁴³ Mr Burrell in Re-X –the binary approach of the Secretary of State in *Honiley Road* does not accord with the approach of the policy: any TCPA scheme will be below the NSIP threshold

99. EN-1 establishes that with respect to CNP infrastructure:

- a. Residual impacts (that do not relate to habitats or marine zones) are unlikely to outweigh the urgent need – there is a “*presumption of consent*” in such cases. In all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of residual impacts (§4.2.15).
- b. The Secretary of State will take “*as the starting point for decision-making*” that CNP infrastructure has met the tests of, for example, substantial harm to (which would include destruction of) heritage assets of the highest significance; very special circumstances required for Green Belt; or the exceptional circumstances required for siting in a National Landscape (§§4.2.16-4.2.17).
- c. It is common ground that the CNP approach represents a “*remarkable policy shift*” at a national level, which is a material consideration for this appeal.²⁴⁴

100. The new Labour Government has reaffirmed the scale of the net zero challenge and the need to address it immediately.²⁴⁵ The focus of the NPPF consultation document is on speeding up delivery of renewables, with the expressed aim of the proposed amendments to “*increase the likelihood of local planning authorities granting permission to renewable energy schemes...*”²⁴⁶. Mr Burrell explained that the new Government proposes a change in emphasis in §§163-164 of the NPPF to say that local planning authorities should support applications for all forms of renewable development without any counterpoint relating to acceptability of impacts.²⁴⁷ Mr Bond agreed the proposed amendments to the NPPF with respect to renewables build on the last four years of consistent government policy, which bears on the weight given to them.²⁴⁸ The changes to the NSIP threshold are more radical and require new legislation, but the intention behind those is also to enable projects to be consented more quickly and at lower cost.²⁴⁹

101. Looking at the national picture, the urgency of the need for renewable energy set out clearly in evolving policy has led to a series of permissions being granted in recent years by the Secretary of State and a series of Inspectors for large-scale solar on sensitive sites.

²⁴⁴ Mr Bond in XX

²⁴⁵ Mr Burrell’s Proof at §9.3, §§9.45-9.48, referring to consultation paper at CD4.31

²⁴⁶ CD4.31 at §7

²⁴⁷ Mr Burrell in Re-X

²⁴⁸ Agreed Mr Bond in XX

²⁴⁹ As Mr Burrell explained in Re-X, see CD4.31 at §6

Those include *Chelmsford*, *Honiley Road* and *Fobbing*, (Green Belt); the two Telford decisions (within valued landscape, a strategic landscape designation and in the setting of the AONB); and *Great Wymondley* and *Halloughton* (impact on setting of heritage assets and a Conservation Area).²⁵⁰

102. Turning then to the planning balance with respect to the Appeal Scheme. Starting with the benefits. First, the need for renewable energy is urgent, and there is a significant need for large scale solar to come forward if the Government is going to realise its net zero ambitions.²⁵¹ The Appeal Scheme would generate up to 49.9MW of clean electricity, providing the equivalent annual electrical needs of over 23,100 homes in Melton Borough, avoiding approximately 1.6 million tonnes of CO₂ over the lifetime of the project.²⁵² It is agreed this attracts substantial weight.²⁵³

103. Secondly, both UK Parliament and the Council declared climate change emergencies in 2019.²⁵⁴ It is agreed this is a material consideration.²⁵⁵ Mr Burrell considers that the Appeal Scheme’s ability to deliver on these declarations rapidly is a separate benefit to renewable generation *per se*, in light of the urgency of action the declarations demand.²⁵⁶ Mr Burrell affords this significant weight in the planning balance.²⁵⁷

104. Thirdly, climate change is not the only imperative behind boosting renewable energy generation. As the Government has made clear, delivering energy security is a further matter that is both “*urgent*” and of “*critical importance*” to the country.²⁵⁸ Mr Burrell explained this too is a separate benefit, as it turns on how and where energy is produced and therefore how secure it is.²⁵⁹ Even if there were no climate crisis, there would still be a benefit to having energy security in terms of ensuring certainty of supply. Mr Burrell noted

²⁵⁰ *inter alia*: *Honiley Road* CD6.31, *Fobbing* CD6.38, *Chelmsford* C6.12 (Green Belt); *Telford* decisions at CD6.15 and 6.17 (valued landscape, setting of AONB); *Halloughton* CD6.9 and *Great Wymondley* CD6.26 (Conservation Area and heritage assets).

²⁵¹ Agreed Mr Bond in XX

²⁵² Mr Burrell’s Proof at §7.5, §11.9

²⁵³ Mr Bond’s Proof at §8.46. Mr Burrell’s Proof §§11.10-11.26 sets out a series of appeal decisions where either “substantial” or “significant” weight has been afforded to energy generation of this order

²⁵⁴ See CD4.11 and CD5.8

²⁵⁵ CD3.1, paragraph 10.3, Mr Bond’s Proof at §8.45

²⁵⁶ Mr Burrell in XIC and Mr Burrell’s Proof at §§11.27-11.31

²⁵⁷ Mr Burrell’s Proof at §§11.27-11.31

²⁵⁸ Mr Burrell’s Proof at §§11.32-11.35, CD4.4 p.38. Powering Up Britain: Energy Security Plan, CD4.20 at p.2 sets out steps the Government is taking to ensure the UK is more energy independent, secure and resilient, noting the impact of Putin’s invasion of Ukraine

²⁵⁹ Mr Burrell in XIC

that the UK returned to being a net electricity importer in 2023 and pointed to NPS EN-3, which supports the view that this is a separate consideration by using the word “also” to discuss need.²⁶⁰ He affords this substantial weight.²⁶¹

105. Fourth, the Appeal Scheme would use a tracking system together with bi-facial panels, which increase continuous electrical productivity by 20-25% when compared to traditional fixed arrays.²⁶² Mr Burrell explained these are not yet standard, due to both cost and the requirement for a flat site to install trackers at large scale.²⁶³ He affords the additional efficiency of the Scheme due to use of best available technology moderate weight.²⁶⁴

106. A fifth benefit is the good design of the Scheme, with the iterative design process endorsed by EN-1 resulting in a design that goes beyond mitigation to include benefits for a nature-inclusive design, which may not be the case for other forms of development.²⁶⁵ Mr Burrell explained that the good design includes removing panels from fields, setting back of panels from hedgerows and PRoW, making sure solar arrays are only on one side of PRoW, and the Appeal Scheme’s positive approach towards wider biodiversity considerations.²⁶⁶ In Mr Burrell’s view this attracts moderate weight.

107. Sixthly, it is well established that the lack of availability of grid connections represents a major barrier to achieving renewable energy targets. Mr Bond acknowledged that there are currently significant delays in achieving connections which can delay schemes coming forward: the 2023 Energy Security Plan (“ESP”) notes there is over 250GW of generation in the transmission connection queue (c.f. 80GW currently connected).²⁶⁷ Schemes trying to connect to the grid today can face a 10 year wait due to capacity constraints.²⁶⁸ As such, it is a benefit that this proposal has a confirmed grid offer that would allow the Scheme to connect as soon as permission is granted.²⁶⁹ There are no alternative sites within the viable 1km corridor either side of the grid line to exploit this capacity.²⁷⁰ Mr Burrell affords this

²⁶⁰ Mr Burrell at §§11.32-11.35, referring to CD4.4 NPS EN-3 (pg 88) §2.10.9 and §2.10.10 as uses the word ‘also’ when discussing need and to CD4.14B, Chapter 5, page 6

²⁶¹ Mr Burrell’s Proof at §11.35

²⁶² See the Solar Panel Trackers Explainer at Appendix 1 to Mr Burrell’s Proof

²⁶³ Mr Burrell in XIC

²⁶⁴ Mr Burrell in XIC, Mr Burrell’s Proof at §§11.36-11.41

²⁶⁵ Mr Burrell in XIC, referring to EN-1, §4.7.6

²⁶⁶ Mr Burrell in XX

²⁶⁷ CD4.20, pg 50. Agreed Mr Bond in XX. See §11.42 of Mr Burrell’s Proof.

²⁶⁸ Mr Burrell in XIC, see also November 2023 Connections Action Plan CD4.27, page 9

²⁶⁹ Mr Burrell in XIC

²⁷⁰ Mr Burrell in XIC and Mr Burrell’s Proof at §11.45

significant weight.²⁷¹ Mr Bond affords the proximity of the grid connection moderate weight.²⁷²

108. Seventh, the Scheme would also bring about significant environmental benefits, including a BNG of 144.64% in habitat units and 32.13% in hedgerow units over some 100ha.²⁷³ The reason there is now a mandatory 10% BNG requirement²⁷⁴ is because of the serious decline in biodiversity over several decades, and it is a government priority to address that decline.²⁷⁵ Mr Burrell's Proof notes that some 12 recent Inspector and Secretary of State decisions have afforded similar BNGs for solar farms significant or substantial weight.²⁷⁶ Mr Bond's ascription of moderate weight, relying on one Class B appeal in which the BNG impacts were materially different,²⁷⁷ underplays the importance.

109. The other environmental benefits of the scheme include:

- a. The soil generation benefits that arise from resting the soil from intensive arable production over 40 years.²⁷⁸ Such resting improves soil organic matter and soil structure, as has been evidenced and tested at a number of public inquiries.²⁷⁹ Mr Burrell affords this limited weight.
- b. The improvements to green infrastructure, which would enhance connectivity through the Site and beyond, including provision of new multifunctional green spaces.²⁸⁰ This attracts moderate weight.
- c. The proposed enhancements to surface water drainage, which would result in betterment in terms of both runoff rates and downstream flood risk.²⁸¹ It common ground this attracts limited positive weight.²⁸²

110. Eight, the Scheme would also allow for the diversification of an agricultural business. Mr Kernon's evidence on the basis of his conversation with the Belvoir Estate's agent is that the solar farm would provide an important source of diversified income for the wider

²⁷¹ Mr Burrell's Proof at §§11.42-11.47, referring to the Inspector's decision at *Chelmsford* CD6.12

²⁷² Mr Bond's Proof at §8.51, in line with the Inspector's considerations at *Cawston* (CD6.38).

²⁷³ Mr Burrell's Proof at §11.49, SOCG at §7.32.

²⁷⁴ Which does not apply to this scheme

²⁷⁵ Agreed Mr Bond in XX

²⁷⁶ Mr Burrell in XIC, Mr Burrell's Proof at §§11.48-11.51

²⁷⁷ CD6.45 at §171, agreed Mr Bond in XX

²⁷⁸ Mr Burrell's Proof at §§11.52-11.53.

²⁷⁹ Mr Burrell's Proof at §11.54, see e.g. *Crays Hall* (CD6.30, §25), *Copse Lodge* CD6.22 §§126-127

²⁸⁰ Mr Burrell's Proof at §§11.56-11.58, Mr Burrell in XX

²⁸¹ Mr Burrell's Proof at §11.59, SOCG at §§7.28-7.31

²⁸² Mr Bond's Proof at §8.54

farm.²⁸³ The Council agrees that the Proposed Development is a form of diversification and could enable reinvestment in the remainder of the farm holding.²⁸⁴ This attracts further limited weight.²⁸⁵

111. Ninth, there would be economic benefits arising. The Appeal Scheme represents a significant financial investment, with benefits to the local economy including construction jobs and annual business rate contributions in the order of £2.9m.²⁸⁶ The economic benefits of similarly sized solar farms have been assessed and afforded moderate or even significant weight at other recent public inquiries.²⁸⁷

112. Finally, the Scheme also provides for an educational resource, with an outdoor classroom and interpretation boards. It is agreed this attracts limited weight.²⁸⁸

113. As to the harms arising, national and local policy, including the NPPF at §163, recognise there are likely to be some adverse effects arising from renewable energy development and these do not make a scheme automatically unacceptable. The harms in this particular case are both limited and acceptable.

114. There would be less than substantial harm at the low end of the spectrum to five designated heritage assets. Mr Burrell has had regard to §205 of the NPPF regarding the weight to be given to the assets' conservation, acknowledging also that considerable importance and weight should be given to harm to the significance of a listed building.²⁸⁹ Given the significance of the assets combined with the low level of harm identified by Ms Armstrong, Mr Burrell affords the heritage harm moderate adverse weight.²⁹⁰ That approach accords with the Court of Appeal in *Palmer*, who said that:²⁹¹

“[the] duty to accord “considerable weight” to the desirability of avoiding harm does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight. The desirability of avoiding a great harm must be greater than that of avoiding a small one.”

²⁸³ Mr Burrell's Rebuttal, Mr Kernon's Statement at §6.13. See also the letter from the Duchess at Appendix 7 of Mr Burrell's Proof.

²⁸⁴ SOCG at §7.42

²⁸⁵ Mr Burrell's Proof at §§11.61-11.65

²⁸⁶ Mr Burrell in XIC

²⁸⁷ *Bramley* (CD6.14A, §79) significant weight, *Copse Lodge* (CD6.22, §124) moderate weight

²⁸⁸ Mr Burrell's Proof at §§11.70-11.73, Mr Bond's Proof at §8.54

²⁸⁹ Mr Burrell's Proof at §11.79

²⁹⁰ Mr Burrell's Proof at §11.79

²⁹¹ CD6.3 at §34.

115. Mr Burrell finds that, applying §208 of the NPPF, the heritage harm he identifies is outweighed by the public benefits of the Appeal Scheme.²⁹²
116. Mr Malim finds a higher level of harm to the heritage assets. However, even were Mr Malim’s conclusions to be preferred to those of Ms Armstrong, Mr Bond considers that nonetheless the harm Mr Malim identifies would still be outweighed by the public benefits.²⁹³ That is so despite Mr Bond affording substantial weight to the impact.
117. There would be some landscape harm during the operational life of the scheme, which could largely be reversed on decommissioning. Having regard to Mr Kratt’s evidence, Mr Burrell affords the landscape impacts limited adverse weight.²⁹⁴
118. Mr Bond agrees with Mr Burrell that the weight to be afforded to the landscape impacts in the planning balance is less than the weight to be afforded to the heritage assets. He also accepted that while solar is acceptable in the open countryside, all schemes of this size in the open countryside are likely to give rise to some landscape character and visual harm – and indeed that such impacts do not make a scheme automatically unacceptable.²⁹⁵ Furthermore, while Mr Bond concludes the landscape harm attracts significant weight, he conceded that the landscape harm alone is not sufficiently serious as to outweigh the public benefits.²⁹⁶
119. In respect of both the heritage and landscape impacts, Mr Bond also accepted having regard the recent policy set out in EN-3 that the time-limited nature of the development represents an “important consideration” in favour of solar schemes.²⁹⁷ Mr Bond told the Inquiry that the “vast majority” of cumulative landscape harm would be removed at decommissioning, and the heritage harm would be “very much less”.²⁹⁸ Any residual impacts in relation to hedgerows would depend on the management of the landowner, as hedgerow management on the Site already is today.²⁹⁹

²⁹² Mr Burrell’s Proof at §11.80

²⁹³ Mr Bond in XIC

²⁹⁴ Mr Burrell’s Proof at §§11.74-11.77

²⁹⁵ Mr Bond in XX- see CD4.3 at §5.10.5 and §5.10.13

²⁹⁶ Mr Bond in XX

²⁹⁷ Mr Bond in XX, the policy is at CD4.4 §2.10.149. That was also the approach of the Inspector and Secretary of State in considering the harm to Green Belt in the Honiley Road decision CD6.31 at DL14

²⁹⁸ Agreed Mr Bond in XX

²⁹⁹ Agreed Mr Bond in XX

120. Having regard to the benefits and harms in the round, Mr Burrell is clear that the balance in this case does lie firmly in favour of a grant of permission. Mr Burrell's conclusion accords with the Council's professional planning officers, whose advice to Committee was that the benefits of the proposals clearly outweighed the harm arising.³⁰⁰

121. Accordingly, the Inspector is invited to grant permission, subject to appropriate conditions.

18th September 2024

Thea Osmund-Smith

Odette Chalaby

No5 Chambers

Birmingham – London – Bristol

Tel 0870 – 203 5555

³⁰⁰ CD3.1 at §10.11.