

**Proof of Evidence of James Cook relating to
Kelham Solar Farm Appeal
APP/B3030/W/25/3364181**

On behalf of Assured Asset Solar 2 Ltd

Planning application reference 23/01837/FULM

In the administrative area of Newark & Sherwood District Council

Dated: 1 September 2025

1. Summary

1.1 The appeal concerns Newark & Sherwood District Council's refusal of a planning application (REF: 23/01837/FULM) for a 49.9MW solar farm and 50MW battery energy storage system (BESS) near Kelham, Nottinghamshire. The Appeal Site (71.2ha) lies between Kelham and Averham. Site access is taken from the A617.

1.2 The scheme would operate for 40 years, after which the land would continue to be used for agriculture.

Appellant's Case

1.3 My planning evidence on behalf of Assured Asset Solar 2 Ltd, is supported by technical experts in agriculture, landscape and heritage. My case make a judgement on planning balance between policy compliance, national renewable energy priorities and mitigation of harms.

Need and Benefits of the Scheme

1.4 There is no requirement in paragraph 168(a) of the NPPF for applicants to demonstrate the overall need for renewable or low carbon energy schemes. The Development will make a compelling contribution to the provision of an energy mix, providing benefits to combatting climate change and energy security and is wholly consistent with and supported by national policy

Benefits of the Solar Farm:

- Net Zero Contribution: Generates 49.9MW of renewable energy, supporting UK's 2050 net zero and Clean Power 2030 targets.
- Energy Security: Diversifies energy supply, reducing reliance on fossil fuels.
- Biodiversity Net Gain: Forecasted 82% habitat gain and 42% hedgerow gain, through new planting, habitat creation, and improved land management.
- Landscape Enhancements: Strengthened hedgerows, new tree planting, grassland improvements.
- Public Access: New permissive bridleways alongside existing footpaths.
- Rural Diversification: An opportunity for commercial diversification by establishing a dual use of land electricity generation and continued low intensity agricultural use.
- Local Economy: Construction-phase jobs and £100,000/year in business rates (≈£4.1m over 40 years).

Benefits of the BESS:

- Efficient land use through co-location with solar.
- Grid stability by smoothing intermittent renewable energy supply.
- Supports government aim of 23–27GW BESS capacity by 2030.

Council's Refusal Reasons

- Loss of Best and Most Versatile (BMV) land: Long-term removal from arable production deemed unsustainable.
- Landscape Harm: Cumulative impact with other local renewable projects judged unacceptable.
- Heritage Impact: The less than substantial harm to Kelham Conservation Area and Kelham Hall not outweighed by benefits.

Appellant's Responses

Agricultural Land

- 1.5 Agreed with council in the Statement of Common Ground no loss of agricultural land as PV can operate with grazing, furthermore the Development is reversible. Government (Solar Roadmap 2025) states climate change is the bigger food security threat; solar farms occupy <0.6% of UK farmland by 2030.
- 1.6 Case law shows no requirement for sequential testing of sites and use of BMV land acceptable. Policy DM8 is out of date and not in accordance with the NPPF.

Landscape & Visual Effects

- 1.7 The visual effects of the Appeal Scheme would be very limited due to its substantial visual containment. Where seen, only small elements of the Appeal Scheme would be observed.
- 1.8 There would be a moderate (adverse) effect upon the landscape character of the site. In its immediate locality, within the area of visual influence, effects would be minor (adverse) and beyond this, effects would be negligible.
- 1.9 The Appeal Scheme benefits from a high degree of visual containment and as a result, the locations to observe the appeal scheme in conjunction with the DCO project would be very limited. The opportunity to gain either simultaneous or sequential views with both schemes in place would be limited and highly localised within the wider landscape. In summary, cumulative landscape and visual effects would be minor adverse, limited and highly localised.
- 1.10 National and local policies expect some landscape harm but seek mitigation. Legacy planting will enhance landscape beyond the scheme's lifetime. The Appeal Site is visually enclosed and the landscape structure will be retained and enhanced, as part of the Landscape Masterplan. Therefore, the development is in accordance with the NPPF and PPG.

Heritage

- 1.11 The Appellant's expert evidence states there will only be the potential for negligible harm to Kelham Conservation Area and Kelham Hall Park/Garden. Other identified assets will experience no harm.
- 1.12 I consider that the Council's position on Policy DM9 should be given limited weight largely owing to its inconsistency with NPPF and Amended Core Strategy in relation to the consideration of balancing potential harm and public benefits.
- 1.13 Paragraph 212 of the NPPF states "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)." Paragraph 216 relates to non-designated heritage assets stating "a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

- 1.14 Paragraph 215 of the NPPF indicates that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
- 1.15 Whilst potential negligible harm is identified for two assets I consider the public benefits of the scheme identified in section 5 above far outweighs the potential harm.

Planning Balance

Benefits (weights assigned by Appellant):

- Net zero contribution: substantial weight.
- Energy security: substantial weight.
- Biodiversity Net Gain: Significant weight.
- Landscape Enhancements: significant weight.
- Permissive Bridleways: Moderate weight
- BESS co-location: moderate weight.
- Rural diversification, jobs, business rates: limited weight.

Harms:

- BMV land: no weight (reversible, partial grazing possible).
- Landscape & cumulative impacts: limited weight.
- Heritage harm: limited weight.

- 1.16 In conclusion I consider that the public benefits significantly outweighs potential harms. The scheme is consistent with the NPPF and the relevant policies of the Development Plan. The Council's refusal was unjustified, and planning permission should be granted.

2. Introduction

- 2.1 My name is James Cook. I am an Associate Planner at Sirius Planning and have held this position since January 2023. I am instructed by Assured Asset Solar 2 Ltd to give evidence on its behalf at the public inquiry into this appeal.
- 2.2 I hold a Bachelor of Science Degree in Geography and a Masters of Arts in Sustainable Development from Staffordshire University and a Post Graduate Diploma in Urban and Regional Planning from Sheffield Hallam University. I am a Member of the Royal Town Planning Institute.
- 2.3 My evidence addresses the matter of other proofs of evidence prepared on behalf of the Appellant as follows:
- Daniel Baird of Daniel Baird Soil Consultancy Ltd on matters relating to agricultural land;
 - Andy Cook of Pegasus on matters relating to landscape and visual impact; and
 - Charley James-Martin of Archaeology England on matters relating to heritage.

- 2.4 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I provide an assessment of the proposals against the Development Plan, followed by a review of other relevant material considerations.
- 2.5 My evidence should also be read in conjunction with the Statement of Common Ground (SOCG) which has been agreed by the Appellant and Council. Topic specific SOCG have also been prepared in relation to landscape, heritage and agriculture.
- 2.6 The evidence which I have prepared and provide for this appeal reference APP/B3030/W/25/3364181 in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions

3. The Site

- 3.1 The Appellant was refused planning permission on 31 January 2025 (REF: 23/01837/FULM) by Newark & Sherwood District Council for "*proposed ground mounted photo voltaic solar farm and battery storage system with associated equipment, infrastructure, grid connection and ancillary work*" (the "**Scheme**") on Land north of Main Road, Kelham, Nottinghamshire, NG23 5QY (the "**Site**"). The Scheme proposal is for the installation of 49.9MW solar generation and 50MW battery energy storage.
- 3.2 The background of the Site and Scheme relevant to my evidence is as follows:
- 3.3 The Site comprises three fields and part of a fourth located between the villages of Kelham and Averham. From the Nottinghamshire County Council Definitive Map there is a single public right of way that enters the north eastern boundary of the Site. The public footpath runs in a westerly direction and once it meets the western boundary of the Site it splits into two public footpaths, one heads north west and the other south west.
- 3.4 The nearest residential properties to the Site, are along Broadgate Lane, located along the Site's northeastern boundary, and to the east lies a small, gated cul-de-sac of detached dwellings, known as 'The Rutlands'. There are also residential properties in the nearby villages of Kelham and Averham.
- 3.5 The nearest non-residential property to the Site is Kelham House, used as a hotel/wedding venue, located beyond the established plantation to the east of the Site's boundary.
- 3.6 The Site does not lie within any historic environments, however Kelham Conservation Area is adjacent to the eastern boundary of the Site. There are 13 Listed Buildings within the 1km study area. The nearest Listed Building is the Grade II listed Farm Buildings at Home Farm located within Kelham, approximately 130m to the east of the Site. The Grade I listed Kelham Hall is approximately 330m to the east of the Site. See Ms James-Martin's evidence for further details.
- 3.7 There are no statutory ecological designations within 5km of the Site, the nearest non statutory designation is Kelham Hills Local Wildlife Site (LWS), located approximately 160m to the west of the Site. There are a further 4 LWS within 1km of the Site.
- 3.8 The Appeal Site measures 71.2ha, excluding the cable routes to the point of connection the 'deployment site' measures approximately 65ha of agricultural land. This comprises 36ha of grade 2 land, 24ha of subgrade 3a land and 3ha of subgrade 3b land. The remaining is non-agricultural land.

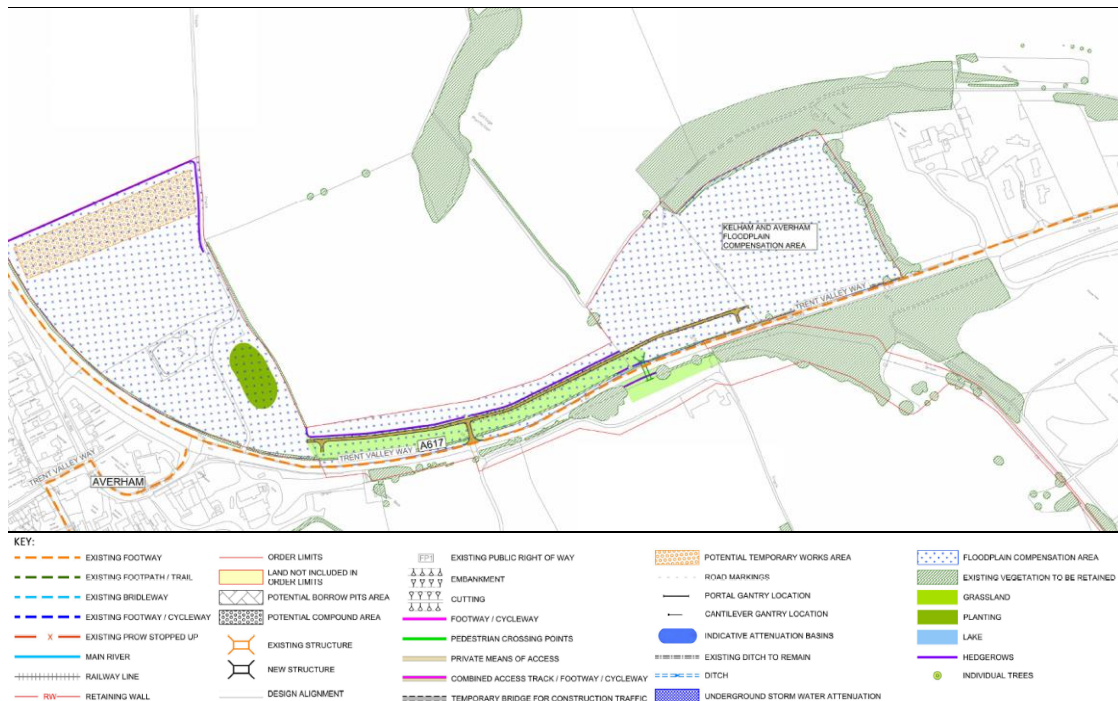
4. Planning History

- 4.1 A review of the public register in September 2025 found there have been no recent planning applications on the Site. However, an application for a Development Consent Order (DCO) was

submitted in April 2024 by National Highways for widening 6.5km of A46 existing single carriageway to a dual carriageway, to provide two lanes in each direction between Farndon and Winthorpe roundabouts. A decision is expected in October 2025.

- 4.2 As part of the DCO a scheme of flood compensation is proposed which has the potential to interact with the Appeal Scheme. Figure 4.1 shows the extent of the flood compensation works proposed by National Highways.

Figure 4.1: Extent of Flood Compensation Works proposed by National Highways in the Vicinity of the Appeal Site



- 4.3 In summary, National Highways proposes to engineer shallow basins for the storage of flood water either side of the proposed access which will be hydraulically connected via a swale that runs parallel to the A617 (shown as the light green hatch on Figure 4.1). A shared access is proposed from the A617 and no PV deployment will take place within the proposed flood compensation areas.

- 4.4 The Appellant has been in dialogue (and will continue to do so) with representatives of National Highways to ensure that both schemes can be delivered without negatively affecting each other. Letters of comfort have been signed by both parties to this effect.

5. Appeal Scheme

- 5.1 The solar facility would have an export capacity of 49.9MW, i.e. the amount of power that is supplied to the local grid. The BESS element would have a capacity of 50MW, i.e. the amount of power that can be stored and distributed back to the grid when needed. The Scheme would have a lifespan of 40 years after which the Site would continue to be used for agriculture in agreement with the Council.

- 5.2 The proposed point of connection is at Staythorpe Substation. The cable route would run underground within the highway.

5.3 As part of the Scheme landscape and biodiversity are proposed, in summary these would include:

- Where solar panels are being installed, a buffer of a minimum 7m is present between the woodland and hedgerows. This would ensure woodland is protected and retained;
- All existing boundary hedges would be allowed to grow to at least 3m.
- Semi-native low scrub planting would be implemented along the proposed bunds and the eastern corner of the Site,
- Beneath the panels a low maintenance grass mix would be provided for added ecological benefit, a tussock grassland mix, suitable for ground nesting birds.
- In the min. 4m gap between the boundary hedges and Site security fence, a General Purpose Meadow Mix would be used but left to grow longer to provide additional cover and wildlife habitat adjacent to woodland blocks and hedgerow corridors.
- Existing hedgerows would be gapped up.
- Hedgerows would be left for biodiversity purposes and annual cutting not proposed.

5.4 A revised biodiversity net gain assessment has been undertaken to account for the updated site arrangement and is appended to this evidence (Appendix 1) (CD12.1). The Appeal Scheme would provide for 82.04% increase in habitat value and a 41.70% increase in hedgerow value. There would be no increase in water course value as there are no water courses on site.

5.5 The Appeal Scheme would deliver significant economic, social and environmental benefits. I have separated the benefits as those resulting from the solar and BESS elements. Benefits include:

Solar

- **Achieving Net Zero:** A meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate up to 49.9MW of renewable energy. The generation of substantial amounts of renewable electricity which will reduce carbon emissions, consistent with national policy and the 2050 net zero commitment, and achieving Clean Power 2030.
- **Achieving Energy Security:** An increase in the diversification of the UK's energy supply, resulting in increased domestic energy security and a reduction on reliance upon less secure, price volatile fossil fuels.
- **Biodiversity Net Gain:** A substantial improvement in biodiversity at the Appeal Site, evidenced by an anticipated 82.04% net gain in the biodiversity value of habitats, a 41.70% net gain in the biodiversity value of hedgerow units.
- **Landscape enhancements:** Enhancement of existing hedgerows and the provision of substantial lengths of new hedgerows to enhance the landscape character of the area, with intermittent hedge tree planting and native species-rich grassland.
- **Permissive Bridleways:** The provision of permissive bridleways along the perimeter of the Appeal Site, in addition to the existing public right of way through the Appeal Site.
- **Rural Diversification:** An opportunity for commercial diversification by establishing a dual use of land electricity generation and continued low intensity agricultural use, such as

sheep grazing where that is possible, which would assist with the ongoing viability and stability of two local rural businesses.

- **Employment Opportunities:** The Appeal Scheme would benefit the local economy during the construction phase, not only during through direct employment but also indirect jobs from the supply chain and related services during the peak of the construction phase.
- **Business Rates:** A contribution of approximately £100,000 per annum in business rates to the Council which represents a total contribution of approximately £4.1m over the 40 year lifetime of the Proposed Development (ignoring any inflationary or rating value uplift).

BESS

- **Co-location:** Whilst the BESS does not take energy directly from the PV, the co-location with the solar deployment maximises the efficiency of land use and grid connection.
- **Energy Security:** Facilitates the role out of renewables in 'smoothing' the delivery of potentially intermittent power supply.
- **Employment Opportunities:** The Appeal Scheme would benefit the local economy during the construction phase, not only during through direct employment but also indirect jobs from the supply chain and related services during the peak of the construction phase.
- **Business Rates:** A contribution of approximately £100,000 per annum in business rates to the Council which represents a total contribution of approximately £4.1m over the 40 year lifetime of the Proposed Development (ignoring any inflationary or rating value uplift).

5.6 Battery energy storage systems (BESS) are a key technology in delivering Clean Power by 2030 as part of making Britain a clean energy superpower. In the Clean Power Action Plan (published December 2024) the government set out that 23-27 GW of battery capacity could be needed by 2030. BESS help balance the electricity system at lower cost and maximise the output from intermittent low carbon generation (such as solar and wind) and thus minimise investment in new generation capacity and network upgrades to meet peak demand. Batteries also bring benefits for air quality as they accelerate the transition from fossil fuels to renewables – current significant growth in this sector is supporting this transition.

5.7 Given the identified need for the Development and the significant benefits it would have, the Council did not give the correct consideration to the Appeal Scheme's benefits over the limited potential harm in the planning balance.

6. **Proposed Amendments to the Appeal Scheme**

6.1 In the interests of assisting the Inquiry the Appellant has brought forward refinements to the appeal scheme in the form of a revised Landscape Masterplan (HC1002/02/16 r3). These are described below and comprise minor clarifications and enhancements

- **Amendment A – Additional hedgerow** - The inclusion of additional hedgerow along existing PRow running along the western boundary, leaving a minimum 10m corridor for the permissive bridleway and existing footpath. This has resulted in the loss of 80 panels;
- **Amendment B – Permissive bridleway proposal** - The extension of the dotted yellow line illustrating the proposed permissive bridleway route to Broadgate Lane;
- **Amendment C – Hedgerow key amends** - The addition of 3m reference in the key to the Existing and Proposed hedgerows;
- **Amendment D – General key amends** - Amendment to typos in the key;

- Amendment E – Alignment of PRow offsite - Amended alignment of the PRow off site where it exits the middle of the western boundary heading west. Please note the 'definitive' map is different to the OS base. The OS base appears to follow a track – both have been shown for the avoidance of doubt;
 - Amendment F – Orchid Annotation - Annotation of the 'orchid' area;
 - Amendment G – Proposed interpretive boards - Depicting the location of proposed interpretive boards.
- 6.2 Additional reports/plans submitted as a result of the changes to the Landscape Masterplan which explain the amendments and ensure consistency through the documentation, and are:
- Site Layout HC1002/05/03 rev 5
 - Public Access Details HC1002/05/27 rev 3
 - Archaeological Mitigation Areas HC1002/05/28 rev 3
- 6.3 I consider that they represent positive, proportionate adjustments that enhance the appeal scheme without creating a substantive difference or fundamental change. I consider these refinements are consistent with the principles in Section 16 of the Planning Appeals Procedural Guidance. The refinements have been shared with the Council, statutory consultees and the local community in advance of the Inquiry. The feedback received is summarised in CD10.50 - Landscape Masterplan Consultation booklet.
7. **Need for the Development**
- 7.1 There is no requirement in paragraph 168(a) of the NPPF for applicants to demonstrate the overall need for renewable or low carbon energy schemes. The Development will make a compelling contribution to the provision of an energy mix, providing benefits to combatting climate change and energy security and is wholly consistent with and supported by national policy.
- 7.2 The Climate Change Act 2008 (CD5.35) introduced the world leading statutory basis for the United Kingdom (UK) to reduce net greenhouse gas emissions by at least 80% by 2050 from their 1990 levels. This was increased in June 2019 to be a 100% reduction relative to 1990 levels by 2050 ("net zero").
- 7.3 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 1st May 2019, declared a Climate Change Emergency.
- 7.4 The Clean Growth Strategy (CD5.6) anticipates, in relation to the power sector that by 2050 emissions will need to be close to zero to meet statutory targets. One possible interim step to meet 2032 targets of an 80% fall compared to 2017 levels would be through an increased transition to low carbon sources such as energy, particularly renewables, alongside the phasing out of coal fired power stations.
- 7.5 In October 2021, the Government published its 'Net Zero Strategy: Build Back Greener' (CD5.16). This confirms that the UK intends to be powered entirely by clean energy by 2035 (page 19) and sets a key commitment to accelerate the deployment of low-cost renewable generation, such as wind and solar (second bullet point, page 94). Another of the key commitments is 'to ensure the planning system can support the deployment of low carbon energy infrastructure'. These are far reaching ambitions at a time of a 40-60% forecasted increase in demand over the same period.

- 7.6 The Strategy confirms that the UK will have to continue to drive rapid deployment of renewables to achieve the increases in renewable energy generation capacity required to meet these goals (paragraph 35), particularly land based renewable energy projects such as solar farms (paragraph 36) and "[the Government] 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". (paragraph 32).
- 7.7 The Clean Power 2030 Action Plan (CD5.32) describes the Government's mission to run Britain on 95% clean electricity by 2030. Table 1 of Clean Power 2030 Action Plan shows the current installed capacity for solar of 16.6GW and indicates an installed capacity range of 45 to 47GW. Similarly for BESS the current installed capacity is 4.5GW and Clean Power 2030 Action Plan installed capacity range is 23 to 27GW.

Table 1: Installed capacity in 2030 in the NESO 'Further Flex and Renewables' and 'New Dispatch' scenarios, and the DESNZ 'Clean Power Capacity Range', compared to current installed capacity (GW)

Technology	Current installed capacity ²⁰	NESO 'Further Flex and Renewables' Scenario	NESO 'New Dispatch' Scenario	DESNZ 'Clean Power Capacity Range' ²¹
Variable				
Offshore wind	14.8	51	43	43 – 50
Onshore wind	14.2	27	27	27 – 29
Solar	16.6	47	47	45 – 47
Firm				
Nuclear	5.9	4	4	3 – 4
Dispatchable				
Low Carbon Dispatchable Power ²²	4.3	4	7	2 ²³ – 7
Unabated gas	35.6	35	35	35 ²⁴
Flexible				
LDES	2.9	8	5	4 – 6
Batteries	4.5	27	23	23 – 27
Interconnectors	9.8	12	12	12 – 14
Consumer-led flexibility ²⁵	2.5	12	10	10 – 12

- 7.8 Simply put, the Action Plan requires an additional 28 to 30GW of solar capacity in the next 5 years. This is the equivalent of 6GW per year or approximately 100MW every week; that's two projects the size of the Appeal Scheme. As for batteries, over the next five years there needs to be an additional 18.5 to 22.5GW of installed capacity.

- 7.9 BESS is directly related renewable energy generation. The NPPF at paragraphs 161 and 168 references 'all forms of renewable and low carbon energy developments and their associated infrastructure'.
- 7.10 Paragraph 161 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 that renewable and low carbon energy and associated infrastructure should be supported.
- 7.11 Paragraph 165 of the NPPF states "To help increase the use and supply of renewable and low carbon energy and heat, plans should: (a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development...while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts); (b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and (c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems ...".
- 7.12 Paragraphs 2.3.3 and 2.3.4 of EN-1: Overarching National Policy Statement (NPS) (CD5.26) for Energy (January 2024) set out the Government's position on achieving net zero and also makes reference to small-scale development determined at a local level:
- 2.3.3 *"Our objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050, including through delivery of our carbon budgets and Nationally Determined Contribution. This will require a step change in the decarbonisation of our energy system".*
- 2.3.4 *"Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level.... The requirement for new energy infrastructure will present opportunities for the UK and contributes towards our ambition to support jobs in the UK's clean energy industry and local supply chains."*
- 7.13 Paragraphs 1.1.1 and 1.1.2 of EN-3: NPS for Renewable Energy Infrastructure (January 2024) states:
- 1.1.1 *"There is an urgent need for new electricity generating capacity to meet our energy objectives."*
- 1.1.2 *"Electricity generation from renewable sources is an essential element of the transition to net zero and meeting our statutory targets for the sixth carbon budget (CB6). Our analysis suggests that demand for electricity is likely to increase significantly over the coming years and could more than double by 2050. This could require a fourfold increase in low carbon electricity generation, with most of this likely to come from renewables."*
- 7.14 The Council declared a climate emergency on 16th July 2019 and published a Climate Emergency Strategy (September 2020 and updated in January 2024) (CD4.3) which recognises that addressing the global climate emergency requires transformative change and immediate action by the Council. Newark and Sherwood District Council has set a target of becoming a carbon neutral organisation by 2035.
- 7.15 It is agreed in the Overarching SOCG that there is no requirement for the Appellant to demonstrate a need for renewable energy. Furthermore, the Development would constitute a low carbon, renewable energy source that would contribute towards meeting national renewable energy targets.

8. **Planning Policy Context**

8.1 The appeal proposal must be assessed in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 The relevant Amended Core Strategy (adopted March 2019) (CD4.1) policies for the purposes of the Development are:

- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 – Sustainable Transport
- Core Policy 9 – Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character
- Core Policy 14 – Historic Environment

8.3 The relevant policies of the Allocations and Development Management DPD (adopted July 2013) (CD4.1) are:

- Policy DM4 - Renewable and Low Carbon Energy Generation.
- Policy DM5 – Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM8 - Development in the Open Countryside
- Policy DM9 – Protecting and Enhancing the Historic Environment
- Policy DM10 – Pollution and Hazardous Materials
- Policy DM12 – Presumption in Favour of Sustainable Development

8.4 The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024 and has been subject to an examination in public in November 2024. Whilst the Draft Amended Allocations & Development Management DPD is therefore at an advanced stage of preparation the Inspectors report is still awaited. The policies are not materially different to those in the adopted DPD, for the purposes of determining the planning balance relating to the Development.

8.5 A range of material considerations are relevant to the determination of this appeal. These include:

- Nottinghamshire Minerals Local Plan (2021): Policy SP7: Minerals Safeguarding, Consultation Area, and Associated Minerals Infrastructure (CD4.2).
- Newark Sherwood District Council's Climate Emergency Strategy 2020 (CD4.3)
- Newark and Sherwood Landscape Character Assessment SPD, 2013 (CD4.4)

- Newark and Sherwood Non-Designated Heritage Asset Criteria, 2021 (CD4.5)
- National Planning Policy Framework (NPPF) 2024 (as amended in February 2025) (CD5.2)
- National Planning Practice Guidance (PPG) online resource (CD5.1)
- National Policy Statements EN-1, EN-2 and EN-3 (CD5.26-5.27)
- Written Ministerial Statement ‘Solar and protecting our Food Security and Best and Most Versatile (BMV) Land’ - 15th May 2024 (CD5.29)
- The Climate Change Act 2008 (CD5.35)
- UN Paris Agreement 2016 (CD5.5)
- Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (CD5.33)
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021) (CD8.8)
- The Setting of Heritage Assets -Historic Environment Good Practice Advice in Planning: 3 (2nd Edition) (CD8.3)
- Conservation of Habitats and Species Regulations 2017, as amended (CD5.36)
- Natural Environment and Rural Communities (2006) Act (CD5.34)
- Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems, Department for Energy Security and Net Zero, April 2024 (CD5.28)
- Solar Energy Supplementary Planning Document, June 2025 (CD5.30).

9. **Main Issues**

9.1 The Council resolved to refuse the planning application (CD1.1 and CD2.149) for the following three reasons:

- (a) A significant proportion of the site would affect the best and most versatile agricultural land, which would be removed from arable farming production for a period of at least 40 years. The loss of this land is not sufficiently mitigated or outweighed by the other benefits of the scheme. The proposal is therefore considered to be an unsustainable form of development, contrary to Policy DM8 and national advice contained within the National Planning Policy Framework (2024) and Planning Practice Guidance;
- (b) The proposed development, when taken cumulatively with other renewable energy developments in the locality, will result in unacceptable harm to landscape appearance, contrary to Spatial Policy 3 (Rural Areas) and Core Policy 9 (Climate Change) of the Amended Core Strategy (2019) and Policies DM4 (Renewable and Low Carbon Energy Generation), DM5 (Design) and DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD (July 2013) in addition to the National Planning Policy Framework (2024) and Planning Practice Guidance. There are no other material planning considerations that would outweigh this harm.
- (c) The proposed development will result in less than substantial harm to designated heritage assets including Kelham Conservation Area and Kelham Hall. Whilst the

significant benefits of the proposal in terms of renewable energy are acknowledged the public benefits and any other material planning considerations do not outweigh this harm. The proposal is thereby contrary to Policy CP14 of the Amended Core Strategy (2019) and DM9 of Allocations and Development Management DPD (July 2013) and national guidance contained within the National Planning Policy Framework (2024) and Planning Practice Guidance. The proposed development fails to preserve the setting of Kelham Hall in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9.2 The issues set out in the Inspector's case management conference note are as follows:

- The impact on Best & Most Versatile (BMV) Agricultural land;
- The impact on the rural character and appearance of the area having regard to other renewable energy developments nearby;
- The impact on heritage assets;
- Benefits of the development / planning policy & balance (the planning evidence).

9.3 My evidence deals with the planning policy matters raised in regard to the main issues before the Inquiry and considers the compliance of the Proposed Development with the Development Plan, National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and other material consideration relevant to the Proposed Development. I will also address any matters raised by interested parties, the benefits of the Proposed Development and the overall planning balance.

10. **Best and Most Versatile Agricultural Land**

10.1 The Site comprises a mix of Grades 2, 3a and 3b land, confirmed through site-specific ALC survey.

10.2 Use of agricultural land was not raised as a matter of dispute by the case officer in the Planning Committee report. It is common ground with the Council (9.15 SoCG) that:

- the installation of solar PV arrays does not result in the loss or downgrading, by sealing or permanent downgrading, of agricultural land;
- there is no planning control that requires agricultural land to be farmed in any particular way or for food production;
- a degree of agricultural land use can, in principle, continue through the operational phase;
- the panels and infrastructure can be removed at the end of the Proposed Development and the land thereafter can continue to be used for agriculture.

10.3 The reason for refusal states *"A significant proportion of the site would affect the best and most versatile agricultural land, which would be removed from arable farming production for a period of at least 40 years. The loss of this land is not sufficiently mitigated or outweighed by the other benefits of the scheme."* Mr Baird has provided evidence to refute these arguments. Of particular note:

- preference for poorer quality land does not mandate consideration of alternative sites.
- The NPPF was amended in December 2024, removing the footnote reference to food production that had been added in December 2023. There is now no specific reference to food production in policy relating to the use of BMV land.

- The Development is temporary and reversible.
 - There is no requirement for a sequential test and no bar to the use of BMV land. Numerous Inspector and Secretary of State decisions have concluded that little/limited weight should be given to the limited negative effects of solar development on agricultural land. In contrast there is an urgent need for renewable energy. The fact that there is no requirement for a sequential approach in matters such as these has been determined by the High Court in *Bramley Solar Farm Residents Group v SSLUHC* [2023] EWHC 2842 (CD13.22).
 - The June 2025 Solar Roadmap (CD5.30) confirms the Government position that "the biggest threat to food security is crop failure due to climate change and solar farms are helping to tackle this directly" and "in the unlikely case that all new capacity coming forward is ground mount, it would only occupy up to around 0.6% of UK Utilised Agricultural Land by 2030."
- 10.4 Mr Baird's proof confirms that there is no food security crisis and impacts of the Development on food production are minimal. He reminds us that BMV land will not be permanently lost, can be grazed by small livestock during operations and restored at the end of the project's life, leaving soil quality improved (the appellant has submitted an outline Soil Management Plan). He notes that multiple planning inspectors have concluded that the impact of solar on food production/resilience will be small, using terms like minor, minimal and negligible.
- 10.5 I also note the officer report which concludes "*...it is considered that this scheme would not compromise national food security and that the Council has insufficient evidence to be able to demonstrate that the diversion of this site from arable productivity for a temporary 40-year period would result in the 'loss' of agricultural land (noting that the site could still be used for pastoral grazing) that would be of a sufficient level to warrant significant negative weight in any planning balance.*"
- 10.6 The reason for refusal lists Policy DM8 and national advice contained in the NPPF and PPG.
- 10.7 Policy DM8 makes no specific reference to renewable energy or low carbon schemes. The policy does however, make reference to rural diversification and in the last paragraph of policy DM8 there is a direct reference to the loss "of the most versatile areas of agricultural land" and a requirement to demonstrate a sequential approach to site selection and identify environmental or community benefits that outweigh the land loss.
- 10.8 For the reasons I set out below, I consider the Council has incorrectly applied Policy DM8 as I consider the policy supportive of the Development:
- There is no specific reference to renewable energy or low carbon schemes. Part 6 talks about rural diversification which may be a way to link the Appeal Scheme to the policy. But rather than be at odds with the policy objectives, the scheme is supported by the policy, such that the scheme will contribute to the local economy, will be complimentary as agriculture will continue on site through grazing and will be proportionate as the scale of deployment matches the available capacity on the grid. Clearly, the Development cannot be accommodated in existing buildings and as such this part is not relevant.
 - The need for a sequential approach to site selection is outdated (adopted in 2013) and inconsistent with the NPPF. Having regard to Policy DM8's requirement for a 'sequential approach to site selection', the appeal decision APP/P3040/W/23/3330045 Land East of Hawksworth and Northwest of Thoroton, Thoroton, Nottinghamshire, dated 23 October 2024 (CD13.9), the Inspector stated at paragraph 73:

"Policy and guidance for BMV agricultural land do not mandate the consideration of alternatives or require a sequential test. The Inquiry was informed that around 58.5% of the borough is BMV agricultural land. I accept that it would not be practical to rigorously assess

the soil quality of potential alternative sites. Furthermore, such testing would not be necessary to comply with policy requiring that poorer quality land should be preferred to higher quality land avoiding the use of BMV agricultural land where possible. Given the other requirements for a solar farm of this scale, including an available grid connection, avoiding use of BMV agricultural land may prove to be problematic where BMV land is so prevalent in the borough

- In terms of the loss of most versatile areas of agricultural land, the Overarching SoCG confirms there is agreement with the Council there will be no loss of agricultural land as a result of the Appeal Scheme. Furthermore, a degree of agricultural use can continue during the operational phase of the scheme, as noted in the appeal decision for a 47MW solar farm at Little Cheveney Farm, Marden (APP/U2235/W/23/3321094) (CD13.7). Here, the Inspector noted the preference to use poorer quality land (paragraph 46), and that the land would not be lost but would retain some grazing use (paragraph 50). He noted the benefits for soil and concluded that the temporary loss of some BMV was of limited weight (paragraph 51).

In the planning appeal decision on 27th June 2023 for land south of the Leeming Bar substation, the Inspector considered whether or not land was Grade 2 or subgrade 3b. In her decision (APP/G2713/W/23/3315877) (CD13.6) the inspector noted:

(a) agricultural use could continue during the operational phase (para 20);

(b) there would likely be improvements to soil health from being rested from intensive arable use (para 21);

(c) a change from arable to grassland use is not a matter subject to planning controls (para 22);

(d) there would not be temporary or permanent loss of BMV land (para 25);

(e) the proposals (in that case of 65 ha) would not be detrimental to the nation's food security (para 26)."

10.9 Nonetheless, Section 5 of the Planning Statement carried out a site selection exercise which concluded that agricultural land quality in the identified area of search was equivalent to that found on site.

10.10 Despite there being no 'loss of land' as per the final sentence of Policy DM8, the Appeal Scheme will deliver the following environmental and community benefits, as detailed in section 5.5 above:

- Achieving Net Zero and Energy Security;
- Biodiversity Net Gain;
- Landscape enhancements;
- Permissive Bridleways;
- Rural Diversification; and
- Employment Opportunities.

10.11 Paragraphs 2.10.31 and 32 of EN-3 (CD5.27) recognise that, at the Nationally Significant Infrastructure Project (NSIP) scale (and the Appeal Scheme is on the cusp of the NSIP threshold), it is likely that applicants will use some agricultural land. Consideration should be

given to whether continued agricultural use can continue to maximise the efficiency of land use. Paragraphs 2.10.33 and 34 of EN-3 advise on the need for soil survey and encourage the development of Soil Management Plans (SMP) to help minimise adverse effects on soil health. The Appellant prepared a SMP as part of the application to which Natural England raised no objection, Paragraph 2.10.89 of EN-3 recognises the potential for solar farms to increase biodiversity value. The updated biodiversity net gain report confirms a 82.04% increase in habitat value, 41.70% increase in hedgerow habitat.

- 10.12 Having read Mr Baird's proof of evidence, the officer report and supporting Agricultural Impact Assessment, I have no reason to disagree with these conclusions and do not consider there to be a conflict with paragraph 188 of the NPPF including footnote 65. For example, there is no requirement for a sequential assessment and whilst regard must be had for best and most versatile land there is no bar to the use of agricultural land. It should be noted further that the Appeal Scheme and is reversible notwithstanding that agriculture will continue as part of the Development.
- 10.13 I consider that Policy DM8 has been incorrectly applied in the decision making process by the Council and as per my above reasoning the policy is supportive of the development.

11. **Landscape**

- 11.1 The Council's reason for refusal states "The proposed development, when taken cumulatively with other renewable energy developments in the locality, will result in unacceptable harm to the landscape appearance."

- 11.2 Mr Cook's evidence sets out:

- How the character of the Site, coupled with the typology, temporary and reversible nature of the scheme, with proposed planting, would mitigate the harm
- Effects on landscape character, including cumulative effects where relevant
- Effects on visual amenity, including cumulative effects where relevant
- Legacy benefits of the proposed planting

- 11.3 Mr Cook's evidence confirms, the Appeal Site is not considered to be a valued landscape. The Site does not fall within any areas afforded a level of protection and value as a result of regional or national landscape designation. The Appeal Site represents a typical example of an intensively managed arable farmland. The landscape is therefore not of high value. There are also no clearly identified, distinctive landscape-related geological, geomorphological or pedological features, noting the Site is within the wide vale of the River Trent, but this is not particularly distinctive. The Site contains two PRoW footpaths, which, in turn, connects to the wider PRoW network across the surrounding landscape beyond the Appeal Site.

Landscape Effects

- 11.4 It is intended that whilst the solar arrays would be installed and operational, the fields would continue to function as fields and accommodate grazing stock, and sheep for farming for the duration of the lifetime of the project. The Site would continue to have an agricultural use.
- 11.5 Most of the existing landscape elements, vegetation, trees, and hedges could continue to remain and be reinforced post-decommissioning stage. Therefore, the character of the fields would remain, accepting that they would also accommodate a solar farm, a renewable energy generating installation and as such, would change the current existing character of those particular fields. Beyond the confines of the red line Site boundary, there would be no change to the physical fabric of the landscape character of the area.

- 11.6 In overall terms, I agree that during the operation phase there would be a moderate (adverse) effect upon the landscape character of the Site itself up to its boundaries. In its immediate locality, within the area of visual influence, effects would be minor (adverse) and beyond this, effects would be negligible. On decommissioning of the Scheme there would be a beneficial legacy in terms of the proposed landscaping elements which would collectively enhance landscape character.

Visual Effects

- 11.7 With regard to visual amenity, this is an extensive solar scheme across a number of fields. Given the level and gently undulating nature of the lowland vale topography, combined with the field and hedgerow network and scattered woodlands, the actual visual envelope and the degree to which this scheme would be seen from the surrounding area would be very limited.
- 11.8 Where seen only small elements of the Appeal Scheme would be observed and it would not be possible to appreciate the totality of the Appeal Scheme from any one viewpoint location.

Cumulative Effects

- 11.9 Mr Cook's evidence confirms that for the majority of the LVIA viewpoints, the type of cumulative effects would be sequential with the receptor viewing one development and then moving along a linear route (such as a road or PRoW) before gaining a view of another cumulative scheme.
- 11.10 There was only one location, Viewpoint 11, from where the type of view would be combined either in the same field of view, or with the receptor having to turn their head, but remaining in the same location.
- 11.11 It is the Council's case that on its own, the Development would not be harmful to landscape appearance. From this viewpoint, the Amended Scheme would represent a minor addition to the extent of the proposed built form local to the Appeal Site. When considering the Appeal Scheme in addition to the areas already covered by the five cumulative schemes, the addition would be negligible in landscape character terms.
- 11.12 I provide below my assessment against the policies that the Council referenced in their reason refusal.
- 11.13 Spatial Policy 3 (Rural Areas) seeks to support and promote rural communities in the district, specifically by encouraging tourism, rural diversification, and by supporting appropriate agricultural and forestry development. Furthermore, the countryside will be protected and schemes to enhance heritage assets, to increase biodiversity, enhance the landscape and, in the right locations, increase woodland cover will be encouraged.
- 11.14 The supporting text to the policy states at paragraph 4.25:
- "In implementing Spatial Policy 3 its locational criteria supports the development of sites in sustainable accessible villages. In decision making terms this means locations within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farm yards and community facilities. It would not normally include undeveloped land, fields, paddocks or open space which form the edge of built form."*
- 11.15 The above provides clarity to what is a somewhat ambiguous policy and as such I consider is not relevant to the Appeal Scheme given the criteria stated in the last quoted sentence above.
- 11.16 However, SP3 does advise in the penultimate paragraph that development in the open countryside will be dealt with in the Allocations and Development Management DPD.

- 11.17 Core Policy 9 seeks new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. The policy identifies seven criteria that new development should accord with. I consider these in turn:
- Solar Farms and BESS schemes are utilitarian in nature, so the emphasis on sustainable design is largely considered as part of the site arrangement and landscaping. Mr Cook's evidence sets out the design parameters of the scheme alongside the landscape strategy. Furthermore, Mr Cook's evidence confirms the limited visual envelope meaning only small elements of the Appeal Scheme will be visible (from identified viewpoints). Permissive bridleways are proposed as part of the scheme that will connect with existing PRoW, thus making the site accessible;
 - The nature of the development means that rainfall will as per current baseline conditions, as such there is no requirement for scheme of management;
 - An Outline Construction Environmental Management Plan (CEMP) has been submitted. A detailed CEMP will be submitted for approval prior to commencement of construction. As part of the CEMP a detailed Site Waste Management Plan will be prepared, this will set out initiatives for the reduction and recycling of waste materials during the construction phase;
 - The Appeal Scheme will provide an efficient and effective use of the land by having grazing beneath the panels. There is also the proposed BESS. Therefore, the site will provide for energy generation and storage with agriculture.
 - The Appeal Scheme is in this location due to the proximity of the existing Staythorpe Substation. The submitted Planning Statement provides further details on site selection. This will maximise the point of connection as the site accommodates both PV and BESS.
 - The Appeal Scheme addresses the root cause of climate change by producing renewable energy.
 - The Development will be secured by 2m high fencing and round the clock CCTV surveillance, thus reducing the opportunities for crime.
- 11.18 Mr Cook's evidence notes a moderate adverse effect on landscape character at site level and a negligible off site landscape effect, these effects are temporary, reversible and progressively mitigated by the scheme of landscaping. Similarly visual and cumulative effects would be limited. As such I consider that the harm caused at a site based level (which is inevitable with these types of development) will be far outweighed not only by the criteria of Policy CP9 but also the wider benefits of the scheme listed in section 5 of this proof.
- 11.19 Policy DM4 of the Allocations & Development Management DPD seeks to approve renewable and low carbon developments so long as the benefits are not outweighed by detrimental impact. Seven broad receptors are listed for potential impacts; of these seven, two are relevant to landscape/visual considerations; these are landscape character and amenity. Whilst visual amenity is not specifically listed in point 4 of the policy, it is considered not to be an exhaustive list.
- 11.20 Similar to my conclusions regarding Policy CP9, Mr Cook's evidence notes a moderate adverse effect on landscape character at site level and a negligible off site landscape effect. Similarly, visual and cumulative effects would be limited. As such, I consider that the harm caused at a site based level (which is inevitable with these types of development) will be far outweighed by the wider benefits of the scheme listed in section 5 of this proof.
- 11.21 Policy DM5 states that all new development will be assessed against ten criteria. Of relevance to landscape and visual considerations are criteria 3 (Amenity) and 4 (Local Distinctiveness and Character).

- 11.22 Criteria 3 references site development (users of the PRoW through the Appeal site) and 'neighbouring development' neither of which should 'suffer from an unacceptable reduction in amenity'. Mr Cook's evidence confirms negligible off site effects in terms of visual amenity which are temporary, reversible and will over time be mitigated through a scheme of landscaping.
- 11.23 Criteria 4 seeks that "...the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development." Mr Cook's evidence considers these requirements. The localised and contained nature of the effects leads me to conclude that the district's landscapes will be protected, and the proposal does not compromise the rich distinctive landscapes of the area and as such there is minimal conflict with criteria 4.
- 11.24 To my mind Policy DM5 does not expect there to be no harm to landscape character or visual receptors, but should be to an acceptable level. As such, I am of the opinion that the level of harm from a landscape character, cumulative and visual amenity perspective stated by the Council is too high which has led them to wrongly refuse the application on landscape (cumulative) grounds. In the recent Muskham Solar Farm appeals APP/B3030/W/24/3344502 (CD13.12) and APP/B3030/W/24/3344500 (CD13.13) being two solar projects in the Council's administrative area, the Inspector found that the solar farm was acceptable despite cumulative magnitude of change being assessed as large with medium sensitivity and the cumulative scale of effect being major adverse. Further, the Inspector determined that "subject to conditions including the submission of a detailed landscape scheme to provide additional screening and mitigation planting, the proposal would comply with ACS Core Policy 10 and DPD Policy DM4" and that there is in any event no policy against the clustering of solar farms. This is an overriding material planning consideration in the planning balance for the Development and the same weight should be given in this matter.
- 11.25 Policy DM8 makes no specific reference to renewable energy or low carbon schemes. The Policy does however, make reference to rural diversification but not in the context of landscape or visual matters. The penultimate paragraph of policy DM8 states that all proposals should "...take account of any potential visual impact they create and in particular address the requirements of Landscape Character..." Similar to my conclusions regarding Policy CP9 and Policy DM4, Mr Cook's evidence notes a moderate adverse effect on landscape character at site level and a negligible off site landscape effect. Similarly, visual and cumulative effects would be limited. As such, I consider that the harm caused at a site based level (which is inevitable with these types of development) will be far outweighed by the wider benefits of the scheme listed in section 5 of this proof. It is noted that the Inspector in appeal reference APP/U1105/W/23/3320714 (CD13.10) Land to the south and west of Marsh Green, Marsh Green, East Devon EX5 2EU adopted a similar approach.
- 11.26 Paragraph 187 of the NPPF states "*...decisions should contribute to and enhance the natural and local environment by:*
- (b) recognising the intrinsic character and beauty of the countryside*
- 11.27 The PPG (Paragraph: 013 Reference ID: 5-013-20150327) acknowledges that large scale solar schemes will inevitably result in landscape and visual impacts as it references the potential to mitigate such impacts. It also notes that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Paragraph 2.10.95 of EN3 states "*...that the development covers a significant surface area, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography, the area of a zone of visual influence could be appropriately minimised.*"
- 11.28 As per the evidence of Mr Cook, I consider that as the Appeal site is visually enclosed and the landscape structure will be retained and enhanced, as part of the Landscape Masterplan. Therefore, the development is in accordance with the NPPF and PPG.

12. Heritage

- 12.1 The reason for refusal states *“The proposed development will result in less than substantial harm to designated heritage assets including Kelham Conservation Area and Kelham Hall. Whilst the significant benefits of the proposal in terms of renewable energy are acknowledged the public benefits and any other material planning considerations do not outweigh the harm”*.
- 12.2 It is agreed in the Overarching SoCG that impacts identified in the Heritage Impact Assessment are less than substantial. However, the main issues are:
- Whether Kelham Country House is included as a non-designated asset to be considered.
 - Disagreement between the Appellant and the LPA regarding the level of harm to the significance of some asset.
 - The claim that the development is contrary to any of the policies listed in the reason for refusal.
- 12.3 These matters are dealt with in Ms James-Martin’s evidence, which concludes that two identified assets may experience negligible harm, the other identified assets would potentially experience no harm.
- 12.4 Due to the undulating nature of the local topography and the high levels of vegetation in the form of hedgerows and scattered woodland, there will be very little visibility of the site from these assets.
- 12.5 Ms James-Martin’s proof concludes only two of the assets (Kelham Conservation Area and Kelham Hall unregistered Park and Garden) would be negligibly affected by the scheme.
- 12.6 Policy CP14 of the Amended Core Strategy is structured into four parts. The first part seeks to secure “the continued conservation and enhancement of the character, appearance and setting of the District’s heritage assets and historic environment”. This first part of CP14 is then split into designated and non-designated assets: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Where adverse impact is identified there should be a clear and convincing justification, including where appropriate a demonstration of clear public benefits”*.
- “In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*
- 12.7 The second part of Policy CP14 seeks “The preservation and enhancement of the special character of Conservation Areas.”
- 12.8 The third and fourth parts of Policy CP14 are not relevant to the Appeal Scheme.
- 12.9 Ms James-Martin’s proof identifies a negligible impact on Kelham Conservation Area and Kelham Hall unregistered Park and Garden. Whilst negligible harm has been confirmed on these assets I consider the public benefits of the scheme identified in section 5 above far outweighs the potential harm.
- 12.10 The first sentence of Policy DM9 (of the Development Management Plan) is at odds with Policy CP14 and paragraph 210 of the NPPF. Policy DM9 states *“...all development proposals concerning heritage assets will be expected to secure their continued protection or enhancement, contribute to the wider vitality, viability and regeneration of the areas in which they are located and reinforce a strong sense of place”*. Policy DM9 by definition allows either

the protection or enhancement of heritage assets. Furthermore, DM9 does not consider the significance of heritage assets, nor does it allow for balancing any harm against public benefits as set out in policy CP14 and paragraph 215 of the NPPF.

- 12.11 I have set out the benefits that would be delivered by the development at section 5 and Ms James Martin's position on the level of harm is clear. However, given that the level of harm sits at the lower end of the spectrum, this allows balancing with public benefits.
- 12.12 I consider that the public benefits associated with the development are substantial and will clearly help deliver the environmental objectives set out in the NPPF and Amended Core Strategy.
- 12.13 I consider that the Council's position on Policy DM9 should be given limited weight largely owing to its inconsistency with NPPF and Amended Core Strategy in relation to the consideration of balancing potential harm and public benefits. Paragraph 212 of the NPPF states "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).*" Paragraph 216 relates to non-designated heritage assets stating "*a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*"
- 12.14 Paragraph 215 of the NPPF indicates that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
- 12.15 Whilst potential negligible harm is identified for two assets I consider the public benefits of the scheme identified in section 5 above far outweighs the potential harm.

13. **Third Party Comments**

- 13.1 There are no Rule 6 Parties and therefore in this section my evidence considers points raised by third party objections submitted during this Appeal. The Appellant's responses are detailed in Appendix 2 of my evidence. In addition to these responses, the Appellant provides clarity to a point raised by Mrs Jane Southey in relation to the categorisation of an existing grassland habitat on site. See Appendix 2A.

14. **Planning Conditions and s106 Agreements**

- 14.1 In this section I consider the potential use of planning conditions and S106 agreement in relation to the Appeal Scheme.
- 14.2 Paragraph 56 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 14.3 Paragraph 57 of the NPPF states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 14.4 Draft Planning Conditions (See Appendix 3) (CD9.20) have been discussed with the Council which could be utilised should planning permission is granted. The list includes conditions that restrict the permission to a temporary period of 40 years.
- 14.5 The Council and Appellant have not reached agreement in respect of the Planning Conditions. But, the Appellant is satisfied that the planning conditions proposed are sufficient to control the impact of the Appeal Scheme in order that planning permission could be granted.

15. Conclusion and Planning Balance

- 15.1 The Development Plan for this Appeal is the Amended Core Strategy DPD adopted March 2019 and the Allocations and Development Management DPD adopted July 2013. The NPPF (February 2025) and Planning Policy Guidance in terms the National approach to renewable and low carbon energy.
- 15.2 As per the definition contained within paragraph 8 of the NPPF, I consider that the Appeal Scheme is sustainable development.
- 15.3 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Should any conflict be found with the Development Plan, it would need to be balanced against other considerations such public benefits and need for the development.
- 15.4 My evidence confirms the Appeal Scheme does not conflict with the Development Plan.
- 15.5 The first reason for refusal relates to the loss of best and most versatile agricultural land. I consider the Council has incorrectly applied Policy DM8 as I consider the policy supportive of the Development. Despite there being no 'loss of land' as agreed in the SoCG, the Appeal Scheme will deliver the following environmental and community benefits;
- Achieving Net Zero and Energy Security;
 - Biodiversity Net Gain;
 - Landscape enhancements;
 - Permissive Bridleways;
 - Rural Diversification; and
 - Employment Opportunities.
- 15.6 Furthermore, I do not consider there to be a conflict with paragraph 188 of the NPPF including footnote 65.
- 15.7 The second reason for refusal relates to landscape and cumulative effects and references SP3 and CP9 of the Amended Core Strategy DPD and DM4, DM5 and DM8 of the Allocation and Development Management DPD. My evidence argues that SP3 is not relevant to the Appeal Scheme and that Appeal Scheme does not conflict with the remaining policies. This is because policies DM4, DM5 and DM8 expects there to be some form of harm to landscape character or visual receptors as a result of proposed developments. However, the potential harm should be to an acceptable level. This 'acceptable level' is demonstrated in Mr Cook's evidence such that there is a moderate adverse effect on landscape character at site level and a negligible off site landscape effect. Noting further that these effects are temporary, reversible and progressively mitigated by the scheme of landscaping. Similarly visual and cumulative effects would be limited.
- 15.8 CP9 differs slightly as it sets design standards for new development to meet rather than seeks to mitigate potential impacts. My evidence demonstrates that the Appeal Scheme meets these design standards.
- 15.9 As such I am of the opinion that the level of harm from a landscape character, cumulative and visual amenity perspective would be limited to a local and temporary nature, which in this

instance would be acceptable given the wider public benefits of the Development. Furthermore, the Appeal Scheme is on accordance with paragraph 187(b) of the NPPF.

- 15.10 The third reason for refusal relates to heritage. Paragraph 212 of the NPPF and CP14 advises that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to its conservation and the more important the asset, the greater the weight should be. Paragraph 215 of the NPPF indicates that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
- 15.11 Ms James-Martin's proof identifies a negligible impact on Kelham Conservation Area and Kelham Hall unregistered Park and Garden. Whilst negligible harm has been confirmed on these assets I consider the public benefit of the scheme identified in section 5 above far outweighs the potential harm.
- 15.12 I consider that the public benefits associated with the development are substantial and will clearly help deliver the environmental objectives set out in the NPPF and Amended Core Strategy.
- 15.13 The less that substantial harm to the heritage asset does not provide a clear reason for refusing the Appeal Scheme.
- 15.14 As demonstrated by my evidence, a detailed analysis of the policies cited by the Council in their reasons for refusal has been undertaken. Where appropriate my professional opinion has been informed by the evidence of experts prepared on behalf of the Appellant. Where the Council considers the Appeal Scheme to conflict with the cited policies I consider, where relevant, the development in accordance with these policies.
- 15.15 The Overarching SoCG agreed that the following scale has been used to apply weighting to the below table, in ascending order:
- 'No weight' meaning there is no benefit/harm.
 - 'Limited weight' meaning that this is a minor benefit/harm.
 - 'Moderate weight' meaning that this is a moderate benefit/harm.
 - 'Significant weight' meaning that this is a significant benefit/harm.
 - 'Substantial weight' meaning that this is a substantial benefit/harm.
- 15.16 The planning benefits of the development are considerable and would deliver significant economic, social and environmental benefits, including:

Benefits	
Solar	Weight
Achieving Net Zero	A meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate up to 49.9MW of renewable energy. The generation of substantial amounts of renewable electricity which will reduce carbon emissions, consistent with national policy and the 2050 net zero

	commitment, and achieving Clean Power 2030. Substantial weight.
Achieving Energy Security	An increase in the diversification of the UK's energy supply, resulting in increased domestic energy security and a reduction on reliance upon less secure, price volatile fossil fuels. Substantial weight.
Biodiversity Net Gain	A substantial improvement in biodiversity at the Appeal Site, evidenced by an anticipated 82.04% net gain in the biodiversity value of habitats, a 41.70% net gain in the biodiversity value of hedgerow units. Significant weight.
Landscape enhancements	Enhancement of existing hedgerows and the provision of substantial lengths of new hedgerows to enhance the landscape character of the area, with intermittent hedge tree planting and native species-rich grassland. Significant weight.
Permissive Bridleways	The provision of permissive bridleways along the perimeter of the Appeal Site, in addition to the existing public right of way through the Appeal Site. Moderate weight.
Rural Diversification	An opportunity for commercial diversification by establishing a dual use of land electricity generation and continued low intensity agricultural use, such as sheep grazing where that is possible, which would assist with the ongoing viability and stability of two local rural businesses. Limited weight.
Employment Opportunities	The Appeal Scheme would benefit the local economy during the construction phase, not only during through direct employment but also indirect jobs from the supply chain and related services during the peak of the construction phase.

	Limited weight.
Business Rates	A contribution of approximately £100,000 per annum in business rates to the Council which represents a total contribution of approximately £4.1m over the 40 year lifetime of the Proposed Development (ignoring any inflationary or rating value uplift). Limited weight
BESS	
Co-location	With the solar deployment maximises the efficiency of land use and grid connection Moderate weight.
Energy Security.	Facilitates the role out of renewables in 'smoothing' the delivery of potentially intermittent power supply. Significant weight
Employment Opportunities:	The Appeal Scheme would benefit the local economy during the construction phase, not only during through direct employment but also indirect jobs from the supply chain and related services during the peak of the construction phase. Limited weight
Business Rates:	A contribution of approximately £100,000 per annum in business rates to the Council which represents a total contribution of approximately £4.1m over the 40 year lifetime of the Proposed Development (ignoring any inflationary or rating value uplift). Limited Weight.
Council's Material Considerations Against the Appeal Scheme	Weight – as assessed in the Appellant's evidence
Loss of best and most versatile agricultural land	Agriculture can continue through sheep grazing, the period of fallow will improve soil structure, scheme is reversible as such there is no loss of land and food security is not recognised as an issue by Government. No weight.

Cumulative landscape harm	There would be a moderate (adverse) effect upon the landscape character of the Site itself. Within the immediate locality (area of visual influence) effects would be minor (adverse) and beyond this, effects would be negligible. The visual envelope and the degree to which this scheme would be seen from the surrounding area would be very limited, therefore minor (adverse). The Appeal Scheme in addition to the areas already covered by the five cumulative schemes, would be minor (adverse) in landscape character terms. Limited weight.
Harm to heritage assets	The Appeal Scheme would have negligible effects on two assets (Kelham Conservation Area and Kelham Hall unregistered Park and Garden). Whilst the significance of the assets is high, the adverse effects are negligible. The Appeal Scheme is also reversible. Limited weight

- 15.17 I have considered the above benefits of the Development and the potential harm. The need for renewable energy is not in dispute and the above benefits far outweigh any harm the Development may lead to. Furthermore, the above benefits would only be realised if the Appeal Scheme is allowed. Noting further that the benefits of the scheme are supported by the Development Plan and the NPPF.
- 15.18 Overall, I conclude that the Development is in accordance with the Development Plan and the limited weight of harm from the identified material considerations do not suggest otherwise. Furthermore, there are significant planning benefits that weigh heavily in favour of the Appeal Scheme. As such, I consider the Appeal Scheme should be granted.