

## **Planning Proof of Evidence.**

### **Evidence of Paul Burrell.**

In respect of Section 78 Appeal: Belvoir Solar Farm, Fields OS 6700, 6722, and 5200, Muston Lane, Easthorpe.

Full Planning Application for the Construction of a Solar Farm together with all Associated Work, Equipment and Necessary Infrastructure.

On behalf of JBM Solar Projects 10 Ltd

Date: August 2024 | Pegasus Ref: P19-2022

Appeal Ref: APP/Y2430/W/24/3340258 | LPA Ref: 22/00537/FUL

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## Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for Revision
FINAL	13-08-2024	PMB	PMB	Final Version



## Contents.

1. Personal Background.....	3
2. Introduction.....	4
3. The Appeal Site and its Surroundings.....	6
4. The Appeal Proposals.....	7
5. Planning History.....	8
6. Planning Policy Framework.....	9
7. Case for the Appellant.....	12
8. Planning Policy Assessment.....	14
9. Other Material Considerations.....	22
10. Third Party Representations.....	33
11. The Overall Planning Balance, Summary and Conclusions.....	34
12. Planning Conditions.....	45

## Appendices.

1. Appellant's Solar Tracker Panels Explained Statement
2. Appellant's Overplanting Statement
3. Ecology Statement by Mr Howard Fearn of Avian Ecology
4. Agricultural Evidence by Mr Tony Kernon of Kernon Countryside Consultants Ltd
5. Schedule of Development Plan Policy Compliance
6. Schedule of Comments on Third Party Representations
7. Letter from The Duchess of Rutland
8. Business Rate Contribution Note



# 1. Personal Background

- 1.1. My name is Paul Burrell. I hold a BSC (Soc Sci) Hons in Geography and a Diploma in Urban Planning.
- 1.2. I am a Chartered Town Planner having been elected over twenty-five years ago and I hold the position of an Executive Planning Director at the consultancy Pegasus Group.
- 1.3. I have considerable experience in advising on planning matters concerning low carbon and renewable energy projects, including solar schemes, onshore wind farms and energy from waste facilities. I have secured planning permission for various solar farm and battery storage projects across England and Wales, including acting as planning expert witness in the *Halloughton, Greatworth, Langford, Hillfield Lane, Scruton* and the *Fobbing* appeals to which I refer later in my Evidence.
- 1.4. The evidence that I have prepared and provide for this Section 78 appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions.

## 2. Introduction

2.1. My Planning Proof of Evidence has been prepared on behalf of JBM Solar Projects 10 Ltd ("The Appellant") and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning Fields OS 6700, 6722 and 5200 Muston Lane Easthorpe ("The Appeal Site").

2.2. The appeal follows the refusal by Melton Borough Council ("MBC") of the application for full planning permission (MBC ref: 22/00537/FUL) for a Proposed Development ("the Proposed Development") comprising the following:

***"Full Planning Application for the Construction of a Solar Farm together with all Associated Work, Equipment and Necessary Infrastructure."***

2.3. I note at the outset of my Evidence that the Proposed Development was recommended for approval by the Planning Officer when presented to the Planning Committee on 5<sup>th</sup> September 2023. I further note that, after the refusal of the planning application against their own professional advice, MBC then subsequently decided not to defend their first reason for refusal concerning Best & Most Versatile Agricultural Land. Then, during the preparation of Evidence and the negotiations on the Statement of Common Ground, MBC were unclear over which heritage assets it was that they were alleging harm to the setting of, and this was only finally clarified after the Inspector intervened in July 2024.

2.4. It is in this context of an evolving case on the part of MBC that the planning application was refused by MBC's Planning Committee on 5<sup>th</sup> September 2023, as set out in a Decision Notice dated 11<sup>th</sup> September 2023 which included 4 no. Reasons for Refusal:

***"1. The proposal seeks to remove Grade 2 and 3a 'Best and Most Versatile' land from food production which in the opinion of the local planning authority has not been adequately substantiated. The harm caused by the loss of best and most versatile land does not outweigh the climate change benefits of the proposal, contrary to the overall aims and objectives of policies SS1 and E10 (part 10) of the Melton Local Plan, the NPPF paragraph 174 and Policy 3 (part 4) and Policy 9 (part 4 (d)) of the adopted Bottesford Neighbourhood Plan.***

***2. This proposal when considered cumulatively with other permitted and operational schemes within 30 square kilometres (49.9MW land east of Jericho Covert; 12.4MW Lodge Farm, Longhedge Lane; 49.9MW Land South of the A1 Foston Bypass; 10MW Land South of The Railway Line & East of Station Road, Elton) would result in an unacceptable cumulative impact on the landscape where swathes of panels would be visible within a vista which could not be adequately mitigated. There would be a disproportionate effect of several sites within a small area, with solar panels covering approximately 10% of the identified area. The proposal is therefore considered to have an unacceptable adverse impact on the Vale of Belvoir's sense of place and local distinctiveness, contrary to policies SS1, EN1 and D1 of the Melton Local Plan, paragraph 174 of the NPPF and Bottesford Neighbourhood Plan Policy 9.***

***3. In the opinion of the local planning authority, the amenity of the public utilising the many rights of way which run through and adjacent to the site would be harmed by the substantial impact and effect of a large-scale solar installation. The ability of residents and visitors to the area using the footpaths to appreciate and enjoy the***



***landscape character would be diminished and adversely impacted by the proposed development creating corridor effects limiting appreciation of the wider landscape, which also impacts upon key views as defined within the Bottesford Neighbourhood Plan. The quality of the natural environment is highly valued by residents and visitors to the area, particularly for the long views and openness. The proposal is therefore contrary to Melton Local Plan Policy EN1, Bottesford Neighbourhood Plan Policy 2 (parts 1 & 5) and Policy 9 (4.(a)).***

***4. In the opinion of the local planning authority, the proposal would result in an unacceptable impact on the setting of the heritage assets in the vicinity of the proposal (including, but not limited to, Grade I Listed Belvoir Castle and its Registered Park & Garden, two grade II\* listed buildings and three scheduled monuments) which cannot be adequately mitigated. The proposal is considered to damage the setting and the appreciation of the heritage assets and their appreciation in the landscape which should be considered as a wider vista in the context of Belvoir Castle and the Vale of Belvoir. The benefits in reducing carbon emissions are therefore not considered to outweigh the harm to the heritage assets. The proposal is therefore considered to be contrary to policies SS1, EN1, EN10, EN13 and D1 of the Melton Local Plan, and Bottesford Neighbourhood Plan Policy 9."***

- 2.5. My Planning Proof of Evidence addresses the Planning Policy matters raised in the Reasons for Refusal, as well as the overall planning balance.
- 2.6. A Statement of Common Ground has been agreed with the LPA (Core Document 9.5) and I therefore rely on the agreement to matters which are not currently disputed between the main parties.



### **3. The Appeal Site and its Surroundings**

- 3.1. An agreed description of the Appeal Site and its surroundings is set out in the Statement of Common Ground with the LPA (*Core Document 9.5, Section 2*).



## 4. The Appeal Proposals

- 4.1. A detailed description of the Appeal Scheme and confirmation of the plans and documents on which the LPA's decision was made are contained in the Statement of Common Ground with the LPA (*Core Document 9.5, Sections 3 and 4*).
- 4.2. Following the CMC, it is understood that it has been agreed by the Inspector and all parties that the Appeal will proceed to be determined on the basis of the revised scheme ("The Holborn Scheme") which was subject to further consultation at the time when the Appeal was submitted to the Planning Inspectorate (as noted in *Core Document 9.5 paragraphs 3.6-3.9*, reference CDs 2.1-2.3).
- 4.3. To assist the Inquiry, appended to my evidence at **Appendix 1** is a note prepared by the Appellant which explains the different types of mounting for solar pv systems, and explains how a tracking system works as is proposed in the Appeal Scheme.
- 4.4. To also assist the Inquiry, appended to my evidence at **Appendix 2** is an Overplanting Statement also prepared by the Appellant. This note sets why the maximum installed generating capacity of the solar farm when measured in direct current (or DC) is larger than the grid connection which is measured in alternating current (or AC). In summary, the reasonable overplanting of solar pv panels allows the available grid connection capacity to be maximised, in accordance with EN-3 for the reasons set out in the accompanying statement.





## 5. Planning History

- 5.1. An agreed description of the Planning History relevant to the Appeal Site is set out in the Statement of Common Ground with the LPA (*Core Document 9.5, Section 5*).

## 6. Planning Policy Framework

6.1. In this section of my evidence, I identify the planning policies and guidance that will be of most relevance to the determination of this Appeal.

### The Development Plan

6.2. As agreed in the Statement of Common Ground with the LPA, the statutory Development Plan applying in respect of the Appeal Site comprises:

- Melton Local Plan 2011-2036 (adopted October 2018); and
- Bottesford Neighbourhood Plan (made October 2021).

#### Melton Local Plan 2011 – 2036 (adopted October 2018)

6.3. The policies referred to by the LPA in the Reasons for Refusal comprise:

- Policy SS1 – Presumption in favour of Sustainable Development;
- Policy EN1 – Landscape;
- Policy D1 – Raising the Standard of Design;
- Policy EN10 – Energy Generation from Renewable and Low Carbon Sources<sup>1</sup>; and
- Policy EN13 – Heritage Assets.

6.4. In addition, I note that relevant policies for determining this appeal as set out in the Statement of Common Ground with the LPA (*Core Document 9.5, paragraph 6.5*) also include:

- Policy SS2 – Development Strategy;
- Policy C9 – Healthy Communities;
- Policy EN2 – Biodiversity and Geodiversity;
- Policy EN3 – The Melton Green Infrastructure Network;
- Policy EN5 – Local Green Spaces;
- Policy EN6 – Settlement Character;
- Policy EN8 – Climate Change;
- Policy EN9 – Ensuring Energy Efficient and Low Carbon Development;

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<sup>1</sup> It is noted Policy E10 is referenced in Reason for Refusal 1 which the Appellant understands should refer to Policy EN10.

- Policy EN11 – Minimising the Risk of Flooding;
- Policy EN12 – Sustainable Drainage Systems; and
- Policy IN2 – Transport, Accessibility and Parking.

### **Bottesford Neighbourhood Plan (made October 2021)**

6.5. The policies referred to by the LPA in the Reasons for Refusal comprise:

- Neighbourhood Plan Policy 2: Protecting the Landscape Character;
- Neighbourhood Plan Policy 3: Protecting and Enhancing Biodiversity; and
- Neighbourhood Plan Policy 9: Renewable Energy and Low Carbon Technologies.

6.6. In addition, it is agreed with the LPA in the Statement of Common Ground that the most notable policies which are relevant to the Appeal Site also comprise (*Core Document 9.5, paragraph 6.7*):

- Neighbourhood Plan Policy 1: Sustainable Development and the Village Envelopes;
- Neighbourhood Plan Policy 5: Protecting and Enhancing Green Infrastructure;
- Neighbourhood Plan Policy 6: Reducing the Risk of Flooding;
- Neighbourhood Plan Policy 7: Improving Connectivity;
- Neighbourhood Plan Policy 8: Ensuring High Quality Design;
- Neighbourhood Plan Policy 12: Protecting Heritage Assets; and
- Community Objective 1.

6.7. I examine each of these Development Plan policies in Section 8 of my evidence.

### **National Policy and Guidance**

6.8. I refer specifically to the following material considerations in my evidence subsequently:

- National Planning Policy Framework (NPPF) (*Core Document 4.1*) and the consultation version of the NPPF which was published in July 2024 (*Core Document 4.30*);
- Planning Practice Guidance (PPG) (*Core Document 4.2*);
- Planning (Listed Buildings and Conservation Areas) Act 1990 (*Core Document 4.26*);
- Overarching National Policy Statement for Energy (EN-1), November 2023 (*Core Document 4.3*);
- National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023 (*Core Document 4.4*);

- Climate Change Act 2008 (*Core Document 4.8*);
- Climate Change Act (2050 target amendment) Order 2019 (*Core Document 4.9*);
- UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019 (*Core Document 4.11*);
- Energy White Paper: Powering our Net Zero Future published in December 2020 (*Core Document 4.12*);
- 'Achieving Net Zero' published by the National Audit Office in December 2020 (*Core Document 4.16*);
- Net Zero Strategy: Build Back Greener, dated October 2021 (*Core Document 4.17*);
- British Energy Security Strategy, dated 7 April 2022 (*Core Document 4.18*);
- 'Powering up Britain' suite of documentation, dated March 2023 (*Core Document 4.20*); and
- The latest version of the 'Digest' of United Kingdom Energy Statistics, July 2023 (*Core Document 4.14*).

## Supplementary Planning Guidance

6.9. I also note the following document which Mr Kratt refers to in his Evidence:

- Melton Borough Landscape & Historic Urban Character Assessment Report: Vale of Belvoir (Melton) (*Core Document 8.6*).

## 7. Case for the Appellant

- 7.1. Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the LPA's full reasons for the refusal, specifying all policies and proposals in the Development Plan which are relevant to the decision.

### Reasons for Refusal

- 7.2. I consider that the LPA's Reasons for Refusal raises a number of interrelated points with regard to alleged harm to landscape character and visual appearance of the area.

### Main Issues

- 7.3. The Inspector in the CMC pre-conference note indicated that there are considered to be 7 main considerations in determining this Appeal. Taking each Main Issue in turn:

#### **Issue 1 – The implications of the proposed development for meeting the challenge of climate change**

- 7.4. I set out in my Evidence in Section 8 a summary of the myriad of planning and energy policy context and drivers for achieving a step change in the delivery of renewable energy generation, which confirms the urgent and compelling reasons why the UK needs to reduce its carbon emissions and move towards achieving Net Zero.
- 7.5. The Proposed Development would supply up to 49.9MW to the National Grid, providing the equivalent annual electrical needs of over 23,100 homes in Melton Borough Council. The anticipated CO<sub>2</sub> displacement is around 39,900 tonnes per annum, which over the lifetime of the project equates to approximately 1.6 million tonnes of CO<sub>2</sub> avoidance.

#### **Issue 2 – The effect of the proposed development on the character and appearance of the area**

- 7.6. This issue is examined in the evidence of Mr Kratt, in which he concludes at Section 8 of his Evidence that the Proposed Development would not have an unacceptable harmful effect on the landscape character and quality of the area when considered in combination with other developments in the locality. Mr Kratt acknowledges that there will be some 'moderate' adverse landscape effects for the Appeal Site itself and its immediate context, and I return to weigh this harm in the overall planning balance later in my Evidence at Section 11.

#### **Issue 3 – The effect of the proposed development on amenity in relation to the use of public rights of way**

- 7.7. This issue is examined in the evidence of Mr Kratt. He concludes at Section 9 of his Evidence that the Proposed Development would not have an unacceptable harmful effect on views and visual amenity on the public living in and visiting the area, utilising the public rights of way, lanes and roads. Mr Kratt does acknowledge that there will be some 'moderate' adverse visual effects for those receptors in close proximity to the Appeal Site,

and I return to weigh this harm in the overall planning balance later in my Evidence at Section 11.

#### **Issue 4 – The effect of the proposed development on heritage assets**

7.8. This issue is examined in the evidence of Ms Armstrong. She concludes that there would be harm (at the lower end of the less than substantial scale) arising to the following designated heritage assets: Belvoir Castle (Grade I listed), Church of St Mary (Grade I listed), Church of St John the Baptist (Grade II\* Listed); the Belvoir Conservation Area; and the Registered Park and Garden at Belvoir Castle (Grade II\*). Ms Armstrong does not conclude that harm would arise to the Scheduled Moated Grange with Fishpond, Muston.

7.9. I return to consider the weight to be afforded to this harm, and whether the public benefits of the Proposed Development outweigh the harm to the significance of the above heritage assets in accordance with paragraph 208 of the NPPF, in Section 11 of my Evidence.

#### **Issue 5 – The effect of the proposed development on nature conservation interests**

7.10. I refer to the Statement of Mr Fearn which is appended to my Evidence at **Appendix 3**. In this Statement, Mr Fearn specifically considers the Muston Meadows SSSI and National Nature Reserve and the Grantham Canal and Banks LWS. In respect of the Grantham and Banks LWS, Mr Fearn expresses his professional opinion that there would not be any impact resulting from the Proposed Development. In respect of the Muston Meadows SSSI and NNR, Mr Fearn explains in his statement that the proposed 11m buffer provided as part of the Proposed Development is likely to represent a considerable improvement on existing ecological conditions which presently comprise an intensively farmed arable landscape. He therefore concludes that the Proposed Development would be of benefit to the SSSI.

#### **Issue 6 – Whether the proposed development would be consistent with the Development Plan**

7.11. I examine this consideration in detail in Section 8 of my evidence, in which I conclude that the Appeal Scheme would comply with the provisions of the Development Plan when read as a whole.

#### **Issue 7 – The effect of other considerations on the overall planning balance**

7.12. I return to consider the overall planning balance in Section 11 of my evidence, drawing attention to other material considerations including energy security.

## 8. Planning Policy Assessment

- 8.1. In this section I will consider compliance with the relevant policies contained in the Development Plan, and the NPPF, as referenced in the LPA's Reason for Refusal and as also cited by the LPA in their Statement of Case (*Core Document 9.3*).

### Melton Local Plan 2011 – 2036

- 8.2. I specifically consider the most relevant policies to the determination of this appeal, in respect of **Policy EN10** on Energy Generation from Renewable and Low Carbon Sources, **Policy SS1** regarding the Presumption in favour of Sustainable Development, **Policy EN1** on Landscape, **Policy EN13** on Heritage Assets, and **Policy D1** on Raising the Standard of Design. I have reviewed compliance with the other Local Plan policies at **Appendix 5** to my Evidence.

#### Policy EN10 – Energy Generation from Renewable and Low Carbon Sources

- 8.3. As a matter of principle, I note that **Policy EN10** is a permissive policy, which expressly acknowledges that solar renewable and low carbon schemes will be supported and considered in the context of sustainable development and climate change. I therefore consider that the Proposed Development draws support from the Policy in principle.
- 8.4. **Policy EN10** then states that such schemes will be assessed individually and cumulatively on their merits, taking into account 14 factors (a further 4 factors are stated only to be relevant for wind energy development). I consider each in turn and their applicability to solar and the Proposed Development in particular.
- 8.5. Criterion 1 concerns siting, and inter alia to gain maximum effect from solar sources. The Proposed Development's layout of solar arrays, which includes the use of a tracker system to track the movement of the sun through the daylight hours, has been carefully designed so as to maximise solar irradiation levels, whilst also responding sympathetically to other environmental and topographic constraints. I therefore consider that this criterion is satisfied.
- 8.6. Criterion 2 notes the consideration of surrounding landscape and heritage assets. The consideration of townscape is not directly relevant to the Proposed Development in this context. Matters of landscape are examined in Mr Kratt's evidence, and heritage in Ms Armstrong's evidence. Both of these considerations have had a clear and demonstrable influence on the detailed design of the layout and siting of the Proposed Development. I examine in more detail the landscape and the heritage assets under the specific policies EN1 and EN13 respectively.
- 8.7. Criterion 3 concerns residential and visual amenity. Mr Kratt has examined the Proposed Development and reached the conclusion that Appeal Scheme would not have an unacceptable harmful effect on the landscape character and quality of the area when considered in combination with other developments in the locality, nor would it with regard having an unacceptable harmful effect on views and visual amenity on the public living in and visiting the area, utilising the public rights of way, lanes and roads. Mr Kratt does acknowledge that there will be some 'moderate' adverse visual effects for those receptors in close proximity to the Appeal Site, and that there will be some 'moderate' adverse landscape effects for the Appeal Site itself and its immediate context. I am of the opinion that it is inevitable that a renewable or low carbon project will, by reason of its very nature being a utility energy infrastructure scheme on the cusp of being a NSIP project, have some localised

effects on the proposed site itself and its immediate environs<sup>2</sup>, but that in this instance as Mr Kratt explains in Section 7 of his evidence, the Proposed Development has been sensitively designed and is not inherently harmful or unacceptable, being a form of development which treads lightly within the landscape and which incorporates infrastructure which is capable of being sensitively designed into the landscape by virtue of the modest scale and height of the components.

- 8.8. Criterion 4 concerns noise impacts. It is an agreed matter between MBC and the Appellant that there would be no adverse noise impacts at surrounding noise sensitive receptors (*Core Document 9.5, paragraphs 7.21–7.24*).
- 8.9. Criterion 5 concerns odour impacts. These considerations are not relevant to a solar pv proposal.
- 8.10. Criterion 6 concerns designated nature conservation considerations. I refer to the statement from Mr Howard Fearn of Avian Ecology at **Appendix 3** which explains that designated nature conservation interests, including the Muston Meadows SSSI and National Nature Reserve which Mr Fearn considers will be benefitted by the Proposed Development, and the Grantham Canal and Banks Local Wildlife Site will not be impacted by the Proposed Development.
- 8.11. Criterion 7 concerns ecology. I attach at **Appendix 3** a statement from Mr Howard Fearn of Avian Ecology which addresses ecological issues, and which explains that the Proposed Development will achieve a net gain for nature through habitat creation, whilst protecting and enhancing biodiversity and ecological networks.
- 8.12. Criterion 8 refers to aircraft movements and associated activities. The submitted Glint and Glare Assessment explains that there will no material adverse effect on aircraft safety, and it is agreed in the Statement of Common Ground with MBC that the neither the East Midlands Airport Safeguarding Officer nor the Air Traffic Services Officer raised objection to the Proposed Development (*Core Document 9.5, paragraph 7.25*).
- 8.13. Criterion 9 concerns electromagnetic transmissions. These considerations are not relevant to a solar pv proposal.
- 8.14. Criterion 10 refers to high quality agricultural land. Mr Kernon in his Agricultural Evidence, which is appended to my Evidence at **Appendix 4**, explains that only a small part of the Appeal Site is BMV, whilst the majority of the Appeal Site is 'moderate' quality land of subgrade 3b. This agricultural land would not be 'lost', and a small area of less than 0.1 ha would be affected by the construction of the access itself, and that even this can be restored on decommissioning. Mr Kernon further explains in his evidence considerations regarding food production in the UK and provides contextual evidence on various land uses. I further note that the LPA are no longer contesting the matter of loss of agricultural land as a reason upon which to refuse planning permission for this Appeal.
- 8.15. Criterion 11 concerns access for construction, maintenance and decommissioning. It is an agreed matter between MBC and the Appellant the proposed vehicle movements and

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<sup>2</sup> For instance, as is recognised in EN-1 in paragraphs 5.10.5 and 5.10.6 (*Core Document 4.3*).



construction vehicle route from the strategic highway to the Appeal Site are acceptable (*Core Document 9.5, paragraph 7.17*).

- 8.16. Criterion 12 relates to bio-energy fuels. These considerations are not relevant to a solar pv proposal.
- 8.17. Criterion 13 refers to general safety in terms of highways, power lines, icing and visual distraction. None of these considerations would be adversely affected by the Proposed Development given the nature of the solar pv scheme proposed.
- 8.18. Criterion 14 relates specifically to transport movements for importation of biomass fuel and is therefore not relevant to a solar pv scheme.
- 8.19. I therefore consider that the provisions of **Policy EN10** are satisfied.

#### **Policy SS1 – Presumption in favour of Sustainable Development**

- 8.20. This is a general policy which broadly reflects the policy stance taken in the NPPF at paragraph 11.
- 8.21. I consider that there are specific policies relevant to the Proposed Development, in particular policies **EN10**, **EN1** and **EN13**. For the reasons that I set out in this chapter of my Evidence, I consider that these policies are all satisfied.
- 8.22. As I consider that the Proposed Development accords with the policies in the Local Plan, the Appeal Scheme should proceed to be approved without delay in accordance with the requirements of **Policy SS1**. I therefore consider that **Policy SS1** is satisfied.

#### **Policy EN1 – Landscape**

- 8.23. I note that in the first paragraph of Policy EN1, the intention is to 'conserve' the character of Melton Borough's landscape and countryside. Going beyond this requirement to 'enhance' is not specifically required, but is caveated to be 'where possible'.
- 8.24. The first criterion requires that new development is sensitive to its landscape setting. As Mr Kratt explains in his evidence, whilst the Proposed Development will result in some adverse landscape effects, these are limited to the Appeal Site and its immediate environs and the Proposed Development would not have an unacceptable harmful effect on the landscape character and quality of the area, including when considered in combination with other developments in the locality.
- 8.25. Mr Kratt also considers in Section 7 of his Evidence that the Appeal Scheme also achieves enhancement by virtue of the proposed substantial new hedgerow and tree planting, which would leave a permanent positive landscape legacy of the Proposed Development upon decommissioning.
- 8.26. The second criterion requires new development to respect existing landscape character and features. I specifically note that there is positive statement contained in this second criterion that *'proposals will be supported where they do not have an unacceptable adverse effect upon important landscape features...'*

- 8.27. I consider that this phrasing is important in two respects. First, that this section of the policy has been drafted such that there is positive weight by supporting a scheme that does not have an unacceptable adverse effect. In the absence of a such positive weight, the policy does not indicate that a scheme should be refused. Second, that the inference in this wording is that there may be a level of adverse effects on important landscape features which are deemed to be acceptable, but that these effects must reach a level of being 'unacceptable' for the positive weight contained in **Policy EN1** to not apply to a proposal.
- 8.28. Mr Kratt explains in his evidence at Section 7 how the existing landscape and features have been successfully incorporated into the Proposed Development, drawing attention to trees and hedgerows, fields and grassland, routes and spaces, and the proposed landscape management approach. He also reviews the benefits and positive legacy which would result from the Proposed Development in landscape terms. For these reasons, I reach the conclusion that the Proposed Development would respect existing landscape character and features.
- 8.29. There are then 2 further criteria which state new developments will be supported where the specific requirements are met.
- 8.30. The first of these two additional criteria (which is point no.5 in the Policy) is that again the proposal should not have an unacceptable adverse effect upon an area's sense of place and local distinctiveness. I again draw attention to the phraseology of the threshold of 'unacceptable' adverse effects rather than this being a requirement that there should be nil adverse effects. As I have already noted, Mr Kratt explains that he considers that the Proposed Development would not have an unacceptable harmful effect on the landscape character and quality of the area.
- 8.31. The second of these two additional criteria is that a proposal should not have an unacceptable adverse effect upon areas of tranquillity including those benefiting from dark skies. Given the nature of the solar pv scheme, I do not consider that this would have an appreciable adverse effect upon the acoustic levels of the area, and that it will remain a tranquil environment. Any such effects would not be 'unacceptable'.
- 8.32. I therefore conclude that Proposed Development would not breach the requirements of the policy given that the effects on the character of the landscape and countryside will be conserved and further that the Proposed Development is lent support in a number of regards concerning the lack of unacceptable effects of important landscape features, the areas' sense of place and local distinctiveness, and the tranquillity of the area.

### **Policy EN13 – Heritage Assets**

- 8.33. **Policy EN13** acknowledges that the NPPF provides national policy for considering proposals which affect a heritage asset. Criterion A) of the policy then seeks to ensure the protection and enhancement of Heritage Assets when considering proposals for development affecting their significance and setting. It then states that proposed development should avoid harm to the significance of historic sites, buildings or areas, including their setting.
- 8.34. I consider that this requirement of Criterion A) does not reflect the planning balance which the NPPF requires at paragraph 208, namely that in instances where there is less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the Proposed Development. I further consider that it is this NPPF paragraph 208 policy requirement that should be used to assess the Proposed

Development having regard to the evidence of Ms Armstrong on the nature of harm to the significance of Heritage Assets, via a change in 'setting', in this instance (which Ms Armstrong considers to be less than substantial and at the lower end of the spectrum).

- 8.35. I conclude later in my Evidence that in my opinion the public benefits of the Proposed Development do outweigh the less than substantial harm to the identified Heritage Assets.

### **Policy D1 – Raising the Standard of Design**

- 8.36. **Policy D1** sets out 12 criteria against which to assess all development proposals. When reading these in the context of explanatory text accompanying the policy, it is clear that many of the criteria are more directly relevant to residential development than an energy infrastructure project, but I comment on those most relevant to this solar farm scheme below.

- 8.37. Criterion (a) refers to siting and layout being sympathetic to the area. I have already drawn attention to the evidence of Mr Kratt at Section 7 of his Evidence and how the Proposed Development has responded appropriately to the landscape elements of the Appeal Site in designing the Appeal Scheme.

- 8.38. Criterion (d) refers to not compromising the amenity of neighbours and neighbouring properties. I consider that there is no unacceptable effect on residential amenity, and I acknowledge that this is a matter which is agreed between the Appellant and MBC in respect of noise and also glint and glare (*Core Document 9.5, paragraphs 7.21 – 7.25*).

- 8.39. Criterion (h) refers to utilising existing trees and hedges together with new landscaping, to negate the effects of development. I have already drawn attention to the evidence of Mr Kratt at Section 7 of his Evidence and how the Proposed Development has responded appropriately to the landscape elements of the Appeal Site in designing the Appeal Scheme and also to substantial new planting of hedgerows and trees which is also proposed.

- 8.40. Criterion (i) refers to including appropriate, safe connection to the existing highway network. It is an agreed matter with MBC in the Statement of Common Ground that the site access proposals are acceptable (*Core Document 9.5, paragraph 7.17*).

- 8.41. Criterion (l) refers to managing development so as to control disruption caused by construction. It is an agreed matter with MBC in the Statement of Common Ground that the construction vehicle route from the strategic highway to the Appeal Site is acceptable (*Core Document 9.5, paragraph 7.17*) and also that in respect of noise which may be generated during construction, no additional mitigation measures are required (*Core Document 9.5, paragraph 7.24*).

- 8.42. I therefore consider that the requirements of **Policy D1** are satisfied.

### **Bottesford Neighbourhood Plan**

- 8.43. I specifically consider the most relevant policies to the determination of this appeal, in respect of **Policy 9** on Renewable Energy Generation and Low Carbon Technologies, **Policy 2** regarding Protecting the Landscape Character and **Policy 3** on Protecting and Enhancing Biodiversity. I have reviewed compliance with the other Local Plan policies at **Appendix 5** to my Evidence

### **Policy 9: Renewable Energy & Low Carbon Technologies**

- 8.44. **Policy 9** of the Neighbourhood Plan also supports renewable energy developments, provided that 5 criteria are met.
- 8.45. The first criterion states that the new development should incorporate features to reduce carbon emissions and mitigate against and adapt to climate change. By virtue of the generation of a substantial quantity of renewable energy, the Proposed Development demonstrably achieves this requirement.
- 8.46. The second criterion relates to low carbon homes, which is not relevant to the Proposed Development.
- 8.47. The third criterion specifically concerns 'individual and community scale' projects, which is not the case for this utility scale 49.9MW project.
- 8.48. The fourth criteria states that renewable energy development will be supported, providing that a further 5 criteria are demonstrated. Criterion (a) sets a bar where if there are adverse impacts, these effects would need to be at a level that is 'unacceptable.' I consider that all the various matters referred to in the criterion would either not be relevant to a solar pv scheme, or where there is harm such as to the sensitivity and character of the landscape, that such harm would not be 'unacceptable'.
- 8.49. In a similar manner, criteria (b) and (c) requires that the proposal should not have an 'unacceptable' adverse effect on any designated site, or on protected species and sites of biodiversity value. Having regard to the Ecological Statement by Mr Fearn attached at **Appendix 3** to my Evidence, as I have already explained in considering Local Plan Policy EN10 I consider that the Proposed Development would not have an unacceptable effect on any ecologically designated site or protected species.
- 8.50. Criterion (d) relates to the loss of BMV agricultural land. MBC have confirmed in their Statement of Case and at the CMC that they will not be contesting the loss of agricultural land matter, but to assist the Inquiry, I rely on the Evidence of Mr Kernon in this regard and note that the presence of BMV is very limited in respect of the Appeal Site as I have noted earlier in my Evidence.
- 8.51. Criterion (e) relates to the desire to locate local transmission lines below ground wherever possible. The cabling within the Appeal Site is proposed to be underground, including that from the internal substation to the proposed new Point of Connection to the grid. This connection to the grid is to be made within the Appeal Site via a Point of Connection mast located adjacent to an existing grid pylon tower.
- 8.52. I therefore consider that the requirements of **Policy 9** have be met.
- 8.53. **Policy 2** concerns protecting landscape character and establishes 7 criteria.
- 8.54. Regarding criterion 1, by reason of its location, I do not consider that the Proposed Development would impact any Areas of Separation or Significant Key Gaps identified in the Neighbourhood Plan. Whilst the Proposed Development would be visible and have low level effects on two identified 'Key Views' (View 5 and View 6), I note that both the Planning Officer in his report to Committee (*Core Document 3.1*), and Mr Kratt in his Evidence at Section 3, the overall effect is deemed to be acceptable. Therefore, this criterion's



requirement that development proposals should not have an "unacceptable impact" on the designation is achieved is achieved.

- 8.55. Criterion 2 is not relevant as the Proposed Development is not located within an identified Significant Green Gap.
- 8.56. Criterion 3 is not relevant, as an exception is not required to the second criterion.
- 8.57. Criterion 4 relates to account being taken of the viewpoint between St Mary's Church from Belvoir Castle. Ms Armstrong considers the Church of St Mary in Section 5 of her Evidence, including the associative connection relationship with Belvoir Castle. Ms Armstrong concludes that the Proposed Development would not alter the understanding of the associative connection between the Church of St Mary and Belvoir Castle.
- 8.58. Criterion 5 refers to development proposals being sympathetic to the landscape setting. I have already discussed Mr Kratt's evidence with regard to landscape character and quality of the area.
- 8.59. Criterion 6 requires that any mitigation planting and boundary treatment should include native species, and this requirement is achieved in the Proposed Development which specifically promotes the planting of native species.
- 8.60. Criterion 7 is not relevant to the Appel Scheme, as the criterion relates specifically to Bottesford Village.
- 8.61. **Policy 3** concerns protecting and enhancing biodiversity. For the reasons I have already explained previously, Mr Fearn in the Ecological Statement attached at **Appendix 3** to my Evidence has established that there will be a significant net gain in biodiversity which will fulfil criterion 1 of Policy 3.
- 8.62. I do not consider that criterion 2, which concerns development proposals that would result in loss of biodiversity value, is relevant to the Proposed Development, given the significant Biodiversity Net Gain that is agreed would be achieved.
- 8.63. Criterion 3 relates to mature trees and hedgerows in the Streets and Trees Survey 2020, which are not relevant to the Appeal Site.
- 8.64. The fourth criterion relates to development should avoid being located on the highest quality agricultural land. I have already addressed this matter when addressing Policy 9 criterion (d) above.

## Development Plan Policy Conclusions

- 8.65. Having regard to the above considerations, it is my opinion that the Appeal Scheme complies with the Development Plan policies cited by the LPA in their Reasons for Refusal. Even if there were to be a conflict with part of a policy, or even one policy in the Development Plan, this conflict would not automatically lead to the conclusion that there is conflict with the development plan taken as a whole having regard to the principles set out in *R. (on the application of William Corbett) v The Cornwall Council* [2020] EWCA Civ 508 (*Core Document 6.8*).



8.66. I therefore consider the Proposed Development is in accordance with the Development Plan when read as a whole.

## 9. Other Material Considerations

- 9.1. Although I have reached the conclusion in Section 8 of my Evidence that the Proposed Development is in accordance with the Development Plan when read as a whole, and therefore that it should be approved without delay applying the advice of the NPPF (*Core Document 4.1, paragraph 11*), it is also necessary to consider whether material considerations indicate otherwise.

### Energy Policy Considerations

- 9.2. This section of my Evidence provides a summary of the most relevant energy legislation, policy and guidance for this Appeal.
- 9.3. In this Section of my Evidence, for simplicity I refer to “the Government”. For the avoidance of doubt, the majority of the energy polies referred to below relate to the previous Government administration which was in power until the General Election held in July 2024. I note that there is nothing in the new Labour Government’s immediate policies or decisions that seek to depart from the previous Government’s view on the urgency to deliver Net Zero. If anything, the new Labour Government – as evidenced, through its proposed changes to NPPF and the threshold for renewable energy NSIP projects – is strongly reaffirming the scale of the Net Zero challenge and the need to immediately address it.

### UK Legislation and Policy

- 9.4. The 'Climate Change Act 2008' (*Core Document 4.8*) brought in the legislative basis for the United Kingdom (“UK”) to reduce net greenhouse gas emissions by at least 80% by 2050 from their 1990 levels.
- 9.5. The target included in the 'Climate Change Act 2008' was strengthened in June 2019 to be a 100% reduction relative to 1990 levels by 2050 (known as “net zero”) (*Core Document 4.9*).
- 9.6. The 'Clean Growth Strategy' (*Core Document 4.10*) was published by the Department for Business, Energy and Industrial Strategy (“BEIS”) in October 2017. In respect of the power sector, the Strategy anticipates that by 2050 emissions from this sector need to be close to zero. In the meantime, the Strategy indicates one possible pathway to the interim step of 2032 is for power emissions to fall by 80% compared to 2017 levels which could be achieved by, inter alia, growing low carbon sources such as renewables and nuclear to over 80% of electricity generation, and phasing out unabated coal power. The Strategy also confirms that the “*Government want to see more people investing in solar without government support*”. Attention is drawn in particular to pages 95 – 96 of the Strategy.
- 9.7. The clear and explicit need to introduce a step change in how the UK reacts to Climate Change has been recognised by UK Parliament who, on 1<sup>st</sup> May 2019, declared an Environmental and Climate Change Emergency (*Core Document 4.11*).
- 9.8. At the local level, Melton Borough Council and Leicestershire County have both recognised the importance of achieving Net Zero (for example, see *Core Documents 5.5, 5.6 and 5.8*).

9.9. The Government published the Energy White Paper: Powering our Net Zero Future in December 2020 (*Core Document 4.12*). In the foreword to the White Paper, the Minister stated:

***“The UK has set a world-leading net zero target, the first major economy to do so, but simply setting the target is not enough – we need to achieve it. Failing to act will result in natural catastrophes and changing weather patterns, as well as significant economic damage, supply chain disruption and displacement of populations.”***

9.10. And later in the foreword:

***“The way we produce and use energy is therefore at the heart of this. Our success will rest on a decisive shift away from fossil fuels to using clean energy for heat and industrial processes, as much as for electricity generation.”***

9.11. The White Paper recognises the progress made to increase deployment of renewables and sees the expansion of renewable technologies as a key contributor to achieving an affordable clean electricity system by 2050. The White Paper at page 45 states:

***“Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios.”***

9.12. In April 2021, the UK Government committed to set in law by end of June 2021 the world’s most ambitious climate change target, cutting emissions by 78% by 2035 compared to 1990 levels.

9.13. The Government published its ‘**Net Zero Strategy: Build Back Greener**’ (*Core Document 4.17*) in October 2021 which establishes that the UK will be powered entirely by clean energy by 2035, subject to security of supply (*Core Document 4.17, first bullet point, page 19*).

9.14. Specifically in respect of the ‘Power’ sector, the Net Zero Strategy affirms that one of the Government’s key commitments is to accelerate the deployment of low cost renewable generation, such as wind and solar (*Core Document 4.17, second bullet point, page 94*). The Government identifies the Contracts for Difference (“CfD”) funding route is being reviewed, given that this is a support mechanism it can directly lead on, but I note that schemes such as the Appeal Scheme are self-funded and therefore do not rely on Government support through initiatives such as the CfD auctions.

9.15. Another of the key commitments is ‘*to ensure the planning system can support the deployment of low carbon energy infrastructure*’.

9.16. I share the opinion of the National Audit Office that the challenge presented here is “colossal”. (*Core Document 4.16, page 6, point no.6*). On the one hand, the Government requires that by 2035 all our electricity will need to come from low carbon sources, subject to security of supply, bringing forward the government’s commitment to a fully decarbonised power system by 15 years from the previous target of 2050 which was envisaged in the Energy White Paper only 10 months previously. On the other hand, the Government is at the same





time forecasting a 40–60% increase in demand over the same period (*Core Document 4.17, paragraph 10, page 98*).

- 9.17. To meet this challenge, the Government states that a low-cost, net zero consistent electricity system is most likely to be composed predominantly of wind and solar generation, whether in 2035 or 2050 (*Core Document 4.17, paragraph 11, page 98*). It affirms that we need to continue to drive rapid deployment of renewables so we can reach substantially greater capacity beyond 2030 (*Core Document 4.17, paragraph 35, page 103*). The Government further indicates that a sustained increase in the deployment of land-based renewables (and specifically identifying solar) will be required in the 2020s and beyond (*Core Document 4.17, paragraph 36, page 103*).
- 9.18. Given the size of the challenge, the Government states *'we will need to consider how low carbon energy infrastructure can be deployed at an unprecedented scale and pace sympathetically alongside the interests of our communities and consistent with our obligations to a sustainable environment, both land-based and marine.'* (*Core Document 4.17, paragraph 32, page 102*). It is my opinion that, if consented, the Proposed Development will contribute to the deployment of low carbon energy infrastructure in the immediate future and therefore contributing to the scale and pace of deployment that is needed, whilst also being sympathetic to both the interests of the community and the sustainability of the environment in this location.
- 9.19. The Government also sets out that *"although we need to ensure we can deploy existing low carbon generation technologies at close to their maximum to reach Carbon Budget 6, we also need to de-risk the delivery challenge"* (*Core Document 4.17, paragraph 43, page 105*).
- 9.20. In response to the rising cost of energy and the crisis associated with the commencement of the Ukraine war, the Government updated its **British Energy Security Strategy** in April 2022 (*Core Document 4.18*). When discussing solar technology, the Strategy notes that the government expects a five-fold increase from the current 14GW of solar capacity in the UK by 2035. Specifically in respect of ground-mounted solar, the Strategy explains that consultation on amending planning rules will take place to strengthen policy in favour of development of non-protected land, while ensuring communities continue to have a say and environmental protections remain in place.
- 9.21. Most recently still, the Government published a suite of documentation under the **Powering Up Britain** in March 2023. This included updated draft NPS on Energy and Renewable Energy to which I refer below, but also an **Energy Security Plan** ("the ESP") (*Core Document 4.20*). I note that the Government states that *'Low cost renewable generation will be the foundation of the electricity system and will play a key role in delivering amongst the cheapest wholesale electricity in Europe'* (page 34).
- 9.22. The ESP continues to examine the role of solar at pages 37/38, and it reaffirms the Government's commitment to aim for 70GW of ground and rooftop capacity by 2035. It again states that this amounts to a fivefold increase on current installed capacity. The ESP then concludes on this matter:

***'We need to maximise deployment of both types of solar to achieve our overall target'***.

- 9.23. I attach considerable importance to this clear statement, in that the Government is clear that the deployment of ground mounted solar (as well as roof mounted solar) needs to be maximised if the fivefold increase in solar pv deployment is to be met.
- 9.24. After considering ways that rooftop solar can be encouraged, the ESP turns to ground mounted solar, which is noted as being readily deployable at scale (as is the case with the Proposed Development). It continues to say that the Government 'seeks' large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land (the latter category being the case with over 93% of the Appeal Site being of Grade 3b classification). I consider that the Proposed Development would assist in achieving what the Government seeks in the ESP.
- 9.25. The ESP again restates that the Government considers that meeting energy security and climate changes goals is '*urgent*' and '*of critical importance to the country*', and further that '*these goals can be achieved together with maintaining food security for the UK*'.
- 9.26. The ESP further encourages deployment of solar technology that deliver environmental benefits, with consideration for ongoing food production or environmental management. For reasons that I elaborate on in Section 11 of my Evidence, I conclude that the Proposed Development would assist in delivering both food production through sheep farming, and environmental benefits through delivering a significant increase in Biodiversity Net Gain.
- 9.27. I agree with the conclusion reached in the ESP that that '*the Government considers that there is a strong need for increased solar deployment.*' I also note the ESP's comment that the planning system allows all views to be taken into account when decision makers balance local impacts with national need. In the case of this Proposed Development, I consider that the limited extent of local impacts identified are outweighed by this 'strong' national need for solar development, for the reasons I explain in Section 11 of my Evidence.
- 9.28. In November 2023, the Government published a **Connections Action Plan** (*Core Document 4.27, page 9*) which acknowledged the serious problems of grid connection delays for renewable bergy projects:

***"Projects crucial to achieving net zero, currently seeking grid connections, are facing serious connection delays. Many are facing delays which cause them real difficulty; equally many new projects with connection agreements never connect. It is clear that the current connection process is not fit for purpose and requires fundamental reform".***

- 9.29. One of the final actions of the previous Government in May 2024 was to issue a Written Statement by the Secretary of State for Energy Security and Net Zero on 'Solar and Protecting our Food Security and Best and Most Versatile (BMV) Land' (*Core Document 4.28*). The Written Statement states that 'due weight' needs to be given to the proposed use of BMV land when considering whether planning consent should be granted for solar development. In this regard I consider that it does not amend national planning policy, nor the weight to be afforded to this material consideration. Again, I note that the substantial majority of the Appeal Site is not located on BMV land.

### **Progress**

- 9.30. The 'Digest of United Kingdom Energy Statistics' is an accurate source of energy information providing figures on the UK's overall energy performance, production and consumption. The

Digest is published annually with the latest publication being the July 2024 Digest (*Core Document 4.14B*).

- 9.31. In the key headlines to the 'Renewable Sources of Energy' chapter (*Core Document 4.14B, Chapter 6*), I note that renewable capacity increased by 4.0 per cent, which is half that evidenced in the previous year in 2022 (*Core Document 4.14A, Chapter 6*). This rate of increase also remains significantly lower than the average annual growth rate between 2012 and 2018 which was 20 per cent. De-rated renewable energy capacity is stated to have increased by 10.8% to 2.8GW in 2023, whilst amount of new solar pv capacity installed increased by 1.3GW (*Core Document 4.14B, Chapter 6 key headlines*).
- 9.32. This additional 1.3GW of installed solar PV in 2023 comprises an annual figure which is far below that which is required to achieve the 5-fold increase to 70GW by 2035 as stated in the British Energy Security Strategy (2022) and repeated in the Energy Security Plan (2023). I estimate that the deployment per annum needed to meet the 70GW target (which requires an increase of 56GW over 13 years) would be 4.3GW pa on a straight-line trajectory<sup>3</sup>. The 0.7 GW achieved in 2022, added to the 1.3GW achieved in 2023, totals 2.0GW of additional solar PV over these first 2 years. This weak growth has resulted in only meeting 23% of the equivalent annual target over these 2 years, and serves to further underline the need for a substantial and rapid deployment of new solar pv capacity.
- 9.33. I also draw attention to two other concerning matters having regard to the wider context of improving security of electricity generation for the UK. The first concern is that total de-rated generation capacity in the UK overall fell by 2.6% in 2023 compared to 2022 to stand at 74.8GW (*Core Document 4.14B, Chapter 5, page 7*). This reflects the closure of two large coal-fired plants and this reduction in generation capacity was not kept pace by increases in capacity in other low-carbon forms of electricity generation. The second is that the UK returned to being a net electricity importer in 2023, with net imports totalling a record 23.8 TWh, and that the UK's total imports were more than double 2022 levels (*Core Document 4.14B, Chapter 5, page 6*).
- 9.34. The National Audit Office cast doubt on the progress being made and the achievement of the pre-"net zero" (80%) reduction compared to 1990 levels in their December 2020 'Achieving net zero' report (*Core Document 4.16*). As I have already noted earlier, in the summary at page 6, when discussing the scale of the challenge, the NAO noted that achieving net zero is a 'colossal challenge' and is significantly more challenging than the Government's previous target to reduce carbon emissions by 80% by 2050.
- 9.35. The report recognised the progress of the energy sector, but confirms this sector's importance in achieving legislative targets:

***"Reducing emissions further to achieve net zero will require wide-ranging changes to the UK economy, including further investment in renewable***

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<sup>3</sup> To illustrate this point another way, the equivalent of x2 solar farms of nearly the size of the Appeal Scheme would need to be consented every week over the next 13 years to 2035 to achieve this target back in 2022. However, given that the deployment has failed to meet this annual requirement in the first 2 years in either 2022 or 2023, the remaining requirement has now increased from an average of 4.3GW pa to 5GW pa.



***electricity generation, as well as changing the way people travel, how land is used and how buildings are heated."***

### **Summary**

- 9.36. The above matters emphasise the immediate and pressing need for deployment of renewable energy generation in the UK, to assist with meeting the challenging legally binding obligations to reach "net zero" by 2050. It is clear that the continued deployment of Solar PV, and renewable energy technologies more generally, are and have been consistently recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change.
- 9.37. Having regard to the above, the application proposals make an appreciable contribution to meeting the amended Climate Change 2008 targets. It is clear that in order for the UK to meet the ambitious target of reducing greenhouse gas emissions by 100% or "net zero" compared to 1990 levels by 2050, a presumption in favour of increasing the number and output of low carbon energy sources, such as solar farms, is entirely appropriate and necessary.
- 9.38. The UK's 'Climate emergency' declaration and Melton Borough Council's and Leicestershire County Councils acknowledgement of the need to deliver on Net Zero targets provide further context for this Appeal (*Core Document 4.11 and 5.8*). The Proposed Development would support the intentions of these declarations.
- 9.39. The application of the Government's energy policy framework is a highly significant material consideration to this Appeal and is further considered in the balance of material considerations at Section 11 of my Evidence.

## **National Policy Statements on Energy & Renewable Energy**

### **National Planning Policy Framework ("NPPF")**

- 9.40. I have already referred to the NPPF earlier in my Evidence. However, I wish to draw attention to the following key paragraphs in relation to the determination of this appeal.
- 9.41. First, paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, and take full account of flood risk. It also states *inter alia* that renewable and low carbon energy and associated infrastructure should be supported.
- 9.42. Second, paragraph 158 explains that applicants are not required to demonstrate the overall need for renewable or low carbon energy, and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. I am of the opinion that this Proposed Development would make a significant contribution to cutting greenhouse gas emissions.
- 9.43. Paragraph 158 further requires that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable. For the reasons I elaborate in Section 11 of my Evidence, I am of the opinion that the impacts arising from the Proposed Development are acceptable with the imposition of suitable planning conditions. The only remaining impacts once the scheme is decommissioned will be overwhelmingly positive.



- 9.44. Further advice is set out in the NPPF regarding conserving and enhancing the natural environment and the heritage environment which I also refer to in reaching an overall planning balance in Section 11.
- 9.45. On 30<sup>th</sup> July 2024, the new Government published an updated NPPF for consultation (*Core Document 4.30*). Whilst I acknowledge that the revisions set out have been published for the purposes of consultation, given that they follow through on previous Manifesto commitments given in the General Election, I afford them significant weight as evidencing the new Government's direction of travel with regard to planning and energy policy.
- 9.46. The first significant change proposed is to support all forms of renewable and low carbon development. In amendments to paragraph 164, the NPPF is proposed to be unequivocal that *'Local authorities should support planning applications for all forms of renewable and low carbon development.'* It is noteworthy that there are no counterbalancing caveats set out in this very clear statement of policy (although a caveat to my consideration of this matter is set out at paragraph 9.48 below).
- 9.47. The second significant change is the weight to be attached to the renewable energy generation and a net zero future. Paragraph 164 is now proposed to be very clear that when determining planning application, the decision taker should *'... give significant weight to the proposals contribution to renewable energy generation and a low carbon future.'*
- 9.48. Having regard to the Government's intentions behind strengthening the support for supporting renewable energy deployment, the accompanying Consultation Paper on the NPPF published at the same time as the consultation opened on 30<sup>th</sup> July is informative (*Core Document 4.31*). Chapter 9 of the document is titled 'Supporting green energy and the environment', and paragraphs 7 to 9 set out the Government's intention to strengthen the NPPF in this regard. I particularly note that the Government states that is proposing to *'direct decision makers to give significant weight to the benefits associated with renewable and low carbon energy...'* and that the reason for this is *'In doing so, this aims to increase the likelihood of local planning authorities granting permission to renewable energy schemes and contribute to reaching zero carbon electricity generation by 2030.'* I consider that the Appeal Scheme would deliver against that 2030 target and therefore should benefit from the Government's policy shift to increase the likelihood of being granted planning permission.
- 9.49. I also note that at paragraph 9 of the above Consultation document, the Government notes that development of renewables may be proposed in sensitive areas, and then draws specific attention to carbon sequestration and peatlands in particular. It then continues to reinforce that *'While these changes seek to promote the delivery of renewable energy schemes, proposals should still be subject to the policy requirements set out in the framework alongside other environmental safeguards'*. For the reasons I have elaborated on throughout my Evidence, I do not consider that the policy requirements set out in the NPPF, or other environmental safeguards, are offended by the Proposed Development and therefore this proposed new "presumption in favour of the delivery energy schemes" should fully apply to this Appeal Scheme.

#### **National Planning Practice Guidance ("NPPG") (First Published March 2014)**

- 9.50. The Government's web-based NPPG went live in March 2014 (*Core Document 4.2*) and contains guidance on the planning system and has been subject to updating periodically. The web-based guidance should be read alongside the NPPF and is a material consideration in the consideration of planning applications.
- 9.51. Renewable and Low Carbon Energy forms one of the chapters in the NPPG. Paragraph 013 (ID: 5-013-20150327) is entitled "*What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?*". I have taken these into account as relevant in my Evidence as the specific consideration arises.
- 9.52. I am of the opinion that the above considerations are satisfactorily addressed for the reasons set out elsewhere in my Evidence as noted above.
- 9.53. However, I also note that this Guidance dates back to 2015 and therefore predates the more recent policy changes as set out in the NPPF, the Net Zero Strategy requirement to achieve Net Zero by 2050, and the more recent energy policy statements encouraging the deployment of solar pv, as noted most recently in the Powering Up Britain Energy Security Plan (*Core Document 4.20*) and the National Policy Statements as summarised below as published in November 2023. This goes to the weight that can be afforded to that earlier guidance.

#### **Overarching National Policy Statement for Energy (EN-1) (November 2023)**

- 9.54. EN-1 (*Core Document 4.3*) was revised and presented to the Houses of Parliament in November 2023 to set out national policy for energy infrastructure in the UK. Its primary purpose is to be applied to decisions for Nationally Significant Infrastructure Projects, which the Proposed Development the subject of this Appeal is not, although it is of a scale which is approaching the NSIP threshold. It is also confirmed this document can be a material consideration in the determination of planning applications (*Core Document 4.3, paragraph 1.2.1*), and the extent to which the policies in the NPS are material, and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy (*Core Document 4.3, paragraph 1.2.2*).
- 9.55. I note that fossil fuels still accounted for just over 76% of energy supply in 2020, and that the Government states '*we need to dramatically increase the volume of energy supplied from low carbon sources*' (*Core Document 4.3, paragraph 2.3.5*).
- 9.56. EN-1 also highlights in several places that demand for electricity is likely to increase and could more than double by 2050 as large parts of transport, heating and industry decarbonise by switching from fossil fuels to low carbon electricity (*Core Document 4.3, paragraph 2.3.7, 3.3.3*).
- 9.57. The consequence of this is that if demand for electricity doubles by 2050, EN-1 states that '*we will need a fourfold increase in low carbon generation....In addition, we committed in the Net Zero Strategy to take action so that by 2035, all our electricity will come from low carbon sources, subject to security of supply, whilst meeting a 40-60% increase in electricity. This means that the majority of new generating capacity needs to be low carbon*'. (*Core Document 4.3, paragraph 3.3.16*).
- 9.58. In my opinion, this statement again reinforces the messages from the plethora of recent government announcements that there is a need to substantially increase low carbon energy

generation beyond current rates of deployment. The Appeal Scheme would make a meaningful and material contribution.

9.59. As to the types of new generating capacity needed, EN-1 states that *'Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar'* (Core Document 4.3, paragraph 3.3.20).

9.60. I also draw attention to the general framework established in EN-1 with regard to the statements that the government has demonstrated that there is a need for the types of infrastructure identified (which includes solar pv development) which is urgent (Core Document 4.3, paragraph 3.2.6); that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008 (Core Document 4.3, paragraph 3.2.7); and that the government has concluded that there is a *'critical national priority'* for the provision of nationally significant low carbon infrastructure. I note that the Appeal Scheme comprises of a solar pv development which although falls just short of the 50MW threshold to be treated as a NSIP project under the Planning Act 2008, it is right on the cusp of the threshold and, in my opinion, the closer the size of a scheme is to the 50MW threshold, the greater the weight should be afforded to the NPS.

9.61. Finally, I draw attention to the implications of this urgent need for the delivery of this *'Critical National Priority'* ("CNP") infrastructure when EN-1 advises that other residual impacts should, in general, be outweighed by the energy objectives:

***"Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible."*** (Core Document 4.3, paragraph 3.3.63).

9.62. I consider that, due to the fact the Proposed Development is right on the very cusp of being a NSIP scheme (by virtue of an export capacity of 49.9MW against the threshold of an energy generating project being in excess of 50MW), considerable weight should be given to the policies set out in the NPS. In my opinion, this is due the scheme's benefits in terms of quantum of electricity generation, and its contribution to the security of supply of electricity for the UK, is almost on par with that defined as being *'Critical National Priority'* Infrastructure. I note that this matter of weight was considered by the Inspector in the *Fobbing* decision in January 2024 (Core Document 6.38, para 39) where he found for a 49.9MW solar pv scheme that *'Given the capacity of the appeal scheme falls just below the NSIP threshold, I believe that EN-1 is a material consideration and that its underlying aims for energy development should be given more weight in this case than any conflict with Policies CSTP23 and PMD2'*.

9.63. I note that the Inspector in the recent *Honiley Road* decision (Core Document 6.31) recommended that *'... EN-1 in its totality was a material consideration in this case'*, that the *'remarkable'* shift and clear policy steer that is gave in relation to Green Belt and solar development was pertinent in that case and that it should be afforded moderate weight in favour of the proposal (Core Document 6.31, paragraph 198). I note too that the Secretary of State, whilst allowing the appeal, identified that the proposal did not fall within the scope of

the Planning Act 2008 as Critical National Priority infrastructure, and that she did not attribute weight to EN-1 in this decision (*Core Document 6.31, paragraph 31*). However, I note that the proposal at Honiley Road was only 23.1 MW of generation, and it was therefore less than half of that required to be an NSIP scheme, unlike the proposal at Fobbing or is the case with the Appeal Scheme.

- 9.64. When considering the general need for, and weight afforded to, renewable energy and while each scheme must be considered on its merits, it is also sensible to have regard to the national picture. It is clear from the suite of Secretary of State and Inspector decisions before the Inquiry that many sensitive sites and sites in protected areas have been granted permission on the basis of the urgency of the need for solar development and the imperative of using grid opportunities where they arise. This includes *Halloughton* in respect of heritage interests (*Core Document 6.9*), *Fobbing* in respect of Green Belt (*Core Document 6.38*) and *Telford* in respect of valued landscapes (*Core Document 6.15*).

### **National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2023)**

- 9.65. EN-3 (*Core Document 4.4*) was also revised and presented to the Houses of Parliament in November 2023.
- 9.66. Under the specific heading of Solar Photovoltaic Generation at Section 2.10, EN-3 confirms that *'The Government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050. As such solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector.'* (*Core Document 4.4, paragraph 2.10.9*).
- 9.67. I note that the Government affirms that *'solar also has an important role in delivering the government's goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in combined ground and rooftop solar development by 2035 (up to 70GW)'* (*Core Document 4.4, paragraph 2.10.10*).
- 9.68. EN-3 further explains that solar farms are one of the most established renewable electricity technologies in the UK, the cheapest form of electricity generation, can be built quickly and with consistent reductions in the cost of materials and improvements in efficiency, are now in some cases viable to deploy subsidy-free (*Core Document 4.4, paragraphs 2.10.13-2.10.14*).
- 9.69. It then explains a number of key considerations involved in the siting of a solar farm, and also technical considerations for the Secretary of State to consider. I have taken these considerations into account as relevant in my Evidence as the specific consideration arises, but would draw attention to the section of 'Project lifetime and decommissioning', where EN-3 advises that *'the time limited nature of the solar farm, where a time limit is sought as a condition of consent, is likely to be an important consideration for the Secretary of State'* (*Core Document 4.4, paragraph 2.10.150*). I further note that the Appeal Scheme is proposed to be limited for an operational period of up to 40 years from the date of the first export of electricity, and therefore this project lifetime consideration should be given significant weight in the decision.

## **Appeal Decisions**





- 9.70. There is now a considerable body of evidence of appeal decisions issued over the last several years where the increasing government energy policy imperative to accelerate the delivery of renewable or low carbon energy schemes have been a key material consideration and policy driver.
- 9.71. I comment on the appeals included in the Core Documents list as appropriate when examining the weight which Inspectors have afforded to various material considerations in the planning balance section set out in Section 11 of my Evidence.



## 10. Third Party Representations

- 10.1. I note that a number of matters have been variously raised in representations on the Planning Application and the subsequent appeal.
- 10.2. I set out a summary of the comments made and a response to each of the considerations in **Appendix 6** to my evidence.

## 11. The Overall Planning Balance, Summary and Conclusions

11.1. In this section I explain how I believe the decision maker should approach the determination of this Appeal, before going on to identify any material considerations that need to be weighed in the overall planning balance.

### The Decision-Making Framework

11.2. The starting point for the determination of a planning application or appeal is the Development Plan. The planning system is “plan led” and planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

11.3. I consider the determination which would be in accordance with the Development Plan would be to allow the appeal because the Proposed Development accords, where relevant, with the Development Plan when read as a whole.

### Overall Planning Balance Considerations

11.4. Taken overall, as I consider that the Proposed Development is broadly in accordance with the Development Plan, this would normally indicate that planning permission should be approved without delay (NPPF, Paragraph 11). There are no material considerations that indicate permission should be refused.

11.5. However, should the Inspector conclude that the Development Plan indicates that the appeal should be dismissed, then, applying S38(6), there is a need to consider whether material considerations indicate otherwise.

### Material Considerations and Weight

11.6. In considering the weight that should be afforded to each consideration in the overall planning balance, I apply the following scale ranging from high to low:

- Substantial
- Significant
- Moderate
- Limited

11.7. Such weight may be ‘positive’ as a benefit, ‘adverse’ as a harm, or of ‘neutral’ effect.

11.8. Although the Appellant sought to discuss and agree the weight that should be applied to the various material considerations with MBC through the Statement of Common Ground process, unfortunately MBC did not wish to do so and hence I set out in evidence below an assessment of each of these material considerations followed by a conclusion on whether the benefits outweigh any adverse impacts identified when taken as a whole.

## Material Considerations which are Benefits

### 1. Increasing Renewable Energy Generation

- 11.9. The Appeal Scheme would supply up to 49.9MW to the National Grid, providing the equivalent annual electrical needs of over 23,100 homes in Melton Borough Council. The anticipated CO<sub>2</sub> displacement is around 39,900 tonnes per annum.
- 11.10. It is also relevant to consider the weight that the Secretary of State and Inspectors have given to the benefit of renewable energy generation in determining recent appeals for solar pv schemes. I draw attention to the following decisions which have been determined since 2023.
- 11.11. At *Bramley*, a 45MW solar farm (*Core Document 6.14A, paragraph 76*) was allowed and the Inspector opined that 'substantial weight' should be given to the generation of renewable energy in February 2023.
- 11.12. In *Chelmsford*, also allowed in February 2023, the level of renewable energy generation arising from a 49.9MW solar farm in the Green Belt 'weighs strongly in favour of the scheme' (*Core Document 6.12, paragraph 86*), and later in the decision, that the benefits of renewable energy 'raise substantial benefits' in favour of the proposal (*Core Document 6.12, paragraph 91*).
- 11.13. At *New Works Lane, Telford*, the Secretary of State allowed a 30MW solar farm in March 2023 and considered that significant weight should be given to the production of electricity (*Core Document 6.15 paragraph 23*).
- 11.14. At *Wellington Telford*, the Inspector in allowing the appeal for up to 49.9MW in May 2023 afforded "substantial weight" to the clean and secure energy offer (*Core Document 6.17, paragraph 43*).
- 11.15. In June 2023, a 49.9MW solar farm was allowed at *Scruton, Hambleton* and the Inspector afforded "substantial weight" to the renewable energy benefit of the proposal (*Core Document 6.20, paragraph 46*).
- 11.16. In November 2023, the Inspector afforded "very significant weight" to renewable energy production at *Halse Road, Greatworth* in respect of a 49.9 MW solar farm (*Core Document 6.22, paragraph 122*).
- 11.17. At *Hall Lane, Kemberton*, the Inspector in allowing the appeal for 22MW solar farm in February 2024 afforded "substantial weight" to the renewable energy benefit of the development (*Core Document 6.25, paragraph 65*).
- 11.18. In March 2024, the Inspector at *Fobbing* explained that the significant contribution of the appeal scheme towards the generation of renewable energy and the reduction in greenhouse gas emissions warranted 'substantial weight' (*Core Document 6.38, paragraph 75*).
- 11.19. In March 2024, at *Graveley Lane* the Secretary of State allowed a 49.9MW solar farm and considered that weighing in favour of the proposal in the production of electricity to be afforded "substantial weight" rather than the Inspector's conclusion of "significant weight" (*Core Document 6.26, paragraph 18*).

- 11.20. At *Great Wheatley Farm*, Rayleigh, the Inspector in allowing the appeal for 30MW solar farm in March 2024 afforded “substantial weight” to the renewable energy benefit of the development (*Core Document 6.27, paragraph 47*).
- 11.21. Also in March 2024, at *Milton Road*, Gayton, while the Secretary of State refused a 49.7MW solar farm, against the recommendation of the Inspector, he considered the weighing in favour of the proposal in the production of electricity to be afforded “significant weight” (*Core Document 6.28, paragraph 40*).
- 11.22. In April 2024, at *Hilfield Lane*, Aldenham, while the Secretary of State refused a 49.9MW solar farm he still considered that the renewable energy benefits of the scheme carried “substantial weight” (*Core Document 6.29, paragraph 51*).
- 11.23. Most recently, in July 2024, at *Honiley Road* the Secretary of State allowed a 23.1MW solar farm and 57MW battery storage facility considered that the benefits associated with the provision of renewable energy should collectively carry “substantial weight” (*Core Document 6.31, paragraph 24*).
- 11.24. In reviewing these appeal decisions, there is very clearly a consistent approach from the Secretary of State and appointed Inspectors in determining solar farm appeals since 2023 that either ‘significant’ or ‘substantial’ weight should be given to this benefit.
- 11.25. Further, the recent publication of the latest suite of NPS’s which I refer to in Section 8 of my Evidence, where the latest published version of EN-1 states that the government has demonstrated that there is a need for those parts of infrastructure which is urgent (which includes solar as part of the new electricity generating plants needed) and that, in addition, **substantial weight** should be given to this need in determining applications for development consent under the Planning Act 2008<sup>4</sup>. Whilst I accept that this policy statement applies to NSIP projects, the policies in the NPS are capable of being a material consideration in determining this Appeal and, given their direct relevance to the Appeal Scheme which is only just under the 50MW threshold, should in my opinion carry substantial weight in the determination of this Appeal for the reasons I have already set out in Section 8 of my Evidence.
- 11.26. Taking all the above into account, I am of the opinion that, due to imperative to deliver renewable energy schemes which can assist in decarbonising the UK’s electricity supply, that the benefit of a 49.9 MW solar farm’s renewable energy generation should be afforded **substantial** weight in determining this appeal.

## 2. Climate Emergency at a National and a Local Level

- 11.27. A national climate emergency was declared by the UK Parliament in May 2019 (*Core Document 4.11*).
- 11.28. Melton Borough Council also declared a Climate Emergency in July 2019 (*Core Document 5.8*), with an aim to make Melton Borough Council activities as far as practical carbon

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<sup>4</sup> Paragraphs 3.2.6 and 3.2.7, EN-1 (*Core Document 4.3*).

neutral by 2030 and further promote a cutting of emissions within the wider Borough of Melton.

- 11.29. Through the generation of renewable energy, I consider that the Appeal Scheme will contribute towards addressing these declarations of climate emergencies.
- 11.30. I note that the Planning Officer in the Committee Report advised that 'the declaration of the climate emergency is a material consideration in planning decisions' (*Core Document 3.1, paragraph 10.3*).
- 11.31. By providing a positive, deliverable action on these statements of intent, I consider that the declaration of climate emergencies at both the national and local level is a material consideration which should be afforded **significant** weight in the planning balance.

### 3. Energy Security

- 11.32. The Appeal Scheme will supply renewable energy to the National Grid, comprising secure, distributed and diversified energy generation which fully accords with the Government policy on energy security. I have set out earlier in my Evidence in Section 9 a summary of the latest Government energy policy, notably in the British Energy Security Strategy published in 2022 and the Energy Security Plan published in March 2023.
- 11.33. I consider that energy security should be regarded as a material consideration in its own right, one which is separate to the generation of renewable energy *per se*. In this regard, I draw attention to the latest published version NPS EN-3 (*Core Document 4.4*) which, when setting the policy for Solar Photovoltaic Generation at Section 2.10, refers at paragraph 2.1.9 to solar playing a key part of the government's strategy for low-cost decarbonisation of the energy sector in the context of the net zero emission pathway to 2050; but then in a separate following paragraph 2.10.10 goes on to state that
- 'Solar also has an important role in delivering the government's goals for greater energy independence ...'*** (*underlining is my emphasis*) (*Core Document 4.4, paragraph 2.10.10*).
- 11.34. At *Cutlers Green Lane, Thaxted*, the Inspector in allowing an appeal for a 40 MW solar farm in December 2023 afforded substantial weight to the contribution the development would make to a low carbon economy and the provision of low cost and secure energy (*Core Document 6.23, paragraph 141*). Similarly in the cases of *Hall Lane, Kemberton* and *Great Wheatley Farm* the renewable energy benefit of the proposal in terms of its contribution towards energy security and resilience was afforded "substantial weight" (*Core Documents 6.25, paragraph 65 and 6.27, paragraph 47 respectively*).
- 11.35. Given the above recent policy statements, I am of the opinion that delivering energy security is both 'urgent' and of 'critical importance' to the country (*Core Document 4.4, page 38*), and as such should be afforded **substantial** weight in the planning balance.

### 4. Best Available Technology

- 11.36. The Appeal Scheme will comprise the latest best available technology that delivers greater levels of solar efficiency by utilising a solar tracking system together with bi-facial panels, which increase continuous electrical productivity by 20-25% when compared to traditional

fixed solar arrays. More details of the benefits of tracker systems are set out in the Appellants Statement attached at **Appendix 1** to my Evidence.

- 11.37. I consider that the Appeal Scheme incorporates technological features that not all solar farm projects currently propose and will be capable of deploying. It is therefore the case, in my opinion, that the Appeal Scheme benefits from the proposing the utilisation of the most efficient technology currently available and this is a material consideration of **moderate** beneficial weight in determining this Appeal.

#### 5. Good Design

- 11.38. The overall design and layout of the Appeal Scheme has been designed in collaboration with MBC officers to minimise harm within the Appeal Site and the wider area, whilst providing significant benefits.
- 11.39. This positive approach to design chimes with that outlined in NPS EN-1 (*Core Document 4.3*), where at Section 4.7 it notes that “the functionality of an object – be it a building or other type of infrastructure – including fitness for purpose and sustainability, is equally important [to aesthetic considerations]” (*Core Document 4.3, paragraph 4.7.1*). Equally, EN-1 acknowledges that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area (*Core Document 4.3, paragraph 4.7.2*).
- 11.40. Notwithstanding these general constraints to design for an energy infrastructure project, the iterative design process which was undertaken by the Appellant is set out in the Design and Access Statement which accompanied the planning application, and Mr Kratt also explains the design evolution in his evidence in terms of siting relative to trees and hedgerows, fields and grassland and routes and spaces, whilst also seeking to embed opportunities for nature inclusive design as EN-1 advises (*Core Document 4.3, paragraph 4.7.6*).
- 11.41. Given this positive approach to design and incorporating mitigation measures, I consider that **moderate** weight to be afforded to this consideration in the planning balance.

#### 6. Early Grid Connection and Lack of Alternative Sites

- 11.42. It is well established that grid-connections are a scarce resource in the UK, and represents a major barrier to the transition to net zero. The Energy Security Strategy 2023 (*Core Document 4.20, page 50*) explains that connections times are a very significant issue, with over 250GW of generation in the transmission queue. To put the scale of that connection queue into context, that is over 3 times the schemes currently currented into the grid of 80GW. I therefore conclude that the availability of a grid connection offer for up to 49.9MW for the Appeal Scheme is a significant benefit.
- 11.43. Further, it is important to note that there is no national or local policy requirement to carry out an assessment of alternative sites for solar farm developments, as was acknowledged by the Inspector at *Scruton* (*Core Document 6.20, paragraph 27*).
- 11.44. However, alternatives have been considered through the evolution of the design and location of the Appeal Scheme, including consideration of alternative sites. The approach to the consideration of alternatives by the Appellant is set out in the Site Selection Report which accompanied the Planning Application (*Core Document 1.27*).

- 11.45. Within the defined Study Area, which is centred on the National Grid 132kV HV line which has capacity for export of additional electricity, where the Appellant has secured a grid connection offer, there are no alternative sites which are suitable and available for the Proposed Development.
- 11.46. In *Chelmsford*, the Inspector accepted that a solar farm requires grid capacity and a viable connection to operate. He further considered that as such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility, and he further noted that the national grid suffers capacity difficulties and limits suitable points of connection. He concluded that this '*rational approach*' to site selection lent support for the selected site (*Core Document 6.12, paragraph 92*).
- 11.47. I consider that the availability of a grid connection for the Appeal Scheme coupled with a lack of suitable alternative sites with the benefit of a grid connection offer, is a material consideration of **significant** weight in this appeal.

#### 7. Biodiversity Net Gain and Enhancements

- 11.48. There will be a number of biodiversity benefits and I refer to Ecological Statement prepared by Mr Fearn which is included as **Appendix 3** to my Evidence
- 11.49. Taken overall, the Appeal Scheme will deliver an agreed Biodiversity Net Gain of +144.64% in habitat units and +32.13% in hedgerow units. As Mr Fearn explains, additional benefits beyond those included in the BNG calculation include new bat and bird boxes, refuge features, hibernacula, inset hotels, beehives and log piles.
- 11.50. With regard to the weight recently attached at other solar pv appeals to similar BNG net gains, I note that following:
- At *Honiley Road* a BNG of 135.9% was afforded 'substantial weight' by the Secretary of State (*Core Document 6.31, paragraph 25*);
  - *Hilfield Lane*, Aldenham the Secretary of State afforded a BNG of 90% in area units and 25% in linear units 'substantial weight' (*Core Document 6.29, paragraph 54*);
  - *Milton Road*, Gayton the Secretary of State afforded a BNG of 195% 'significant weight' (*Core Document 6.28, paragraph 37*);
  - *Great Wheatley Farm* a net gain of 141% for primary habitats and 165% for linear habitats was given 'significant weight' (*Core Document 6.27, paragraph 48*);
  - *Graveley Lane* the Secretary of State afforded a net gain of 206% in habitat units and 102% in hedgerow units 'significant weight' (*Core Document 6.26, paragraph 23*);
  - *Cutlers Green* a net gain of 153% in area habitat and 20% in hedgerow units was given 'significant weight' (*Core Document 6.23, paragraph 144*);
  - *Copse Lodge*, Greatworth a net gain of 71% in habitat units and 33% in hedgerow units was attributed 'significant weight' (*Core Document 6.22, paragraph 7.33*);
  - *Crays Hall* a BNG of 94% in area habitats and 53% linear habitats attracted 'substantial weight' (*Core Document 6.30, paragraph 25*);



- *Bramley*, the Inspector gave 'significant weight' to a biodiversity net gain of 100% (*Core Document 6.14A, paragraph 78*);
- *Langford*, the Secretary of State concluded that the BNG benefit was a 'substantial' benefit, which he attributed 'significant weight' in determining the appeal (*Core Document 6.11, paragraph 23*);
- *Bishops Itchington* the level of BNG (which was unspecified) attracted 'significant weight' (*Core Document 6.10, paragraph 34*); and
- *Halloughton* a net gain of 73% was given 'significant weight' appeal (*Core Document 6.9, paragraph 59*).

11.51. Given these precedents of biodiversity net gain for solar farms, I consider that this very significant increase in BNG should also be afforded at least **significant** weight in the planning balance.

#### 8. Soil Regeneration

11.52. The Appeal Site is primarily of Grade 3b quality, which is therefore not of a 'Best and Most Versatile Agricultural Land' standard.

11.53. Further, the conversion of land from its current use for arable crops to grassland which is uncultivated for a period in excess of 12 years will increase soil organic matter and hence soil organic carbon will assist in protecting and improving the soil structure and resource.

11.54. At *Crays Hill*, I note that the Inspector accepted that the longer term benefits to soil structure added weight to the environmental benefits of the project overall (*Core Document 6.30, paragraph 25*). While at *Copse Lodge*, the Inspector accepted that the construction and decommissioning of the solar farm is capable of taking place without significant disturbance to soils and the likely outcome would be soil improvement with the short and relatively light-touch construction required and the long period when the land would be left with limited or no artificial inputs – i.e. worked by machinery and use of fertilizers. The land quality would remain at existing levels or even experience some improvement (*Core Document 6.22, paragraphs 126 and 127*).

11.55. I attach **limited** weight to this consideration as a benefit of the Appeal Scheme.

#### 9. Green Infrastructure Enhancements

11.56. The proposed enhancements to landscape structure will greatly improve green infrastructure, including enhanced connectivity across and within the Appeal Site and contribute to the wider network beyond, whilst incorporating features to address habitat and wildlife creation and secure net gains in green infrastructure.

11.57. These measures would serve to create a coherent landscape framework across the Appeal Site which would deliver a number of long-term environmental and community benefits. The principal benefits include retention and enhancement of the landscape fabric; rest to farmland; biodiversity net gain; new accessible routes and open spaces.

11.58. I attach **moderate** weight to this consideration as a benefit of the Appeal Scheme.

## 10. Flood Risk & Drainage Betterment

- 11.59. The proposed enhancements to surface water drainage is agreed in the SoCG with MBC to provide betterment to the existing land use in terms of surface water run off rates and downstream flood risk.
- 11.60. I attach **limited** weight to this consideration as a benefit of the Appeal Scheme.

## 11. Farm Diversification

- 11.61. The NPPF at paragraph 84 acknowledges that the diversification of agricultural businesses should be enabled.
- 11.62. Due to the relatively low income received from agricultural activities, many farming enterprises seek to diversify their income to secure an economically sustainable profit. Income from renewable energy is an important form of farm diversification
- 11.63. The National Farmers Union see renewable energy as an important step towards making British agriculture carbon neutral within two decades, an important consideration as farming is responsible for around one tenth of UK greenhouse gas emissions (*Core Document 4.29*).
- 11.64. In respect of this Appeal Scheme as Mr Kernon states in his Evidence, the income from the Proposed Development will provide an important source of diversified income for the Estate. The Duchess of Rutland has also explained in a letter attached at **Appendix 7** to my Evidence the wider context and benefits resulting from diversification.
- 11.65. I attach **limited** weight to this consideration as a benefit of the Appeal Scheme.

## 12. Economic Benefits

- 11.66. The Appeal Scheme also represents a significant financial investment, with benefits to the local economy during the construction period including from the temporary jobs created (both direct jobs on-site and indirect/induced roles in the wider economy).
- 11.67. Annual business rate contributions in the region of £165,000 pa will also benefit the local economy through income to the local area over the 40 year life of the project. I attach at **Appendix 8** a calculation of how the business rates are currently calculated, which would be worth c.£6.6m at today's values or c.£3.7m at present value.
- 11.68. At *Bramley*, I note that the Inspector afforded '**significant**' weight to economic benefits associated with that solar farm scheme (*Core Document 6.14A, paragraph 79*), whereas at *Copse Lodge* the Inspector gave '**moderate**' weight to the temporary construction jobs and longer term business rate benefits (*Core Document 6.22, paragraph 124*).
- 11.69. I also attach **moderate** weight to this consideration as a benefit of the Appeal Scheme.

## 13. Educational Strategy & Resource

- 11.70. The Appeal Scheme also provides for an educational resource towards the southern part of the Appeal Site.

- 11.71. The construction of log pile seating and picnic areas will provide destination and meeting points that can be used by local groups and school children as an outdoor classroom, which will enable the Solar Farm to become both a formal and informal educational resource. The proposed seating will be set within areas of wildflower meadow to create an attractive environment for the visitors and located adjacent to the existing and permissive footpaths.
- 11.72. A series of permanent interpretation and information boards will be set up along the footpaths within the Appeal Site and will provide educational benefits to the local communities and visitors. The interpretation and information boards would encourage a better understanding of the Solar Farm and the benefits of renewable energy, along with the proposed ecological and landscape enhancements.
- 11.73. I attach **limited** weight to this consideration as a benefit of the Appeal Scheme.

### **Material Considerations which are Harms**

#### 1. Effect on Landscape

- 11.74. In respect of Landscape and Visual matters, Mr Kratt explains in his Evidence the nature of the conclusions of the submitted Landscape and Visual Impact Assessment and the changes made to the Appeal Scheme through the careful consideration of the Planning Application.
- 11.75. The Appeal Scheme has a proposed operational lifespan of 40 years, and that at the end of this period the Appeal Scheme would be decommissioned, the equipment removed from the Appeal Site, and the restored site would then continue in agricultural use. The Appeal Scheme is therefore considered to be a temporary development.
- 11.76. Whilst I acknowledge that the duration of 40 years is a significant period of time, it is nevertheless not permanent and will be completely reversible when the planning permission expires. This is in notable contrast to many other forms of development, such as housing or commercial buildings, where such development would be a form of built development that would endure in perpetuity.
- 11.77. Having regard to all the foregoing, and given Mr Kratt's evidence on the nature and extent of landscape and visual effects in which he concludes that in terms landscape character, the landscape is able to accommodate a utility scale solar development; and that in terms of visual impact, there would be impacts but that these would be localised and limited in extent, and reduce over time, I consider that these matters should be afforded **limited adverse** weight.

#### 2. Effect on Heritage Significance

- 11.78. In respect of Built Heritage matters, Ms Armstrong explains the effect of the Appeal Scheme on the heritage significance of heritage assets located in the surrounding area, via a change in 'setting'. Ms Armstrong concludes that there is less than substantial harm at the low end of that spectrum of these five designated heritage assets.
- 11.79. With regard to the weight that should be afforded to the 'less than substantial harm' to the significance of designated heritage assets, I have had regard to NPPF paragraph 205 the great weight should be given to the assets' conservation (the more important the asset, the

greater the weight should be). I have also had regard to Case Law that considerable importance and weight should be given to harm to the significance of a Listed Building, including through setting. Given the low level of harm identified by Ms Armstrong, which she considers to be at the low end of the spectrum of less than substantial harm, I consider that the weight in the planning balance afforded to effect on designated heritage assets should be **moderate adverse**.

11.80. I further consider that the identified levels of 'less than substantial harm' to the heritage assets, via a change in 'setting' identified by Ms Armstrong should be weighed against the public benefits of the Appeal Scheme as required by NPPF paragraph 208. I consider that this test is satisfied having regard to the substantial benefits which would arise from the Appeal Scheme as summarised earlier in this Section of my Evidence.

**Material Considerations which are Neutral**

11.81. I consider that the following material considerations should be afforded neutral weight in the overall planning balance.

11.82. In respect of vehicular access for construction and operation, I consider that acceptable traffic and access arrangements can be achieved during the construction and operational phases of the Appeal Scheme.

11.83. In respect of Residential and Visual Amenity, I consider that there would not be unacceptable visual effects to private residential properties; from potential glint and glare; nor noise effects, arising from the Appeal Scheme.

11.84. I therefore consider that the Appeal Scheme is acceptable in all the above matters.

**Planning Balance Summary Table**

Material Considerations which are Benefits	Weight (Positive)
Generation of 49.9MW of renewable energy and subsequent reduction in carbon emissions	<b>Substantial</b> Positive Weight
Climate Emergency	<b>Significant</b> Positive Weight
Energy Security	<b>Substantial</b> Positive Weight
Best Available Technology	<b>Moderate</b> Positive Weight
Good Design	<b>Moderate</b> Positive Weight
Early Grid Connection & Lack of Alternative Sites	<b>Significant</b> Positive Weight

Biodiversity Net Gain and Enhancements	<b>Significant</b> Positive Weight
Soil Regeneration	<b>Limited</b> Positive Weight
Green Infrastructure and Landscape Enhancements	<b>Moderate</b> Positive Weight
Flood Risk and Drainage Betterment	<b>Limited</b> Positive Weight
Farm Diversification	<b>Limited</b> Positive Weight
Economic Benefits	<b>Moderate</b> Positive Weight
Educational Strategy & Resource	<b>Limited</b> Positive Weight
<b>Material Considerations which are Neutral</b>	<b>Weight (Neutral)</b>
Highways and Transport	<b>Neutral</b> Weight
Noise	
Glint and Glare	
Residential Amenity	
<b>Material Considerations which are Adverse</b>	<b>Weight (Adverse)</b>
Effect on Landscape Character and Visual Amenity	<b>Limited</b> Adverse Weight
Impact on Designated Heritage Assets	<b>Moderate</b> Adverse Weight

11.85. I also note that the LPA Planning Officer’s professional advice to MBC was that the benefits of the proposals clearly outweighed the identified harms to landscape and heritage assets (*Core Document 3.1, paragraph 10.11*).



## 12. Planning Conditions

- 12.1. I am of the opinion that appropriate control over the form of the Proposed Development can be achieved through the imposition of planning conditions.
- 12.2. A set of conditions on a without prejudice basis is in the process of being agreed with MBC.

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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